

**Clerk of District Court—Fees.**

A defendant on making special appearance must pay the Clerk of the District Court a fee of \$2.50.

Nov. 8th, 1917.

Hon. H. S. Magraw,  
State Bank Examiner,  
Helena, Montana.

Dear Sir:

You have requested my opinion upon the question of whether or not a defendant upon making a special appearance in District Court by way of a motion to Quash Service of Summons should be required to pay a fee of \$2.50.

Section 3169 of the Revised Codes of 1907, as amended by Chapter 88 of the 1917 Session Laws, provides that the defendant, on his appearance, must pay the sum of two dollars and fifty cents (which includes all the fees to be paid up to the entry of judgment.)

An appearance may be either general, that, is without reserve, or it may be special, that is, for a particular purpose. An appearance is special where it is made for the sole purpose of objecting to the jurisdiction of the Court over the person of defendant, because of a want of process, because of defects in the process or in the service thereof, because the process is void or illegal, or because the action was brought in the wrong county or judicial district. 4 Corpus Juris. 1316-7.

In view of the fact that the above statute makes no distinction between a general appearance and a special appearance, and requires that the defendant must pay the fee, "on his appearance," it would seem to me that in the case which you have submitted the Clerk of the District Court should require the payment of the usual fee of \$2.50 from the defendant upon filing such motion.

Respectfully,

S. C. FORD,  
Attorney General.