

Clerk of Court—Fees—Appearance—Intervenor—Judgments.

A fee of \$2.50 should be charged for each separate appearance in a civil action.

A fee of \$5.00 should be charged the party who files a complaint in intervention.

D. J. Olson, Esq.,
Clerk of District Court,
Plentywood, Montana.

January 21, 1926.

My dear Mr. Olson :

You have requested my opinion on the following questions:

“1. Should a fee of \$2.50 be collected for each separate appearance made in a civil action?”

“2. When judgment is entered in favor of an intervenor, is the fee to be charged \$5.00 or \$2.50?”

Section 4918 R. C. M. 1921, provides in part as follows:

“The defendant on his appearance must pay the sum of \$2.50.”

Clearly, a separate appearance constitutes a first appearance of the defendant, for where two or more defendants are joined in an action they cannot appear both jointly and separately, and a separate appearance

of one will not in any way constitute an appearance for the others. Therefore, it necessarily follows that a fee of \$2.50 should be charged for each separate appearance, as above provided.

In answer to your second question, it has been held by former Attorney General Galen in Vol. 2, opinions of attorney general, page 146, for the reasons therein given and authorities cited, that the clerk of the court should collect a fee of \$5.00 from the party who files a complaint in intervention, and I am in full accord with this opinion.

It follows, therefore, that when judgment is entered in favor of an intervenor he should be treated as a plaintiff and the fee for entering judgment should, in my opinion, be \$2.50.

Very truly yours,

L. A. FOOT,
Attorney General.