



Northwest Justice Project

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César E. Torres
Executive Director

June 21, 2010

VIA EMAIL: jude.cryderman@courts.wa.gov

Honorable Charles W. Johnson
Washington State Supreme Court
Temple of Justice
P.O. Box 40929
Olympia, Washington 98504

Re: General Rule 34

Dear Justice Johnson:

Please accept this letter as a supplement to the comments in support of GR 34 submitted by Deborah Perluss of the Northwest Justice Project on April 19, 2010 and June 18, 2010. This letter is intended to address a request made by the Justices at the Access to Justice Conference for specific examples of litigants being denied fee waivers.

Many litigants do not come to our attention when denied an In Forma Pauperis Order. They withdraw and wait, not able to even get through the courthouse door to request relief. However, some cases become known to us. Here are a few stories:

- A young mother in Lewis County sought a dissolution of marriage after her husband held a gun to her head and threatened to kill her. Her only income was her TANF benefit. Her In Forma Pauperis Order required her to pay the full filing fee within 90 days. Failure to do so would result in dismissal or prevention of entry of final orders.
- In Thurston County all family law litigants are required to pay a \$20 courthouse facilitator fee *before* filing an action. The petitioner has two children and a chronic illness which requires expensive medication. Her only income is TANF. The domestic violence perpetrated by her husband was so severe that he was charged with assault 4. Yet, to seek safety and begin a dissolution the petitioner was required to pay the facilitator fee. It was a hardship for this petitioner to pay \$20 from her monthly benefit of \$586.



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- In Thurston County a non-custodial parent had summer visitation with his child. During the course of the summer the parent became aware that the child had a serious, untreated medical condition. He was advised to seek immediate care. The parenting plan required joint decision making but the other parent refused permission. The non-custodial parent sought to make a motion for permission to obtain medical care for the child. The court required the parent to either meet with an attorney or the courthouse facilitator, at a cost of \$20, before bringing the motion. The parent is disabled and has a monthly net income of \$629 and could ill afford the \$20 fee.
- In Snohomish County a parent, disabled from traumatic brain injury, petitioned to divorce an abusive spouse. The petitioner's only income is from TANF and food stamps. The In Forma Pauperis Order the court required the petitioner to pay \$50 in surcharges prior to entry of final orders.
- In Grays Harbor County, litigants are charged a \$30 presentation fee for their in forma pauperis motions: they must pay a fee to request a fee waiver! This fee is sometimes, but not always, charged to domestic violence protection order petitioners as well.
- In Lewis County, an incarcerated person sought an In Forma Pauperis Order to file for a dissolution of marriage. The order was granted but the petitioner received a letter from the clerk's office stating that he had to pay \$280 filing fee and surcharges within six months or before finalizing the dissolution, whichever occurred first. The petitioner's monthly income is \$55.
- A guardianship case was filed in Pierce County. After both the guardian and the ward moved, the guardian filed a motion to change venue. The motion was granted. Both the guardian and the ward are disabled and indigent so the guardian applied for a fee waiver when filing the guardianship case in Franklin County. The motion to file in forma pauperis was denied because, the guardian was told, filing fees are only waived in domestic violence cases.
- An incarcerated man sought an In Forma Pauperis Order to file for an uncontested, simple divorce in Spokane County. He was denied the opportunity to make the motion because he did not/could not appear personally and his parents, who sought to present the papers with his full power of attorney, were told he either needs to be represented by a lawyer or appear himself.
- A petitioner in Snohomish County received an In Forma Pauperis Order which directed her to pay the \$200 filing fee prior to the entry of final orders. When the petitioner returned to court with her order of default and her final dissolution orders she was mandated to pay \$200 and \$50 in surcharges before final orders would be entered. The petitioner paid the \$250 from her monthly SSI check because she was desperate to get divorced from her abusive husband. However, she then no longer had money to pay for her monthly HIV medications.

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- The parties agreed on all the terms of their dissolution of marriage and signed the dissolution documents. The wife agreed to file the documents with the Snohomish County court. When she learned of the cost, she made a motion to proceed in forma pauperis, advising the court that her only income was her SSI award and that she was currently living in her car. The court ordered her to pay the filing fee within two weeks or the case would be dismissed. Alternatively, she could persuade her husband to pay the fee which she knew was an impossibility.
- In a Snohomish County case the petitioner was employed and made more than minimum wage, putting her between 125% and 200% of Federal Poverty Level. Because of the economic coercion by her abusive spouse she had significant debt. The court denied her request to proceed in forma pauperis and gave her a deadline by which to pay the filing fee and surcharges. When the petitioner failed to meet the deadline, her case was dismissed.

Thank you very much for the opportunity to provide stories of litigants who are adversely impacted by court fees imposed upon them and for the opportunity to reiterate our support for GR 34. We anticipate the Court's adoption of the rule and with it the removal of a significant barrier to access to justice for low-income people.

Sincerely,



Leslie J. Savina

Northwest Justice Project

Statewide Advocacy Coordinator

cc: Chief Justice Barbara Madsen
César Torres
Deborah Perluss