

## Paralegal Fees as Part of Attorney Fee Award?

In honor of this short court week, here's a brief post answering a question I've been asked a few times: When a statute authorizes a court to award reasonable attorney fees as costs, can the fee award also include reasonable *paralegal* fees? (Note that paralegal fees are not separately included in the "complete and exclusive" list of allowable expenses in [7A-305\(d\)](#).) Some trial judges and clerks of court routinely include paralegal fees in attorney fee awards and others do not. But have North Carolina's appellate courts addressed the specific question one way or another? Yes, and the short answer is that trial courts do indeed have this discretion. In *Lea Co. v. North Carolina Board of Transportation*, the Supreme Court reviewed an attorney fee award in the context of a condemnation action. The court stated pointedly that,

A trial judge, acting within his discretion, may consider and include in the sum he awards as attorneys fees the services expended by paralegals and secretaries acting as paralegals if, in his opinion, it is reasonable to do so.

323 N.C. 691, 695 (1989). The Supreme Court later reiterated this statement in a much-cited unfair trade practices case. *United Laboratories, Inc. v. Kuykendall*, 335 N.C. 183, 195 (1993); see also *Guess v. Parrott*, 160 N.C. App. 325, 336 (2003). And the Court of Appeals recently repeated it in an alimony case when affirming an attorney fee award that included paralegal time. [Hunt v. Hunt](#), 759 S.E.2d 712 (2014) (unpub'd) (see R. App. P. 30(e)).

The main justification for this broad interpretation of "attorney" fees is simple enough. Paralegal work is "valuable and can result in a reduction from the fees charged by attorneys for performing the same services." *Lea*, 323 N.C. at 695. It is important to remember, though, that the fees sought should be for actual paralegal work and generally should not include work that is "largely clerical in nature or, even if not, [that is] part of the ordinary office overhead and ought to be subsumed in the hourly rate of the attorneys." *Id.* at 696 (affirming trial court's decision not to award certain paralegal fees). The lines between paralegal and clerical are not always clear, and no doubt trial courts often have to exercise some judgment about what's what. Parties asking for paralegal fees should submit detailed time records showing the legal nature of the paralegals' work. Beyond assessing the type of work done, the trial court also will examine the overall reasonableness of a paralegal's hourly rate and the number of hours billed.

In case you're wondering, North Carolina's approach to paralegal fees is shared by some states and has been rejected by others. For a good summary of how the issue has been addressed in other jurisdictions, see 73 A.L.R. 4<sup>th</sup> 938.