

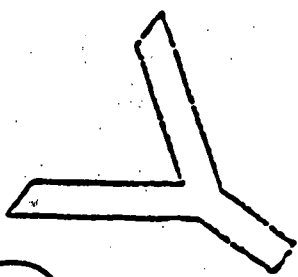


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FILE NO. 80-036

FEES:  
Jury Fees



Honorable Patrick M. Walsh  
State's Attorney, Macon County  
307 County Building  
Decatur, Illinois 62523

Dear Mr. Walsh:

I have your letter wherein you inquire whether section 27.1 of "AN ACT to revise the law in relation to clerks of courts" (Ill. Rev. Stat. 1979 Supp., ch. 25, par. 27.1) authorizes a clerk of the circuit court to assess more than one \$50 jury fee per civil case. For the reasons hereinafter stated, it is my opinion that under subsection 27.1(d)(5) of the aforementioned Act, the clerk of the circuit court is authorized to assess only one \$50 jury fee per civil case.

Subsection 27.1(d)(5) provides that:

"(5) The Clerk of the Circuit Court shall be entitled to receive, in addition to other fees allowed by law, the sum of \$50, as a fee for the services of a jury in every civil action not quasi-criminal in its nature and not a proceeding for the

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exercise of the right of eminent domain, and in every equitable action wherein the right of trial by jury is or may be given by law. The jury fee shall be paid by the party demanding a jury at the time of filing his jury demand. If such a fee is not paid by either party, no jury shall be called in the action, suit or proceeding, and the same shall be tried by the court without a jury." (Emphasis added.)

The words used in a statute should be given their plain and ordinary meaning. (Illinois Power Co. v. Mahin (1978), 72 Ill. 2d 189, 194.) The plain meaning of subsection 27.1(d)(5) clearly supports the conclusion that the clerk is authorized to collect only one jury fee for the service of a jury in a civil case. Each term: "the sum", "a fee", "the jury fee", "the party" and "either party" is singular. The only money the clerk is authorized to collect is "the sum of \$50". If the legislature had intended the collection of more than one fee, the last sentence of subsection (d)(5) would read "each party" rather than "either party". Moreover, I find nothing in the Senate or House debates and committee reports that evidences any intent to authorize more than one \$50 jury fee.

An examination of section 64 of the Illinois Civil Practice Act (Ill. Rev. Stat. 1979, ch. 110, par. 64) further supports and is consistent with the conclusion that a circuit clerk is authorized to assess only one jury fee per civil case. For example, concerning jury demands, subsection 64(2) provides in pertinent part that:

" \* \* \* A party demanding a jury of 12 after another party has paid the applicable fee for a jury of 6 shall pay the remaining one-half of the fee applicable to a jury of 12." (Emphasis added.)

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There would be no need for the above provision if each party were required to pay the entire fee independent of the other.

I have found no Illinois case which resolves the specific question you have raised. However, the Illinois Supreme Court in Moseid v. McDonough (1968), 103 Ill. App. 2d 23, treated a similar issue. That court, in upholding the constitutionality of the collection of a \$1.00 county law library fee in all civil cases under the County Law Library Act, construed the statute as authorizing only one library fee to be paid by plaintiffs. In doing so, the court, at page 34, stated that:

\* \* \*

\* \* \* It seems to us that the use of the singular term, 'a fee,' to describe the collection to be made in all cases is significant, absent a clear subsequent direction that it be applied to a responding party as well as to the first pleader.  
\* \* \*

\* \* \*

Therefore, it is my opinion that the language of section 27.1 of "AN ACT to revise the law in relation to clerks of court" authorizes circuit clerks to assess only one jury fee of \$50 per civil case.

Very truly yours,

ATTORNEY GENERAL