

RULE 9 - FEES IN PARTITION CASES

- 9.1** The apportionment of costs among the parties in a partition suit is not fixed by law, but under R. C. §5307.25, it is reposed in the discretion of the Trial Court. The Court must take into consideration the benefits to the various parties and decide the issue according to equity. Pursuant to R. C. §5307.25, the Court can Order the payment of reasonable counsel fees for services rendered for the benefit of all, but not for services rendered in litigation between the parties.
- 9.2** Therefore, in a partition proceeding, under the provisions of R. C. §5307.25, the Court shall allow fees to counsel for the Plaintiff, but shall not allow fees to counsel for the Defendant unless the Court first finds that counsel for the Defendant has rendered service “for the common benefit of all the parties.”
- 9.3** At a Hearing on a Motion for Allowance of Reasonable Counsel Fees to counsel for Plaintiff, the burden is upon Plaintiff’s attorney to introduce into the record sufficient evidence of the services performed to substantiate the award of fees as being reasonable.
- 9.4** For good cause shown, the Court may, upon Motion and Hearing, allow reasonable additional fees to Defendant’s counsel who has performed services in the partition proceeding for the common benefit of all parties.