



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

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Steven D. Capps
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MEMORANDUM

DATE: September 3, 2009

TO: Circuit Court Administrators and County Clerks

cc: Chief Circuit Judges
Presiding Family Division Judges
Family Division Administrators

FROM: Jim Inloes, Management Analyst

RE: Judgment or Order Entry Fees in Domestic Relations Cases

Collecting and Managing Judgment or Order Entry Fees

In recent months, the State Court Administrative Office (SCAO) has received inquiries regarding some differing local practices regarding the collection of Judgment Entry fees governed by MCL 600.2529.

The statute requires that courts assess either a \$40 or \$80 fee before the court enters a final judgment or post-judgment order that determines or modifies the custody, support, or parenting time of a child. Many courts collect the fee along with the filing fee at the filing of the initiating action (either the original complaint or a motion for a change in custody, support, or parenting time). The issues brought to SCAO's attention include:

- Some courts are collecting fees on temporary orders
- Some courts are collecting the fees more than once
- Some courts are not refunding fees when an action is dismissed without the entry of a final order.

The following guidelines provide direction on the assessment, collection and management of these fees.

A. Statutory Language

MCL 600.2529 (1) (d) Before entry of a final judgment or order in an action in which the custody, support, or parenting time of minor children is determined or modified, the party

submitting the judgment or order shall pay 1 of the following fees, which shall be deposited by the county treasurer as provided in section 2530:

(i) In an action in which the custody or parenting time of minor children is determined, \$80.00.

(ii) In an action in which the support of minor children is determined or modified, \$40.00. This fee does not apply when a fee is paid under subparagraph (i). The court may order a party to reimburse to the other party all or a portion of the fee paid by that other party.

B. Assessing Fees

1. Amount

MCL 600.2529(1) (d) requires a party to pay only one of the judgment entry fees.

- a. An \$80 fee applies when the final disposition involves custody or parenting time.
- b. A \$40 fee applies when the final disposition involves only child support.
- c. When the final order or judgment involves *both* child support *and* custody or parenting time, only the \$80 fee applies.
- d. No judgment entry fee applies to orders that only involve either spousal support or post-majority child support.

2. Collection

- a. MCL 600.2529(1) d) states that the party submitting the order must pay the fee before entry of a final judgment or order. Courts may collect these fees along with filing fees when a party files an initiating action (either the original complaint or a motion for a change in custody, support, or parenting time), or other time before the submission of the dispositional order to the court for entry.
- b. The term “final” refers to disposition. The fee applies to orders and judgments disposing of a specific action or motion in the case. Because *ex parte*, interim, or temporary orders are not final dispositions of an action or motion, the fee does not apply to such orders or to any orders entered while a final determination is pending.
- c. Courts should charge the judgment entry fee for dispositional orders when the matter starts out as a contested proceeding. This would include collecting the fee on stipulated orders or those resulting from mediated agreements following complaints or motions involving custody, parenting time, or child support.
- d. The court should not assess a judgment fee for an order when the parties mediate and file a consent order with their motion or complaint, because subsection (6) exempts such orders.
- e. Uniform Support Orders: MCR 3.211(D) (3) provides that “The clerk shall charge a single judgment entry fee when a Uniform Support Order is submitted for entry along with a judgment or order that incorporates it by reference.”
- f. Waiving Fees [MCL 600.2529(6)]

The court shall waive or suspend the fees in certain circumstances:

- 1) When a party shows by affidavit of indigency or inability to pay, or for other good cause.
- 2) When the parties submit a consent order with their initial filing.
- 3) When a public officer is acting in his or her official capacity.¹

C. Recommended Guidelines for Collecting Judgment Entry Fees

In collecting judgment entry fees, courts should establish policies and procedures that follow these additional guidelines:

1. Courts should establish when the judgment fee will be collected.
2. Courts should assure that the judgment fee is only collected once per final judgment or order.
3. Because the statute does not require collection before a motion or complaint is filed,² courts cannot refuse to accept an initiating action (complaint, motion, and petition) simply because the party will not pay the judgment fee at the time of filing.
4. Courts that collect the judgment fee at the filing of the initiating action should establish policies and procedures governing the collection and management of these fees. These should include procedures for tracking any case in which the fee is not collected upon the filing of an initial pleading and procedures for refunding the fee for cases in which a final judgment or final order is not entered.
5. Courts must escrow the funds until the final judgment is entered, in the event the case is dismissed before the final judgment is entered and a refund is necessary. This necessitates the creation of a trust account for all judgment fees paid prior to the entry of the final judgment or final order.
6. If courts collect judgment fees at the time of entry of the judgment, they must establish procedures to assure the collection of these fees to avoid cases either remaining open for lack of entry of the final judgment or judgments being entered without payment of the fee.

Court and county clerk staffs who have questions should contact Jim Inloes at inloesj@courts.mi.gov or 517-373-0122.

¹ Therefore, the court should not collect the fee for matters initiated by the friend of the court office and prosecutors seeking to establish orders.

² “[T]he party submitting the judgment or order shall pay” suggests only that the fee should be paid no later than upon submission of the dispositional order to the court for entry.