

Filing For Dollars: Budget Crisis Pushes Up Court Costs

Emily E. Duke and Leslie A. Anderson

Starting on July 1, 2003, new civil court fees went into effect. Several existing fees increased significantly -- including the fees for filing a complaint or initial responsive pleading, obtaining a subpoena and obtaining a writ -- and a new fee for motions was added. Some minor fees, such as fees charged to obtain certified copies or photocopies, and the fees for filing and entering satisfactions of judgment, did not change. The fee increases are one side-effect of the state's budget crisis. The table on page 27 reflects the new increases.

The new motion fee added by the Minnesota Legislature will require all parties to pay a \$55.00 fee for filing a motion or response thereto. When asked how they view the new motion fee, court administrators disagreed about its purpose. Some view it purely as an income generator, while one administrator views it as a way of more fairly charging fees for cases that use more court resources. Chief Judge J. Thomas Mott, chair of the Conference of Chief Judges, agrees that the "fee increase will both offset the budget cuts as well as charge those cases that require more court time." Although there has not been a formal comparison as to whether or not the new fee increases put Minnesota in line with the rest of the country, Chief Judge Mott indicates that he believes most states around the country are considering court fee increases and that more states are likely to follow.

Practitioners have raised questions about the new motion fee, some of which have already been addressed by the Conference of Chief Judges and court administrators, as discussed below. Others will be addressed by the Conference of Chief Judges after the motion fee has been in place for several weeks. Even though all the details of how the new fee will be implemented are not set, court administrators and judges have said their common goal is to apply the fee in a consistent manner across the state.

Nevertheless, some variations may arise from district to district as questions arise and various administrators and chief judges respond on an ad hoc basis.

Frequently Asked Questions

- When is the motion fee assessed? At the time you file your motion papers, not at the time you schedule the motion.
- Which motion papers does it apply to? The moving papers and the response; there is no additional fee assessed for those motions in which reply briefs are allowed.
- Will the motion fee be assessed for anything that a judge looks at? No, just motions. It does not apply to information statements or pretrial materials such as witness lists, exhibit lists, or proposed jury instructions. The court administrators that we asked were not certain if the fee would apply to motions in limine, submitted with pretrial materials, but their gut reaction was that the fee probably does apply to such motions.
- What happens if someone cannot afford the fees? Motions to proceed in forma pauperis ("ifp") will be handled the same way they have been handled historically. The ifp motion will still be filed along with the complaint (or responsive pleading from a defendant). Until a determination has been made on the ifp motion, no fee will be required -- for the motion or the initial pleading. Thereafter, fees will be waived for those allowed to proceed in forma pauperis, just as they always have been. However, litigants who are proceeding in forma pauperis can probably expect to have their status reviewed more frequently or carefully than has historically been the case. Those litigants who do not qualify for in forma pauperis status will either have to resolve issues without resort to motion practice or come up with the money to pay the motion fee. Those litigants who have limited resources will be affected most by the new fee.

Unanswered Questions

One question that has no hard and fast answer yet is: Which case types will the motion fee apply to? The legislation says that a motion fee will apply to any "motion in civil, family, excluding child support, and guardianship cases." Minn. Stat. §357.021, subd. 2 (4). However, before the rules were implemented on July 1, court administrators anticipated applying the motion fee to major civil cases (i.e., personal injury, contract, wrongful death, malpractice, property damage, condemnation, conciliation appeal, harassment, employment, and other civil cases), family court dissolutions with or without children, and probate court guardianship and conservatorship cases. Some court administrators did not, however, anticipate applying the new motion fee to minor civil, unlawful detainer, implied consent, or conciliation cases. Whether the motion fee

will actually be applied in this manner in the long term remains to be seen, especially since the legislation does not make these distinctions.

At the time this article went to press many unanswered questions remained relating to the new motion fee. Some examples are:

- How will the motion fee apply to administrative motions such as motions for costs and disbursements or motions for default judgment?
- Will the fee apply to requests for orders to show cause?
- Will the fee be required when a judge specifically requests that the parties brief a particular issue?
- When a cross-motion is brought in response to a motion, will each party have to pay two motion fees?
- Will fees be refunded if a motion is filed but dropped before a response is filed?

In the coming weeks, the Conference of Chief Judges will be addressing questions that arise regarding the implementation of the new civil motion fee. If you have a particular question about the civil motion fee, or any of the new fees (including the new public defender copayment schedule) questions should be addressed to the court administrator of your district. For more information about the new fees, visit the following websites:

First Judicial District (Dakota): www.co.dakota.mn.us/Courts/filing%20fees.htm

Second Judicial District (Ramsey): <http://www.ramsey.courts.state.mn.us/>

Third Judicial District (Dodge, Fillmore, Freeborn, Houston, Mower, Olmsted, Steele, Rice, Winona, Waseca, Wabasha):

<http://www.courts.state.mn.us/districts/third/default.htm>

Fourth Judicial District (Hennepin):

www.courts.state.mn.us/districts/fourth/General/Fees.htm

Sixth Judicial District (Carlton, Cook, Lake, St. Louis):

<http://www.courts.state.mn.us/districts/sixth/index.html>

Description	2002 Fees	2003 Fees
Basic Filing Fee: All civil actions including tax cases:	135.00	235.00
Jury Trial Demand:	75.00	75.00
Copies:	10.00	10.00

Certified	5.00	5.00
Non-Certified		
Subpoena:	3.00	12.00
Motions or Responses to Motions: (civil, family, excluding child support, and guardianship cases):	N/A	55.00
Writs: attachment, injunction, habeas corpus, mandamus, quo warranto, certiorari, etc.:	10.00	40.00
Transcripts of Judgments: filing and issuance:	7.50	30.00
Satisfaction of Judgment:	5.00	5.00
Judgment Searches: Certificate of existence/non-existence of docketed judgments (per name):	5.00	5.00
Filing and indexing trade name: recording basic science certificate, or recording of certificate of physicians:	5.00	5.00
Trustee Accounts: filing each year or fraction thereof:	10.00	40.00
Deposit of Will (Safekeeping):	5.00	20.00
Recording Notary Commission:	25.00	100.00
NOTES		
1. In addition to the filing fee, each Judicial District may charge a Law Library fee which is determined by each District. Law Library fees for Hennepin, Ramsey, Dakota and Olmsted counties are an additional \$10.00; Ramsey County assesses the Law Library fee individually to each defendant, even if multiple defendants are represented by the same firm.		