

CAYMAN ISLANDS



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THE COURT FEES RULES, 2009

COURT FEES RULES, 2009

These Rules are made by the Rules Committee of the Court of Appeal pursuant to section 35 of the Court of Appeal Law (2006 Revision) and by the Rules Committee of the Grand Court (with the approval of the Governor in Cabinet) pursuant to Section 19(3)(c) of the Grand Court Law (2008 Revision) and Section 44(d) of the Succession Law (2006 Revision)

COURT FEES RULES, 2009

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COURT FEES RULES, 2009

1. (1) These rules may be cited as the Court Fees Rules 2009. Citation and application
 - (2) These Rules shall come into operation on the 1st day of November 2009 referred to in these Rules as “the Commencement Date”.
 - (3) Words and expressions used in these rules which are also used in the Grand Court Rules (1995 Revision) shall have the same meaning in these rules as in the Grand Court Rules (1995 Revision), except that “Court” means the Grand Court or the Cayman Islands Court of Appeal, as the context may require. 1995 Revision
 - (4) For the purposes of these Rules –
 - (a) “civil proceeding” means any proceeding commenced or pending in the Civil Division of the Grand Court and any appeal to the Court of Appeal against a judgment or order made in such a proceeding;
 - (b) “family proceeding” means any proceeding commenced or pending in the Family Division of the Grand Court or any appeal to the Court of Appeal against a decree or order made in such a proceeding;
 - (c) “admiralty proceeding” means any proceeding commenced or pending in the Admiralty Division of the Grand Court or any appeal to the Court of Appeal against a judgment or order made in such a proceeding;
 - (d) “financial services proceeding” means any proceeding commenced or pending in the Financial Services Division of the Grand Court or any appeal to the Court of Appeal against a judgment, decree or order made in such a proceeding.
2. (1) A party to a proceeding which is commenced on or after the Commencement Date is liable to pay only those fees specified in these Rules. Presumption against liability

(2) A party to a proceeding which was commenced prior to the Commencement Date shall not be required to pay any additional amount nor be entitled to any refund in respect of –

- (a) the fixed fees paid in respect of any interlocutory process, pleading, affidavit or order filed prior to the Commencement Date;
- (b) the court hearing fees paid in respect of any hearing which took place prior to the Commencement Date.

(3) There is no fee for the administration of an oath by the Clerk of the Court.

(4) A party to whom a legal aid certificate has been granted under section 3 of the Legal Aid Law (1999 Revision) shall not be liable to pay any fees under these rules.

(5) No fees shall be payable in respect of –

- (a) any criminal proceedings;
- (b) an application or appeal relating to the adoption, custody or welfare of a child;
- (c) filing a stop notice pursuant to GCR Order 50, rule 11;
- (d) a notice of motion under GCR Order 52 for an order that a person be committed to prison or otherwise punished for a contempt of court;
- (e) an application under GCR Order 67 for an order removing an attorney from the record or a declaration that an attorney has ceased to act for a party;
- (f) any application under GCR Order 92.

(6) No fees shall be payable in respect of an application (or supporting affidavit) under Sections 3 or 4 of the Legal Practitioner's Law (2006 Revision) for the admission of any person to practice as an attorney.

Fixed fees

3. (1) The fees prescribed in paragraph 1 of Part A of the First Schedule shall be payable by the person seeking to issue an originating process in connection with a civil or matrimonial proceeding.

(2) The fee prescribed in paragraph 2 of Part A of the First Schedule shall be payable by the party seeking to commence an appeal from a judgment, order or decree made in a civil or matrimonial proceeding.

(3) The fees prescribed in paragraphs 3 to 6 of Part A of the First Schedule shall be payable by the party seeking to file a document specified in those paragraphs in connection with a civil or matrimonial proceeding.

(4) The fee prescribed in paragraph 1 of Part B of the First Schedule shall be payable by the party seeking to issue an originating process in connection with a financial services proceeding or an admiralty proceeding.

(5) When a cause or matter is ordered to be transferred to the Financial Services Division or the Admiralty Division the parties shall pay a transfer fee, being the difference between the fixed fee prescribed in Part B of the First Schedule and the total of the fixed fee of \$200 paid pursuant to Part A of the First Schedule and the amount of the *ad valorem* fee (if any) paid pursuant to the Second Schedule.

(6) The fee prescribed in paragraph 2 of Part B of the First Schedule shall be payable by the party seeking to commence an appeal against a judgement or order made in connection with a financial services proceeding or an admiralty proceeding.

(7) The fee prescribed in paragraph 1 of Part C of the First Schedule shall be payable by any person seeking to inspect the Register of Writs, originating process, the Register of Judgments or any Court file which has to be retrieved from the archives and returned to the Court office in order to be inspected.

(8) The fees prescribed in paragraph 2 of Part C of the First Schedule shall be paid for the supply of copy documents pursuant to the Grand Court Rules Order 63, rule 7(3) or rule 8(3).

(9) The fees prescribed in paragraphs 3 and 4 of Part C of the First Schedule shall be paid for the supply of transcripts of any proceedings.

(10) The fee prescribed in paragraph 5 of Part C of the First Schedule shall be payable by any person lodging an application for taxation of any order for costs made by the Court.

(11) The fees prescribed in paragraph 1 of the Third Schedule shall be payable at the time a person seeks to instruct a bailiff to effect service upon a person.

(12) The fees prescribed in the Fourth Schedule shall be paid in respect of non-contentious probate administration matters.

Ad valorem fees

4. (1) In addition to the fixed fee prescribed by paragraph 1 of the First Schedule, a person seeking to issue a writ indorsed with a claim for a debt or liquidated demand in accordance with Grand Court Rules Order 6, rule 2(b), in connection with a proceeding commenced in the Civil Division shall pay an *ad valorem* fee calculated in accordance with the scale set out in paragraph 1 of the Second Schedule.

(2) A party seeking to file a counterclaim in a civil proceeding in which he claims payment of a debt or makes a liquidated demand, shall pay an *ad valorem* fee calculated in accordance with the scale set out in paragraph 1 of the Second Schedule.

(3) In addition to the fixed fee prescribed by paragraph 2 of Part A of the First Schedule, a party seeking to file a notice of appeal against a judgment for a money sum made in a civil proceeding shall pay an *ad valorem* fee calculated in accordance with paragraph 3 of the Second Schedule.

(4) In addition to the fixed fee prescribed by paragraph 6 of Part A of the First Schedule, a party seeking to file a judgment or order for damages made in a civil proceeding shall pay an *ad valorem* fee calculated in accordance with the scale set out in paragraph 2 of the Second Schedule.

(5) The amount of any *ad valorem* fee payable under the Second Schedule shall be assessed by the Clerk of the Court prior to issuing the writ, filing the judgment or order or filing the notice of appeal, as the case may be.

(6) The *ad valorem* fee prescribed in paragraph 2 of the Third Schedule shall be paid by a judgment creditor following execution of a writ of *feri facias*, and such fee shall be deducted from the net proceeds of sale.

(7) The *ad valorem* fee prescribed in paragraph 3 of the Third Schedule shall be paid by the judgment creditor following sale of any property by the bailiff pursuant to an order made in any division of the Court, and such fee shall be deducted from the net proceeds of sale.

(8) In addition to the fixed fees prescribed by paragraph 5 of Part C of the First Schedule, a party applying for taxation of a bill of costs shall pay an *ad valorem* fee calculated at the rate of one per cent of the sum in issue (irrespective of the division of the Court in which the proceeding is pending) and for the purposes of this rule, "the sum in issue" is that part of the bill of costs which has not been agreed by the paying party.

(9) Any person who is dissatisfied with an assessment of *ad valorem* fees made by the Clerk of the Court, the Registrar of the Financial Services Division, the bailiff or the taxing officer may apply by letter for such assessment to be reconsidered by a Judge, in which case the decision of the Judge shall be final and binding upon the parties.

5. (1) In the event that a civil proceeding involves a hearing lasting more than 3 days or a series of hearings lasting more than 3 days in total, the parties shall be liable to pay a court hearing fee of \$250 for each additional day or part of a day. Court hearing fees

(2) In the event that a financial services proceeding or an admiralty proceeding involves a hearing lasting more than 20 days or a series of hearings lasting more than 20 days in total, the parties shall be liable to pay a court hearing fee of \$750 for each additional day or part of a day.

(3) No court hearing fees shall be payable in respect of any family proceeding.

(4) When listing an interlocutory summons for a hearing or making an application to fix a trial date or lodging an appeal, as the case may be, the amount payable in respect of court hearing fees shall be provisionally assessed on the basis of the estimated length of the hearing.

(5) In the event that the actual length of the hearing is more than the estimated length, the party liable to pay the hearing fee shall pay the additional amount due as soon as reasonably possible or within 5 working days after the conclusion of the hearing.

(6) In the event that a listed hearing does not take place, the Clerk of the Court shall –

(a) reimburse the amount of the court hearing fee provisionally assessed and paid as soon as reasonably possible or within five working days after the date upon which he is given notice of the decision to vacate the hearing date; and

(b) deduct a penalty equivalent to one day's court hearing fee in the event that a hearing is listed for 3 days or more and the Clerk of the Court is given less than 10 day's notice of the decision to vacate the hearing date.

(7) In the event that a hearing lasts less than the estimated length of time (for which a court hearing has been provisionally assessed and paid), the Clerk

of the Court shall reimburse the amount overpaid as soon as reasonably possible or within 5 working days after the conclusion of the hearing.

(8) The party liable to pay a hearing fee in respect of the trial or interlocutory hearing of an action shall be given credit for the amount of any *ad valorem* fees paid by any party pursuant to paragraph 1 of the Second Schedule and such credit shall be given by dividing the *ad valorem* fee by the amount of the court hearing fee and ascribing the number of days accordingly.

(9) An appellant liable to pay a court hearing fee in respect of the hearing of an appeal to the Court of Appeal shall be given credit for the amount of any *ad valorem* fees paid by any party pursuant to paragraph 3 of the Second Schedule and such credit shall be given by dividing the *ad valorem* fee by the amount of the hearing fee and ascribing the number of days accordingly.

Enforcement

6. (1) Subject to sub-rule (3), no originating process shall be issued unless the prescribed fees have been paid.

(2) No execution shall be issued on any judgment or order unless all of the applicable fees prescribed by these rules have been paid.

(3) Nothing in these rules shall prevent any person from making an application to the Court or using any affidavit (or any draft or copy thereof) upon his undertaking to issue the appropriate originating process or file the original affidavit, and any such undertaking shall be deemed to include an undertaking to pay the applicable prescribed fee.

Revocation

7. The Court Fees Rules (2008 Revision) are hereby revoked with effect from the Commencement Note.

Made by the Court of Appeal Rules Committee on the 8th day of April 2009
The Right Honourable Sir John Chadwick, PC, President
The Honourable Ian Forte, QC, Judge of Appeal
The Honourable Abdulai Conteh, QC, Judge of Appeal

And made by the Grand Court Rules Committee on the 14th day of September 2009

The Honourable Anthony Smellie, QC, Chief Justice

The Honourable Sam Bulgin, QC, Attorney General

Andrew J. Jones, QC, Legal Practitioner

Graham Ritchie, QC, Legal Practitioner

FIRST SCHEDULE

FIXED FEES

PART A

CIVIL AND FAMILY DIVISIONS

1. Originating process -

Upon issuing every writ, petition, originating summons or originating notice of motion \$200

2. Appeals -

Upon issuing every written application for leave to appeal \$200

Upon issuing every notice of appeal or any notice of motion in a pending appeal \$200

3. Interlocutory process -

Upon issuing every summons or notice of motion \$100

4. Pleadings -

Upon filing every statement of claim, defence, counterclaim, reply or other pleading \$200

5. Affidavits -

Upon filing every affidavit \$25

6. Order -

Upon filing every judgment or order \$25

PART B**FINANCIAL SERVICES and ADMIRALTY DIVISIONS****1. Originating process –**

Upon issuing any originating summons governed by GCR Order 102, rule 2	\$5,000
Upon issuing any originating notice of motion or petition governed by GCR Order 102, rules 3 or 4	\$15,000
Upon issuing any originating application governed by GCR Order 102, rule 17	\$200
Upon issuing an originating application governed by GCR Order 85, rule 8	\$200
Upon issuing every other writ, petition, originating summons or originating notice of motion	\$15,000

2. Appeals-

Upon issuing every written application for leave to appeal	\$5,000
Upon issuing every notice of appeal	\$10,000

PART C

ADMINISTRATIVE MATTERS

1. Searches -

Upon making every search, irrespective of the number of years searched \$20

2. Copies-

Upon supplying photocopies and certified copies 50c. per page and \$20 per document

3. Transcripts-

Upon supplying a court reporter's transcript \$2 per page

Upon supplying a certified transcript of a judge's notes \$10 per page

Upon supplying additional copies of transcripts 50c. per page

4. Coroner's proceedings-

Upon supplying a certified copy of the verdict, depositions and exhibits \$100 plus 50c. per page

5. Taxation-

Upon lodging an application for taxation or applying for a costs certificate irrespective of the division of the Court in which the proceeding is pending \$200

SECOND SCHEDULE

AD VALOREM FEES

CIVIL DIVISION

1. Claim for liquidated sum -

Upon issuing every writ or counterclaim indorsed with a claim for a debt or liquidated demand in connection with a civil proceeding, a sum equivalent to –

one per cent of the principal sum claimed in excess of \$10,000;
one-half per cent of the principal sum claimed in excess of \$100,000; and
one-quarter per cent of the principal sum claimed in excess of \$1,000,000:

Provided that –

- (a) claims for interest and costs shall be disregarded;
- (b) in the case of a writ or a counterclaim indorsed with alternative claims, the *ad valorem* fee shall be assessed upon the highest claim;
- (c) if a writ or counterclaim is amended to increase the amount claimed, the *ad valorem* fee shall be re-assessed upon the higher claim, and the balance shall be paid upon re-issuing the writ or counterclaim as amended;
- (d) no *ad valorem* fee shall be repaid in the event that a writ or counterclaim is amended so as to reduce the amount claimed; and
- (e) the *ad valorem* fee payable shall not, in any case, exceed the sum of \$15,000.

2. Judgment for damages -

Upon entering judgment for damages in a civil proceeding, a sum equivalent to -

one per cent of the principal sum awarded in excess of \$10,000;
one-half per cent of the principal sum awarded in excess of \$100,000;and

one-quarter per cent of the principal sum awarded in excess of \$1,000,000:

Provided that -

- (a) awards of interest and costs shall be disregarded;
- (b) credit shall be given for any *ad valorem* fee paid under paragraph 1; and
- (c) the total amount of the *ad valorem* fees payable in respect of any one action shall not exceed \$15,000.

3. Appeal against a money judgment -

Upon filing a notice of appeal against a money judgment made in a civil proceeding, a sum equivalent to-

one per cent of the principal amount of the judgement appealed against in excess of \$10,000;

one-half per cent of the principal amount of the judgement appealed against in excess of \$100,000; and

one-quarter per cent of the principal amount of the judgement appealed against in excess of \$1,000,000:

Provided that -

- (a) awards of interest and costs shall be disregarded;
- (b) no credit shall be given for any *ad valorem* fees paid under paragraph 1 or 2; and
- (c) the total amount of the *ad valorem* fees payable in respect of any one appeal shall not exceed \$10,000.

4. Judgments given by the Court of Appeal -

Upon entering judgment by the Court of Appeal in a civil proceeding, a sum equivalent to -

one per cent of the principal sum awarded in excess of \$10,000;

one-half per cent of the principal sum awarded in excess of \$100,000; and

one-quarter per cent of the principal sum awarded in excess of \$1,000,000:

Provided that –

- (a) awards of interest and costs shall be disregarded;
- (b) credit shall be given for any *ad valorem* fee paid under paragraph 3; and
- (c) the total amount of the *ad valorem* fees payable in respect of any one appeal shall not exceed \$10,000.

THIRD SCHEDULE

BAILIFF FEES

1. Service of documents -

Upon instructing the bailiff to serve any documents upon a person (per person) within the district of

(a)	George Town	\$30
(b)	West Bay	\$50
(c)	Bodden Town	\$60
(d)	East End	\$75
(e)	North Side	\$75
(f)	Cayman Brac and Little Cayman	\$125

2. Sale of levies -

For the sale of levies including advertisements, catalogues and commission, and delivery of goods 10 % of the net proceeds of sale.

3. Sale by bailiff in cases other than levies -

In cases other than levies, where the bailiff, by order of the Court, acts as auctioneer to conduct any sale of property, real or personal, ordered by the Court to be sold, including advertisements, catalogues and commission 5% on the first \$1,000 net proceeds 3% on any sum in excess of \$1,000.

4. Receipt by bailiff of money instead of levy

Upon receipt of money instead of levy 5% of money received.

FOURTH SCHEDULE

PROBATE AND ADMINISTRATION FEES

1. Applications -

Upon making every application for probate, letters of administration or the resealing of a foreign grant \$200

2. Affidavits -

Upon filing every affidavit \$25

3. Grants, Orders and Citations -

Upon making every grant of probate or letters of administration or other order of issuing any citation \$25

4. Caveats -

Upon lodging any caveat \$200

5. Inventories and Accounts -

Upon filing every inventory or account \$25

(Price \$4.00)