

CHAPTER 563

PROCEEDINGS IN FORMA PAUPERIS

563.02 Inmate liability for fees and costs.

563.02 INMATE LIABILITY FOR FEES AND COSTS.

[For text of subs 1 and 2, see M.S.1996]

Subd. 3. Dismissal of action. (a) The court may, as provided by this subdivision, dismiss, in whole or in part, an action in which an affidavit has been filed under section 563.01 by an inmate seeking to proceed as a plaintiff. The action shall be dismissed without prejudice on a finding that the allegation of financial inability to pay fees, costs, and security for costs is false. The action shall be dismissed with prejudice if it is frivolous or malicious. The court shall provide a copy of its order dismissing an action or claim under this section to the commissioner of corrections.

(b) In determining whether an action is frivolous or malicious, the court may consider whether:

(1) the claim has no arguable basis in law or fact; or

(2) the claim is substantially similar to a previous claim that was brought against the same party, arises from the same operative facts, and in which there was an action that operated as an adjudication on the merits.

(c) An order dismissing the action or specific claims asserted in the action may be entered before or after service of process, and with or without holding a hearing.

(d) If the court dismisses a specific claim in the action, it shall designate any issue and defendant on which the action is to proceed without the payment of fees and costs. An order under this subdivision is not subject to interlocutory appeal.

(e) To determine whether the allegation of financial inability to pay fees, costs, and security for costs is false or whether the claim is frivolous or malicious, the court may:

(1) request the commissioner of corrections to file a report under oath responding to the issues described in paragraph (b), clause (1) or (2);

(2) order the commissioner of corrections to furnish information on the balance in the inmate's inmate account, if authorized by the inmate under subdivision 2; or

(3) hold a hearing at the correctional facility where the inmate is confined on the issue of whether the allegation of financial inability to pay is false, or whether the claim is frivolous or malicious.

[For text of subd 4, see M.S.1996]

History: 1997 c 33 s 2