



THURSTON COUNTY
WASHINGTON
 SINCE 1852

BETTY J. GOULD
COUNTY CLERK

and Ex-Officio Clerk
 of Superior Court

Linda Myhre Enlow
 Chief Deputy Clerk

January 29, 2008

Supreme Court Rules Committee
 Temple of Justice
 P.O. 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

Honorable Members:

I am writing to ask that you vote NO on proposed General Rule 34. After reviewing the proposed rule, I took a critical look at the efforts made by this court to ensure that parties in family law and civil matters have the opportunity to ask the court to waive the "filing fee" for a case they want to file. As a source of information for your consideration, statistically, in 2006 we entered 440 orders waiving filing fees. In 2007, 482 orders waiving filing fees were entered, which is a 9% increase and equals \$96,200 in filing fees waived in one year. Comparing 2005 to 2007, we had an increase of 25% of In Forma Pauperis (IFP) orders signed in all case types.

If this rule is passed it would raise eligibility to have filing fees and various other fees waived for individuals with income levels at or below 200% of the federal poverty level. In addition to waiving filing fees, the rule provides for the automatic waiver of additional services. This encompasses such things as:

- jury demand fees,
- certified copies,
- exparte fees,
- copy fees,
- facilitator surcharges/user fees,
- fax filings fees,
- mandatory arbitration fees,
- fees for trial de novo.

The loss of revenue to this county would increase **dramatically** with the change in poverty level and the inclusion of the additional fees and services that are outlined above.

I am concerned with the depth in which this proposed rule cuts into the fees charged by this office as provided in RCW 36.18.020 and RCW 36.18.016. After working for years on the Court Funding Task Force and the legislature to create fair and equitable fees (which has helped counties support the court system), it is disheartening to now have some of those same entities proposing waiving fees.

Proposed GR 34 will have a critical impact on county revenue and on programs such as the facilitator program that are supported by the funds collected as allowed by statute. The actual outcome could be the loss of these programs.

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The fees addressed in this rule are for court filing fees and fees for services performed by executive branch employees. I have no objection to the court exercising discretion over filing fees pursuant to statutes that permit the waiver of those fees, however, I do object to the waiver of fees for services such as faxed documents, making copies of documents on file and the waiver of the facilitator surcharge/user fee.

Additionally, waiving fees for copies would create a huge workload on staff and would add to the current barrage of requests from incarcerated inmates wanting multiple copies of every document in every case file, copies of every available form, copies of court rules and statutes, etc. I would estimate that would be replicated with a new barrage from civil litigants that have twice the income of the criminals but all of the same rights. The affect would be a huge increase in workload and a considerable loss in revenue.

As you know, my office is supported by the county general fund. The revenue we collect helps offset the cost of running the office and allows us to provide programs to assist citizens who cannot afford an attorney (i.e. facilitator program) or collect restitution from criminal defendants so that victims are reimbursed for their losses (LFO Program). When revenue is affected, County Commissioners withdraw their support for these programs and the public suffers.

Another concern is that this rule provides that the Clerk is to grant the IFP orders in certain circumstances and our decisions can be appealed to a judge. The determination of indigence is not appropriate for my office. This decision needs to stay with the judicial officer.

Traditionally fee setting and fee waiving has been done statutorily, so this rule somewhat uncomfortably lends what was previously legislative authority to a court rule.

In summary, this proposed rule will cause great harm to the system we have created that provides "access to justice" for our citizens while continuing to provide funds for our offices to be productive, accurate, efficient, and create technology which supports access to the records for the public. To destroy this progress would actually be denying access to the citizens we have pledged to serve.

This rule has an adverse fiscal impact to the counties and the office of the County Clerk and does nothing significant for the poor. Again, I urge you to please vote NO on Proposed GR 34.

Very truly yours,

THURSTON COUNTY CLERK



BETTY J. GOULD

BJG

cc: Clerk of the Supreme Court