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VIA U.S. MAIL

September 19, 2014

Mr. John Earle
Executive Director
Georgia Superior Court Clerks' Cooperative Authority
1875 Century Boulevard, Suite 100
Atlanta, Georgia 30345

RE: GSCCCA Position Regarding Law Library Fee Imposed Pursuant to O.C.G.A. § 36-15-9

Dear Mr. Earle:

On behalf of the Georgia Superior Court Clerks' Cooperative Authority ("GSCCCA"), you have requested informal advice regarding the nature of the law library fees that are collected in civil cases filed in superior courts. The specific issue that you have raised is whether the law library fees that are collected by the superior court clerks in civil cases pursuant to O.C.G.A. § 36-15-9 are deducted from or added-on to the other legal fees. You have advised that GSCCCA has previously taken the position that the law library fees collected by superior court clerks pursuant to O.C.G.A. § 36-15-9 are deducted from the filing fees. From our review, it appears that this position is correct.

O.C.G.A. § 36-15-9 outlines the collection of "additional costs" in court cases in *various courts* to fund the county law library:

- (a) For 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, (. . .) filed in the superior, state, probate, and any other courts of record, except county recorders' courts or municipal courts. The amount of such additional costs to be charged and collected, if any, in each such case shall be fixed by the chief judge of the superior court of the circuit in which such county is located. Such

additional costs shall not be charged and collected unless the chief judge first determines that a need exists for a law library in the county.

(f) The sums provided for in subsection (a) of this Code section for actions, cases, or proceedings civil in nature which are filed in the superior courts *shall be collected in accordance with the provisions of subsection (b) of Code Section 15-6-77*

(emphasis added). Furthermore, O.C.G.A. § 15-6-77 outlines the charge and collection of all fees by *superior court clerks*, including the fees for the county law library:

(a) The clerks of the superior courts of this state shall be entitled to charge and collect the sums enumerated in this Code section.

(b) All sums as provided for in this Code section shall be *inclusive of* the sums that the clerks of the superior courts may be required to collect pursuant to *Code Section 36-15-9* and *Code Section 15-6-77.4*. The sums provided in this Code section are exclusive of costs for service of process or other additional sums as may be provided by law

(emphasis added).

O.C.G.A. § 36-15-9(a) broadly describes the types of cases and the specific courts where a law library fee, “in addition to all other legal costs”, may be charged and collected. Namely, a law library fee may be collected in civil and criminal cases in superior, state, and probate courts and in any other courts of record, except county recorders’ courts or municipal courts. On its face, the phrase “in addition to all other legal costs” means that such library fees should be collected on top of all other legal fees; i.e., they are add-on fees. However, subsection (f) of the same code section creates an exception for civil cases filed in superior courts, where law library fees must be collected in accordance with O.C.G.A. § 15-6-77(b). In turn, O.C.G.A. § 15-6-77(b) indicates that law library fees are to be deducted in that they are included as part of all the fees that superior court clerks may collect under O.C.G.A. § 15-6-77. Simply put, with the exception of superior court civil cases, law library fees collected pursuant to O.C.G.A. § 36-15-9 are always added to the fees imposed.

We arrived at same conclusion using basic principles of statutory construction. In *Ryan v. Commissioners of Chatham County*, 203 Ga. 730, 731-733 (1948), the Georgia Supreme Court stated that “all statutes relating to the same subject matter, briefly called statutes “in pari materia”, are construed together, and harmonized wherever possible, so as to ascertain the legislative

Mr. John Earle
RE: GSCCA Policy on Law Library Fee
September 19, 2014
Page 3 of 3

intendment and give effect thereto.” Furthermore, all statutes are presumed to be enacted by the Legislature with full knowledge of the existing condition of the law and with reference to it; they are to be construed in connection and in harmony with the existing law; and their meaning and effect will be determined in connection with not only the common law and the Constitution, but also with reference to other statutes and the decisions of the courts. *Allison v. Domain*, 158 Ga. App. 542, 544 (1981). Here, O.C.G.A. § 36-15-9(f) and O.C.G.A. § 15-6-77(b) both concern the topic of county law library fees. When the two code sections are read together, it becomes evident that, in superior court civil cases, the legislature intended to make an exception to the general rule that law library fees are added-on to all other legal fees. Any other reading would make the other code section meaningless and imply that the legislature did not act with full knowledge of the existing law when enacting the code sections.

I hope that this informal advice responds to your inquiry. Please do not hesitate to call if you have any questions or concerns. Please keep in mind that this letter is not an official or unofficial opinion of the Attorney General.

Sincerely,

A handwritten signature in blue ink, appearing to read "Betti Rosszer", with a stylized flourish at the end.

BETTI ROSSZER
Assistant Attorney General

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