

CAYMAN ISLANDS



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COURT FEES RULES, 2006

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CAYMAN ISLANDS

COURT FEES RULES, 2006

These Rules are made by the Rules Committee of the Court of Appeal pursuant to section 34 of the Court of Appeal Law (1996 Revision) and by the Rules Committee of the Grand Court (with the approval of the Governor in Cabinet) in accordance with the powers conferred by section 19 (3) (c) of the Grand Court Law (1995 Revision) and by section 44 of the Succession Law (2006 Revision).

Citation and interpretation

1. (1) These Rules shall be cited as the Court Fees Rules, 2006.
- (2) The court hearing fees prescribed in these Rules shall apply to every proceeding (other than a matrimonial proceeding or a proceeding relating to the enforcement of maintenance) which is pending or commenced in the Court on or after 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-
 - (a) “Court” means the Grand Court or the Cayman Islands Court of Appeal as the context may require; and
 - (b) “proceedings” include an appeal and every step taken in an appeal.

Presumption against liability

2. (1) A party to a proceeding which is pending or commenced on or after the commencement date is liable, in respect of any step taken or document filed in respect of such proceeding, to pay only those fees specified in the Schedules to these rules.
- (2) There is no fee for the administration of an oath by the Clerk of the Court.
- (3) 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 a fee under these Rules.

(4) No fee shall be payable in respect of any criminal appeal or any interlocutory proceeding in a criminal appeal.

(5) No fee shall be payable in respect of an application or appeal relating to the adoption, custody or welfare of a child.

Fixed fees

3. (1) The fee prescribed in paragraph 1 of Schedule 1 shall be payable by the person seeking to issue an originating process.

(2) The fee prescribed in paragraph 2 of Schedule 1 shall be payable by the party seeking to commence an appeal.

(3) The fees prescribed in paragraphs 3 to 6 and 11 of Schedule 1 shall be payable by the party seeking to file a document specified in those paragraphs.

(4) The fee prescribed in paragraph 7 of Schedule 1 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.

(5) The fees prescribed in paragraph 8 of Schedule 1 shall be paid for the supply of copy documents pursuant to the Grand Court Rules Order 63, rule 7(3) or rule 8(3).

(6) The fees prescribed in paragraph 9 and 10 of Schedule 1 shall be paid for the supply of transcripts of proceedings.

(7) The fees prescribed in paragraph 1 of Schedule 3 shall be payable at the time a person seeks to instruct a bailiff to effect service upon a person.

Ad valorem fees

4. (1) In addition to the fixed fee prescribed by paragraph 1 of Schedule 1, 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), shall pay an ad valorem fee calculated in accordance with the scale set out in paragraph 1 of Schedule 2.

(2) A party seeking to file a counterclaim 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 Schedule 2.

(3) In addition to the fixed fee prescribed by paragraph 2 of Schedule 1, a party seeking to file a notice of appeal against a judgment for a money sum shall pay an ad valorem fee calculated in accordance with paragraph 3 of Schedule 2.

(4) In addition to the fixed fee prescribed by paragraph 6 of Schedule 1, a party seeking to file a judgment or order for damages shall pay an ad valorem fee calculated in accordance with the scale set out in paragraph 2 of Schedule 2.

(5) The amount of any ad valorem fee payable under Schedule 2 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 Schedule 3 shall be paid by a judgment creditor following execution of a writ of fieri facias and such fee shall be deducted from the net proceeds of sale.

(7) The ad valorem fee prescribed in paragraph 3 of Schedule 3 shall be paid by the judgment creditor following sale of any property by the bailiff pursuant to an order 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 11 of Schedule 1, a party applying for taxation of a bill of costs shall pay an ad valorem fee calculated at the rate of 1% of the sum in issue; 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 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.

Court hearing fees

5. (1) In addition to the fixed fees prescribed by paragraphs 1 to 6 of Schedule 1, a party who -

- (a) makes an interlocutory application;
- (b) makes an application to fix a trial date; or
- (c) lodges an appeal,

the hearing of which lasts for more than one day, shall pay a court hearing fee of \$750 in the Grand Court and \$1,500 in the Court of Appeal for each additional day or part thereof.

(2) A party who makes the application or lodges the appeal shall be liable to pay the hearing fee unless the court orders payment by another party.

(3) 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 a court hearing fee shall be provisionally assessed on the basis of the estimated length of the hearing.

(4) 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.

(5) In the event that the hearing does not take place or lasts less than the estimated length, 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.

(6) 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 the party pursuant to rule 4(1) or (2) and Schedule 2, paragraphs 1 and 2; 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.

(7) An appellant liable to pay a hearing fee in respect of the hearing of an appeal shall be given credit for the amount of any ad valorem fees paid by the party pursuant to rule 4(1) or (2) and Schedule 2, paragraphs 1 and 2; 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 paragraph (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 fees.

Revocation

7. The Court Fees Rules 1999 are revoked.

SCHEDULE 1

Rules 3, 4 and 5

FIXED FEES

1. Originating process –

upon issuing every writ, petition, originating summons or
originating notice of motion or application for grant of probate or letters of administration or the resealing thereof \$200

2. Appeals -

upon issuing every notice of appeal in a civil proceeding \$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 other than an affidavit filed in support of an application for the grant of probate or letters of administration or the resealing thereof \$25

6. Order –

upon filing every judgment or order \$25

7. Searches-

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

8. Copies-

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

9. Transcripts-upon supplying-

a court reporter's transcript \$2 per page

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

additional copies \$.50 per page

10. Coroner's proceedings

upon supplying a certified copy of the verdict, depositions and exhibits \$20 plus \$.50 per page

11. Taxation

Upon lodging an application for taxation or applying for a costs certificate \$20

Rules 4 and 5

SCHEDULE 2

AD VALOREM FEES

1. Claim for liquidated sum -

upon issuing every writ or counterclaim indorsed with a claim for a debt or liquidated demand, a sum equivalent to -

1% of the principal sum claimed in excess of \$10,000;
½ % of the principal sum claimed in excess of \$100,000; and
¼ %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, a sum equivalent to -

- 1% of the principal sum awarded in excess of \$10,000;
- $\frac{1}{2}$ % of the principal sum awarded in excess of \$100,000; and
- $\frac{1}{4}$ % 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, a sum equivalent to-

- 1% of the principal amount of the judgment appealed against in excess of \$10,000;
- $\frac{1}{2}$ % of the principal amount of the judgment appealed against in excess of \$100,000; and
- $\frac{1}{4}$ % of the principal amount of the judgment 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 paragraphs 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, a sum equivalent to-

- 1% of the principal sum awarded in excess of \$10,000;
- ½% of the principal sum awarded in excess of \$100,000; and
- ¼% 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 sum of the ad valorem fees payable in respect of any one appeal shall not exceed \$10,000.

Rules 3 and 4

SCHEDULE 3

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 & 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 a 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

\$1000 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

Approved by the Governor in Cabinet the 29th day of August, 2006

Clerk of the Cabinet

MADE by the Rules Committee of the Grand Court on the 14th day of July, 2006.

The Hon. Anthony Smellie, QC, Chief Justice
The Hon. Sam Bulgin, QC, Attorney General
Andrew J. Jones, QC, Legal Practitioner
Mr. Graham F. Ritchie, QC, Legal Practitioner

AND MADE by the Rules Committee of the Court of Appeal on the 9th day of June, 2006.

The Rt. Hon. Mr. Justice Edward Zacca, P.C., O.J.,
President
The Hon. Mr. Justice Forte, Justice of Appeal
The Hon. Mr. Justice Taylor, Justice of Appeal