

## **FEE'S & MILEAGE**

STANDARD NO(S):

NYSSA # 99

DATE:

September 1, 2010

REFER TO:

David Smith

### **I. OBJECTIVE:**

It is the objective of the Civil Division to establish a fee schedule which must include fees for service and enforcement of all types of Enforcement and non-enforcement civil process in accordance with provisions of the New York State Civil Practice Law and Rules and other controlling statutes.

### **II. POLICY:**

- A.** Civil Division fee schedules and mileage charts must be kept up to date and conform to any applicable statutes and must be made available upon request to any interested party.
- B.** In addition, the fee schedule and mileage chart will be posted on the Seneca County Sheriff's Office website on the Civil Division page.

### **III. DETAILS:**

- A.** Civil Litigation is basically private in nature and the county should generally not be obligated to support private litigation with public funds. Payment of fees, expenses and poundage are statutory and must be collected.
- B.** In order to eliminate confusion, avoid unnecessary delays and standardize procedures, the Civil Officer and the Civil Clerk will both maintain a schedule of fees and expenses that is detailed enough to ensure that litigants know what the Civil Division requirements for the service of process and the enforcement of mandates are.
- C.** No statutory authority exists for the waiver of fees, poundage or expenses. Any employee who waives a fee shall be liable to the Sheriff's Office for any sum actually lost by virtue of such employee's act or omission.
- D.** All fees and expenses shall be paid in advance in accordance with the established division schedule. The exceptions are:

1. State and political subdivisions shall be billed for service, fees and expenses by submitting an official claim voucher after service is rendered.
  2. Fees for receiving or levying pursuant to an execution in a “small claims” judgment issued out of a district or city court shall not be collected in advance, but shall be added to the amount to be levied and taken out of any sums collected or the proceeds of a sale by virtue of such execution.
- E.** Any additional fees or expenses that become due after an action is initiated should be deducted from any sums collected or the proceeds of any sale prior to distribution to the prevailing party. Poundage shall be collected on all proceeds received. In the event there are no proceeds from which to deduct additional fees or expenses, the party who delivered the process or requested the service shall be liable to the Sheriff's Office for payment.
- F.** Any expense that may be expected to be incurred that is not listed in the division schedule shall be estimated by the department and the estimate shall be advanced by the party requesting action prior to execution of the mandate. This may be evidenced in the situation where specific jewelry is to be seized and an appraisal may be necessary to determine authenticity and value.
- G.** Poundage is that sum or portion of monies collected that is due the Sheriff for service rendered. Poundage is calculated at the rate of 5% of the first \$250,000 collected and 3% upon the residue collected. Poundage shall be collected on settlements as well as on the proceeds of sales and sums collected in connection with execution and attachments in accordance with law and other process.
- H.** Whenever a notice of motion to cancel a notice of attachment is served upon the sheriff's office, the records shall be searched to determine if any fees or expenses remain unpaid and such facts shall be reported through channels to the county attorney.
- I.** Prior to the delivery of a chattel to the person entitled to possession pursuant to an order of seizure, all outstanding fees and expenses shall be paid by the person entitled to possession.