

**Proposed Amendments to
ALC Rules of Procedure
2010**

Amend Rule 15 to clarify that the judge assigned to the case issues the Notice of Hearing:

15. **Notice of Contested Case Hearing.** The ~~Court shall promptly~~ administrative law judge assigned to the case must issue a Notice of Contested Case Hearing at least thirty (30) days before the hearing date that sets forth the date, time, place, and purpose of the hearing, the administrative law judge who will conduct the hearing, and any other matters necessary for the prompt resolution of the matter.

Amend Rules 36 and 37 to reduce the number of copies of the Record on Appeal and briefs to be filed from two copies to one:

36. **Record on Appeal.**
- A. **Time for Service and Filing.** Within forty-five (45) days of the date of the notice of assignment to an administrative law judge, the agency with possession of the Record shall file an original and ~~two (2) copies~~ one (1) copy of the Record with the Court and serve one (1) copy on each party to the appeal, unless the time for filing the Record is extended by the Administrative Law Judge assigned to the appeal.
37. **Briefs.**
- A. **Time for Filing.** The party first noticing the appeal shall file an original and ~~two copies~~ one copy of its brief with the Court within thirty (30) days after the filing of the Record on Appeal. Within thirty (30) days thereafter, the respondent and other parties shall file an original and ~~two copies~~ one copy of their briefs in response. A reply brief and ~~two copies~~ one copy may be filed ten (10) days thereafter. The principal briefs shall not exceed thirty (30) pages and the reply brief shall not exceed ten (10) pages.

Amend Rule 71 to increase certain filing and motion fees, decrease the filing fee for HHS and certain DSS cases, reflect that the third and subsequent filing from an inmate in a calendar year will be subject to a filing fee, and clarify that the filing fee is nonrefundable once the case has been assigned to an administrative law judge. The proposed filing fees are based upon the complexity of each type of case.

71. **Filing Fee.**
- A. **Cases for which Fee Required.** Each request for a contested case hearing, notice of appeal, or request for injunctive relief before the Court must be accompanied by a filing fee in the amount set forth in Rule 71(C). A case will not be assigned to an administrative law judge and will not be processed until the filing fee has been paid or a waiver has been granted pursuant to Rule 71(B). The filing fee is not refundable once the case has been assigned to an administrative law judge. This fee is not required for contested cases, appeals, or requests for injunctive relief brought by the State of South Carolina or its departments or agencies. For appeals brought pursuant to Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000), the fee will be assessed only for the ~~seventh~~ third and subsequent appeals filed by an inmate during a given calendar year.

B. Request for Waiver. A party who is unable to pay the filing fee may request a waiver of the fee by filing a completed Request for Waiver form with the Clerk of the Court at the same time the request for a contested case, notice of appeal, or request for injunctive relief is filed with the Court. Request for Waiver forms shall be issued by the Clerk of the Court. If the filing fee is not waived, the party must pay the filing fee within ten days of the date of receipt of the order denying waiver of the filing fee. If the filing fee for a case is waived on behalf of a party, any motions filed by that party in that case are exempt from the motion fee as provided in Rule 71(D).

C. Schedule of Filing Fees. The filing fee will be assessed according to the following schedule:

Case Type	Fee
Dept. of Corrections (7th <u>3rd</u> and subsequent filing per year)	\$25
DHEC–Health Licensing	\$400 <u>200</u>
DHEC--Individual Septic Tanks	\$100
DHEC--(All other, including OCRM, CON and NAD)	\$250 <u>500</u>
Dept. of Health and Human Services	\$50 <u>25</u>
Dept. of Insurance–Rate Cases	\$250 <u>500</u>
Dept. of Insurance–Agent Application	\$400 <u>200</u>
Dept. of Insurance–Agent Disciplinary	\$400 <u>200</u>
Dept. of Insurance–All Other	\$400 <u>200</u>
LLR– Wage Disputes (Department of Labor)	\$50
LLR– Appeals (Professional and Occupational Licensing Boards)	\$400 <u>200</u>
Dept. of Natural Resources– Hunting/Fishing	\$50
Dept. of Natural Resources– Coastal Fisheries	\$50
DOR–Alcoholic Beverage License Applications	\$400 <u>150</u>
DOR–Alcoholic Beverage License Violations	\$400 <u>150</u>
DOR–Bingo Violations	\$400 <u>200</u>
DOR–State Tax Cases (<\$500,000 in controversy)	\$400 <u>150</u>
DOR–State Tax Cases (>\$500,000 in controversy)	\$250 <u>500</u>
County Tax Cases (Residential & Personal Property)	\$50 <u>75</u>
County Tax Cases (Commercial)	\$250 <u>350</u>
Dept. of Social Services (Day Care Appeals)	\$100
Dept. of Social Services (All Other)	\$50 <u>25</u>
Dept. of Transportation	\$150 <u>200</u>
SLED	\$100
Setoff Debt Collection Act	\$50
Requests for Injunctive Relief	\$150 <u>200</u>
Other Contested Cases and Appeals (including cases from agencies not listed herein)	\$400 <u>150</u>

D. Motion Fees. A fee of ~~\$25~~ 50 will be imposed for the following motions filed with the Court:

- (1) Motion for Summary Judgment
- (2) Motion to Intervene
- (3) Motion to Dismiss
- (4) Motion for Injunctive Relief (in a pending case)
- (5) Motion to Compel
- (6) Motion for Reconsideration
- (7) Second and subsequent Motions for Continuance

A fee of \$25 will be imposed for all other motions filed with the Court. The fee must be submitted to the Clerk of the Court at the same time the motion is filed, unless a waiver of the filing fee in the case was previously granted to the party filing the motion. A motion will not be deemed filed until the fee is paid. The motion fee is not required for motions filed by the State of South Carolina or its departments or agencies.