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December 14, 2018

Ms. Rachel Rice, Project Director
Georgia Superior Court Clerks' Cooperative Authority
1875 Century Blvd. NE #100
Atlanta, GA 30345

Re: Imposition of ADR Fees for Issuance of Notary Commissions

Dear Ms. Rice:

This letter is in response to your recent email requesting informal advice with respect to a question about assessing additional costs for issuance of notary public commissions. You have asked whether Alternative Dispute Resolution ("ADR") fees should be assessed on the fee for issuance of notary public commissions.

With respect to the question presented, it appears that ADR fees would apply to the issuance of notary commissions. While superior court clerks have not previously assessed ADR fees on notary public commissions, the fee could still apply because it is styled similarly to other fees that clerks already assess.

O.C.G.A. § 15-23-7 provides for the assessment of additional costs in civil actions for the purposes of providing court-connected or court-referred alternative dispute resolution programs and reads as follows:

For the purposes of providing court-connected or court-referred alternative dispute resolution programs, a sum not to exceed \$10.00, in addition to all other legal costs, may be charged and collected in each civil action or case filed in the superior, state, probate, and magistrate courts and other courts within the county that have the same powers and jurisdiction as state or magistrate courts.

O.C.G.A. § 15-23-7(a) (emphasis added). The language and the structure of O.C.G.A. § 15-23-7 is substantially similar to the Civil Action Surcharge ("CAS") that clerks usually already assess on notary public commissions.

CAS provides for the assessment of additional filing fees for the purposes of providing for indigent legal defense services. O.C.G.A. § 15-21A-6 provides as follows:

In addition to all other legal costs, there shall be charged to the filing party and collected by the clerk an additional filing fee of \$15.00 in each civil action or case

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filed in the superior, state, recorder's, mayor's, and magistrate courts except that municipalities, counties, and political subdivisions shall be exempt from such fee.

Without limiting the generality of the foregoing, such fee shall apply to all adoptions, certiorari, trade name registrations, applications for change of name, and *all other proceedings of a civil nature*. Any matter which is docketed upon the official dockets of the enumerated courts and to which a number is assigned shall be subject to such fee, whether such matter is contested or not.

(Emphasis added). Even though the CAS fee is different than the ADR fee in that it provides exemptions for certain identified bodies, its broad application to proceedings of a civil nature is the same. Since 2004, the clerks of superior court have uniformly followed an interpretation of O.C.G.A. § 15-21A-6 that adds the \$15.00 fee to the cost of issuing certificates of appointment and reappointment to notaries public. 2010 Op. Att'y Gen. 10-3, p. 2. The ADR fee would apply to the cost of issuing certificates of appointment and reappointment to notaries public along the same lines.

The assessment of an ADR fee would be consistent among other fees already assessed by most clerks on notary commissions. Most clerks already assess a Law Library ("LL") fee. O.C.G.A. § 36-15-9 provides "[f]or the purpose of providing funds for those uses specified in Code Section 36-15-7, a sum not to exceed \$5.00, *in addition to all other legal costs, may be charged and collected in each action or case, either civil or criminal...*" (emphasis added). Clerks also uniformly assess a fee for the Superior Court Clerks' Retirement Fund of Georgia. O.C.G.A. § 47-14-51(a) provides "[i]n addition to all other legal costs, the sum of \$1.00 shall be charged and collected in each civil suit, action, case, or proceeding filed in the superior courts or in any other court of this state..." (emphasis added). Similarly, clerks assess a fee for the Sheriff's Retirement Fund of Georgia. O.C.G.A. § 47-16-61(a) provides "[i]n addition to all other legal costs, the sum of \$1.00 shall be charged and collected in each civil action, case, or proceeding."

It has been consistently interpreted that the additional fees, *supra*, apply to the commission of notary publics because they are civil actions. *See* 2010 Op. Att'y Gen. 10-3. In the same type of language and applicability in previously applied fees, the ADR fee also applies to civil actions, including the issuance of a notary public commission. *See* O.C.G.A. § 15-23-7

I hope that this informal advice is helpful. If you have any questions, please contact me.

Sincerely,



Oliver tum Suden
Assistant Attorney General