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Subject: FW: proposed new IRLJ 3.5
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From: Greene, Richard <Richard.Greene@seattle.gov>
Sent: Wednesday, August 31, 2022 2:13 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: proposed new IRLJ 3.5

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This rule should expressly provide that the burden of proving an inability to pay is on the defendant, and that the court cannot presume an inability to pay from a silent record. The defendant, being in control of the documents and other information supporting a claim of inability to pay, should be required to establish such fact.

Arbitrarily establishing a minimum payment of \$10/month (or less) will increase the costs to a court of processing such payments. Courts should have discretion, based on the information provided by the defendant, to establish the level of installment payments, as they have been doing since the option of a payment plan was authorized in 2005. See Laws of 2005, chapter 288, section 8.

Why does this proposed rule use the word “person” while the other IRLJ use the word “defendant”?

What purpose is served by having this rule simply copy what is in ESSB 5226, section 4? One problem with this approach is that anytime this statute is amended, then the rule will need to be changed as well. I thought the purpose of court rules is to regulate the practice and procedure of how the substantive law is to be administered.



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