

Wallace R. Hoggatt
Presiding Judge



Karen D. Ferrara
Court Administrator

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**SUPERIOR COURT OF ARIZONA
COCHISE COUNTY
OFFICE OF THE COURT ADMINISTRATOR**

December 13, 2007

Mr. Richard Searle, Chairman of the Board of Supervisors
Mr. Mike Ortega, Cochise County Administrator
1415 Melody Lane, Bldg. G
Bisbee, AZ 85603

RE: Proposed Changes in Judicial Administrative Fee Schedule

Dear Mr. Searle and Mr. Ortega,

Enclosed you will find materials pertaining to our upcoming work session on December 18, 2007, regarding the above referenced matter. This cover letter is intended to provide a summary of the proposal we will be presenting to you and the other members of the Board of Supervisors.

History: In November of 2004, the court sought and received the approval of the Board to create a local administrative fee schedule. Pursuant to A.R.S. §11-251.08, the Board is the specific authority for the establishment of such a schedule. In 2004, several local fees were established for the purpose of defraying or covering the costs of providing certain court services. The fee schedule approved in 2004 is included among the materials with this letter, and all proposed changes are highlighted in either green or yellow print.

The proposal we will bring to you next week has two basic components: the creation of new fees and the modification of the existing fees, as follows:

The creation of new fees:

We propose to create a Justice Court Technology and Security Fund. It has long been recognized that our justice courts do not have the same degree of security as the superior court. It is also recognized that to fully secure all justice courts is a very expensive proposition. The intent of the creation of a Justice Court Technology and Security Fund is to provide a financial contribution toward the establishment of full security - it is not the intent to have this fund fully cover all such costs. Among the enclosed materials is a spreadsheet demonstrating the costs necessary to establish security in our justice courts.

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We propose that the fees established to apply toward the Technology and Security Fund emanate from a \$20 fee added to any case in which a fine, penalty or forfeiture is imposed for any criminal, civil traffic or county ordinance offense or violation. We further propose a portion of the already established Justice Court Enhancement Fee (attached to newly filed civil cases, as approved in November of 2004, and further addressed in the latter section of this letter) be dedicated to this Fund.

We propose a local Time Payment Fee of \$20 to be assessed on any case in which a defendant pays a court ordered penalty or fine on a time payment basis. (Currently, under A.R.S. § 12-116, a \$20 time payment fee exists statewide. From that \$20 fee, \$7 remains with the local court, and in Cochise County, all of those funds currently are dedicated to pay our "device fees" to the Arizona Supreme Court for participation in the statewide automation systems.) We propose this local Time Payment Fee to offset the costs of the courts having to process lengthy payment plans (still, one might arguably find this to be one of the lowest finance rates available). We also propose that the entire fee remain within the existing Justice Court Enhancement Fund.

We propose the creation of a Post Decree Mediation Fee of \$35 in the Superior Court. Under existing law and practice, when divorcing couples with children either request or are mandated to attend Family Conciliation Court (mediation and counseling services), each party is assessed a \$65 fee to cover the cost of those services. Our statistics show that approximately 35 - 40 % of the requests for these same mediation or counseling services are made after the divorce and custody matters are finalized. Absent the creation of this fee, the court will continue to provide valuable services to these parties at no charge.

Modifications to Existing Fees:

We propose increasing the existing Warrant Fee from \$75 to \$100 and increasing the existing Suspension Fee from \$50 to \$75. We are not proposing any change in the current split of these collected monies (65% to the Superior Court Enhancement Fund and 35% to the Justice Court Enhancement Fund).

We propose to increase the Justice Court Enhancement Fee from \$10 to \$15 (assessed on newly filed non-criminal cases). We further propose to change the distribution of these monies. Currently all such fees have been deposited into the Superior Court Enhancement Fund. We are proposing that this formula be changed to have 35% continue to go to the Superior Court Enhancement, 42% to the Justice Court Technology and Security Fund and 23% to the Justice Court Enhancement Fund.

As this proposed change in the distribution of monies will reduce the amount currently transferred into the Superior Court Enhancement Fund, we are also proposing

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that the Superior Court Enhancement Fee (assessed on newly filed non-criminal cases) be increased from \$40 to \$50. The existing Superior Court Enhancement Fund is in relative good health. When the Fifth Division of the Superior Court was established, the county general fund allotted approximately \$198,000 in support of the costs so associated. The Board of Supervisors authorized our creation of the Superior Court Enhancement Fund primarily to support the remaining costs of the Fifth Division along with other costs associated in enhancing overall superior court operations. The cost of staffing the Fifth Division is roughly \$300,000 per year. The cash carry forward in this Fund for FY07 was approximately \$700,000 and we accrue approximately \$25,000 per year in interest.

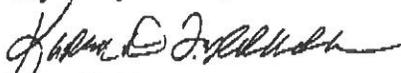
Summary:

Our proposal is based on several factors:

- *We highly prioritize establishing full security in our justice courts.
- *We need to maintain a healthy balance in our Superior Court Enhancement Fund.
- *We should assess costs for services provided, specific to certain litigants or defendants, when there is no other funding mechanism to do so.
- *The Justice Court Enhancement Fund has proven beneficial for enhancing operations and practices in our Justice Courts.
- *Judges have all along, and will continue to have the authority to waive any of these fees if the litigant or defendant adequately demonstrates financial hardship or inability to pay the additional fees.

We look forward to further discussing this proposal with you at the upcoming work session.

Very Truly Yours,



Karen D. Ferrara
Court Administrator

copy: Pat Call, Member, BOS
Paul Newman, Member, BOS
Jim Vlahovich, Deputy County Administrator
Katie Howard, Clerk of the Board

Lois Klein, Finance Director
Wallace R. Hoggatt, Presiding Judge
David Morales, Presiding Justice of the Peace
Joseph Knoblock, Benson Justice of the Peace
Trevor Ward, Willcox Justice of the Peace
Timothy Dickerson, Sierra Vista Justice of the Peace
Michael Skiles, Bowie Justice of the Peace
Denise Lundin, Clerk of the Court
Faye Coakley, Deputy Court Administrator
Tom Hilb, Chief of Court Security

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Summary of Fee Schedule - Revisited (1/24/08)

Existing Fees:

Warrant Fee currently \$75 - assessed when a defendant doesn't show up for court or fails to comply with an order of the court - fee offsets efforts of court to generate warrant. **Proposed increase of warrant fee to \$100.**

License Suspension Fee currently \$50 - assessed when a person fails to pay their civil traffic fine resulting in court having to issue notice to MVD to suspend driver's license.

Proposed increase of Suspension Fee to \$75.

Justice Court Enhancement Fee - currently \$10 - added to filing of any civil case. **Proposed increase of Enhancement Fee to \$15.**

Superior Court Enhancement Fee currently \$40 - added to filing of any civil, domestic relations, probate and guardianship/conservatorship cases. **Proposed increase of Enhancement Fee to \$50.**

Superior Court Conciliation/Mediation Services currently \$65 - assessed when non-divorcing parties seek counseling services from the conciliation court. **No proposed change.**

Proposed NEW FEES:

Local Time Payment Fee of \$20. To be assessed upon any person who pays a penalty, fine or sanction on a time payment basis. This would be in addition to a statutory time payment fee of \$20 already assessed, only \$7 of which remains with the local courts. The processing of time payments is a significant workload factor for court personnel.

Justice Court Security Fee of \$20. To be assessed upon any fine, penalty or forfeiture imposed for criminal, civil, traffic or county ordinance offense or violation. This is proposed to generate a fund that would offset significant costs to the county in establishing court security in all justice courts. **This fee, pursuant to a recent AG opinion, would be further subject to state imposed surcharges of 84% - meaning that the actual assessment to any fine, penalty or forfeiture would be \$46.80.

Superior Court Post-Decree Mediation Fee of \$35. This fee would be charged to parties, in post-decree situations, who are requesting or are otherwise required to receive continuing conciliation court counseling and mediation services. Currently in such cases, services are provided at no cost.

What this means to an individual coming through the court system:

Justice Courts:

Person filing an eviction: currently pays \$21 - with new fees would pay \$31
Person filing a small claims case: currently pays \$16 - with new fees would pay \$26
Person filing a civil case: currently \$45 - with new fees would pay \$55

ALL FEES SUBJECT TO WAIVER OR DEFERRAL

Typical Class One Misdemeanor Fine is currently \$642. If fine is made in time payments, total is currently \$662. With new fees, typical Class One Misdemeanor Fine would be \$662 and if paid in installments, both (state and local) time payment fees of \$20 would be added, so total fine amount would be ~~\$702~~ *\$ 728.80*

Persons who do not appear in court or disobey an order of the court resulting in the court issuing a warrant are currently charges \$75, with increase would pay \$100.

Persons who do not pay their civil traffic fines resulting in the court having to suspend driver's license are currently charged \$50, with increase would pay \$75.

ALL FEES SUBJECT TO WAIVER OR DEFERRAL

Superior Court

Person filing a civil complaint currently pays \$185 - with new fee would pay \$195
Person filing an answer to a civil complaint currently pays \$131, would pay \$141

Person filing for dissolution of marriage currently pays \$216, with new fee \$226
Person responding to petition currently pays \$171, with new fee would pay \$181

Application for informal Probate currently is \$246, with fee would be \$256

Marriage License is currently \$50, with new fee would be \$60

Parties seeking counseling or mediation services from the Conciliation Court in post-decree (after official divorce proceedings occur) situation currently pay NOTHING - with new fee would pay \$35.

ALL FEES SUBJECT TO WAIVER OR DEFERRAL