

VOLUME NO. 37

OPINION NO. 136

FEES - Filing fees for defendants or respondents; CLERKS - Clerk of Court, filing fees for defendants and respondents; REVISED CODES OF MONTANA, 1947 - Section 25-232.

HELD: The clerk of the district court must collect from each and every defendant or respondent a \$10.00 fee on their initial appearance.

17 April 1978

Gregory R. Todd, Esq.  
Deputy County Attorney  
Gallatin County Courthouse  
Bozeman, Montana 59715

Dear Mr. Todd:

You have requested my opinion on the following question:

What fees can a clerk of the district court charge to defendants or respondents under section 25-232(1)(b), R.C.M. 1947?

Section 25-232, R.C.M. 1947, provides:

- (1) the clerk shall collect the following fees:
  - (b) from each defendant or respondent, on his appearance, Ten Dollars;

Apparently a problem arises when an individual is charged as a defendant or respondent and also designated as a defendant or respondent doing business under a fictitious name; or when spouses are charged jointly.

However, the problem is answered by the language of the statute itself. The intent of the Legislature must first be

determined by the plain meaning of the words used in the statute, and when the statute can be so determined no other meanings of interpretation may be applied. Matter of Bier's Estate, \_\_\_ Mont. \_\_\_, 567 P.2d 943 (1977). Section 25-232(1)(b) requires each defendant or petitioner to pay a ten dollar fee when he makes his appearance. "Each" is synonymous with "every." State ex rel. Pierce v. Kundert, 90 N.W.2d 628, 630, 4 Wis.2d 392 (1958). Each defendant or respondent who is in fact a separate entity and not a pseudonym for another defendant or respondent is required to pay the ten dollar fee.

THEREFORE, IT IS MY OPINION:

The clerk of the district court must collect from each and every defendant or respondent a \$10.00 fee on their initial appearance.

Very truly yours,

MIKE GREELY  
Attorney General