



STATE OF KANSAS

*Office of the Attorney General*

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CURT T. SCHNEIDER  
Attorney General

June 27, 1975

Opinion No. 75- 264

Mr. Robert I. Nicholson  
Miami County Attorney  
Miami County Courthouse  
Paola, Kansas 66071

Dear Mr. Nicholson:

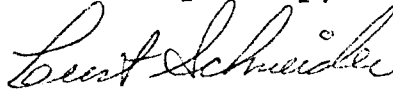
You advise that a local attorney has presented an affidavit to the Miami County Register of Deeds, which recites that a contract for the sale of land has been entered into between the parties, as well as other pertinent facts relating to the transaction. The Register of Deeds inquires concerning any legal authority upon which she may require the attorney to file a copy of the contract itself, and thus invoking the charges required by K.S.A. 28-115 of \$3.00 for the first page and \$1.00 for each additional page, as well as the fee fixed by K.S.A. 79-3102 of twenty-five cents for each one hundred dollars on the remaining unpaid balance stated in the contract.

There is no legal authority upon which the Register of Deeds may require the attorney to file any document he does not wish to file, or which he does not believe necessary to be filed in order to protect the legal interests of his clients. If the attorney wishes to file only the affidavit, he may do so, and the Register of Deeds has no authority to require the filing of any other or additional document. Similarly, the Register of Deeds has no authority to refuse to accept a document for filing on the basis that some other and additional document must also be filed with the offered document. The attorney must be the legal judge of the filings which he deems necessary to secure the legal rights and interests of those persons and parties he represents. If counsel chooses not to file the contract referred to in the affidavit, the Register may not require him to do so, not charge the fees which would be due were the contract to be filed. And unless the affidavit itself constitutes a mortgage on the property, no mortgage registration fee under K.S.A. 79-3102 is due.

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I hope that this response deals fully with all the questions raised in this instance. If not, please feel free to call upon us further.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj