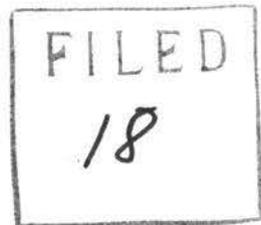


May 18, 1973

OPINION LETTER NO. 18
Answer by Letter - Almstedt

Honorable Robert O. Snyder
State Representative, District 95
204 State Capitol Building
Jefferson City, Missouri 65101



Dear Representative Snyder:

This letter is in response to your request for an opinion on whether independent or free-lance "court reporters" may lawfully charge litigants fees in excess of the limits established by Section 492.590, RSMo 1969, when the latter section is applicable.

You mention in your request that:

"Court reporters in the St. Louis and St. Louis County area as a matter of practice have been establishing their own fee schedules for charges to litigants without regard to the fee limits established in Section 492.590, Missouri Revised Statutes.

"A complaint about charges made in excess of the statutory limits was made to the Bar Association of St. Louis, after which a chairman of one of the Bar Association's committees met with the president of the Court Reporters Association who stated that it was the belief of the members of the association that the statutory limits were not applicable to their charges."

For your information, Section 492.590, RSMo 1959 has been substantially adopted by Missouri Supreme Court Rule 57.46.

Honorable Robert O. Snyder

There has been no change in the law, however, since 1951 when R. S. 1939, Section 1970 was amended to read as it presently does under Missouri Supreme Court Rule 57.46 with the exception that the latter rule incorporates the cost and expense prescriptions of Section 492.590(2), RSMo 1969. Section 492.590(2), RSMo is not in conflict with the Missouri Supreme Court Rules under the proviso of Rule 41.04.

Supreme Court Rule 57.46(b) provides that:

"The costs and expenses [of taking depositions, together with the fees of recording and copying the same] so taxed shall be certified by the stenographer or shorthand reporter taking the same and shall be in the amount fixed by statute."

Your opinion request seeks this office's construction of Missouri Supreme Court Rule 57.46 and such rule's incorporation of subsection 2 of Section 492.590, RSMo.

This office is without assistance from case authority to ascertain and thereby give effect to the legislative intent expressed in Section 492.590, RSMo 1959 and 1969 and Missouri Supreme Court Rule 57.46. However, the legal maxim which provides that where the language of a statute is plain and unambiguous, that there is no occasion for construction and the statute must be given its effect according to its plain and obvious meaning, affords some guidance to this office.

Subsection b of Supreme Court Rule 57.46 is plain in its reading with no ambiguous words or phrases employed. It is our construction of Supreme Court Rule 57.46 that the intent of the legislature is that the cost and expenses incident to the taking of depositions, together with the fees and copying of the same, if designated to be taxed against a named party to a lawsuit as court costs, are prescribed in their amounts by the statutory limits fixed in subsection 2 of Section 492.590, RSMo.

It is the opinion of this office that costs and expenses of taking depositions, together with the fees of recording and copying the same, designated to be taxed as court costs are prescribed according to the amounts fixed by subsection 2 of Section 492.590, RSMo 1969.

Very truly yours,

JOHN C. DANFORTH
Attorney General