

87009-2

Supreme Court No. 12-3-00284-5

SUPREME COURT
OF THE STATE OF WASHINGTON

Abeda Jafar,

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
2012 FEB 23 P 4: 03
BY RONALD R. CARPENTER
CLERK

Petitioner,

v.

William Douglass Webb,

Respondent.

MOTION FOR DISCRETIONARY REVIEW

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Attorneys for Petitioner Abeda Jafar

I. IDENTITY OF PETITIONER

Petitioner Abeda Jafar, through undersigned counsel, seeks direct, discretionary review of the decision designated in Section II.

II. DECISION BELOW

Ms. Jafar respectfully requests that this Court grant discretionary review of the Superior Court's January 11, 2012 Order Re Waiver of Civil Filing Fees and Surcharges (the "Fee Order") (Appendix Tab A).

On January 11, 2012, Ms. Jafar requested, pursuant to GR 34, a waiver of all mandatory filing fees and surcharges so that she could file this action for a parenting plan. The Superior Court correctly determined that Ms. Jafar is indigent because, *inter alia*, her household income is below 125 percent of the federal poverty guideline. Despite recognizing Ms. Jafar's indigency, the Superior Court nevertheless ordered Ms. Jafar to pay \$50 in surcharges within 90 days. Ms. Jafar cannot afford to pay the \$50 ordered by the Superior Court, and Ms. Jafar risks dismissal of her case if she does not pay. The Superior Court's Fee Order thus effectively prevents Ms. Jafar from obtaining any final relief from the Superior Court.

III. ISSUES PRESENTED FOR REVIEW

1. Whether GR 34 requires a trial court to grant a waiver of all mandatory fees and surcharges if the trial court determines that a litigant is indigent, as that term is defined in GR 34.

2. If GR 34 does not require a waiver of all filing fees and mandatory surcharges for indigent litigants, whether the Superior Court nevertheless abused its discretion or violated Ms. Jafar's Due Process rights by ordering her to pay \$50 within 90 days.

IV. STATEMENT OF THE CASE

On January 11, 2012, Ms. Jafar sought to file in Snohomish County Superior Court an action to obtain a parenting plan governing custody and visitation of her 20-month-old son. Ms. Jafar sought a parenting plan, in part, due to concerns about her child's safety with his father, Respondent William Douglass Webb.

Ms. Jafar does not have resources to pay mandatory court fees. Consequently, pursuant to GR 34, Ms. Jafar filed a Motion and Declaration For Waiver of Civil Filing Fees and Surcharges (the "Fee Waiver Motion") (Appendix Tab B), seeking a waiver of all mandatory fees and surcharges imposed by the Superior Court. In the Declaration filed with her Fee Waiver Motion, Ms. Jafar stated under penalty of perjury that she cannot afford to meet her necessary household living expenses and pay the fees and surcharges imposed by the Superior Court. Fee Waiver Motion at 1. Ms. Jafar further stated that she had been dependent on Mr. Webb for everything, that she does not have a checking or savings account, and that she has "\$1.00 to [her] name." *Id.* at 2.

Ms. Jafar also submitted a Financial Statement with her Fee Waiver Motion. Ms. Jafar's Financial Statement shows that her only sources of income for herself and her 20-month-old son are a monthly food stamp benefit and Temporary Assistance for Needy Families ("TANF") cash assistance of \$385 per month. Fee Waiver Motion at 3-4. Ms. Jafar's Financial Statement also shows that she has \$380 in monthly expenses. *Id.* at 3. Based on her \$385 per month in cash assistance, Ms. Jafar's annual income is \$4,620—less than 32 percent of the federal poverty guideline of \$14,710 for a family of two. *See Annual Update of the HHS Poverty Guidelines*, 76 Fed. Reg. 3637-02 (Jan. 20, 2011).

On January 11, 2012, the Superior Court entered its Fee Order, using an altered version of the GR 34 pattern form order that was developed by the Administrative Office of the Courts. The Superior Court found that Ms. Jafar is indigent because her household income is at or below 125 percent of the federal poverty guideline. Fee Order at 1. Based on that finding, the Superior Court granted Ms. Jafar a partial waiver of \$200 in filing fees, but it ordered her to pay a "\$20 facilitator surcharge" and a "\$30 Judicial Stabilization surcharge" within 90 days. *Id.* at 2.¹ Ms. Jafar does not have the resources to pay the \$50 ordered by the Superior

¹ The filing fees also include a \$30 domestic violence prevention surcharge. The Superior Court's Fee Order is silent on whether that surcharge is waived. Consequently, Ms. Jafar may in fact be required to pay \$80 to avoid dismissal of her case.

Court. If she fails to pay, Ms. Jafar risks dismissal of her case. *See* Snohomish County Fee Waiver Application Packet (Appendix Tab C), at 5 (“If the Court defers payment of your fees to a later date, make your payment as ordered or your action may be dismissed for nonpayment of these fees.”).

Ms. Jafar filed her Notice of Discretionary Review (Appendix Tab D) with the Superior Court on February 9, 2012.

V. ARGUMENT

Discretionary review is appropriate and warranted in this case pursuant to RAP 2.3(b)(1) and (2). Those rules provide, respectively, that an appellate court may grant interlocutory discretionary review where the Superior Court (1) “has committed an obvious error which would render further proceedings useless” (RAP 2.3(b)(1)); or (2) “has committed probable error” that “substantially alters the status quo or substantially limits the freedom of a party to act.” RAP 2.3(b)(2).

The Superior Court’s Fee Order merits discretionary review under either standard. GR 34 was adopted specifically to prevent indigent litigants like Ms. Jafar from being denied access to the courts based on their inability to pay filing or other court fees. Under GR 34, Ms. Jafar was entitled to a waiver of *all* mandatory fees and surcharges after the Superior Court determined (correctly) that Ms. Jafar is indigent.

The Superior Court's order requiring Ms. Jafar to pay \$50 within 90 days, despite her undisputed indigency, is plainly inconsistent with GR 34 and thus constitutes both obvious and probable error. *See Hartley v. State*, 103 Wn.2d 768, 773-74, 698 P.2d 77 (1985) (discretionary review appropriate where court is asked to "interpret[] a new statute with wide implications").

In addition, the Superior Court's Fee Order constitutes obvious and probable error for the additional reasons that it is inconsistent with the Superior Court's responsibility to ensure the proper and impartial administration of justice, and that it violates Ms. Jafar's Due Process rights.

Finally, the Superior Court's error renders further proceedings useless and substantially limits Ms. Jafar's freedom to act, because Ms. Jafar cannot obtain final relief without paying \$50, and because Ms. Jafar's inability to pay puts her at risk of having her case dismissed.

A. The Superior Court Committed Obvious And Probable Error By Ordering Ms. Jafar To Pay \$50 In Surcharges Despite The Court's Determination That Ms. Jafar Is Indigent.

1. GR 34 Requires Waiver Of All Mandatory Fees And Surcharges For Indigent Litigants.

Washington's GR 34, adopted by the Supreme Court in December 2010, is the culmination of a years-long process to establish (1) a "statewide, uniform approach to presentation, consideration and approval of requests for waiver of fees and costs for low income litigants," and (2)

“a uniform standard for determining indigency” in connection with such requests. *See* Board of Governors of Wash. State Bar Ass’n, GR 9 Cover Sheet, Suggested Amendment, General Rules: GR 34 – Waiver of Court and Clerk’s Fees and Charges in Civil Matters (New Rule; Rev’d Dec. 2008) (Appendix Tab E).² As adopted, the rule provides a detailed framework that Washington trial courts must follow for considering and ruling on fee waiver requests.

The general principle animating GR 34—that courts should not turn away poor litigants simply because they cannot afford to pay otherwise proper user fees—is not new in Washington. It has long been firmly established that Washington courts have the authority, and in some cases the duty, to waive mandatory court fees for the indigent.

The Washington Supreme Court first articulated the courts’ power to waive fees for indigent litigants in *O’Connor v. Matzdorff*, 76 Wn.2d 589, 458 P.2d 154 (1969). In *O’Connor*, an indigent plaintiff whose only source of income was a monthly public assistance grant of \$325 was prohibited from filing a civil action for damages because she did not pay the \$3.50 filing fee. *Id.* at 590. On a petition for a writ of mandamus, the Court held that Washington courts have the inherent authority to waive

² Pursuant to GR 9, the proponent of any requested rule change must submit a cover sheet that includes, among other things, a statement of the purpose of the proposed rule. *See* GR 9(e)(2).

court filing fees for indigent litigants in appropriate cases. *Id.* at 603, 606. The Court explained that the power to waive fees is intertwined with the courts' "duty to see that justice is done in all cases" (*id.* at 600), and that courts thus have a responsibility to waive fees that would prevent indigent plaintiffs from filing potentially meritorious cases: "[W]here a case appears to have been brought in good faith and to have probable merit, *the exercise of sound discretion dictates that a litigant should not be denied his day in court simply because he is financially unable to pay the court fees.*" *Id.* at 603 (emphasis added); *see also Iverson v. Marine Bancorp.*, 83 Wn.2d 163, 167, 517 P.2d 197 (1973) ("The administration of justice demands that the doors of the judicial system be open to the indigent as well as to those who can afford to pay the costs of pursuing judicial relief.").

Moreover, less than two years after *O'Connor*, the U.S. Supreme Court held that the Fourteenth Amendment's Due Process Clause requires courts to waive fees for indigent litigants who petition for changes to family relationships, where the fees would otherwise have the effect of denying indigent litigants access to justice. *See Boddie v. Connecticut*, 401 U.S. 371, 374, 91 S. Ct. 780, 28 L. Ed. 2d 113 (1971).

Despite those general principles, for decades Washington courts received no guidance on the exercise of their inherent powers and duties to

waive fees for indigent litigants. There was no shared understanding among Washington courts about what qualified a low-income civil litigant as “indigent,” or what fees and charges should be waived for such litigants. Individual courts instead simply developed their own standards and procedures for handling fee waiver applications. Unsurprisingly, that process generated a host of inconsistent local standards, and it too frequently resulted in disparate treatment of similarly situated litigants based solely on where they attempted to file their cases. *See* Letter from Deborah M. Perluss, Director of Advocacy/General Counsel, Northwest Justice Project, to Ronald Carpenter, Clerk, Washington Supreme Court (Apr. 19, 2010) (Appendix Tab F) (citing examples of divergent local practices concerning fee waiver requests). The director of Washington’s Office of Civil Legal Aid described the situation thusly:

While the right of low income litigants to access the courts free of financial obstacles has been the law in our state for more than 40 years, objective and anecdotal experience indicates this right is honored more often in the breach. ***Faced with fiscal pressures, judicial officers across our state (and often within the same judicial district) apply inconsistent standards for determining an individual litigant’s right to waiver of court filing fees and costs that she cannot afford to incur.*** In all too many cases, the requirement to pay civil filing fees and other costs operates to limit, and even deny, access to judicial relief in a wide range of compelling civil cases.

Letter from James A. Bamberger, Director, State of Washington Office of

Civil Legal Aid, to Ronald Carpenter, Clerk, Washington Supreme Court (Mar. 30, 2010) (Appendix Tab G) (emphasis added).

Against that backdrop of inconsistent practices, GR 34 was born. GR 34 is grounded in, and gives structure to, the dual constitutional principles recognized in *O'Connor*, *i.e.*, that courts have both the authority to waive fees where appropriate and the responsibility for ensuring that the poor have access to justice.³ If properly applied, GR 34 directs the courts' exercise of their inherent authority to ensure fair, consistent, and predictable treatment of fee-waiver requests based on indigency. The rule is designed to achieve that end through several important features.

First, GR 34 standardizes the procedure for requesting fee waivers. The rule requires trial courts to accept fee waiver applications submitted on a mandatory pattern form developed by the Administrative Office of the Courts, and to present such applications to a judicial officer in a timely manner. GR 34(a)(1)-(2). GR 34 also prohibits courts from charging litigants any local fee to make the application. GR 34(a)(2).

Second, GR 34 provides that litigants who are found to be indigent are entitled to a waiver of *all* mandatory fees. The text of the rule states

³ See GR 34 cmt. ("The adoption of this rule is rooted in the constitutional premise that every level of court has the inherent authority to waive payment of filing fees and surcharges on a case by case basis. Each court is responsible for the proper and impartial administration of justice which includes ensuring that meaningful access to judicial review is available to the poor as well as to those who can afford to pay.").

that, based on indigent status, any litigant “may seek a waiver of filing fees or surcharges the payment of which is a condition precedent to a litigant’s ability to secure judicial relief.” To avoid ambiguity, the official comment to GR 34 explains that the rule applies to all fees or charges that are imposed as a condition precedent to judicial relief, including but not limited to filing fees and other legislatively established surcharges, family court facilitator charges, family court service charges, and domestic violence prevention charges. *See* GR 34(a) cmt.

Third, GR 34 establishes a detailed, three-tiered definition of “indigent.” A litigant who receives need-based, means-tested assistance (such as TANF or food stamps) or whose household income is at or below 125 percent of the federal poverty guideline is automatically deemed indigent, and the trial court has no discretion in making that determination. *See* GR 34(a)(3)(A)-(B). A litigant whose household income is above 125 percent of the federal poverty guideline may still be deemed indigent if the trial court finds that recurring monthly expenses or “other compelling circumstances” render that person unable to pay the fees and surcharges imposed by the court. *See* GR 34(a)(3)(C)-(D). Finally, a litigant represented by a “qualified legal service provider” (“QLSP”) is granted a presumption of indigency if that litigant’s counsel submits a declaration confirming that the client was screened and found eligible for the QLSP’s

services. *See* GR 34(a)(4).

In sum, GR 34's detailed definition of "indigent" embodies a determination that the most vulnerable low-income people—*i.e.*, those on need-based, means-tested public assistance and those with income at or below 125 percent of the federal poverty guideline—categorically should not be required to pay filing or other mandatory fees in order to secure judicial relief. For all other cases, the rule affirms the trial courts' discretion to consider each individual litigant's circumstances to decide whether that person's monthly living expenses or "other compelling circumstances" render her unable to pay. But, in all cases, once the court determines that a litigant is in fact indigent, GR 34 requires a waiver of all mandatory fees.

2. The Superior Court's Fee Order Violates GR 34.

In this case, the Superior Court correctly found Ms. Jafar indigent, as defined in GR 34, because her income is below 125 percent of the federal poverty guideline. But the Superior Court then violated both the spirit and the letter of GR 34 by granting Ms. Jafar only a partial waiver of mandatory fees and surcharges and ordering her to pay the remaining \$50 within 90 days. In so doing, the Superior Court appears to have acted under the erroneous belief that it had discretion to grant or deny Ms. Jafar's fee waiver request, in whole or in part, even after finding Ms. Jafar

indigent. *See* Fee Order at 1-2.

The Superior Court's interpretation of GR 34 is fundamentally inconsistent with the language, structure, and purpose of the rule. Therefore, the court's order that Ms. Jafar pay \$50 within 90 days was both obvious and probable error.

As explained above, under the express terms of GR 34, the *only* determination to be made by the trial court is whether the applicant is indigent, as that term is defined in the rule. If the Court concludes that the applicant is indigent, the Court is required to waive *all* fees. Nothing in GR 34 authorizes a trial court to deny a waiver to an indigent litigant. Nor does the rule permit other half-measures, such as partial waivers or fee deferrals. If the Supreme Court had intended to give trial courts the discretion to grant partial waivers or fee deferrals, the Supreme Court would have done so explicitly, just as it did in RAP 15.2, which expressly allows partial waivers of costs and fees on appeal.⁴ Indeed, in 2009, a commenter on the then-proposed GR 34 requested that the Supreme Court do just that. The District and Municipal Court Judges' Association asked the Court to amend the proposed rule to give courts "the authority to grant

⁴ *See, e.g.*, RAP 15:2(a)(2) ("If the trial court finds the party seeking review is unable by reason of poverty to pay for all or some of the expenses of appellate review, the trial court shall enter such findings, which shall be forwarded to the Supreme Court for consideration, pursuant to section (d) of this rule. The trial court shall determine in those findings the portion of the records necessary for review and the amount, if any, the party is able to contribute toward the expense of review.").

partial fee waivers, in addition to full fee waivers.”⁵ Importantly, that suggested change to the proposed rule was not adopted.

Moreover, the structure of GR 34 strongly suggests that the rule does not afford trial courts the discretion to merely grant deferrals or partial waivers for indigent litigants. For example, under GR 34(a)(3)(C), a litigant with income above 125 percent of the federal poverty guideline can be found indigent only if the trial court also finds that the applicant lacks “the financial ability to pay the filing fees *and* other fees or surcharges for which a request for waiver is made.” GR 34(a)(3)(C) (emphasis added). In other words, indigent status under GR 34(a)(3)(C) is contingent on a showing that the litigant is unable to pay *any* filing fees or surcharges for which the litigant seeks a waiver. It would be inconsistent, illogical, and unfair to conclude that GR 34 permits a trial court to make such a finding and nevertheless require such a litigant to pay all or a portion of those fees and surcharges.

More fundamentally, allowing trial courts to deny fee waivers, defer payment of fees, or grant only partial waivers after determining that

⁵ See Letter from Hon. Glenn Phillips, President-Judge, District and Municipal Court Judges’ Association, to Hon. Charles L. Johnson, Washington Supreme Court (Dec. 8, 2009) (Appendix Tab H) (“The DMCJA believes that requiring a party to pay a portion of the fee in appropriate cases will help to ensure that the party is serious about proceeding with the case. ... The DMCJA feels comfortable in assuming that judges will be responsible in deciding whether or not to impose a partial fee in a case, and that this change to GR 34 will not impose an undue hardship on parties.”).

an applicant is indigent would defeat the primary purpose of GR 34 and render the rule entirely superfluous. As explained above, GR 34's primary purpose was to bring *uniformity, consistency, and predictability* to the fee waiver process in Washington.⁶ See Section V(A)(1), *supra*. That important purpose simply cannot be achieved if every judge remains free to make ad hoc determinations regarding each indigent litigant's ability to pay. In addition, if GR 34 did, in fact, permit trial courts to exercise such discretion, the rule's multi-prong definition of indigent would be superfluous and ultimately meaningless, as a finding of indigency under GR 34 would carry no legal consequence.

The Superior Court's erroneous interpretation of GR 34 has no support in the rule itself and would wholly undermine the rule's core purposes. Accordingly, the Superior Court's order that Ms. Jafar pay \$50 within 90 days is obvious and probable error.

3. Ms. Jafar Is Entitled To A Complete Fee Waiver Based On The Court's Inherent Authority And Due Process.

Discretionary review is appropriate in this case for the additional and independent reasons that the Superior Court's Fee Order is both a

⁶ Even opponents of the rule recognized GR 34's central purpose. See Letter from Ruth Gordon, Jefferson County Clerk, to Ronald Carpenter, Clerk, Washington Supreme Court (Apr. 30, 2010) (Appendix Tab I) (opposing GR 34 because it would "directly cut funding to the courts and the clerks," but recognizing the proposed rule "seeks to establish a *consistent process and result for indigent parties* who seek to bring civil actions before the court") (emphasis added).

clear abuse of the court's inherent authority and a violation of Ms. Jafar's rights under the Fourteenth Amendment's Due Process Clause.

As explained above (*see* Section V(A)(1), *supra*), Washington courts have the inherent authority and obligation to waive filing-related fees that would deny an indigent litigant access to the courts to pursue a good-faith, non-frivolous claim. *See O'Connor*, 76 Wn.2d at 603, 606; *Ashley v. Superior Court*, 82 Wn.2d 188, 192-93, 509 P.2d 751 (1973) (directing superior court on remand to waive fees if it found that plaintiffs were indigent and filed actions in good faith). Moreover, where, as here, an indigent party must resort to the courts to petition for a change to a family relationship, Due Process also requires a waiver. *See Boddie*, 401 U.S. at 382-83 (holding that Due Process Clause requires fee waiver for indigent litigants in cases involving "the adjustment of a fundamental human relationship"); *Bullock v. Roberts*, 84 Wn.2d 101, 104, 524 P.2d 385 (1974).

In its Fee Order, the Superior Court found that Ms. Jafar is, in fact, indigent. *See* Fee Order at 1-2. The Superior Court made no finding that Ms. Jafar's action is frivolous or brought in bad faith. In the absence of such findings, the Superior Court was required, by both its inherent authority and the Due Process Clause, to waive all mandatory fees.

B. The Superior Court's Error Renders Further Proceedings Useless And Substantially Limits Ms. Jafar's Freedom To Act.

Ms. Jafar cannot pay the \$50 ordered by the Superior Court, nor will she have any means to do so before the 90-day deadline imposed by the Superior Court. Because she is unable make the payments required by the Superior Court's Fee Order, Ms. Jafar faces a very real and immediate risk that her case will be dismissed for nonpayment. *See* Snohomish County Fee Waiver Application Packet (Appendix Tab C), at 5 (“If the Court defers payment of your fees to a later date, *make your payment as ordered or your action may be dismissed for nonpayment of these fees.*”) (emphasis added).

Given the likelihood that her case will shortly be dismissed, and the fact that Ms. Jafar cannot secure a permanent parenting plan for her young son without payment of the \$50 fee, absent discretionary review by this Court, the Superior Court's Fee Order substantially limits Ms. Jafar's freedom to act. She will be unable to obtain the necessary change to her family relationship—a change that requires a judicial resolution, and for which Ms. Jafar has a constitutional right of access guaranteed by the Due Process Clause. *See Boddie*, 401 U.S. at 374. Moreover, unless this Court immediately reviews and reverses the Superior Court's Fee Order, any

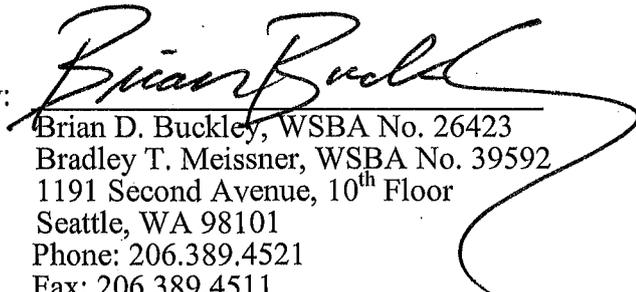
further proceedings in Ms. Jafar's case are obviously useless, because her case will soon be dismissed for nonpayment.

VI. CONCLUSION

For all of the reasons stated above, and for the reasons stated in her Statement of Grounds for Discretionary Review, Petitioner Abeda Jafar respectfully requests that this Court grant direct, discretionary review of the Superior Court's Fee Order.

Dated: February 23, 2012.

FENWICK & WEST LLP

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Attorneys for Petitioner Abeda Jafar

APPENDIX

TAB A

FILED

2012 JAN 11 PM 2:22

SEYMOUR KRYSKI
COUNTY CLERK
SNOHOMISH CO. WASH



Superior Court of Washington
In and For Snohomish County

Abedia Jafar
(Insert Petitioner's/Plaintiff's Name Above)
Petitioner/Plaintiff,

vs.
William Douglass Webb
(Insert Respondent's/Defendant's Name Above)
Respondent/Defendant.

Cause No. 12 3 00284 5

Order Re Waiver of Civil Filing Fees
and Surcharges

Granted (ORPRFP)

Denied (ORDYMT)

Clerk's Action Required 3.1

I. Basis

The court received the motion to waive filing fees and surcharges filed by or on behalf of the
 petitioner/plaintiff respondent/defendant.

The filing for most Civil and Probate cases is \$230, which includes a \$200 filing fee and a \$30
Judicial Stabilization surcharge, pursuant to RCW 3.18.020.

The filing fee for most Domestic and Family Law cases is \$280, which includes a \$200 filing fee,
a \$20 facilitator surcharge, a \$30 domestic violence surcharge, and a \$30 Judicial Stabilization
surcharge, pursuant to RCWs 3.18.016 and 3.18.020.

II. Findings

The Court reviewed the motion and supporting declaration(s). Based on the declaration(s) and
any relevant records and files, the Court finds:

2.1 The moving party is indigent based on the following: He or she:

is represented by a qualified legal aid provider that screened and found
the applicant eligible for free civil legal aid services; and/or

receives benefits from one or more needs-based, means-tested
assistance programs; and/or

has household income at or below 125% of the federal poverty guideline;
and/or

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has household income above 125% of the federal poverty guideline but cannot meet basic household living expenses and pay the fees and/or surcharges; and/or

other: _____

2.2 The moving party is not indigent.

2.3 Other: _____

III. Order

Based on the findings the court orders:

3.1 The motion is granted, and

~~All filing fees and surcharges~~ ^{of \$200} the payment of which is a condition precedent to the moving party's ability to secure access to judicial relief are waived.

The \$200 filing fee shall be paid within _____ days of entry of this order

The \$200 filing fee may be temporarily waived and shall be paid prior to entry of any final order

Are waived subject to later court review

The \$20 facilitator surcharge shall be paid within 90 days of entry of this order

The \$20 facilitator surcharge may be temporarily waived and shall be paid prior to entry of any final order

Are waived subject to later court review

The \$30 DV fee shall be paid within _____ days of entry of this order

The \$30 DV fee may be temporarily waived and shall be paid prior to entry of any final order

Are waived subject to later court review

The \$30 Judicial Stabilization surcharge shall be paid within 90 days of entry of this order

The \$30 Judicial Stabilization surcharge may be temporarily waived and shall be paid prior to entry of any final order

Are waived subject to later court review

other: _____

3.2 The motion is denied.

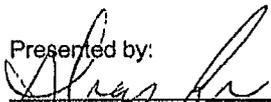
3.3 If there is a material change in financial circumstances, the ruling can be revisited by the court or the moving party.

If the motion was granted and the court, upon review, later finds that either the petitioner or another responsible party to this proceeding has sufficient resources to pay the waived filing fees or surcharges, the Court may modify this order and require the moving party or another party to pay the filing fees and/or surcharges that have been waived by this order.

3.4 It is hereby ordered that this case shall be dismissed, without further order of the court, on _____ (date) if any of the above fees have not been paid as ordered

Dated: JAN 11 2012


Judge/Commissioner

Presented by:

Signature of Party or Lawyer/WSBA No.
Abecia Jafar
Print or Type Name Date

APPENDIX

TAB B

FILED

2012 JAN 11 PM 2:22

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH



CL15148873

Superior Court of Washington
In and For Snohomish County

Abedia Jafar
(Insert Petitioner's/Plaintiff's Name Above)
Petitioner/Plaintiff,

vs.
William Douglass Webb
(Insert Respondent's/Defendant's Name Above)
Respondent/Defendant.

Cause No. 12 3 00284 5

Motion and Declaration For Waiver of
Civil Filing Fees and Surcharges
(MTAF)

I. Motion

- 1.1 I am the petitioner/plaintiff [] respondent/defendant in this action.
- 1.2 I am asking for a waiver of all filing fees and surcharges.

II. Basis for Motion

- 2.1 GR 34 allows the court to waive "filing fees or surcharges the payment of which is a condition precedent to a litigant's ability to secure access to judicial relief" for a person who is indigent. As outlined below, I am indigent.

Dated: 01-10-12

[Signature]
Signature of Requesting Party

Abedia Jafar
Print or Type Name

III. Declaration

I declare that,

- 3.1 I cannot afford to meet my necessary household living expenses and pay the filing fees and surcharges imposed by the court. Please see the attached Financial Statement, which I incorporate as part of this declaration.

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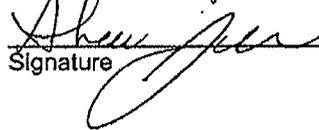
3.2 In addition to the information in the financial statement I would like the court to consider the following:

I am asking to have my fee waiver because
I left my abuser with nothing except what
we had. I was dependt on him for everything.
I am on TANF now, I do not have checking
or savings I have but \$1.00 to my name
right now. Please help any way you
can. Thank you so very much.

(Check if applies.) I filed this motion by mail. I enclosed a self-addressed stamped envelope with the motion so that I can receive a copy of the order once it is signed.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) Lynnwood, (state) WA on (date) 10-06-12


Signature

Abeda OAFAR
Print or Type Name

Case Name: _____ Case Number: _____

Financial Statement (Attachment)			
1. My name is: <u>Aberda Jafar</u>			
2. <input checked="" type="checkbox"/> I provide support to people who live with me: How many? <u>2</u> Age(s): <u>20, 1</u>			
3. My Monthly Income:		6. My Monthly Household Expenses:	
Employed: Full time <input type="checkbox"/> Part time <input type="checkbox"/> Unemployed <input checked="" type="checkbox"/>		Rent/Mortgage:	\$ <u>0 temporary</u>
Employer's Name:		Housing/rent provided by other party <input checked="" type="checkbox"/> check if yes	
Dates of employment (to/from):		Food/Household Supplies:	\$ <u>100⁰⁰</u>
Gross pay/month (salary or hourly pay):	\$	Utilities (include cell phone):	\$
Take home pay per month:	\$	Transportation:	\$ <u>100⁰⁰</u>
4. Other Sources of Income Per Month in my Household:		Ordered Maintenance actually paid:	\$ <u>0</u>
Source:	\$	Ordered Child Support paid:	\$ <u>0</u>
Source:	\$	Clothing:	\$ <u>30⁰⁰</u>
Source:	\$	Child Care:	\$ <u>0</u>
Source:	\$	Education Expenses:	\$ <u>0</u>
Sub-Total:		Insurance (car, health):	\$ <u>0</u>
<input checked="" type="checkbox"/> I receive food stamps.		Medical Expenses:	\$ <u>0</u>
<input checked="" type="checkbox"/> I receive SSI, SSD, GAU, AFDC, TANF or other government assistance: \$ <u>385⁰⁰</u> /month		Other <u>diapers/baby supplies</u> :	\$ <u>150⁰⁰</u>
Total Income, lines 3 (take home pay) and 4:		Sub-Total:	\$ <u>380⁰⁰</u>
5. My Household Assets:		7. My Other Monthly Household Expenses:	
Cash on hand:	\$ <u>0</u>		\$
Checking Account Balance:	\$ <u>0</u>		\$
Savings Account Balance:	\$ <u>0</u>		\$
Auto #1 (Value less loan):	\$ <u>0</u>		\$
Make/model:			
Auto #2 (Value less loan):	\$ <u>0</u>	Sub-Total:	\$ <u>0</u>
Make/model:			
Home (Value less mortgage):	\$ <u>0</u>	8. My Other Debts with Monthly Payments:	
Other:	\$		\$ /mo
Other:	\$		\$ /mo
Other:	\$		\$ /mo
Other:	\$		\$ /mo
Other:	\$	Sub-Total:	\$
Total Household Assets:	\$ <u>0</u>	Total Household Expenses and Debts, lines 6, 7, & 8:	\$ <u>0</u>
Date: <u>0-07-12</u>		Signature: <u>[Signature]</u>	

stay w/ brother

BELLINGHAM CSO
PO BOX 11699
TACOMA WA 98411-6699



Washington State
Department of Social
& Health Services

Phone #
TTY/TDD # 360-714-4024
Toll Free # 877-501-2233

12/15/11

Client ID # 002474988

ABEDA.R JAFAR
#E107
4807 180TH ST SW
LYNNWOOD WA 98037-3661

0134992 000143 001 - 3

Dear ABEDA R JAFAR

You will receive the following benefits:

	Begin Date	End Date
Cash -Temporary Assistance for Needy Families/State Family Assistance (TANF/SFA)	12/15/11	11/30/12
Food Assistance	12/15/11	11/30/12

	First Issuance	Second Issuance	Future Issuances
Cash Assistance	\$211.00	\$385.00	\$385.00
Food Assistance	\$195.00	\$367.00	\$367.00

Your cash benefit will be available on day 1 of each month.

Your food benefit will be available on day 7 of each month.

We will add your benefits to an Electronic Benefits Transfer (EBT) account.

We looked at all DSHS medical programs.

The following people will receive Categorically Needy (CN) Medical.

	Assistance Unit #	Begin Date	End Date
Family Medical ABEDA R JAFAR AYDEN A WEBB	020172586	12/01/11	11/30/12

Your benefits may include a Low Income Home Energy Assistance Program (LIHEAP) cash payment.

- * This is an annual payment of \$1.00 put into your EBT account.
- * This payment allows us to use the highest utility deduction for food benefits.
- * If you want to know more, call (877-501-2233).



APPENDIX

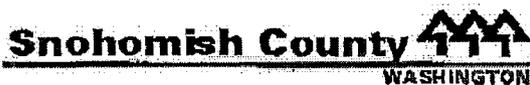
TAB C

WHAT TO DO IF YOU CANNOT PAY THE FILING FEE

(See back for details)

** Getting a Fee Waiver*

10



*Sonya Kraski
Snohomish County Superior Court Clerk
MS 605, 3000 Rockefeller Avenue
Everett, WA 98201
(425) 388-3466*

Updated: 6/20/2011

Self-Help Center
#10

HOW TO GET THE FILING FEE WAIVED

RCW 36.18.022

CHECKLIST

Use the forms and instructions in this packet only if the following factors apply to your situation:

- * You want to file a Petition or a new case under RCW Chapter 26 (Domestic Relations).
OR
- * You want to file a civil law suit or a counterclaim, cross-claim or third-party claim in a civil action
OR
- * You want to file a probate or estate action
AND
- * You would like to request the court waive or defer those filing fees based on your current financial situation.

Types of cases and related filing fees include but are not limited to the following:

	<u>Filing Fee</u>
Dissolution of Marriage	\$280.00
Legal Separation	\$280.00
Invalidity of Marriage	\$280.00
Domestic Partnership	\$280.00
Establishment of Parentage	\$250.00
Nonparental Custody	\$250.00
Modification (Out of County)	\$250.00
Adoption	\$250.00
Civil Action	\$230.00
Estate/Probate	\$230.00
Unlawful Detainer	\$75.00/\$187.00
Modification of Child Support (Snohomish County Order)	\$56.00
Modification/ Adjustment of Custody Decree/ Parenting Plan (Snohomish County Order)	\$56.00
Ex Parte ("mail-in") fee	\$30.00

READ ME: It is very important for you to know that when you sign a court document, you may be helping or hurting your court case. Before you sign any court document or get involved with a court case, it is important that you carefully read the document to make sure you are doing the right thing. You may also want to contact a lawyer for legal advice and help with those issues you do not understand. The Snohomish County Bar Association has a list of local attorneys who can give you legal advice and who can help you on a task-by-task basis for a fee. If you need help with the forms, procedures and rules of the court, there is a Family Law Facilitator available to assist you.

INSTRUCTIONS

There are fees and surcharges required for filing a new case. If you cannot pay the fees right now, or if your current financial situation makes it difficult for you to pay the fees now or later, you can ask the Court to waive the fees or to allow you to file your case without paying a filing fee. To make this request, you need to fill out a motion and order requesting waiver of the fees and surcharges and present it to a Court Commissioner for approval. Do this AFTER you have completed your petition and other papers, but BEFORE filing or attempting to file your paperwork. The Court may waive all or part of the fees, may require you to pay all or part of the fees within a certain amount of time, or may temporarily waive the fees subject to later court review.

IF YOU ARE REPRESENTING YOURSELF, fill out the following documents from this packet, see instructions on the following page:

- Motion and Declaration For Waiver of Civil Filing Fees and Surcharges (MTAF)
- Financial Statement (Attachment)
- Order Re Waiver of Civil Filing Fees and Surcharges

IF YOU HAVE BEEN SCREENED BY A QUALIFIED LEGAL SERVICE PROVIDER (QLSP) AND HAVE BEEN FOUND ELIGIBLE FOR FREE CIVIL LEGAL AID SERVICES, have your attorney fill out the following documents from this packet, see instructions on the following page:

- Motion and Declaration For Waiver of Civil Filing Fees and Surcharges (QLSP Filing)
- Order Re Waiver of Civil Filing Fees and Surcharges

HOW TO FILL OUT THE FORMS

MOTION AND DECLARATION FOR WAIVER OF CIVIL FILING FEES AND SURCHARGES (MTAF):

Complete the caption. Insert the parties' names and a cause number if you have one.

Paragraph 1.1 Check if you are the petitioner/ plaintiff or respondent/ defendant.

Paragraph 2.1 Insert the date, sign and print your name where indicated.

Paragraph 3.2 Add any information that you would like the court to consider in addition to the financial statement attachment which you will be completing and including with your motion.

Check if you are submitting your motion by mail. See the instructions at the end of this packet for submitting your motion by mail.

Fill in the city, state, and date that you signed the motion. Sign where indicated and print or type in your name where requested.

FINANCIAL STATEMENT:

The Court reviews this document to determine whether or not to waive all or part of your filing fee. Complete all the blanks. If something does not apply to your situation, write "N/A." If you do not know the answer, write "Unknown." Date and sign at the bottom. Staple this statement to the Motion and Declaration for Waiver of Civil Filing Fees and Surcharges (MTAF).

ORDER RE WAIVER OF CIVIL FILING FEES AND SURCHARGES:

Complete the caption. Insert the parties names and a cause number if you have one.

In section I. Basis, check if you are the petitioner/ plaintiff or respondent/ defendant.

On page 3, sign and print your name where it says "Presented by". If you are working with a QLSP, your lawyer should sign where it says "Presented by". The Court will fill out the rest of the order based upon its findings.

MOTION AND DECLARATION FOR WAIVER OF CIVIL FILING FEES AND SURCHARGES (QLSP Filing)

This form should only be used if you have been screened by a qualified legal service provider (QLSP), have been found eligible for free civil legal aid services and are represented by a free legal aid attorney.

Have your attorney fill out, sign and submit the motion, declaration and order.

FINALIZING YOUR REQUEST

Remove the applicable documents from the instruction packet. Assemble and staple all documents individually. The Financial Statement, if needed, should be stapled to the Motion and Declaration for Waiver of Civil Filing Fees and Surcharges (MTAF).

You may submit your motion either in person or by mail.

Whether you are presenting your motion in person or by mail, you must have completely filled out your summons and petition or complaint and otherwise be ready to file your lawsuit.

TO SUBMIT YOUR MOTION IN PERSON:

You may present your motion and order on an *Ex Parte* basis, in the Ex Parte courtroom at the courthouse, Department A on the 1st floor. The hours are Monday - Friday from 9:00 a.m. - 10:30 a.m. and 1:00 p.m. - 4:00 p.m. The 9:00 - 10:30 a.m. timeframe is attorney priority which means that attorneys will be called first, and if there are a lot of attorneys, you may be asked to come back at 1:00 p.m.

Bring with you to court the motion/declaration to waive fees with the attachment, the order waiving the fee, and your completed summons and petition or complaint.

Sign in on the clipboard at the clerk's desk and be seated. When your name is called, go to the bench and hand the clerk your documents with a brief explanation to the Court of why you are there.

If the Court signs your order, you will take your documents directly to the Clerk's Office on the 2nd floor (room M206) to file. Please be sure to carefully read and understand the terms contained in your order.

If the Court denies your request or requires that you pay a portion of your fee at filing, you will have to pay those fees when you file your papers.

If the Court defers payment of your fees to a later date, make your payment as ordered or your action may be dismissed for nonpayment of these fees.

Sometimes the Court may waive the fees at filing, but may order a review your financial situation before final orders are entered. If the Court later finds that you can afford to pay the fee, you will be directed to do so prior to entry of any final orders. Please be prepared to address any changes that may occur in your financial situation.

Be sure to review the court order carefully so you understand what is required of you. Noncompliance may result in dismissal of your action.

TO SUBMIT YOUR MOTION BY MAIL:

Send your ex parte mail request to:

Snohomish County Clerk's Office
3000 Rockefeller Ave. MS 605
Everett, WA 98201

You must include all of the following. Failure to provide any of the following will result in return/rejection of your submission. If you do not provide a self-addressed stamped envelope with your submission, your paperwork will not be mailed back to you.

- Original Motion and Declaration for Waiver of Civil Filing Fees and Surcharges
- Original Financial Statement (if required)
- Original Order Re Waiver of Civil Filing Fees and Surcharges
- A copy of your completed summons and petition or complaint
- A self-addressed stamped envelope (postage paid)

The original Order Re Waiver of Civil Filing Fees and Surcharges with the Court's decision on your request will be returned to you. Be advised that it can take 7 to 10 business days to complete your request upon receipt by our mail ex parte department.

Once you receive the order granting the waiver of your filing fees, you may proceed with filing your action. Be sure to bring this order with you when you go to the Clerk's Office to file your action.

If the Court denies your request or requires that you pay a portion of your fee at filing, you will have to pay those fees when you file your papers.

If the Court defers payment of your fees to a later date, make your payment as ordered or your action may be dismissed for nonpayment of these fees.

Sometimes the Court may waive the fees at filing, but may order a review your financial situation before final orders are entered. If the Court later finds that you can afford to pay the fee, you will be directed to do so prior to entry of any final orders. Please be prepared to address any changes that may occur in your financial situation.

Be sure to review the court order carefully so you understand what is required of you. Noncompliance may result in dismissal of your action.

**Superior Court of Washington
In and For Snohomish County**

<p>_____ (Insert Petitioner's/Plaintiff's Name Above) Petitioner/Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>_____ (Insert Respondent's/Defendant's Name Above) Respondent/Defendant.</p>	<p>Cause No.</p> <p>Motion and Declaration For Waiver of Civil Filing Fees and Surcharges (MTAF)</p>
--	--

I. Motion

- 1.1 I am the [] petitioner/plaintiff [] respondent/defendant in this action.
- 1.2 I am asking for a waiver of all filing fees and surcharges.

II. Basis for Motion

- 2.1 GR 34 allows the court to waive "filing fees or surcharges the payment of which is a condition precedent to a litigant's ability to secure access to judicial relief" for a person who is indigent. As outlined below, I am indigent.

Dated: _____

Signature of Requesting Party

Print or Type Name

III. Declaration

I declare that,

- 3.1 I cannot afford to meet my necessary household living expenses and pay the filing fees and surcharges imposed by the court. Please see the attached Financial Statement, which I incorporate as part of this declaration.

3.2 In addition to the information in the financial statement I would like the court to consider the following:

(Check if applies.) I filed this motion by mail. I enclosed a self-addressed stamped envelope with the motion so that I can receive a copy of the order once it is signed.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____ (state) _____ on (date) _____

Signature

Print or Type Name

Case Name: _____ Case Number: _____

Financial Statement (Attachment)			
1. My name is: _____			
2. <input type="checkbox"/> I provide support to people who live with me: How many? _____ Age(s): _____			
3. My Monthly Income:		6. My Monthly Household Expenses:	
Employed: Full time <input type="checkbox"/> Part time <input type="checkbox"/> Unemployed <input type="checkbox"/>		Rent/Mortgage:	\$ _____
Employer's Name: _____		Housing/rent provided by other party <input type="checkbox"/> check if yes	
Dates of employment (to/from): _____		Food/Household Supplies:	\$ _____
Gross pay/month (salary or hourly pay):	\$ _____	Utilities (include cell phone):	\$ _____
Take home pay per month:	\$ _____	Transportation:	\$ _____
4. Other Sources of Income Per Month in my Household:		Ordered Maintenance actually paid:	\$ _____
Source:	\$ _____	Ordered Child Support paid:	\$ _____
Source:	\$ _____	Clothing:	\$ _____
Source:	\$ _____	Child Care:	\$ _____
Source:	\$ _____	Education Expenses:	\$ _____
Sub-Total:		Insurance (car, health):	\$ _____
<input type="checkbox"/> I receive food stamps.		Medical Expenses:	\$ _____
<input type="checkbox"/> I receive SSI, SSD, GAU, AFDC, TANF or other government assistance: \$ _____ /month		Other _____	\$ _____
Total Income, lines 3 (take home pay) and 4:		Sub-Total:	
		\$ _____	
5. My Household Assets:		7. My Other Monthly Household Expenses:	
Cash on hand:	\$ _____		\$ _____
Checking Account Balance:	\$ _____		\$ _____
Savings Account Balance:	\$ _____		\$ _____
Auto #1 (Value less loan):	\$ _____		\$ _____
Make/model:			
Auto #2 (Value less loan):	\$ _____	Sub-Total:	
Make/model:		\$ _____	
Home (Value less mortgage):	\$ _____	8. My Other Debts with Monthly Payments:	
Other:	\$ _____		\$ _____ /mo
Other:	\$ _____		\$ _____ /mo
Other:	\$ _____		\$ _____ /mo
Other:	\$ _____		\$ _____ /mo
Other:	\$ _____	Sub-Total:	
Total Household Assets:		Total Household Expenses and Debts, lines 6, 7, & 8:	
		\$ _____	
Date: _____		Signature: _____	

**Superior Court of Washington
In and For Snohomish County**

<p>_____ (Insert Petitioner's/Plaintiff's Name Above) Petitioner/Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>_____ (Insert Respondent's/Defendant's Name Above) Respondent/Defendant.</p>	<p>Cause No.</p> <p>Motion and Declaration For Waiver of Civil Filing Fees and Surcharges (QLSP Filing) (MTAF)</p>
--	--

I. Motion

On behalf of the [] petitioner/plaintiff [] respondent/defendant, I am asking for a waiver of all filing fees and surcharges.

I base this motion on GR 34(a) and the declaration, below.

Dated: _____

Signature of Lawyer

WSBA No.

Print or Type Name

II. Declaration

I declare that,

2.1 I represent the [] petitioner/plaintiff [] respondent/defendant.

2.2 I am an attorney working with _____, which is a Qualified Legal Services Provider (QLSP) as defined by the Washington State Bar Association in APR 8(e)(2).

2.3 I am working with the QLSP as an:

- attorney employed by the QLSP, or
- attorney working in conjunction with the QLSP.

2.4 The QLSP screened the petitioner/plaintiff respondent/defendant and found the litigant eligible for free civil legal aid services.

(Check if applies.) I filed this motion by mail. I enclosed a self-addressed stamped envelope for timely return of a conformed copy of the order.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____ (state) _____ on (date) _____

Signature of Lawyer

WSBA No.

Print or Type Name

**Superior Court of Washington
In and For Snohomish County**

<p>(Insert Petitioner's/Plaintiff's Name Above) _____ Petitioner/Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>(Insert Respondent's/Defendant's Name Above) _____ Respondent/Defendant.</p>	<p>Cause No.</p> <p>Order Re Waiver of Civil Filing Fees and Surcharges</p> <p><input type="checkbox"/> Granted (ORPRFP)</p> <p><input type="checkbox"/> Denied (ORDYMT)</p> <p><input checked="" type="checkbox"/> Clerk's Action Required 3.1</p>
--	--

I. Basis

The court received the motion to waive filing fees and surcharges filed by or on behalf of the petitioner/plaintiff respondent/defendant.

The filing for most Civil and Probate cases is \$230, which includes a \$200 filing fee and a \$30 Judicial Stabilization surcharge, pursuant to RCW 3.18.020.

The filing fee for most Domestic and Family Law cases is \$280, which includes a \$200 filing fee, a \$20 facilitator surcharge, a \$30 domestic violence surcharge, and a \$30 Judicial Stabilization surcharge, pursuant to RCWs 3.18.016 and 3.18.020.

II. Findings

The Court reviewed the motion and supporting declaration(s). Based on the declaration(s) and any relevant records and files, the Court finds:

- 2.1 The moving party is indigent based on the following: He or she:
- is represented by a qualified legal aid provider that screened and found the applicant eligible for free civil legal aid services; and/or
 - receives benefits from one or more needs-based, means-tested assistance programs; and/or
 - has household income at or below 125% of the federal poverty guideline; and/or

has household income above 125% of the federal poverty guideline but cannot meet basic household living expenses and pay the fees and/or surcharges; and/or

other: _____

2.2 The moving party is not indigent.

2.3 Other: _____

III. Order

Based on the findings the court orders:

3.1 The motion is granted, and

All filing fees and surcharges the payment of which is a condition precedent to the moving party's ability to secure access to judicial relief are waived.

The \$200 filing fee shall be paid within _____ days of entry of this order

The \$200 filing fee may be temporarily waived and shall be paid prior to entry of any final order

Are waived subject to later court review

The \$20 facilitator surcharge shall be paid within _____ days of entry of this order

The \$20 facilitator surcharge may be temporarily waived and shall be paid prior to entry of any final order

Are waived subject to later court review

The \$30 DV fee shall be paid within _____ days of entry of this order

The \$30 DV fee may be temporarily waived and shall be paid prior to entry of any final order

Are waived subject to later court review

The \$30 Judicial Stabilization surcharge shall be paid within _____ days of entry of this order

The \$30 Judicial Stabilization surcharge may be temporarily waived and shall be paid prior to entry of any final order

Are waived subject to later court review

other: _____

3.2 [] The motion is denied.

3.3 If there is a material change in financial circumstances, the ruling can be revisited by the court or the moving party.

If the motion was granted and the court, upon review, later finds that either the petitioner or another responsible party to this proceeding has sufficient resources to pay the waived filing fees or surcharges, the Court may modify this order and require the moving party or another party to pay the filing fees and/or surcharges that have been waived by this order.

3.4 It is hereby ordered that this case shall be dismissed, without further order of the court, on _____ (date) if any of the above fees have not been paid as ordered

Dated: _____

Judge/Commissioner

Presented by:

Signature of Party or Lawyer/WSBA No.

Print or Type Name

Date

APPENDIX

TAB D

FILED

FEB 09 2012

SONYA KRASKI
SNOHOMISH COUNTY CLERK
EX-OFFICIO CLERK OF COURT

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SNOHOMISH COUNTY

ABEDA JAFAR,

Petitioner,

v.

WILLIAM DOUGLASS WEBB,

Respondent.

No. 12 3 00284 5

**NOTICE OF DISCRETIONARY
REVIEW TO WASHINGTON
SUPREME COURT**

(Clerk's Action Required)

TO: THE CLERK OF THE COURT

AND TO: RESPONDENT WILLIAM DOUGLASS WEBB, THROUGH COUNSEL

Petitioner Abeda Jafar, through undersigned counsel, seeks discretionary review by the Washington Supreme Court of this Court's January 11, 2012 Order Re Waiver of Civil Filing Fees and Surcharges [Dkt. No. 10]. A copy of the decision is attached to this Notice as Exhibit A.

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DATED this 9th day of February, 2012.

FENWICK & WEST LLP

By: 
Brian D. Buckley, WSBA No. 26423
Bradley T. Meissner, WSBA No. 39592

1191 Second Avenue
10th Floor
Seattle, WA 98101
Phone: 206-389-4521
Fax: 206-389-4511
Email: bbuckley@fenwick.com
bmeissner@fenwick.com

Janet Chung, WSBA 28535
LEGAL VOICE
907 Pine Street, Suite 500
Seattle, WA 98101-1818
Phone: 206-682-9552
Fax: 206-682-9556
Email: jchung@LegalVoice.org

Attorneys for Petitioner Abeda Jafar

EXHIBIT A

FILED

2012 JAN 11 PH 2:22

STANISLAWSKI
COUNTY CLERK
SNOHOMISH CO. WASH



CL15148874

Superior Court of Washington
In and For Snohomish County

Abedia Jafar

(Insert Petitioner's/Plaintiff's Name Above)

Petitioner/Plaintiff,

vs.

William Douglas Webb

(Insert Respondent's/Defendant's Name Above)

Respondent/Defendant.

Cause No. 12 3 00284 5

Order Re Waiver of Civil Filing Fees
and Surcharges

[] Granted (ORPRFP)

[] Denied (ORDYMT)

[X] Clerk's Action Required 3.1

I. Basis

The court received the motion to waive filing fees and surcharges filed by or on behalf of the
 [] petitioner/plaintiff [] respondent/defendant.

The filing for most Civil and Probate cases is \$230, which includes a \$200 filing fee and a \$30
Judicial Stabilization surcharge, pursuant to RCW 3.18.020.

The filing fee for most Domestic and Family Law cases is \$280, which includes a \$200 filing fee,
a \$20 facilitator surcharge, a \$30 domestic violence surcharge, and a \$30 Judicial Stabilization
surcharge, pursuant to RCWs 3.18.016 and 3.18.020.

II. Findings

The Court reviewed the motion and supporting declaration(s). Based on the declaration(s) and
any relevant records and files, the Court finds:

2.1 [X] The moving party is indigent based on the following: He or she:

[] is represented by a qualified legal aid provider that screened and found
the applicant eligible for free civil legal aid services; and/or

[] receives benefits from one or more needs-based, means-tested
assistance programs; and/or

[X] has household income at or below 125% of the federal poverty guideline;
and/or

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has household income above 125% of the federal poverty guideline but cannot meet basic household living expenses and pay the fees and/or surcharges; and/or

other: _____

2.2 The moving party is not indigent.

2.3 Other: _____

III. Order

Based on the findings the court orders:

3.1 The motion is granted, and

~~All filing fees and surcharges~~ ^{of \$200} the payment of which is a condition precedent to the moving party's ability to secure access to judicial relief are waived.

The \$200 filing fee shall be paid within _____ days of entry of this order
 The \$200 filing fee may be temporarily waived and shall be paid prior to entry of any final order
 Are waived subject to later court review

The \$20 facilitator surcharge shall be paid within 90 days of entry of this order
 The \$20 facilitator surcharge may be temporarily waived and shall be paid prior to entry of any final order
 Are waived subject to later court review

The \$30 DV fee shall be paid within _____ days of entry of this order
 The \$30 DV fee may be temporarily waived and shall be paid prior to entry of any final order
 Are waived subject to later court review

The \$30 Judicial Stabilization surcharge shall be paid within 90 days of entry of this order
 The \$30 Judicial Stabilization surcharge may be temporarily waived and shall be paid prior to entry of any final order
 Are waived subject to later court review

other: _____

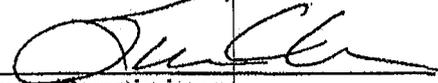
3.2 [] The motion is denied.

3.3 If there is a material change in financial circumstances, the ruling can be revisited by the court or the moving party.

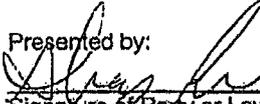
If the motion was granted and the court, upon review, later finds that either the petitioner or another responsible party to this proceeding has sufficient resources to pay the waived filing fees or surcharges, the Court may modify this order and require the moving party or another party to pay the filing fees and/or surcharges that have been waived by this order.

3.4 It is hereby ordered that this case shall be dismissed, without further order of the court, on _____ (date) if any of the above fees have not been paid as ordered

Dated: JAN 11 2012



Judge/Commissioner

Presented by:


Signature of Party or Lawyer/WSBA No.
Aberla Jafar

Print or Type Name Date

APPENDIX

TAB E



Courts Home | Court Rules



Search | Site Map | eService Center

GR 34 - Waiver of Court and Clerk's Fees and Charges in Civil Matters on the Basis of Indigency

Comments for GR 34 must be received no later than April 30, 2010.

- **Proposed New Rule GR 34 - Waiver of Court and Clerk's Fees and Charges in Civil Matters on the Basis of Indigency** (in Word Format)
- **Comments Received for GR 34 - Waiver of Court and Clerk's Fees and Charges in Civil Matters on the Basis of Indigency**

GR 9 COVER SHEET Suggested Amendment GENERAL RULES (GR)

GR 34 - Waiver of Court and Clerk's Fees and Charges in Civil Matters (New Rule; revised December 2008)

Submitted by the Board of Governors of the Washington State Bar Association

Purpose: An initial version of this suggested rule was presented to and approved by the Board of Governors of the Washington State Bar Association in 2007. The rule was published for comment by the Supreme Court in November 2007. Substantial comments were submitted to the Court, including comments from the Washington Association of County Clerks (Clerks Association) and the Superior Court Judges Association (SCJA) opposing the rule. Principal substantive grounds for their opposition were:

- The proposed rule authorized non-judicial officials to accept filings without payment of fees and without independent review by a judicial officer.
- The proposed rule established a 200% threshold for indigency which, if adopted, would result in a substantial revenue loss for cash strapped court systems.
- The rule authorized waiver of a wide range of costs.
- The forms developed to implement the rule were complex, unwieldy and difficult for pro se litigants to understand.

A revised version of the suggested rule was submitted to the Supreme Court in March 2008. The Superior Court Judges Association filed additional comments which reflected continuing objections to the rule. In response to these objections, the WSBA Pro Bono and Legal Aid Committee (PBLAC) worked directly with the SCJA leadership and that of the Clerks Association to see whether a consensus approach might be developed. PBLAC achieved a meeting of the minds with the SCJA on a substantially revised version of the draft rule, but was not able to achieve agreement with the Clerks Association.

The revised draft is substantially different in approach than that which was previously submitted

to the Court. It includes no forms, but directs that pattern forms be developed by the Administrative Office of the Courts. It provides a simple mechanism for the submission and presentation of requests for fee and cost waivers, consistent with local court practices. It allows for simultaneous filing of requests for fee and cost waivers with the underlying pleadings. It establishes a uniform standard for determining indigency – one that is consistent with the standard for determining eligibility used by "qualified legal services providers" (see APR 8(e)). It provides for presumptive eligibility for waivers for those litigants represented by attorneys affiliated with qualified legal services providers (including pro bono attorneys who receive client referrals from a qualified legal services provider). It preserves the proper balance between judicial and executive branch functions. And, consistent with longstanding Supreme Court case law,¹ it affirms the power of judicial officers, in the exercise of inherent judicial authority, to waive such fees and costs as are appropriate, consistent with their responsibility to ensure fair access to the courts.

The WSBA believes that this revision is consistent with the objectives initially sought to be achieved with the original GR 34 proposal, to wit:

- Establishment of a statewide, uniform approach to presentation, consideration and approval of requests for waiver of fees and costs for low income civil litigants, whether they are represented by legal aid programs, pro bono attorneys

or appear in the proceeding *pro se*.

- Establishment of a uniform standard for determining indigency that is consistent with the standard employed by state and federally funded civil legal aid programs.
- Streamlining the process such that those who have been found eligible for state or federally funded civil legal aid services are presumed eligible for a waiver of filing fees and appropriate costs.
- Reducing the amount of time that pro bono attorneys spend developing and presenting *in forma pauperis* (IFP) requests, thereby allowing them to spend more time on the substantive issues presented in their cases.

The revised rule preserves the proper balance between judicial and executive branch functions. Upon the rule's adoption by the Supreme Court, the PBLAC and the SCJA will work with the Administrative Office of the Courts, the Clerks Association and representatives of the legal aid community to develop appropriate forms and a training curriculum designed to ensure the effective and proper application of this rule by judicial officers throughout the state.

¹ *O'Connor v. Matzdorff*, 76 Wn.2d 589, 458 P.2d 154 (1969).

APPENDIX

TAB F



Northwest Justice Project

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Seattle, WA 98104
Tel. (206) 464-1519
Fax (206) 903-0526

Toll Free 1-888-201-1012
www.nwjustice.org

César E. Torres
Executive Director

April 19, 2010

Mr. Ronald Carpenter Clerk
Washington Supreme Court
P.O. Box 40929
Olympia, WA 98504-0920

Attn: Camilla Faulk

Re: Proposed GR 34

Dear Mr. Carpenter:

I write on behalf of the Northwest Justice Project (NJP) to urge adoption of Proposed GR 34, establishing a general rule governing applications for waiver of filing fees for indigent persons in civil cases. Adoption of Proposed GR 34 is an important step in Washington's efforts to secure uniformity in the fee waiver process statewide and will significantly improve access to courts throughout Washington.

The proposed rule reflects substantial improvement over current practices by establishing a uniform *In Forma Pauperis* (IFP) application process and standards by which low-income persons can pursue fee waivers and by providing for the presumption of indigency on the basis of representation by a qualified legal services provider. As such, the proposed rule benefits clients represented by NJP, clients represented by volunteer attorneys around the state (most of whom are referred to the *pro bono* local bar programs through our statewide legal "hotline" (CLEAR)), and especially unrepresented low-income persons who face great difficulty negotiating the local court process to get in the proverbial courthouse door. Further, a statewide IFP rule to promote access to superior is an important and needed companion to the statewide IFP Rule of Appellate Procedure for accessing the state appellate courts.

While we greatly support this rule and urge its adoption, we are concerned that it does not address issues NJP raised in our April 29, 2008 comments support adoption of the earlier version of GR 34. We are concerned that as written the rule does not address a number of the troubling local court practices that our client community has experienced and which continue to create barriers for low income persons seeking access to the courts to resolve critical legal needs. One problem our client community experiences is that a local court will "waive" the payment of a filing fee to "initiate" the proceeding, but will also order that the fee be paid before the case can be finalized. Another problem is that proposed GR 34 does not expressly address the problem of differing local courts understandings as to what fees and costs are



Board of Directors: Lisa L. Atkinson • Stephen R. Crossland • Lisa Dickinson • Jacole Gronholdt • Celia Guardado • Richard Harrison • Desiree S. Hosannah • Barbara Lindley • Christina Gerrish Nelson • Naomi Stacy • John Tracy • Roger Wynne • Claude M. Pearson, President Emeritus



those for which "judicial officers have the authority to grant a waiver". See Comment to proposed GR 34. For example, filing fees, which as a constitutional matter must be subject to full waiver, include fees to support courthouse facilitators (RCW 26.12.240); domestic violence support services (RCW 36.18.016(b)); and a judicial surcharge (RCW 36.18.020(5)). Some courts refuse to waive some or all these fees, on the belief that they do not have the judicial authority to do so. GR 34 does not expressly prevent the practices or clarify that all fees required for filing an action in court are subject to waiver.

Examples of form orders from three different courts (enclosed) illustrate these issues:

- Cowlitz County IFP Motion and Form Orders: waive "filing fee" but require immediate payment of applicable surcharges in three distinct cases and state the "remaining [waived] filing fee must be paid before finalization or disposition of this action; OR "the remaining [waived] filing fee will be reviewed before finalization or disposition of this action." In our experience, clients we represent as well as low-income persons proceeding without representation are required to pay the surcharges as a condition of initiating an action. *Pro ses* are more often than not compelled to pay the "waived" filing fee as a pre-condition to finalizing their case.
- Lewis County IFP Motion and Form Order: Allows filing of case, however, the court "reserves the right to review this authorization from time to time and require payment of fees if justified at the time OR: "Petitioner is required to pay the full amount of the filing fee before 90 days has expired, or entry of a final decree, or a dismissal, whichever is first". Thus, the court does not "waive" the fee, but typically revisits the issue or simply requires applicants to pay before final relief is entered.
- Snohomish County IFP Application and Order: Sets out various boxes for the court to check to identify the specific filing fees the court will waive, but does not include a box to check for "all fees". The waiver is then either "subject to later court review" or only waived "temporarily" and ordered to be paid within a specific number of days of the IFP order or "prior to entry of final orders in this case: or partially waived with amounts to be paid at the time of initial filing, within a specified number of days of filing or prior to entry of final relief. The surcharges are similarly treated, but unlike in the Cowlitz County forms are capable of being fully waived.

As currently proposed, GR 34 does not address these inconsistencies or state whether all filing fees are subject to the Rule or subject to judicial authority to grant a waiver. Nor does it state that "waiver" means "waiver" (not deferral) for the duration of the proceeding up to and including final relief and/or that payment of waived fees cannot be a condition precedent to entry of final relief for those deemed eligible for waiver. In other words, once a litigant has been determined to be indigent and eligible for IFP waiver of fees and judicially imposed costs of litigation, they should not be subjected to repeated review and duplicative determinations of indigency or have their ability to obtain final judicial relief held hostage to their inability to pay the "waived" fee.

Mr. Ronald Carpenter Clerk

April 19, 2010

Page 3

The rule does not clearly and expressly define "waiver" as a determination that the litigant due to their indigency is unable to pay the costs and fees and does not include any limitation on local court review or rescission of the waiver decision as a condition of final relief. As a result, the current practices identified above by those courts and others do not appear to be resolved by proposed GR 34. If sub-section (b) is intended to prohibit a court from denying or delaying final relief on the basis of an "underlying" action on the merits, it is not clear from the language used. If this is the intent, then we propose that the language be clarified either in the text of the sub-section or by way of an additional Comment to the effect:

Waiver of fees under this rule is intended to be a permanent waiver and is not subject to later review or rescission by the court and may not be the basis the basis for withholding final relief or entry of orders pending payment of fees.

Finally, in order to avoid confusion on whether certain costs are able to be waived and provide consistency among courts statewide, the first comment should clarify that "[T]he rule establishes the process by which judicial officers may waive *all* civil filing fees and costs otherwise payable as costs for access to court services."

We greatly appreciate the opportunity to supplement our comments of April, 2008 and look forward to a much improved system for low-income persons to be able to effectively access the courts throughout the state without barriers based on their inability to pay.

Sincerely,



Deborah Perluss
Director of Advocacy/General Counsel
Northwest Justice Project

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7 SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY
8

9 In re:

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11 CASE # _____
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13 _____
14 and Petitioner,
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MOTION, DECLARATION, AND
ORDER TO PROCEED
IN FORMA PAUPERIS

16
17 _____
18 Respondent.
19

- 20 Dissolution of Marriage \$280.00
21 Petition for Legal Separation \$280.00
22 Petition for Invalidation of
Marriage \$280.00
23 Dissolution of Meretricious
Relationship with Children \$280.00
24

25 MOTION

26
27 I request the Court to allow me to proceed without payment of all or part of the filing fee. Attached is a Financial
28 Statement in support of this motion.
29

30 DECLARATION

31
32 This proceeding is brought in good faith and it is my present intention to proceed to final disposition. I am unable to
33 pay the filing fee without undue hardship.
34

35 I request entry of an order allowing commencement and prosecution of this action *in forma pauperis* and direction
36 to the Clerk of the Court to file this action without fee.
37

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40 Presented by:

Name _____

Address _____

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46 Petitioner Signature _____

Phone _____

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48 Date _____
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50 ORPRFP (07-2009)

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4 ORDER

5 The petitioner has presented a sufficient motion and declaration to proceed *in forma pauperis*
6 and the Court, finding good cause shown, hereby:
7

8 [] **ORDERS** that the petitioner is authorized to file this action upon payment of **\$80.00**
9 which includes the \$20.00 Facilitator surcharge (1508) pursuant to RCW 26.12.240; the
10 \$30.00 Domestic Violence surcharge (1512) pursuant to RCW 36.18.016(b) and the \$30.00
11 Judicial surcharge (1187) pursuant to RCW 36.18.020 (4.)
12

13 **. . . Or**

14 [] **ORDERS** that the **Judicial surcharge is deferred*** and the petitioner is authorized
15 to file this action upon payment of **\$50.00** which includes the \$20.00 Facilitator
16 surcharge (1508) pursuant to RCW 26.12.240 and the \$30.00 Domestic Violence surcharge
17 (1512) pursuant to RCW 36.18.016(b.)
18

19 **IT IS FURTHER ORDERED THAT.**
20

- 21 The remaining filing fee **must be paid** before finalization or disposition of this
22 action. (1151) (1187*)
23 The remaining filing fee **will be reviewed** before finalization or disposition of
24 this action. (1151) (1187*)
25
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29 **SUFFICIENT CAUSE HAS NOT BEEN SHOWN** to waive or defer the filing fees
30 therefore it is
31

32 [] **ORDERED** that the motion to waive or defer any of the filing fees is denied.
33
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35

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38 **ORDERED** this _____ day of _____, _____.

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41 _____
42 Judge / Court Commssioner
43

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46 Presented by:
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Petitioner's signature, Pro Se

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7 SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

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9 In re:

10
11 CASE # _____

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14 _____
15 Petitioner(s),

16 MOTION, DECLARATION, AND
17 ORDER TO PROCEED
18 IN FORMA PAUPERIS

19 and/vs

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- Establish Parenting Plan \$250.00
 - Establish Paternity \$250.00
 - Dissolution Modification (Out of County Case) \$250.00
 - Non-Parental Custody \$250.00

20 _____
21 Respondent(s).

26 MOTION

27 I/we request the Court to allow me/us to proceed without payment of all or part of the filing fee. Attached is a
28 Financial Statement in support of this motion.

30 DECLARATION

31 This proceeding is brought in good faith and it is my/our present intention to proceed to final disposition. I/we are
32 unable to pay the filing fee without undue hardship.

33 I/we request entry of an order allowing commencement and prosecution of this action *in forma pauperis* and
34 direction to the Clerk of the Court to file this action without fee.

35 Presented by:

36 Name _____

37 Address _____

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44 Petitioner (s) Signature (s) _____

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50 Phone _____

45 Date _____

ORDER

The petitioner(s) have presented a sufficient motion and declaration to proceed *in forma pauperis* and the Court, finding good cause shown, hereby:

[] **ORDERS** that the petitioner(s) is/are authorized to file this action upon payment of \$50.00 which includes the \$20.00 Facilltator surcharge (1508) pursuant to RCW 26.12.240; the and the \$30.00 Judicial surcharge (1187) pursuant to RCW 36.18.020 (4.)

Or

[] **ORDERS** that the **Judicial surcharge is deferred*** and the petitioner(s) is/are authorized to file this action upon payment of the \$20.00 Facilltator surcharge (1508) pursuant to RCW 26.12.240.

IT IS FURTHER ORDERED THAT

- The remaining filing fee **must be paid** before finalization or disposition of this action. (1151) (1187*)
- The remaining filing fee **will be reviewed** before finalization or disposition of this action. (1151) (1187*)

SUFFICIENT CAUSE HAS NOT BEEN SHOWN to waive or defer the filing fees therefore It is

[] **ORDERED** that the motion to waive or defer any of the filing fees is denied.

ORDERED this _____ day of _____,

Judge / Court Commissioner

Presented by:

Petitioner's signature, Pro Se

Petitioner's signature, Pro Se

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SUPERIOR COURT OF WASHINGTON FOR COWLITZ COUNTY

In re:

CASE # _____

Petitioner,

And

Respondent.

MOTION, DECLARATION, AND
ORDER TO PROCEED
IN FORMA PAUPERIS

MODIFICATION OF COWLITZ COUNTY CASE

- { } Support \$56.00
- { } Custody / Parenting Plan \$56.00
- { } Notice of Relocation \$56.00
- { } Decree \$56.00

MOTION

I am the petitioner respondent in the above named cause and I request the Court to allow me to proceed without payment of all or part of the filing fee. Attached is a Financial Statement in support of this motion.

DECLARATION

This proceeding is brought in good faith and it is my present intention to proceed to final disposition. I am unable to pay the filing fee without undue hardship.

I request entry of an order allowing commencement and prosecution of this action *in forma pauperis* and direction to the Clerk of the Court to file this action without fee.

Presented by:

Name _____

Address _____

Petitioner's / Respondent's Signature

Phone _____

Date

ORDER

The petitioner has presented a sufficient motion and declaration to proceed *in forma pauperis* and the Court, finding good cause shown, hereby:

ORDERS that the petitioner is authorized to file this action upon payment of the \$20.00 Facilitator surcharge (1508) pursuant to RCW 26.12.240

IT IS FURTHER ORDERED THAT

- The remaining filing fee **must be paid** before finalization or disposition of this action. (1105)
- The remaining filing fee **will be reviewed** before finalization or disposition of this action. (1105)

SUFFICIENT CAUSE HAS NOT BEEN SHOWN to waive or defer the filing fees therefore it is

ORDERED that the motion to waive or defer any of the filing fees is denied.

ORDERED this _____ day of _____,

Judge / Court Commissioner

Presented by:

Petitioner's / Respondent's signature, Pro Se

FINANCIAL STATEMENT IN SUPPORT OF MOTION AND ORDER TO PROCEED IN FORMA PAUPERIS

GENERAL INFORMATION

(a) Name: _____ (a) Spouse: _____
 (b) Address: _____
 (c) Phone: _____

FAMILY INFORMATION

(a) Persons whom you financially support: Spouse Children Other
 (b) List names, ages, relationship and address if different from yours:

EMPLOYMENT INFORMATION

(a) Are you presently employed: Yes No
 (b) Name and address of employer: _____

 (c) Length of employment: _____
 (d) Occupation: _____
 (e) Other source of income: _____

Is spouse presently employed: Yes No
 Name and address of spouse's employer: _____

 Length of Employment: _____
 Occupation: _____
 Other source of income: _____

INCOME AND ASSETS

(a) Gross monthly income (personal) _____
 (b) Gross monthly income (spouse) _____
 (c) Savings Accounts: _____
 (d) Checking Accounts _____
 (e) Stocks and Bonds _____
 (f) Cash _____
 (g) Vehicles/boats/RV/motorcycles _____
 (h) Home equity (sale value less amount owing) _____
 (i) Other _____

EXPENSES AND DEBTS

(a) Monthly living expenses (itemize):
 Rent/House Payment _____
 Food _____
 Utilities _____
 Transportation _____
 Insurance:
 Medical & Dental _____
 Other _____
 (b) Debts:

Name of Creditor	Amount Owed
_____	_____
_____	_____

TOTAL ASSETS: _____

TOTAL OBLIGATIONS: _____

OTHER: _____

UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE EXAMINED THIS DOCUMENT AND THE PRECEDING INFORMATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND ABILITY.

 Date Signature

SUPERIOR COURT OF WASHINGTON
FOR LEWIS COUNTY

Petitioner

vs.

Respondent

NO.

MOTION, DECLARATION AND
ORDER TO PROCEED
IN FORMA PAUPERIS
(ORPRFP)

I. MOTION

I request the court to allow me to proceed without payment of the filing fee and other court costs.

II. DECLARATION

I am the petitioner in this action. This proceeding is brought in good faith and it is my present intention to proceed to a final dissolution of marriage. I am unable to pay the filing fee and other court costs without undue hardship in this proceeding.

The Supreme Court of the United States and the State of Washington have authorized the courts to waive fees in the following cases: Boddie v Connecticut, 401 US 371, 29 L.Ed.2d 113, 91 S.Ct. 780 (1971); Lois Ashley, et al v Superior Court, 82 Wn.2d 188 (19173) and 83 Wn.2d 630, (1974). I request entry of an order:

1. Allowing commencement and prosecution of this case In Forma Pauperis; and
2. Directing the clerk of the court to file and issue papers without any fee or charge whatsoever.

My income, assets are:

Cash \$ _____

My monthly income is \$ _____

Checking \$ _____

The source of my income is _____

Savings \$ _____

I have to support _____ child (ren)

My necessary expenses are:

Rent \$ _____ Utilities \$ _____ Food \$ _____ Daycare \$ _____

I certify under the penalty of perjury under the laws of the State of Washington that the foregoing statements are true and correct.

Dated _____ at _____, Washington.

Petitioner

ORDER

The petitioner having presented a sufficient motion and declaration to proceed In Forma Pauperis and the court finding good cause shown; now therefore, it is hereby:

ORDERED that the petitioner is hereby authorized to prosecute this action In Forma Pauperis; and the clerk of the court is ordered and directed to file and issue papers and pleadings as requested by the petitioner without payment of any fee or charge whatsoever. In approving this Order the court reserves the right to review this authorization from time to time and require the payment of fees if justified at the time OR:

- Petitioner is required to pay the full amount of the filing fee before 90 days has expired, or entry of a final decree, or a dismissal, whichever is first..

DATED _____

JUDGE/COURT COMMISSIONER

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SNOHOMISH

<p>In re the Marriage of:</p> <p>Petitioner,</p> <p>vs.</p> <p>Respondent.</p>	<p>No.</p> <p>APPLICATION/ORDER TO PROCEED IN FORMA PAUPERIS</p> <p>(ORPRFP)</p>
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I. APPLICATION

I, _____, move the Court for an Order authorizing me to proceed in Forma Pauperis (at public expense) in this case.

Attached is a Financial Statement in support of this motion.

II. ORDER

It is hereby ordered that the above named is permitted to proceed without payment of the filing fees indicated below:

- General Case Filing Fee \$200 Domestic Case filing Fee \$200.00 (see sections 2.3 and 2.4)
- Mandatory Arbitration Fee \$220 Domestic Modification Fee (in-County \$36 (see section 2.3)
- Request for Trial De Novo \$250 Other _____

It is hereby ordered that the above fee(s):

- Are waived subject to later court review;
- Are waived temporarily and shall be paid within _____ days of entry of this order;
- Are waived temporarily and shall be paid prior to entry of any final orders in this case;
- Are waived in the amount of \$ _____ with the balance to be paid:
 - at the time of filing within _____ days of filing;
 - prior to entry of any final orders in this case
- Other _____

1 It is hereby ordered that the \$20.00 facilitator surcharge in cases under Title 26 RCW (per
2 Snohomish County Code 4.90) shall be paid:

- 3 Does not apply
4 At the time of filing
5 Within _____ days of filing or no later than _____ (date)
6 Prior to entry of any final orders

7 It is hereby ordered that the \$30.00 Domestic Violence Prevention Surcharge (RCW
8 36.18.016(2)(b)) assessed on all petitions for dissolution, legal separation or declaration
9 concerning validity of a marriage shall be paid.

- 10 Does not apply
11 At the time of filing
12 Within _____ days of filing or no later than _____ (date)
13 Prior to entry of any final orders

14 It is hereby ordered that this case shall be dismissed on _____ (date) if any of
15 the above fees have not been paid as ordered.

16 DATED THIS _____ DAY OF _____, 20____.

17 _____
18 JUDGE/COURT COMMISSIONER

19 Presented by:

20 _____
21 Signature of Petitioner

22
23 FAILURE TO PROSECUTE THIS ACTION BY FAILURE TO APPEAR AT YOUR HEARING OR
24 OTHERWISE MAY RESULT IN AN ORDER AND JUDGMENT REQUIRING THE PETITIONER TO PAY
THE FILING FEE AND SERVICE COSTS.

APPLICATION/ORDER TO PROCEED IN FORMA PAUPERIS
(ORPRFP) - 2

1 FINANCIAL STATEMENT IN SUPPORT OF APPLICATION AND ORDER TO PROCEED IN FORMA
2 PAUPERIS

3 3.1 GENERAL INFORMATION

4 (a) Name: _____ (a) Spouse's Name: _____
5 (b) Address: _____ (b) Address: _____
6 (c) Social Security #: _____ (c) Social Security #: _____
7 (d) Telephone # _____ (d) Telephone # _____
8 (e) Date of Birth: _____ (e) Date of Birth: _____

9 3.2 FAMILY INFORMATION

10 (a) Persons whom you financially support: [] Spouse [] Children [] Other
11 (b) List names, relationship and address if different from yours:

12 _____
13 _____
14 _____

15 3.3 EMPLOYMENT INFORMATION

16 (a) Are you presently employed [] Yes [] No (a) Is your spouse presently employed [] Yes [] No
17 (b) Name & address of employer: _____ (b) Name & address of spouse's employer: _____
18 (c) Length of Employment: _____ (c) Length of Employment: _____
19 (d) Occupation: _____ (d) Occupation: _____
20 (e) Other Sources of Income: _____ (e) Other Sources of Income: _____

21 3.4 INCOME AND ASSETS

22 (a) Gross monthly income (personal) _____
23 (b) Gross monthly income (spouse) _____
24 (c) Savings accounts _____
(d) Checking accounts _____
(e) Stocks & Bonds _____
(f) Cash _____
(g) Vehicles/boats/RV/motorcycles _____
(h) Home equity (sale value less amount owing) _____
(i) Other _____

TOTAL ASSETS: _____

3.5 EXPENSES AND DEBTS

(a) Monthly living expenses (itemize):
Rent/house payment _____
Food _____
Utilities _____
Transportation _____
Insurance _____
Medical & Dental _____
Other _____

(b) Debts:
Name of Creditor Amount Owed

TOTAL OBLIGATIONS: _____

25 UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE EXAMINED THIS DOCUMENT AND THE
26 PRECEDING INFORMATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND ABILITY.

27 _____
28 DATE

29 _____
30 SIGNATURE

APPENDIX

TAB G



STATE OF WASHINGTON
OFFICE OF CIVIL LEGAL AID

1112 Quince St SE
MS 41183
Olympia, WA 98504
360-704-4135
360-704-4003 FAX

James A. Bamberger
Director
JIM.BAMBERGER@OCLA.WA.GOV

March 30, 2010

Ronald Carpenter, Clerk
Washington Supreme Court
415 12th Ave., SW
PO Box 40929
Olympia, WA 98504-0929

Attn: Camilla Faulk

Re: Proposed GR-34
Waiver of Court and Clerks Fees and Charges in
Civil Matters on the Basis of Indigency

Dear Mr. Carpenter:

I write in my capacity as Director of the Washington State Office of Civil Legal Aid, an independent judicial branch agency dedicated, among other things, to ensuring access to the civil justice system for low income and vulnerable people in our state. I write to encourage the Supreme Court to adopt the proposed GR 34 in the form most recently published for comment in April 2009.

While the right of low income litigants to access the courts free of financial obstacles has been the law in our state for more than 40 years,¹ objective and anecdotal experience indicates that this right is honored more often in the breach. Faced with fiscal pressures, judicial officers across our state (and often within the same judicial district) apply inconsistent standards for determining an individual litigant's right to waiver of court filing fees and other costs that she cannot afford to incur. In all too many cases, the requirement to pay civil filing fees and other costs operates to limit, and even deny, access to judicial relief in a wide range of compelling civil legal cases.

For more than four years, the Washington State Bar Association's Pro Bono and Legal Aid Committee has worked to establish a workable, effective and simple means of ensuring consistent and efficient treatment of *in forma pauperis* (IFP) applications filed by low income people, whether or not they are represented by counsel. The current version of GR 34 is the culmination of these efforts, and represents a consensus understanding between the pro bono and legal aid community, the Superior Court

¹ *O'Connor v. Matzdorff*, 76 Wn.2d 589, 458 P.2d 154 (1969).

It's not justice, if it's not equal.

Re: GR-34
March 30, 2010
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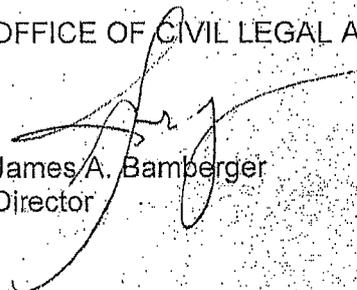
Judges Association and the Washington State Bar Association. In my capacity as Director of the Office of Civil Legal Aid, I have worked closely in the crafting of this rule and support its adoption unconditionally.

The rule ensures fair and appropriate treatment of IFP applications, establishes a uniform standard of indigency for determining whether individuals are presumed eligible for waivers of civil filing fees and other costs for which judicial officers have authority to waive, streamlines existing processes, encourages pro bono representation (by removing the need for pro bono attorneys to navigate unnecessary procedural obstacles) and ensures accountability.

The Office of Civil Legal Aid believes this rule protects the rights of indigent persons, effectively preserves judicial prerogatives and removes barriers that limit access to the justice system. Adoption of this rule is strongly encouraged.

Sincerely,

OFFICE OF CIVIL LEGAL AID


James A. Bamberger
Director

APPENDIX

TAB H



WASHINGTON
COURTS

District and Municipal Court Judges' Association

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Vice-President
JUDGE GREGORY TRIPP
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Past President
JUDGE MARILYN PAJA
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(360) 337-4865 FAX

Board of Governors
JUDGE FRANK V. LA SALATA
King County District Court
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JUDGE VERONICA ALICEA-GALVAN
Des Moines Municipal Court
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JUDGE PATRICK R. BURNS
Auburn Municipal Court
(253) 931-3076 (253) 804-5011 FAX

JUDGE LINDA S. PORTNOY
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(206) 364-7711 (206) 364-7712 FAX

COMM. ADAM EISENBERG
Seattle Municipal Court
(206) 684-8709 (206) 615-0766 FAX

JUDGE SCOTT AHLF
Olympia Municipal Court
(360) 753-8312 (360) 753-8775 FAX

JUDGE R. W. BUZZARD
Lewis County District Court
(360) 740-1203 (360) 740-2779 FAX

December 8, 2009

Honorable Charles W. Johnson
Washington State Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

Dear Justice Johnson:

RE: GENERAL RULE (GR) 34 WAIVER OF COURT AND CLERK'S FEES
AND CHARGES IN CIVIL MATTERS ON THE BASIS OF INDIGENCY (NEW
RULE)

Thank you for the opportunity to comment on proposed new rule GR 34. The District and Municipal Court Judges' Association (DMCJA) supports the proposed new rule GR 34 with one minor change to GR 34 (b) to specify that judges have the authority to grant partial fee waivers, in addition to full fee waivers. A copy of our suggested changes to the proposed new rule is enclosed with this letter.

The DMCJA believes that requiring a party to pay a portion of the fee in appropriate cases will help to ensure that the party is serious about proceeding with the case and will follow through with his or her responsibilities for appearing for hearings, delivery of pleadings, to law enforcement for service, and proceeding with the claim. Allowing for partial payment may also help to curb litigation abuse, which is a problem in some courts. The DMCJA feels comfortable in assuming that judges will be responsible in deciding whether or not to impose a partial fee in a case, and that this change to GR 34 will not impose an undue hardship on parties.

Thank you for your consideration of our suggested changes.

Sincerely,

Glenn Phillips
President-Judge

Enclosure

DMCJA\PresidentsCorrespondence\08-10Phillips\GR34CommentLettertoSupremeCourt 1.doc

GENERAL RULES (GR)

RULE 34. WAIVER OF COURT AND CLERK'S FEES AND CHARGES IN CIVIL MATTERS ON THE BASIS OF INDIGENCY

1 (a) Any individual, on the basis of indigent status as defined herein, may seek a waiver
2 of filing fees or costs from a judicial officer in the applicable trial court.

3 (1) The application for such a waiver may be made ex parte in writing or orally,
4 accompanied by a mandatory pattern form created by the Administrative Office of the Courts
5 (AOC) whereby the applicant attests to his or her financial status or, in the case of an individual
6 represented by a qualified legal services provider ("QLSP") or an attorney working in
7 conjunction with a QLSP, a declaration of counsel stating that the individual was screened and
8 found eligible by the QLSP.

9 (2) The court shall accept an application submitted in person, by mail and where
10 authorized by local practices, electronic filing. The process for presentation of the application
11 shall conform to local court and clerk processes for presenting ex parte orders to the court
12 directly or via the clerk. All applications shall be presented to a judicial officer for consideration
13 in a timely manner and in conformity with the local court's established procedures. There shall
14 be no locally imposed fee for making an application. The applicant or applicant's attorney filing
15 by mail, shall provide the court with a self-addressed stamped envelope for timely return of a
16 conformed copy of the order.

17 COMMENT

18 This rule establishes the process by which judicial officers may waive civil filing
19 fees and such other costs for which judicial officers have authority to grant a waiver.

20 (3) An individual who is not represented by a qualified legal services provider (as that
21 term is defined below) or an attorney working in conjunction with a qualified legal services
22 provider shall be determined to be indigent within the meaning of this rule if such person, on the
23 basis of the information presented, establishes that:

GENERAL RULES (GR)

RULE 34. WAIVER OF COURT AND CLERK'S FEES AND CHARGES IN CIVIL MATTERS ON THE BASIS OF INDIGENCY

1 (A) he or she is currently receiving assistance under a needs-based, means-tested assistance
2 program such as the following:

3 (i) Federal Temporary Assistance for Needy Families (TANF);

4 (ii) State-provided general assistance for unemployable individuals (GA-U or GA-X);

5 (iii) Federal Supplemental Security Income (SSI);

6 (iv) Federal poverty-related veteran's benefits; or

7 (v) Food Stamp Program (FSP); or

8 (B) his or her household income is at or below 125% of the federal poverty guideline; or

9 (C) his or her household income is above 125% of the federal poverty guideline and the
10 applicant has recurring basic living expenses (as defined in RCW 10.101.010(4)(d)) that render
11 him or her without the financial ability to pay the filing fees and other fees or costs for which a
12 request for waiver is made.

13 (D) other compelling circumstances exist that demonstrate an applicant's inability to pay
14 fees and/or costs.

15 (4) An individual represented by a QLSP, or an attorney working in conjunction with a
16 QLSP that has screened and found the individual eligible for services, is presumptively deemed
17 indigent when a declaration from counsel verifies representation and states that the individual
18 was screened and found eligible for services.

19 (5) As used in this rule, "qualified legal services provider" means those legal services
20 providers that meet the definition of APR 8(e).

GENERAL RULES (GR)
**RULE 34. WAIVER OF COURT AND CLERK'S FEES AND CHARGES IN CIVIL
MATTERS ON THE BASIS OF INDIGENCY**

COMMENT

1
2 The adoption of this Rule is rooted in the constitutional premise that every level of
3 court has the inherent authority to waive payment of filing fees and costs on a case by
4 case basis. Each court is responsible for the proper and impartial administration of
5 justice which includes ensuring that meaningful access to judicial review is available to
6 the poor as well as to those who can afford to pay.

7 **(b)** Nothing in this rule shall prohibit or delay action on the underlying petition upon the
8 court's approval of a waiver of all fees and in such case presentation of an original petition may
9 accompany the initial fee waiver. However, nothing in this rule diminishes the court's discretion to
10 grant only a partial waiver of fees and to require payment of a partial fee prior to court action.

11

APPENDIX

TAB I



RUTH GORDON
Jefferson County Clerk

P.O. Box 1220
Port Townsend, WA 98368
(360) 385-9125

Ronald Carpenter, Clerk
Washington State Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

April 30, 2010

Re: Proposed Rule 34 - Waiver of Court and Clerk's Fees and Charges in Civil Matters on the Basis of Indigency

Dear Mr. Carpenter,

Thank you for the opportunity to comment on this rule, which seeks to establish a consistent process and result for indigent parties who seek to bring civil actions before the court. I support the end sought but write today in opposition to the means.

The crushing burden of poverty will not be lifted by this rule, nor will access to services expand as a result of its provisions. Some people will save a modest amount of money and a modest amount of time. But by broadening the standard of indigency and expanding the scope of routine judicial waivers this rule will directly cut funding to the courts and the clerks. In our current climate service cuts will certainly follow. Clerks, who are funded at the pleasure of their respective county legislative boards and must bring in revenues to cover the costs of mandated and non-mandated services, provide access to justice for all the public at our front counters. We are currently losing staff and shortening hours of service, and GR 34 will accelerate those losses.

Inherent powers notwithstanding, for the Supreme Court to take the step of cutting revenue on ideological grounds without having any idea of the actual cost of this rule would be a disservice to the justice community it serves. I ask the honorable Justices to perform a due diligence assessment of caseload statistics and revenue generated statewide by the filing fees, surcharges and other costs targeted in GR 34 and model the likely results that will follow if waivers are routinely expanded to include a wider set of costs/fees and a wider sub-set of the population given that civil legal aid services use a higher income standard of indigency than the courts currently apply. Please evaluate how the projected revenue losses to the courts compare to the increases won just five years ago in the Justice in Jeopardy campaign. Does it wipe out those gains? Cut them by a fraction? I ask you to know this before you vote on proposed GR 34.

I remain ready at any time to work with those who advocate for adoption of GR 34 in a shared effort to seek more financial support for the courts and clerks from the legislature. Funding justice through user fees is a distasteful business, but I am sure that cutting these revenues with no alternative at hand will be a disservice to all citizens who depend upon the courts for justice.

Respectfully,

Ruth Gordon

Jefferson County Clerk