

ROBERT L PHELPS

CLERK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA

CEDAR RAPIDS, IOWA 52401

111 Seventh Ave SE Box 12

319-286-2300

Date: 5/28/14

Case No.: C12-3078-MWB

Case Caption: Rasmussen v. Hacker, et al.

PLEASE READ CAREFULLY

Mr. Rasmussen:

Enclosed is a copy of the court's order and judgment disposing of the above-captioned matter.

In the event you wish to pursue this matter further by appealing the district court's decision to the Eighth Circuit Court of Appeals, you should be aware that Congress has made substantial modifications to 28 U.S.C. § 1915 dealing with the payment of filing fees, which are applicable to that appeal, in the PRISONER LITIGATION REFORM ACT, effective April 26, 1996.

First, in In re Tyler, 110 F.3d 528, 529-30 (8th Cir. 1997), the Eighth Circuit has held that **you will become liable for payment of the \$505.00 filing fee "at the moment" the notice of appeal is filed in the district court.** This fee is in addition to the fee which previously has been assessed in the district court and is assessed regardless of the outcome of the appeal.

Therefore, you have two (2) options with respect to satisfying the appellate filing fee. Specifically, you may either pay the entire fee of \$505.00 at the time you file the notice of appeal, or you may seek leave of the district court to file the appeal *in forma pauperis*. If you choose to proceed *in forma pauperis*, you should be aware that:

1. By filing a notice of appeal in the district court, you consent to the deduction of the initial partial appellate filing fee and the remaining installments from your prison account by prison officials. The attached authorization form permitting the deductions from your prison account must be submitted with your application to proceed on appeal *in forma pauperis*.
2. You are required to submit to the clerk of the district court a motion to proceed on appeal *in forma pauperis* and a certified copy of your prison account for the last six (6) months within thirty (30) days of the filing of the notice of appeal.
3. If you fail to file the prison account information within the time provided, the

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court will assess an initial partial appellate fee of \$35.00 or such other amount as is reasonable, based on whatever information the court has about your finances.

Once the district court clerk's office receives all of the above materials and your notice of appeal, the matter will be submitted to the district court for a decision as to whether you should be allowed to appeal *in forma pauperis*. If you are granted leave to appeal *in forma pauperis*, the court will send you an order assessing your initial partial payment. You will be liable for payment of the balance of the \$505.00 appeal fee in monthly installments, **regardless** of the outcome of your appeal.

If you choose to file an appeal, please comply with these directions regarding your filing fee obligations. **Your appeal cannot be processed and sent to the court of appeals unless you either pay the full filing fee or obtain leave to appeal *in forma pauperis*.** In addition, please note that this letter deals only with the filing fee requirements. You must also comply with the applicable rules relating to the time and manner for perfecting your appeal.

Enclosure

Robert L Phelps, Clerk
United States District Court
Northern District of Iowa

**AUTHORIZATION TO DEBIT PRISON-INMATE ACCOUNT
TO PAY FEDERAL COURT FILING FEES**

I, _____, Inmate
_____, request and authorize the agency holding me in
custody to disburse funds in an amount not to exceed \$505.00 from my inmate account to
the Clerk of the United States District Court, Northern District of Iowa, for the purpose of
paying the initial partial filing fee and subsequent installment payments for an appeal in
my case number C _____ (APPEAL), entitled:

_____ vs. _____

I understand that the total filing fee for this appeal is \$505.00. I also understand that,
after payment of my initial partial filing fee, the balance of the fee will be deducted from
my account in monthly installments until the entire \$505.00 fee is paid. The monthly
installments will be equal to twenty percent (20%) of the funds deposited to my account
during the preceding calendar month. I agree that I am responsible for the entire fee,
regardless of the outcome of my case.

I agree that this authorization shall apply to any other agency into whose custody I may
be transferred.

DATED this _____ day of _____, 20_____.

(Signature of Plaintiff)

CERTIFICATE OF INMATE ACCOUNT AND ASSETS

I certify that the applicant, _____, has the sum of \$ _____ on account to his/her credit at the _____ institution where he/she is confined. I further certify that the applicant likewise has the following securities to his/her credit according to the records of said institution:

I further certify that, during the last six (6) months, the applicant's average inmate account balance was \$ _____, and the past six (6) month average monthly deposit to the inmate account was \$ _____.

Based on the above inmate account balance: *(Check the appropriate response)*

_____ The applicant has sufficient funds in the prisoner's account to pay the \$505.00 filing fee; OR

_____ The applicant has insufficient funds to pay the \$505.00 filing fee in full at this time. I calculate that twenty percent (20%) of the greater of -

- (a) the average monthly deposits to the prisoner's account; or
- (b) the average monthly balance in the prisoner's account for the six (6) month period immediately preceding the filing of the action or notice of appeal.

is \$ _____, and available as an initial partial filing fee. After payment of the initial partial filing fee, this office will forward twenty percent (20%) of the preceding month's income credited to the prisoner's account as monthly payments to the Clerk of Court each time the amount in the account exceeds \$10.00, until the \$505.00 filing fee is paid in full.

SIGNED this _____ day of _____, 20_____.

Authorized Officer of Institution

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
DIVISION

_____,
Plaintiff,
vs.
_____,
Defendant.

Case No. C _____

**APPLICATION TO APPEAL
IN FORMA PAUPERIS**

I, _____, declare that I am the Plaintiff in the above-entitled proceeding; that in support of my request to proceed without being required to prepay the full filing fee, I state that because of my poverty, I am unable to prepay the full \$505.00 filing fee for this appeal; and that I believe I am entitled to relief.

In further support of this application, I answer the following questions:

1. Where are you imprisoned?

2. When did you begin your imprisonment there?

3. When do you expect to be released?

4. Are you presently receiving an allowance or wage from the prison or jail?

If the answer is YES, state the amount of your allowance or wages per month.

_____.

5. Within the past twelve (12) months, have you received any money from a business, profession or other type of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity, gifts inheritances, court award or settlement, or other sources? _____. If YES, give the amount received and identify the sources.

6. What is the current balance in your prison account?

7. Do you own cash, or do you have money in a checking or savings account, other than a prison account? _____ If YES, state the current balance: _____
8. Do you own any real estate, stocks, bonds, notes, vehicles, or other valuable property (you need not mention ordinary household and cell furnishings such as radios, TV sets, stereo, books, etc., and personal clothing)? _____ If YES, describe the property and state its approximate value:

I hereby authorize officials of the institution where I am incarcerated to release my financial records to the court. My identification number at the institution is _____. I declare under penalty of perjury that I have read the foregoing and it is true, complete, and correct.

Signed this _____ day of _____, 20_____.

(Signature of Plaintiff)