



Pierce County

Office of the County Executive

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February 20, 2008

Supreme Court Rules Committee
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

Re: Proposed General Rule 34
Waiver of Court and Clerk's Fees and Charges in civil cases based on Indigency

RECEIVED
SUPREME COURT
CLERK
08 FEB 22 AM 7:41
ROYAL L. CAMPBELL

Honorable Members:

This letter is a request of you to vote no on the proposed General Rule 34. The proposed rule, if adopted, would place an enormous strain on the funding mechanism for this office and services that it is mandated to provide to the public. Should this rule be adopted, it would raise the eligibility to have filing fees in civil matters, and various other service fees, waived for individuals with incomes up to 200% of the current federal poverty levels.

In Pierce County alone, the filing of orders waiving filing fees increased 24% from 707 in 2005 to 878 in 2006. Filings increased an additional 16% from 2006's 878 to 1,025 in 2007. From 2005 to 2007, In Forma Pauperis (IFP) orders filed with this office increased a total of 45%. Raising the level to qualify for an IFP order from 125% of the federal poverty level to 200% will result in 60% more IFP orders being entered by the court, or 615 more than were filed during 2007.

The situation surrounding the actual determination of qualification for an IFP order is not clear at best in this proposed rule. In one instance the clerk is given the obligation to make that determination based on the information provided by a pro se litigant. If, however, the litigant is represented by an attorney in the employ of a "qualified legal services provider" that obligation is removed from the clerk. The decision now is made, effectively, by the parties preparing the documents to be filed. If the decision is made by the provider that their client meets the new standards, the clerk must accept the filing without a filing fee, or any other statutory fees.

The determination of indigence is not appropriate for this office, or a legal services provider. That decision making authority must remain with a judicial officer. The replacement of judicial review of cases for indigency compliance with an "over-the-counter" process in the clerk's office does not justify a state-wide court rule.

The rule's automatic waiver of the collection of statutory fees would dramatically impact the revenue that goes not only to this county for the support of the judicial system but also to the state for support of the Public Safety and Education Account (PSEA). The adoption of the



rule would result in a reduction of filing fee revenue to the county of approximately \$368,000 and to the state PSEA revenue of nearly \$170,000. In addition, the waiver of service fees in these civil cases for Records Services and Copies would result in further revenue losses of almost \$223,000 and \$38,000, respectively. The total revenue reductions that would result would be nearly \$460,000 for the county and \$170,000 for the state.

The proposed rule's adoption would have a critical impact on the county's ability to further support programs such as Courthouse/Domestic Relations Facilitators and domestic violence prevention. The loss of funding streams for these programs could eventually curtail their services completely.

Not only does the proposed rule impact revenues but it also runs contrary to the State judicial branch's "Justice in Jeopardy" initiative which is exploring ways to increase funding for local courts and clerk's offices via mechanisms such as increased fees. The rule as proposed would dramatically increase the number of litigants who qualify for a waiver of fees, thus reducing revenues further. It is disheartening that after working for years with the Court Funding Task Force and the legislature to create a fair and equitable fee structure that now some of the same entities are proposing additional fee waivers.

The establishment and revision of court related fees has traditionally been accomplished via statutory means. This rule would take that previously legislative authority away and replace it with a court rule. Additionally, the fees in question are for services performed by executive branch employees. While the court has the right to exercise its discretion over filing fees pursuant to existing statutes, it is inappropriate to be applied to administrative functions and services such as document faxing, copying court documents and facilitator surcharge/user fees.

The proposed GR34 will not provide anything significant for the poor, but will cause great harm to a court system that has been carefully crafted to provide "access to justice" for the citizens of this county and state. Continuing to provide funding for this office and the courts allows them to remain productive, accurate, and efficient and create technology which supports access to the court records for the public. To threaten this progress would actually result in denying effective access to the citizens that we have pledged to serve.

This proposed rule, while having an enormously adverse impact on this and all counties and the offices of the County Clerks, provides no substantial gains for the poor. We urge you to consider this and to vote NO on Proposed GR 34.

Sincerely,



John W. Ladenburg
Pierce County Executive

cc: Kevin Stock, Clerk of the Superior Court &
Director of Arbitration