

OPINION
47-79

May 15, 1947 (OPINION)

COUNTY COURT WITH INCREASED JURISDICTION

RE: Filing Fees In

This will acknowledge your letter of May 8, 1947, with reference to the filing fees that are now required in civil actions in a county court with increased jurisdiction.

You cite section 27-0814 of the 1943 Revised Code, which deals with the fees to be charged by the clerk of a county court with increased jurisdiction.

It is my thought that except insofar as that section modified the fees prescribed in section 11-1704, the fees generally prevailing and set forth in section 11-1704, apply to a county court with increased jurisdiction as well as in the district court.

You point to the language of section 27-0814 which states: "The clerk of a county court with increased jurisdiction--shall charge and collect the same fees prescribed in section 11-1704 except that: ***" as a possible indication of the fact that the same filing fee prevails in a civil action in a county court with increased jurisdiction as in district court.

It appears to me from section 27-0814, that the filing fee for a civil action in a county court with increased jurisdiction shall be \$3.00 and additional fees, which I would assume are based upon the provisions of section 11-1704, as therein enumerated. It is clear that for a default judgment the fee is only \$1.50, for all services rendered in connection with the action prior to execution.

It appears to me that section 27-0814 of the 1943 Revised Code does set the filing fees of a county court with increased jurisdiction. This thought seems to be strengthened by the fact that the section does set forth as follows: "Upon his entry of judgment in any civil action, the clerk shall refund to the proper party the amount of all moneys deposited with him in excess of his legal fees accrued in said action.

I am very reluctant to extend by implication the provisions of Senate Bill No. 151 dealing with the filing fees as increased in the supreme court and in the district court. Senate Bill No. 151 does not refer to section 27-0814 of the 1943 Revised Code and does not, as I view the law, change the contests thereof. Only that portion of section 11-1704, included under subsection 1, was modified by section 3 of Senate Bill No. 151, and that deals with filing fees in district court.

It is, therefore, my opinion that the filing fees for the filing of a civil action in a county court with increased jurisdiction is \$3.00, or such additional fees as may be necessary for special services rendered, as are enumerated in section 11-1704 under the subsections

thereof with the exception of subsection 1, and that Senate Bill No. 151 does not apply to the filing fees of a county court with increased jurisdiction.

It is further my opinion that insofar as section 27-0814 of the 1943 Revised Code refers to the same fees as prescribed by section 11-1704, that has reference only to those fees not enumerated in said section 27-0814.

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