

2013-2014 COURT COSTS AND FEES - FREQUENTLY ASKED QUESTIONS

Original FAQ Prepared July 30, 2013

Note: All of the answers to the following frequently asked questions (FAQ) reflect the interpretation of the relevant fee provisions by the Administrative Office of the Courts (NCAOC). Individual orders of the court may direct otherwise, and should be followed notwithstanding any advice below. Any party's dispute concerning the validity of a court's judgment must be addressed to the court, not to the clerk.

CRIMINAL COSTS – G.S. 7A-304 AND RELATED STATUTES

QUESTION	ANSWER
A. General Criminal Cost Questions	
There are no new frequently asked questions about general criminal fees for 2013 at this time. Subsequent editions of his FAQ document may address questions as they arise.	
B. Lab Analyst Expert Witness Fee – G.S. 7A-304(a)(10) and (a)(11).	
Q: The costs memo says that the lab analyst expert witness fee applies to costs "assessed" on or after August 1. If the lab analyst actually finishes his or her testimony <u>before</u> August 1, but judgment isn't entered until <u>after</u> August 1, do we charge the fee?	A: Yes. The lab analyst expert witness fee is a "cost" under G.S. 7A-304(a). Court costs are assessed only upon conviction. Therefore the point of assessment is the date of entry of the judgment of conviction, so the fee should be assessed when the entry of the judgment of conviction occurs on or after August 1, 2013, regardless of when the actual testimony at trial occurred.
Q: The defendant wasn't convicted of anything. Do we assess the fee?	A: No. The lab analyst expert witness fee is a "cost" under G.S. 7A-304(a). Costs may not be assessed against a defendant who was not convicted.
Q: The lab analyst testified, and the defendant was convicted of something, but the defendant was <u>not</u> convicted of the charge for which the analyst performed the tests. Do we assess the fee for the analyst's testimony?	A: The statute is unclear. The judge presiding at the entry of the judgment of conviction must decide. The new G.S. 7A-304(a)(10) and (11) provide that the fee applies "upon conviction" after a lab analyst has testified at trial. It is unclear whether or not the General Assembly intended that the "conviction" in question must be for a charge for which the analysis was performed or for any charge tried in the same trial. Until the legislature or the appellate division provides additional guidance, the NCAOC takes no position on this question and defers to the individual judgment of the presiding judge.
C. Expunction Fee Questions. G.S. Chapter 15A, Article 5.	
Q: A petitioner wants to file his expunction petition as an indigent. How do we decide that?	A: The clerk should evaluate a request to file an expunction petition as an indigent in the same way that the clerk's office evaluates and decides requests to sue as an indigent in civil cases under G.S. 1-110.
Q: If the petition is filed prior to September 1, 2013, but the hearing doesn't occur until after September 1, must the petitioner pay the new or increased fee?	A: No. The change in expunction fees applies only to "petitions filed" on or after September 1. If the petition was filed with the clerk prior to that date, then the old fee provision (which might mean "no fee") still applies for that petition.

QUESTION	ANSWER
Q: The court denied the petition and told the petitioner to “re-file.” Does he have to pay the fee for the new (re-filed) petition?	A: Yes, unless the court specifically orders otherwise. If the first petition is denied, the second petition is not a “re-filing”; it is a new petition and therefore must be assessed the fee.

CIVIL COSTS – G.S. 7A-305

QUESTION	ANSWER
A. General Civil Cost Questions	
Q: A party wants to file a complaint (or a counterclaim, crossclaim, third-party complaint or motion), or request an alias & pluries summons or endorsement, but the party doesn't have the fees and hasn't been approved to proceed as an indigent. Should the clerk take the filing or refuse it?	A: The clerk should take the filing. Rule of Record Keeping 3.4 (Advanced Costs), Comment B states “The clerk should not refuse to accept any filing not accompanied by all appropriate fees. The clerk should notify the filer or the filer’s attorney and the court of any costs that are due. The clerk should note that costs are due in the court’s file.”
B. Divorce Fee - G.S. 7A-305(a2)	
Q: The 2013 budget bill (S.L. 2013-360, SB 402) changed the allocation of the divorce fee effective July 1, 2013, so why is AOC waiting until August 25 to change it?	A: The allocation of the divorce fee was amended by § 30.2.(a) of S.L. 2013-360. Section 30.2 was amended subsequently by S.L. 2013-363, § 7.1, to make § 30.2.(a) effective “30 days after this act [S.L. 2013-360] becomes law.” S.L. 2013-360 became law on July 26, so the divorce fee re-allocation does not take effect until 30 days later, on August 25.
Q: What does the clerk need to do to perform the re-allocation?	A: Nothing, when the fee is receipted at the time of filing for any complaint (or counterclaim) for absolute divorce filed on or after August 25. The related code for the divorce fee will allocate the fee properly into its two sub-accounts. If the fee is paid on or after August 25 for a divorce complaint that was filed <u>prior</u> to that date, the clerk will need to adjust the allocation manually to the previous allocation: \$55 to the Displaced Homemakers’ Fund and \$20 to the Domestic Violence Center Fund.
C. Counterclaim, Third-Party Complaint, and Crossclaim Fees - G.S. 7A-305(a5)	
Q: Can a counterclaim, third-party complaint, or crossclaim be filed in a small claims action?	A: Yes. A counterclaim, third-party complaint, or crossclaim may be filed in small claims actions provided that the total amount of all the claims do not exceed the small claims jurisdictional amount. G.S. 7A-219. Since the small claims jurisdictional amount will increase to \$10,000 on August 1, 2013, counterclaims, third-party complaints, and crossclaims are more likely to be filed.
Q: Does the fee for counterclaims, third-party complaints or crossclaims apply if a party files a document that only contains an answer or reply, without any motions and without asserting any claims of his own?	A: No. There are no fees for an answer or reply that asserts no claims and makes no motions.

QUESTION	ANSWER
Q: What if a party files an answer with a counterclaim, third-party complaint, or crossclaim?	A: The filing fee for a counterclaim/third-party complaint/crossclaim must be assessed.
Q: What if a party files an answer with a counterclaim, a crossclaim <u>and</u> a third-party complaint?	A: Only <u>one</u> filing fee should be assessed under G.S. 7A-305(a5). The fees of subsection (a5) apply only to "a pleading containing one <u>or more</u> counterclaims, third-party complaints, or crossclaims" (emphasis added), so the fee is assessed only once for the <u>pleading</u> , not based on the number of claims asserted therein.
Q: What if the defendant's answer includes a counterclaim (or a third-party complaint or crossclaim) <u>and</u> a motion to dismiss the plaintiff's case. Does defendant pay both the counterclaim fee and the motion fee?	A: Yes and No. G.S. 7A-305(a5) applies to any "pleading containing one or more counterclaims, third-party complaints, or crossclaims," so the filing fees apply to the defendant's pleading. However, effective August 1, 2013, G.S. 7A-305(f) assesses the motion fee only upon the filing of a <u>notice of hearing</u> for a motion (unless the content of the motion or its filing party is exempt from the fee). Therefore the motion fee would not be assessed for this filing; it would be assessed only when the party files a notice of hearing on the motion.
Q: What if the defendant's counterclaims are the same issues as in the plaintiff's complaint? For example, if the plaintiff files for divorce, and then the defendant files an answer that counterclaims for divorce (and nothing else), does the defendant have to pay the counterclaim fees?	A: Yes. Subsection (a5) applies to any "pleading containing one or more counterclaims, third-party complaints, or crossclaims." The presence of <u>any</u> counterclaim in the pleading triggers the fee, even if the relief requested in the counterclaim is substantively the same as in the plaintiff's complaint.
Q: Plaintiff filed for divorce. Defendant wants to file a counterclaim for divorce. Does defendant pay both the counterclaim filing fees and the divorce fee?	A: Yes. G.S. 7A-305(a2) provides, in relevant part: "In every action for absolute divorce filed in the district court, a cost of seventy-five dollars (\$75.00) shall be assessed against the person filing the divorce action. ... Costs assessed under this subsection shall be in addition to any other costs assessed under this section." The person asking for divorce in a counterclaim is "filing the divorce action." Further, the last sentence of (a2) says that the fee is in addition to "any other costs" in the section, which would include the counterclaim fees of the new subsection (a5).

QUESTION	ANSWER
<p>Q: Plaintiff filed a complaint and paid the filing fees. Defendant filed a counterclaim against plaintiff and paid the counterclaim fee. Plaintiff now wants to file an answer to defendant's counterclaim, and the answer includes a complaint against a third party. Does plaintiff pay a fee for the complaint against the third party, even though he already paid the filing fees for his complaint?</p>	<p>A: Yes. G.S. 7A-305(a5) now applies to any "pleading containing one or more counterclaims, third-party complaints, or crossclaims."</p> <p>Because the plaintiff's new pleading contains a third-party complaint, the fees of subsection (a5) must be assessed, even though plaintiff already paid the filing fees of subsection (a) for his original complaint.</p>
<p>Q: The third-party defendant in the question above files an answer to the plaintiff's third-party complaint, and the answer includes a counterclaim or crossclaim. Must the third-party defendant pay the counter/crossclaim fees?</p>	<p>A: Yes. Because the pleading contains a counterclaim or crossclaim, the fees apply.</p>
<p>Q: What if the plaintiff filed his complaint on or before July 31, 2013, and defendant then files a third-party complaint on or after August 1, 2013? Must defendant pay the fee for the third-party complaint?</p>	<p>A: Yes. Subsection (a5)'s expansion to cover third-party complaints applies to third-party complaints filed on or after August 1, 2013, regardless of when the original complaint was filed.</p>
<p>Q: Do the counterclaim/third-party complaint/crossclaim fees apply in special proceedings or estates?</p>	<p>A: No. The counterclaim/third-party complaint/crossclaim fees are codified in G.S. 7A-305, which applies only to civil actions.</p>

D. Civil Motion/Notice of Hearing Fee – Civil Cases, G.S. 7A-305(f)

1. General Motion/Notice of Hearing Fee Questions - Examples

As set forth in S.L. 2013-360, for the support of the General Court of Justice, the sum of twenty dollars (\$20.00) shall accompany any filing of a Notice of Hearing on a Motion not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a:

1. Notice of Hearing on a Motion containing as a sole claim for relief the taxing of costs, including attorneys' fees; or
2. Motion filed pursuant to G.S. 1C-1602 or G.S. 1C-1603; or
3. Motion filed by a child support enforcement agency established pursuant to Part D of Title IV of the Social Security Act.

No more than one fee shall be assessed for any motion for which a notice of hearing is filed, regardless of whether the hearing is continued, rescheduled, or otherwise delayed.

A Notice of Hearing is a document that notifies parties or other individuals that a Motion or other proceeding has been placed on the calendar for hearing on a certain date. A Motion is a request for an order of the court. Therefore, if an individual files a document with your office, and that document gives notice to any person that a hearing is to take place on a Motion or request for an order of the court, then the document is a Notice of Hearing and may require the payment of a filing fee.

The Motions listed in G.S. 7A-308, for which the miscellaneous fees and commissions should be charged instead of the Motion or Notice of Hearing fee are the filing of a:

1. Document initiating a foreclosure proceeding.
2. Motion to assert a right of access under G.S. 1-72.1.
3. Motion for an out-of-state attorney to appear in NC courts in a civil or criminal matter. G.S. 84-4.1.

Notices of Hearings issued by any judge or clerk, assistant clerk, deputy clerk, magistrate, trial court administrator, or trial court coordinator do not require the payment of a filing fee.

The following fact pattern will be used for Questions Q1- Q9: an attorney files Motions A, B, C, D, E, F, and G as stated below.

- Motion A was filed on July 31, 2013 or earlier: It is a Motion to tax costs and attorney fees against the opposing party; because the Motion only seeks costs and attorney fees, it is **exempt** from the Motion/Notice of Hearing fee.¹
- Motion B was filed on July 31, 2013 or earlier: It is a Motion for something *other* than the taxing of costs and attorney fees against the opposing party; because the Motion seeks something besides costs and attorney fees, it is **not exempt** from the Motion/Notice of Hearing fee.
- Motions C and D were filed on August 1, 2013 or later: They are Motions for something other than the taxing of costs and attorney fees against the opposing party; because the Motions seek something besides costs and attorney fees, they are **not exempt** from the Motion/Notice of Hearing fee.
- Motions E, F, and G were filed on August 1, 2013 or later: They are Motions for something other than the taxing of costs and attorney fees against the opposing party; because the Motions seek something besides costs and attorney fees, they are **not exempt** from the Motion/Notice of Hearing fee.

There was no Motion/Notice of Hearing fee paid for Motion A at the time of the filing on or before July 31, 2013, because it is exempt from the fee.

The Motion/Notice of Hearing fee was paid for Motion B at the time of its filing on or before July 31, 2013,

¹ For the purposes of this document, "Motion/Notice of Hearing fee" shall be used to designate both the Motion fee that was applicable to Motions filed on or before July 31, 2013, and the Notice of Hearing fee that is applicable to Notices of Hearing filed on or after August 1, 2013. The new fee for Notices of Hearing replaces the Motion fee.

<p>when the Motion fee was still tied to the filing of the Motion, and not tied to the filing of a Notice of Hearing.</p> <p>The Motion/Notice of Hearing fee was <u>not</u> paid for Motions C or D when they were filed because on or after August 1, 2013, the fee will no longer be charged for the filing of a Motion, only for the filing of a Notice of Hearing on the Motion.</p>	
<p>Q1. Attorney² files a Notice of Hearing as to only Motion A after August 1, 2013. Is a fee charged?</p>	<p>A: No. If the Notice of Hearing is for an exempt Motion <u>only</u>, the Notice of Hearing fee is not charged.</p>
<p>Q2. Attorney files a Notice of Hearing for Motion C only after August 1, 2013. Is a fee charged?</p>	<p>A: Yes. The Motion is for nonexempt relief, and it was filed after the effective date of the change, so no fee was assessed at the time of the filing of the Motion. Therefore, the filing of the Notice will trigger the fee.</p>
<p>Q3. Attorney files a Notice of Hearing for Motion B only after August 1, 2013. Is a fee charged?</p>	<p>A: No. The Motion/Notice of Hearing fee for this Notice of Hearing was paid when the Motion was filed and the fee was paid as a Motion fee. When the Notice of Hearing is filed after August 1, 2013, no new fee is charged because the law states “[n]o more than one fee shall be assessed for any motion for which a notice of hearing is filed, regardless of whether the hearing is continued, rescheduled, or otherwise delayed.”</p> <p>The fee paid may have been classified as either a Motion fee or a Notice of Hearing fee; one or the other may be charged, but both should not be charged for the same underlying Motion.</p>
<p>Q4. Attorney files Motions E, F, and G on or after August 1, 2013, and the Attorney immediately files a single Notice of Hearing that sets hearing dates for all three Motions. Is a fee charged, and if so, how much?</p>	<p>A: Yes. A fee of \$20 is charged for the filing of the Notice of Hearing. Since multiple Notices of Hearing were combined into one document, only one fee is charged for the filing.</p>
<p>Q5. When a Notice of Hearing contains Notices for more than one Motion, does it matter if the dates of hearing are not the same for each Motion?</p>	<p>A: No. The way fees are calculated does not change based on the number of Motions or the number of dates listed in the Notice of Hearing.</p>
<p>Q6. Attorney files a Notice of Hearing on or after August 1, 2013, on Motions A (exempt) and C (not exempt). Is a fee charged, and if so, how much?</p>	<p>A: Yes. A fee of \$20 is charged for the filing of a Notice of Hearing on a non-exempt Motion (Motion C) for which no Motion/Notice of Hearing fee has previously been paid. Including the exempt Motion (Motion A) in the Notice of Hearing does not change the need to collect the filing fee for the Notice of Hearing on the non-exempt Motion.</p>
<p>Q7. Attorney files a Notice of Hearing on or after August 1, 2013, on Motion B (not exempt, fee already paid) and Motion C (not exempt, fee not paid). Is a fee charged, and if so, how much?</p>	<p>A: Yes. A fee of \$20 is charged because the Notice of Hearing contains at least one Motion for which the Motion/Notice of Hearing Fee has not been paid. Including a Notice of Hearing for a Motion for which the Motion/Notice of Hearing fee has already been paid (Motion B) does not change the need to collect a fee for the Notice of Hearing on the Motion/Notice of Hearing (Motion C) for which no fee has been paid.</p>

² For ease of reading and for purposes of this FAQ, the term “Attorney” is used to reference the filer of the document even though the filer may be a pro se litigant.

<p>Q8. Attorney files a Notice of Hearing on or after August 1, 2013, for four Motions: A (exempt), B (not exempt, Motion/Notice of Hearing fee already paid), C (not exempt, Motion/Notice of Hearing fee not paid) and D (not exempt, Motion/Notice of Hearing fee not paid). Is a fee charged, and if so, how much?</p>	<p>A: Yes. A fee of \$20 is charged because the Notice of Hearing contains at least one Motion for which the Motion/Notice of Hearing Fee has not been paid. Including a Notice of Hearing for a Motion for which the Motion/Notice of Hearing fee has already been paid does not change the need to collect a fee for the Notice of Hearing on the Motion/Notice of Hearing for which no fee has been paid.</p>
<p>Q9. Attorney files a Notice of Hearing on Motions C and D on or after August 1, 2013, and pays the \$20 fee. At hearing, Motion C is disposed of but Motion D is left still pending. Attorney later files a Notice of Hearing as to Motion D only. Is a fee charged for the second Notice of Hearing, and if so, how much?</p>	<p>A: No. No fee is charged for the second Notice of Hearing on Motion D because “[n]o more than one fee shall be assessed for any motion for which a notice of hearing is filed, regardless of whether the hearing is continued, rescheduled, or otherwise delayed. The Motion/Notice of Hearing fee was already paid on the original Notice of Hearing for Motions C and D. The fee paid for the document containing Notice of Hearing for Motions C and D covered the fee going forward for any hearings on that Motion.</p> <p>Remember: The fee is only assessed once per Motion; if a Motion is continued after a fee has already been paid on that Motion/Notice of Hearing, a second fee is <u>not</u> charged.</p>
<p>2. Additional General Motion/Notice of Hearing Fee Questions</p>	
<p>Q10. Attorney files a Motion to Modify an Order that was issued based on a previous Motion in the case. For example, the parties previously had a hearing on a Motion for Temporary Custody and an Order was issued on the Motion. The Attorney now files a Notice for Hearing on the Motion to Modify Temporary Custody Order. Is a fee charged? If so, how much?</p>	<p>A: Yes. The \$20 fee is charged because this is a new Notice of Hearing on a Motion that has not been heard before, continued, rescheduled or otherwise delayed.</p>
<p>Q11. What is a Notice of Hearing? Does a calendar request count as a Notice of Hearing?</p>	<p>A: A Notice of Hearing is a document that notifies parties that a Motion or other proceeding has been placed on the calendar for hearing on a certain date. Under the new law the \$20 is only charged if a Notice of Hearing is filed with the Clerk.</p> <p>A Calendar Request is not typically a Notice of Hearing, but if the Calendar Request is used as the document by which parties are notified that a hearing is on the court calendar, then the Calendar Request may be considered a Notice of Hearing.</p>
<p>Q12. What does it mean for the Notice of Hearing to be “filed with the Clerk”? What if it’s filed with the Trial Court Administrator or Trial Court Coordinator?</p>	<p>A: “Filing with the Clerk” means that the Clerk’s office has taken the Notice of Hearing, put a file stamp on it, and put it in a case file. Filing a document with the Trial Court Administrator or Trial Court Coordinator is not the same as filing a document with the Clerk.</p>
<p>Q13. Who is responsible for determining if the Motion/Notice of Hearing fee has already been paid on a Motion?</p>	<p>A: If the Attorney filing the Motion or Notice of Hearing states that the Motion/Notice of Hearing fee was previously paid, then the Attorney should provide documentation of the payment either by showing you the Attorney’s copy of the receipt for payment, or by locating the receipt for payment in the file.</p>

<p>Q14. Attorney files a Notice of Hearing for a Motion for which the Motion/Notice of Hearing fee has already been paid, but you believe the attorney is trying to avoid paying the fee, and is actually going to have a different Motion (which was not listed in the Notice of Hearing) heard that day. Is a fee charged, and if so, how much?</p>	<p>A: No. No additional fee should be charged. You should base the assessment of fees on the content of the Notice of Hearing. If the Notice of Hearing only relates to a Motion for which no fee is due, then you should not charge a fee.</p> <p>If you have concerns an attorney has violated the rules of professional conduct, you may notify the presiding judicial official.</p>
<p>Q15. Attorney sends a Notice of Hearing to an opposing party, and the hearing is held. The Notice of Hearing is never filed with the Clerk. Is a fee charged, and if so, how much?</p>	<p>A: No. The \$20 fee is not charged until a Notice of Hearing is <u>filed</u> with the Clerk's office.</p>
<p>Q16. Attorney completes a Calendar Request and submits the request to the Trial Court Administrator or Trial Court Coordinator. Is a fee charged, and if so, how much?</p>	<p>A: No. The Motion/Notice of Hearing fee is only charged for the filing of a Notice of Hearing with the Clerk. The fee is not charged for filings with the Trial Court Administrator or Trial Court Coordinator.</p>
<p>Q17. Attorney completes a Calendar Request and submits the request to the Trial Court Administrator or Trial Court Coordinator. The Calendar Request is then served on the opposing party. Is a fee charged, and if so, how much?</p>	<p>A: No. The Motion/Notice of Hearing fee is only charged for the filing of a Notice of Hearing with the Clerk. The fee is not charged for filings with the Trial Court Administrator or Trial Court Coordinator, and the serving of the Calendar Request on the opposing party does result in a fee.</p>
<p>Q18. Attorney completes a Calendar Request and submits the request to the Trial Court Administrator or Trial Court Coordinator. The Calendar Request is then served on the opposing party, and the Calendar Request is then filed with the Clerk's office. Is a fee charged, and if so, how much?</p>	<p>A: Possibly. If the Calendar Request is being used as the document by which notice is given to another party that a hearing will take place on a specified date, and if it is filed with the Clerk, then the Motion/Notice of Hearing fee should be charged.</p>
<p>Q19. Attorney places a Motion on the court calendar, files a Notice of Hearing, and pays the Motion/Notice of Hearing fee. During the hearing on the Motion, the parties also decide to have a separate Motion (for which a Notice of Hearing was not filed) heard. Is a fee charged, and if so, how much?</p>	<p>A: No. No additional fee would be charged. The fee is charged when a Notice of Hearing is filed, and in this case, no Notice of Hearing was filed for the second Motion.</p>
<p>Q20. Attorney places a Motion on the court calendar, files a Notice of Hearing, and pays the Motion/Notice of Hearing fee. The attorney then decides to have a second motion heard the same day, and files another Notice of Hearing for the second motion. Is a fee charged, and if so, how much?</p>	<p>A: Yes, a separate fee of \$20 would be charged for the second Notice of Hearing.</p>

<p>Q21. Attorney places a Motion on the court calendar, files a Notice of Hearing, and pays the Motion/Notice of Hearing fee. The attorney then decides to have a second motion heard the same day, and files an Amended Notice of Hearing that includes both the first Motion (for which the fee was already paid) as well as the second motion. Is a fee charged, and if so, how much?</p>	<p>A: No. There is no additional fee for amending a document for which a filing fee applied and has already been paid.</p>
<p>Q22. What if the Attorney files a Notice of Hearing for several Motions, but hasn't actually filed all of the Motions? For example, the lawyer files a Notice of Hearing on a Motion to Dismiss, a Motion to Change Venue, a Motion for Summary Judgment, and a Motion for Judgment on the Pleadings on September 15, 2013, but as of that date has only filed a Motion to Change Venue. The lawyer then files a Motion for Summary Judgment on October 15, 2013. Is a fee charged, and if so, how much?</p>	<p>A: Yes. A fee of \$20 would be charged for the Notice of Hearing filed on September 15, 2013. It is not the responsibility of the clerk to determine whether or not the Motions listed in the Notice of Hearing are filed and pending before the court. The issue of the timing of the filing of the Notice of Hearing and Motions does not impact the assessment of a filing fee.</p> <p>If you have concerns an attorney has violated the rules of professional conduct, you may notify the presiding judicial official.</p>
<p>Q23. What if someone files a Notice of Hearing on a motion that was exempt when filed, but for which a fee is to be charged on or after August 1, 2013? Do they have to pay for the Notice of Hearing now?</p>	<p>A: Yes. The Notice of Hearing on a Motion fee applies if the Notice of Hearing was filed after August 1, 2013, and the motion is no longer exempt from the fee. For example, Motions in IV-D cases filed by parties, other than the IV-D agency, are no longer exempt, so the Notice of Hearing on the Motion fee now applies. If a party to a IV-D case filed a Motion prior to August 1, 2013, they were not required to pay a filing fee. However, if they file a Notice of Hearing on that Motion (e.g., AOC-CV-600) on or after August 1, 2013, they must pay the filing fee for the Notice of Hearing.</p>
<p>3. Exemptions From Motion/Notice of Hearing Fee - Civil Cases</p>	
<p>Q: Defendant files a Notice of Hearing for a Motion to Claim Exempt Property as allowed under G.S. §1C-1602 or G.S. §1C-1603. Does the defendant have to pay the \$20 filing fee for the Notice of Hearing?</p>	<p>A: No. Notices of Hearing on Exemptions are exempt from the filing fee requirement.</p>
<p>Q: Does a child support agency have to pay a \$20 fee for filing Notice of Hearing on a Motion?</p>	<p>A: No. Notices of Hearing on a Motion filed by child support agencies (IV-D agencies) are exempt from the filing fee requirement.</p>
<p>Q: What if any party other than the IV-D agency files a Notice of Hearing on a Motion in a IV-D case, does that party have to pay a the \$20 filing fee?</p>	<p>A: Yes. The exemption from paying the \$20 Notice of Hearing on a Motion fee in IV-D cases only applies to the child support agency.</p>
<p>Q: What if the party (other than the IV-D agency) who files the Notice of Hearing on a Motion is indigent, does the party have to pay the fee?</p>	<p>A: No. If the court has determined that the party is indigent the party is not required to advance the fee prior to filing the Notice of Hearing. If the presiding judicial official has not determined that the defendant is indigent, the Clerk can make that determination based on the party's completion of a Civil Affidavit of Indigency. AOC-CV-226.</p>

Q: What if the attorney for a defendant in a IV-D action is a court appointed attorney, must the attorney pay the \$20 filing fee?	A: If the attorney was appointed because the defendant was found to be indigent, then the defendant is not required to advance the fee prior to filing the Notice of Hearing. If the defendant was found to be indigent, there should be documentation of this finding in the court file.
Q: A Motion is filed by a IV-D Agency, and the parent then fires the IV-D Agency and files a Notice of Hearing on the Motion filed by IV-D. Is a fee charged? If so, how much?	A: No. The Motion/Notice of Hearing fee is not charged on Motions filed by a IV-D Agency. This Motion was filed by a IV-D Agency even though someone else filed the Notice of Hearing on the Motion.
Q: Clerks, Trial Court Administrators, Trial Court Coordinators, Family Court Administrators and other judicial officials often send out Notices of Hearing for their own Motions or to put the Motions of the parties on the calendar. If a judicial official files a notice of hearing with the Clerk's office, is a filing fee charged?	A: No. There is no filing fee charged to judicial officials for Notices of Hearing the official may file in cases over which they preside.

SPECIAL PROCEEDING COSTS – G.S. 7A-306 AND G.S. 7A-308

QUESTION	ANSWER
A. General Special Proceeding Cost Questions	
Q: Do the counterclaim/third-party complaint/crossclaim fees apply in special proceedings?	A: No. The counterclaim/third-party complaint/crossclaim fees are codified in G.S. 7A-305, which applies only to civil actions.
B. Special Proceeding Motion/Notice of Hearing Fee - G.S. 7A-306(g)	
See the questions and answers under "Civil Motion/Notice of Hearing Fee – Civil Cases, G.S. 7A-305(f)" above. Except as noted below, the answers applicable for motion fee issues in general civil actions will apply equally to the motion fee in special proceedings.	
Q: A foreclosure proceeding is started by the filing of a Notice of Hearing. Do I charge \$20 for a Notice of Hearing in a foreclosure, the \$300 fee set out in 7A-308, or both fees?	A: The \$300 fee set out in G.S. 7A-308 is paid, and the \$20 fee is not paid. First, the Notice of Hearing filed under Chapter 45 is not the same as a Notice of Hearing on a Motion. Second, pursuant to section (f) of G.S. 7A-306 (Special Proceedings costs), the costs in that statute do not apply to foreclosures under power of sale in a deed of trust or mortgage, so the motion fee is not to be assessed in those proceedings.
Q: Does the Motion/Notice of Hearing Fee apply to foreclosure proceedings?	A: No. Pursuant to G.S. 7A-306(f), the costs in that statute do not apply to foreclosures under power of sale in a deed of trust or mortgage, so the motion fee is not to be assessed in those proceedings.
Q: Clerks, Trial Court Administrators, Trial Court Coordinators, Family Court Administrators and other judicial officials often send out Notices of Hearing for their own Motions or to put the Motions of the parties on the calendar. If a judicial official files a notice of hearing with the Clerk's office, is a filing fee charged?	A: No. There is no filing fee charged to judicial officials for Notices of Hearing the official may file in cases over which they preside.

ESTATE COSTS – G.S. 7A-307

QUESTION	ANSWER
A. General Estate Cost Questions	
Q: Do the counterclaim/third-party complaint/crossclaim fees apply in estates?	A: No. The counterclaim/third-party complaint/crossclaim fees are codified in G.S. 7A-305, which applies only to civil actions.
B. Estate Motion/Notice of Hearing Fee - G.S. 7A-307(a)(4)	
See the questions and answers under “Civil Motion/Notice of Hearing Fee – Civil Cases, G.S. 7A-305(f)” above. Except as noted below, the answers applicable for motion fee issues in general civil actions will apply equally to the motion fee in special proceedings.	
Q: Does the Motion/Notice of Hearing fee apply to Notices of Hearing in Estate Proceedings?	A: Yes. The fee applies to a Notice of Hearing on a Motion in an Estate Proceeding unless the Motion is one listed in G.S. 7A-308. However, the Notice of Hearing fee would not apply to a Notice of Hearing on a Petition in an Estate Proceeding because a Petition in an Estate Proceeding is not a Motion.
Q: Clerks, Trial Court Administrators, Trial Court Coordinators, Family Court Administrators and other judicial officials often send out Notices of Hearing for their own Motions or to put the Motions of the parties on the calendar. If a judicial official files a notice of hearing with the Clerk’s office, is a filing fee charged?	A: No. There is no filing fee charged to judicial officials for Notices of Hearing the official may file in cases over which they preside.

MISCELLANEOUS COSTS – G.S. 7A-308

QUESTION	ANSWER
There are no new frequently asked questions about miscellaneous fees at this time.	

