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JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

OPINION NO. 86-60

March 19, 1986

Honorable Jay Bradford  
State Senator  
P.O. Box 8367  
Pine Bluff, AR 71611

Dear Senator Bradford:

This letter is written in response to your request for an official Opinion concerning the fee that may be charged for serving a summons by certified mail.

Rule 4 of the Arkansas Rules of Civil Procedure was amended to allow a party or the parties attorney of record to serve a summons and complaint upon the defendant by mail with return receipt requested and delivery limited to the addressee or his agent. The Rule does not state what fee, if any, may be charged.

If the summons and complaint was served by the sheriff the sheriff would be authorized to charge \$15.00 for serving the summons and \$10.00 for the return. (See Ark. Stat. Ann. §12-1722 (1985 Cum. Sup.)).

There is not a specific statute that authorizes a fee for service by mail. However, Ark. Stat. Ann. §12-1735 (Repl. 1979) states:

In all cases where any officer or other person is required to perform any duty for which no fees are allowed by any law, he shall be entitled to receive such pay as would be allowed for similar services.

It appears the attorney would be authorized to charge a fee that is allowed for similar services. The question then arises, whether the service provided by the sheriff is sufficiently similar to allow the attorney to charge the

same fee as the sheriff. In my opinion it is not sufficiently similar. The sheriff would have to drive to the individual's home or place of business and physically serve the document on him. Such a procedure could be a time consuming task.

Service by mail seems more analogous to service by telephone. Ark. Stat. Ann. §12-1723 (Repl. 1979) allows a sheriff or other officer to serve a summons by telephone. For service by telephone the officer is allowed to charge the amount actually paid by him for the use of the telephone plus an additional fifty cents (50¢) for each person summoned. Thus, it appears that an attorney could charge his client the actual cost of mailing the summons by mail plus fifty cents (50¢).

The foregoing Opinion, which I hereby approve, was prepared by Assistant Attorney General Randel K. Miller.

Sincerely,



STEVE CLARK  
Attorney General

SC/RKM/ljm