

OPINION NO. 2006-036

Syllabus:

1. Absent a statute that either expressly or by necessary implication authorizes a county coroner to charge an expert witness fee for the testimony of the coroner or the coroner's staff members in a civil proceeding concerning a death investigation performed by the coroner's office, a county coroner is without authority to impose such a charge, whether such fee is paid to the coroner, a staff member of the county coroner, or to the county.

2. If a county coroner or a member of the coroner's staff, while being paid his regular compensation by the county, is also paid witness fees under R.C. 2335.06 for providing testimony in civil litigation regarding a death investigation by the coroner's office, the county coroner or member of the coroner's staff is not entitled to retain such fees for his personal use, but must remit such fees to the county.

To: Dennis Watkins, Trumbull County Prosecuting Attorney, Warren, Ohio
By: Jim Petro, Attorney General, August 24, 2006

You have requested an opinion concerning the authority of a county coroner to charge fees for time spent giving testimony at depositions or trials in civil proceedings. Specifically, you ask:

1. Does a county coroner or his professional staff have the authority to require a professional witness fee for expert testimony offered in private civil litigation regarding a death investigation by the coroner's office?
2. Does the coroner or his professional staff have the authority to establish a schedule of fees for expert testimony offered in private civil litigation when the fees are made payable to the county?
3. What fees, if any, is the coroner or his professional staff entitled to for their deposition and testimony offered in private civil litigation?

Let us begin with your first question concerning the authority of a county coroner or his staff to require a professional witness fee for expert testimony offered in private civil litigation regarding a death investigation by the coroner's office. In your second question, you ask whether the county coroner or his staff may charge fees for expert testimony offered in private civil litigation, also, we assume, regarding a death investigation by the coroner's office, if the fees are paid to the county. Because the fundamental issue in these two questions is the same, *i.e.*, whether the county coroner or the coroner's staff may charge a fee for providing expert testimony in a civil proceeding, we will address them together. Whereas your first question contemplates payment of such fee directly to the coroner or staff member who testifies in the civil proceeding, as well as the retention of such fee by the payee,¹ your second question contemplates payment of such fee to the county. For

¹ Because R.C. 102.08 expressly authorizes the Ohio Ethics Commission to render advisory opinions on the provisions of R.C. Chapter 102, R.C. 2921.42, and R.C. 2921.43 (governing ethics, conflicts of interest, soliciting or receiving improper compensation, and financial disclosure), the Attorney General generally refrains from rendering opinions on matters governed by these statutes. 1987 Op. Att'y Gen. No. 87-033 (syllabus, paragraph three). Questions concerning the interpretation of these statutes and their possible application to the fee proposal you describe should, therefore, be directed to the Ohio Ethics Commission.

the reasons that follow, we conclude that neither a county coroner nor a member of the coroner's staff has authority to require a professional witness fee for expert testimony offered in private civil litigation regarding a death investigation by the coroner's office, whether the fee is paid to the witness or to the county.

In answering your questions, we first note that the office of county coroner is created by R.C. 313.01, which states, in pertinent part: “[a] coroner shall be elected quadrennially in each county, who shall hold his office for a term of four years, beginning on the first Monday of January next after his election.” As stated in *State ex rel. Harrison v. Perry*, 113 Ohio St. 641, 644, 150 N.E. 78 (1925), “the coroner can only exercise such powers and jurisdiction as are provided by statute.” Thus, in order to determine whether the coroner may require payment of a fee for testimony in the circumstances you describe, we must first examine the coroner's statutory powers and duties.

We begin with R.C. Chapter 313, which describes the powers and duties of a county coroner. Among the powers vested in the coroner are those set forth in R.C. 313.05(A), which authorizes a coroner to appoint deputy coroners, pathologists, an official stenographer, and various other persons and to set their compensation.² See generally, e.g., R.C. 313.091 (stating, in part, “[i]n connection with the performance of duties under this chapter, a coroner, deputy coroner, or rep-

² R.C. 313.05, Am. Sub. H.B. 235, 126th Gen. A. (2006) (eff. Aug. 17, 2006), grants the coroner various powers, in part, as follows:

(A)(1) The coroner may appoint, in writing, deputy coroners, who shall be licensed physicians of good standing in their profession, one of whom may be designated as the chief deputy coroner. The coroner also may appoint pathologists as deputy coroners, who may perform autopsies, make pathological and chemical examinations, and perform other duties as directed by the coroner or recommended by the prosecuting attorney. The coroner may appoint any necessary technicians.

The coroner may contract for the services of deputy coroners to aid the coroner in the execution of the coroner's powers and duties. Contracts for the services of deputy coroners are exempt from any competitive bidding requirements of the Revised Code.

(2) The coroner may appoint, in writing, one or more secretaries and an official stenographer, who shall record the testimony of witnesses in attendance upon the coroner's inquest, preserve and file properly indexed records of all official reports, acts, and communications of the office, and perform other services as required by the coroner.

(3) The coroner may appoint clerks, stenographers, custodians, and investigators and shall define their duties.

(4) For the performance of their duties, deputy coroners, pathologists serving as deputy coroners, and technicians, stenographers, secretaries, clerks, custodians, and investigators shall receive salaries fixed by

representative of a coroner or deputy coroner may request, in writing, to inspect and receive a copy of the deceased person's medical and psychiatric records"); R.C. 313.16 (stating, in part, "[i]n counties where no coroner's laboratory has been established or where the coroner's laboratory does not have the equipment or personnel to follow the protocol established by rule of the public health council ... , the coroner may request a coroner of a county in which such a laboratory is established or that has a laboratory able to follow the public health council's protocol to perform necessary laboratory examinations").

In addition, R.C. 313.08 imposes specific duties upon a county coroner in a county that maintains a morgue.³ For example, R.C. 313.08(B) requires the coroner, in the case of an unidentified body, to fingerprint and photograph the body and take

the coroner and payable from the county treasury upon the warrant of the county auditor. The compensation shall not exceed, in the aggregate, the amount fixed by the board of county commissioners for the coroner's office.

³ R.C. 313.08 describes the powers and duties of the county coroner, as follows:

(A) In counties in which a county morgue is maintained, the coroner shall be the official custodian of the morgue.

In all cases of the finding of the body or remains of a deceased person within a county in which a county morgue is maintained, when the identity of the deceased person is unknown, or the deceased person's relatives or other persons entitled to the custody of the body or remains of the deceased person are unknown or not present, the body or remains shall be removed to the county morgue, where it shall be held for identification and disposal.

(B) If the body or remains of a deceased person are not identified, a coroner shall do all of the following prior to disposing of the body or remains:

(1) Take the fingerprints of the body or remains of the deceased person, or cause the same to be taken, according to the fingerprint system of identification on the forms furnished by the superintendent of the bureau of criminal identification and investigation;

(2) Take or cause to be taken one or more photographs of the body or remains of the deceased person;

(3) Collect in a medically approved manner a DNA specimen from the body or remains of the deceased person;

(4) Promptly cause the fingerprints, the photographs, and the DNA specimen to be forwarded to the bureau of criminal identification and investigation for inclusion in the unidentified person database in accordance with procedures established by the superintendent of the bureau under division (H) of section 109.573 of the Revised Code. The bureau

a DNA sample, and forward all items to the Bureau of Criminal Identification and Investigation. Also, R.C. 313.09 requires a coroner to “keep a complete record of and ... fill in the cause of death on the death certificate, in all cases coming under his jurisdiction.” Concerning the performance of the various duties described in R.C. Chapter 313, R.C. 313.06 states, “[t]he coroner, his deputy, and assistants shall be available at all times for the performance of their duties as set forth in [R.C. 313.01-.22].”

Nothing within R.C. Chapter 313 expressly addresses the duty of the county coroner or the coroner’s staff members to testify in judicial proceedings. It is common, however, for the coroner or a member of the coroner’s staff to testify in criminal proceedings on behalf of the state concerning the cause, mode, and manner of death of a victim. *See, e.g., State v. Ahmed*, 103 Ohio St. 3d 27, 2004-Ohio-4190, 813 N.E.2d 637 (2004); *State v. Fitzpatrick*, 102 Ohio St. 3d 321, 2004-Ohio-3167, 810 N.E.2d 927 (2004). *See generally, e.g., State v. Beaver*, 119 Ohio App. 3d 385, 392, 695 N.E.2d 332 (Trumbull County 1997) (“[a] causal connection between the criminal agency and the cause of death is an essential element in a conviction for murder in the first or second degree”). It is our understanding, however, that your questions do not concern those instances in which the coroner or a member of the coroner’s staff testifies in the course of criminal proceedings.

Rather, according to information included with your opinion request, the coroner has taken the position that it is outside the scope of the duties of the coroner and the coroner’s staff to provide medical records for,⁴ or testimony in, private civil litigation regarding a death investigation by the coroner’s office. At the same time,

shall provide the fingerprint forms, specimen vials, mailing tubes, labels, postage, and instruction needed for the collection and forwarding to the bureau of the fingerprints and the DNA specimen and for the forwarding to the bureau of the photographs.

(C) Upon the request of a coroner who has the duty to take, or cause the taking of, fingerprints and photographs under divisions (B)(1) and (2) of this section, the bureau of criminal identification and investigation shall take, or assist in the taking of, the required fingerprints and photographs.

(D) The coroner may submit any evidence gathered in the investigation of a death to the bureau of criminal identification and investigation for assistance in determining whether the death resulted from criminal activity. The bureau shall assist in the evaluation of evidence submitted under this division.

(E) As used in this section, “DNA specimen” and “unidentified person database” have the same meanings as in [R.C. 109.573].

⁴ R.C. 313.10, as amended by Am. Sub. H.B. 235, 126th Gen. A. (2006) (eff. Aug. 17, 2006), significantly alters the coroner’s duties with respect to various records of that office. R.C. 313.10 now specifies those records of the coroner’s office that are and those that are not public records, as well as the circumstances in which

however, the coroner has indicated that he or his staff members will provide such services in accordance with a schedule of fees established by that office.⁵

We first note that, absent statutory authority, a county official may not charge a fee for services that he or his office provides. *See, e.g., Debolt v. Trustees of Cincinnati Township*, 7 Ohio St. 237 (1857) (syllabus, paragraph one) (“[a]n officer whose fees are regulated by statute can charge fees for those services only to which compensation is by law affixed”); 2001 Op. Att'y Gen. No. 2001-024 (syllabus) (stating, in part, “[a] board of county commissioners may not charge a public body administrative fees for costs incurred by the county auditor or treasurer, or for utility or rent expenses, unless there is express statutory authorization for the charge or authority implied from an express power”); 1999 Op. Att'y Gen. No. 99-012 at 2-101 (“a county office or officer may not charge a fee for any service absent express or implied statutory authority to do so”).

As noted in 1999 Op. Att'y Gen. No. 99-012 at 2-101 to 2-102 n.1:

In the early cases, the principle that statutory authority is necessary to charge a fee was articulated in the context of whether a public officer had authority to charge a fee for purposes of personal compensation. The principle applies equally, however, to fees that are paid into the public treasury. *See generally State ex rel. Attorney General v. Judges of the Court of Common Pleas*, 21 Ohio St. 1 (1871) (syllabus, paragraph three) (“[i]t is not essential to the exaction of fees that they should inure to the personal benefit of the officer.... [I]t is immaterial to those receiving their services whether the sum to be paid therefor goes to the officer or into the

and the cost at which the coroner's office shall provide those records to the family of the deceased, certain public officials, insurers, and journalists. *See, e.g.*, R.C. 313.10(B) (“[a]ll records in the coroner's office that are public records are open to inspection by the public, and any person may receive a copy of any such record or part of it upon demand in writing, accompanied by payment of a record retrieval and copying fee, at the rate of twenty-five cents per page or a minimum fee of one dollar”). Any release of or charge for the records described in R.C. 313.10 must comport with the requirements of that statute.

⁵ It is possible that a coroner or a staff member may be subpoenaed to testify in the course of a civil proceeding. *See, e.g., Bernal v. Lindholm*, 133 Ohio App. 3d 163, 727 N.E.2d 145 (Lucas County 1999) (deposition of county coroner used in medical malpractice action). *See generally State ex rel. V Cos. v. Marshall*, 81 Ohio St. 3d 467, 469, 692 N.E.2d 198 (1998) (“Civ.R. 30(A) provides that the attendance of a non-party witness deponent should be compelled by the use of subpoena as provided by Civ.R. 45”). Pursuant to Ohio R. Civ. P. 45(E), failure to obey a subpoena “without adequate excuse” “may be deemed a contempt of the court from which the subpoena issued.” Whether it would be appropriate, in a particular instance, to attempt to quash a subpoena issued to the coroner or other staff member or to seek a protective order must be determined on a case-by-case basis by the county prosecuting attorney in consultation with the county officer or employee subpoenaed.

public treasury''), *overruled on other grounds by State ex rel. Guilbert v. Lewis*, 69 Ohio St. 202, 69 N.E. 132 (1903).

We have found no statute that authorizes a county coroner to impose an expert witness fee for providing to private civil litigants the services you describe. Rather, as provided by R.C. 325.36: "No salaried county official, ... shall collect a fee other than that prescribed by law."

You specifically mention 1978 Op. Att'y Gen. No. 78-063, which considered whether a county coroner who was called to testify for the State in a criminal proceeding outside the county in which the coroner served, concerning observations he had made in the course of his duties as coroner,⁶ was entitled to be paid as an expert witness for providing such testimony. Relying upon the analysis set forth in 1955 Op. Att'y Gen. No. 5677, p. 409,⁷ the 1978 opinion concluded, in part, that a "county coroner who testifies in a county other than the county in which he holds

⁶ See generally, e.g., R.C. 313.16 (stating, in part, "[i]n counties where no coroner's laboratory has been established or where the coroner's laboratory does not have the equipment or personnel to follow the protocol established by rule of the public health council adopted under [R.C. 313.122], the coroner may request a coroner of a county in which such a laboratory is established or that has a laboratory able to follow the public health council's protocol to perform necessary laboratory examinations, the cost of which shall be no greater than the actual value of the services of technicians and the materials used in performing such examination").

⁷ 1955 Op. Att'y Gen. No. 5677, p. 409, 412, stated, in pertinent part, as follows:

[I]t would be helpful to keep in mind that the payment of witness fees to public employees does not present a single question, but rather presents a series of questions. Broken down, those questions may be stated as follows:

1. Can the public employee lawfully demand witness fees and mileage, and can the appropriate treasurer lawfully pay such fees and mileage to him.
2. Can the public employee lawfully receive his regular salary and travel allowances during the time he is away from his duties testifying in court.
3. Can the public employee retain the fees and mileage for his own use, or must he return them to his regular employer.
4. Can the public employee be paid as an expert for testifying as to special knowledge which he has acquired; and can he receive such a fee when he has acquired the special knowledge as a part of his official duties.

These distinctions have not always been borne clearly in mind by the persons who have propounded questions nor by the attorneys

office, as to observations made in his official capacity, is not entitled to expert witness fees.” 1978 Op. Att’y Gen. No. 78-063 (syllabus, paragraph two). The 1978 opinion noted that the coroner’s testimony concerned observations made in his official capacity, and because the information the coroner provided in his testimony “was gathered in his official capacity,” found that the coroner was not entitled to be paid expert witness fees.⁸ We concur with 1978 Op. Att’y Gen. No. 78-063 and conclude that a county coroner who is called upon to testify as to matters observed in his official capacity as county coroner is not entitled to be paid as an expert witness.

general who have purported to answer them. They should be kept separate in considering the following discussion.

1955 Op. Att’y Gen. No. 5677, p. 409, then concluded in the syllabus that:

When a doctor employed by the State of Ohio at the Lima State Hospital has been appointed by a court, pursuant to the provisions of [R.C. 2945.40] to investigate and examine into the mental condition of a criminal defendant, and has testified as an expert on the mental condition of said defendant at a trial or other hearing, said doctor is entitled to receive the fee provided by said section *unless the testimony was given as a part of said doctor’s official duties at the Lima State Hospital.* (Emphasis added.)

⁸ Although a county coroner is considered to be a medical expert, who is qualified to provide expert testimony as to matters within his field, *State v. Williams*, 99 Ohio St. 3d 439, 2003-Ohio-4164, 793 N.E.2d 446 (2003), a coroner or staff member may also testify simply as a fact witness about observations made in the course of performing his official duties. See, e.g., *Vance v. Marion General Hospital*, 165 Ohio App. 3d 615, 2006-Ohio-146, 847 N.E.2d 1229 (Marion County), ¶ 13 (where a party has called a medical doctor as a witness, without identifying such doctor as an expert witness, but then attempts to elicit expert testimony from the doctor, the “trial court has inherent authority under Civ.R. 26(B)(4)(c) to impose reasonable fees on that party for the expert testimony. Such a rule allows the trial court flexibility to control discovery and discourages a party from obtaining expert testimony without notifying the opposition”). See generally, e.g., *Vargo v. Travelers Ins. Co.*, 34 Ohio St. 3d 27, 30, 516 N.E.2d 226 (1987) (“while the coroner’s factual findings are not conclusive, neither are they a nullity. The coroner is a medical expert rendering an expert opinion on a medical question. *State v. Cousin* (1982), 5 Ohio App. 3d 32, 35, 5 OBR 34, 38, 449 N.E. 2d 32, 37. Therefore, to rebut the coroner’s determination, as expressed in the coroner’s report and the death certificate, competent, credible evidence must be presented”); *Carson v. Metropolitan Life Ins. Co.*, 156 Ohio St. 104, 100 N.E.2d 197 (1951) (syllabus, paragraph 4) (“[t]he statement in a death certificate or a coroner’s record that a decedent committed suicide, where there was no witness to the infliction of the wound from which the decedent died, is a mere opinion and is not admissible in evidence in the trial of a case in which the question of whether the decedent was a suicide is involved”).

Because we have found no statute that either expressly or by necessary implication authorizes a county coroner to charge an expert witness fee for the testimony of the coroner or the coroner's staff members in a civil proceeding concerning a death investigation performed by the coroner's office, we conclude that a county coroner is without authority to impose such a charge, whether such fee is paid to the coroner, a staff member of the county coroner, or to the county.

We turn now to your third question, which asks whether a county coroner or a member of the coroner's staff is entitled to be paid any type of fee, apart from a fee for testifying as an expert witness, for time spent testifying at a deposition or trial in private civil litigation.⁹ Having concluded, in answer to your first two questions, that a county coroner or a staff member of the county coroner is without authority to charge a fee for providing testimony in a civil proceeding concerning a death investigation performed by the coroner's office, we assume that you are asking about the fees prescribed by statute for witnesses in civil proceedings.

The payment of fees to witnesses in civil proceedings is provided for by R.C. 2335.06, which states, in pertinent part:

Each witness in civil cases shall receive the following fees:

(A) Twelve dollars for each full day's attendance and six dollars for each half day's attendance at a court of record, mayor's court, or before a person authorized to take depositions, to be taxed in the bill of costs. Each witness shall also receive ten cents for each mile necessarily traveled to and from his place of residence to the place of giving his testimony, to be taxed in the bill of costs.

....

(C) As used in this section, "full day's attendance" means a day on which a witness is required or requested to be present at proceedings before and after twelve noon regardless of whether he actually testifies; "half day's attendance" means a day on which a witness is required or requested to be present at proceedings either before or after twelve noon, but not both, regardless of whether he actually testifies. (Emphasis added.)

Thus, the amounts described in R.C. 2335.06(A) are payable to every witness, whether or not an expert, in civil proceedings for "attendance at a court of record, mayor's court, or before a person authorized to take depositions."

The question of a county coroner's entitlement to payment of witness fees under R.C. 2335.06 was also addressed in 1978 Op. Att'y Gen. No. 78-063, which reasoned, as follows:

⁹ We assume that your question concerns providing testimony during normal working hours, the coroner and staff members are being paid their county salaries for the time spent in providing testimony, and that the testimony concerns observations made in the course of their official duties.

Both R.C. 2335.06 and R.C. 2335.08¹⁰ allow certain fees to “each witness.” Neither section makes a distinction between witnesses who are public officials and witnesses who are not. *An examination of the Revised Code reveals no statutory prohibition against county officials collecting such fees.* In the absence of any such prohibition, the general rules set forth in *State, ex rel. Shaffer, v. Cole*, 132 Ohio St. 338 (1937), applies. In that case, the Supreme Court determined that:

In approaching this problem it is helpful to remember the general rule that when a public officer, in the discharge of his official duties, is not required to be present in person upon the trial of a particular case, he is entitled to the same fees as any private person if he is called as a witness therein. [(Emphasis added.)]

The word “required” has been interpreted to mean only those officers, such as the sheriff or the clerk of courts, who are under a statutory duty to attend all sessions of the court. *See*, 1941 Op. Att’y Gen. No. 3854, p. 438-445; 1955 Op. Att’y Gen. No. 5677, p. 409-418. Because a county coroner who testifies for the State in a criminal case in a foreign county is not an officer who is “required to be present in person upon the trial of a particular case,” it is my opinion that such an officer is entitled to the fees prescribed by R.C. 2335.06 and R.C. 2335.08, *supra*.

1978 Op. Att’y Gen. No. 78-063 at 2-156 to 2-157 (emphasis and footnote added). Based upon this analysis, the 1978 opinion concluded, in part, that, “[a] county coroner who testified in a county other than the county in which he holds office, as to observations made in his official capacity, is entitled to witness fees prescribed by R.C. 2335.06.” 1978 Op. Att’y Gen. No. 78-063 (syllabus, paragraph one) (emphasis added).

1978 Op. Att’y Gen. No. 78-063 expressly declined to consider whether the coroner is entitled to retain witness fees paid under R.C. 2335.06 or R.C. 2335.08. A prior Attorney General has concluded, however, that, “[i]n the event a county official is paid his regular salary and travel allowance during the period he is under subpoena as a witness, any witness fees received by such official should be turned back to the county treasury from which his salary and travel allowance was paid.” 1941 Op. Att’y Gen. No. 3854, p. 438 (syllabus, paragraph three). The 1941 opinion, upon which the 1978 opinion appears to have been modeled, examined G.C. 3012 (now at R.C. 2335.06) and G.C. 3014 (now at R.C. 2335.08) and determined that both statutes called for fees to be paid to each witness, without distinction between witnesses who are public officials and those who are not. In concluding that such an official is not entitled to retain such witness fees for his own use, the 1941 opinion reasoned, as follows:

[P]ublic officials are receiving their regular compensation and travel allowance for the period they are acting as witnesses and should not

¹⁰ R.C. 2335.08 (witness fees in criminal cases).

be enriched by retention, for personal use, of witness allowances; such allowances should properly be turned over to the source from which the regular compensation and travel allowance is paid.

1941 Op. Att'y Gen. No. 3854, p. 438, 444.¹¹ We concur in the foregoing, and conclude that if a county coroner or a member of the coroner's staff, while being paid his regular compensation by the county, is paid witness fees under R.C. 2335.06 for testifying in a civil proceeding regarding a death investigation by the coroner's office, the county coroner or member of the coroner's staff is not entitled to retain such fee for his personal use.

¹¹ 1941 Op. Att'y Gen. No. 3854, p. 438, also examined G.C. 2983 (now at R.C. 325.31), which required the county auditor, county treasurer, probate judge, sheriff, clerk of courts, surveyor (now county engineer), and recorder to pay into the county treasury all fees, costs, and other perquisites collected by the officers "for official services." Having concluded that county officials are entitled to be paid witness fees only when attendance at court is not part of their official duties, the opinion determined that, for purposes of G.C. 2983, if a county official were paid witness fees, such fees were not collected "for official services." The conclusion that, for purposes of G.C. 2983, witness fees paid to a public official are not paid for that official's services appears to contradict the opinion's assumption that such public officials are, nonetheless, entitled to be paid their salaries and travel allowances for the time spent as a witness.

Currently, R.C. 124.135(B) provides, as follows, for all state employees:

State employees are entitled to paid leave when subpoenaed to appear before any court, commission, board, or other legally constituted body authorized by law to compel the attendance of witnesses. This division does not apply if the state employee is a party to the action or proceeding involved or is subpoenaed as a result of secondary employment outside the service of the state.

As further provided in 2 Ohio Admin. Code 123:1-34-03(C):

Any compensation or reimbursement for jury duty or for court attendance compelled by subpoena, when such duty is performed during an employee's normal working hours, shall be remitted by a county human services employee to the payroll officer for transmittal to the county treasurer. Compensation or reimbursement for jury duty or for court attendance compelled by subpoena in excess of fifteen dollars per day, when such duty is performed during an employee's normal working hours, shall be remitted by an employee who is paid directly by warrant of the auditor of state to the payroll officer for transmittal to the treasurer of state.

We have found no similar provisions concerning leave for county employees, other than county human services employees, who are subpoenaed to testify as witnesses.

Based upon the foregoing, it is my opinion, and you are hereby advised that:

1. Absent a statute that either expressly or by necessary implication authorizes a county coroner to charge an expert witness fee for the testimony of the coroner or the coroner's staff members in a civil proceeding concerning a death investigation performed by the coroner's office, a county coroner is without authority to impose such a charge, whether such fee is paid to the coroner, a staff member of the county coroner, or to the county.
2. If a county coroner or a member of the coroner's staff, while being paid his regular compensation by the county, is also paid witness fees under R.C. 2335.06 for providing testimony in civil litigation regarding a death investigation by the coroner's office, the county coroner or member of the coroner's staff is not entitled to retain such fees for his personal use, but must remit such fees to the county.