

ADMINISTRATIVE ORDER NO. 15-09

Dispositive Motion Filing Fees

In order to implement the fair, reasonable and consistent collection of filing fees for all dispositive motions in Chapter 60 cases in accordance with L. 2015, Ch. 81 (HB 2005), New Section 4,¹ which was effective upon publication in the Kansas Register on June 6, 2015, the following will apply:

The statute specifically names several types of dispositive motions for which the filing fee of \$195 is required for all filings after the effective date of the statute.

- Motions to Dismiss;
- Motions for Judgment on the Pleadings;
- Motions for Summary Judgment;
- Motions for Partial Summary Judgment;
- Motions for Judgment as a Matter of Law; and
- Any Motions “seeking any disposition described” in the statute regardless of the title.

A voluntary, stipulated or agreed “Motion to Dismiss” WILL NOT require a \$195 filing fee, regardless of whether a hearing is required to determine conditions. Any Motion to Dismiss on grounds enumerated under KSA 60-212(b) and any other Motion to Dismiss an action, claim or defense on an involuntarily basis WILL require the filing fee. A Motion for Default Judgment WILL NOT require the filing fee.

A poverty affidavit in lieu of the required filing fee will be considered only at the time of the original submission or upload of a dispositive motion. If a poverty affidavit is reviewed by the Court and no-fee filing is denied, the filing fee will be due immediately at the time of denial.

A poverty affidavit approved at the time of original petition in the case will not include permission for the filing of a dispositive motion. If it is appropriate, a new and current poverty affidavit must be submitted for consideration by the Judge with the dispositive motion.

Motions for “Partial Summary Judgment” requiring the filing fee include motions which address some of the issues in a case while leaving others for trial or other disposition as well as motions which address some of the claims, counts or defenses in a case while leaving others for trial or other disposition.

If a “dispositive” motion which by its title falls clearly within the plain language of the statute is submitted under the generic “motion” category of e-filing without payment of the filing fee or timely poverty affidavit, the Clerk is hereby authorized to reject it or hold it until the filing fee is remitted. If the nature of any such motion is unclear by its title and must be determined by a Judge; if a timely poverty affidavit is included; or, if the Clerk inadvertently accepts a

¹ To be codified at KSA 2015 Supp. 60-2008.

CLERK OF DISTRICT COURT
JOHNSON COUNTY, KS

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dispositive motion without the filing fee paid, the Clerk shall notify the assigned Judge of the filing or submission and relevant fee question(s) at the earliest possible time.

The Court construes the statute as applying only to written motions which are filed in the record of the case, not oral motions made during proceedings in Court.

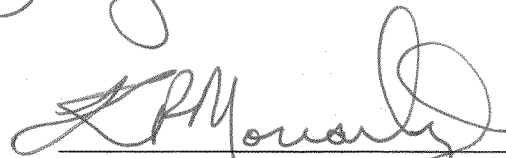
Intentional mis-naming or mis-titling a dispositive motion for the purpose of avoiding payment of the filing fee may result in sanctions imposed by the Court *sua sponte* including a monetary judgment of not more than \$500, striking the motion, and/or attorney fees.

A party filing a motion to dismiss as a response to the first pleading will be entered of record in the case and be associated electronically in the Plaintiff/Defendant table of the case.

The Court will not be expected to set a dispositive motion for hearing, hear oral argument, or enter any ruling on a dispositive motion under the statute until the filing fee is paid by the moving party. In the event that such motion is heard, argued or decided inadvertently by the Court without the filing fee being paid, the Court will order payment orally or by bench note forthwith and the same will not be taxable as a prevailing party cost.

Each such motion filed in a case will require the filing fee.

IT IS SO ORDERED this 27 day of July, 2015.



The Honorable Kevin P. Moriarty
Johnson County District Court Chief Judge
Division 14