



January 22, 2016

Wisconsin Supreme Court
110 East Main Street, suite 215
P.O. Box 1688
Madison, WI 53701-1688

Re: Petition 14-03, Mandatory Electronic Filing in the Circuit Courts

Honorable Justices of the Supreme Court,

I write in my role as the Director of the Economic Justice Institute, at the University of Wisconsin Law School to comment on Petition 14-03, scheduled for a public hearing on February 23, 2016. The Institute (known as EJI) is the home to most of the civil legal clinics at the Law School. The clinics are community lawyering programs serving our county and state's low-income residents. Most of the clinics' clients would otherwise be unable to afford representation in their family, consumer, landlord-tenant, employment, or immigration cases if they did not receive services from one of our clinics.

Our representation typically involves submitted a fee waiver form on behalf of our clients pursuant to Wis. Stat. § 814.29(1)(d) because they are indigent or otherwise unable to afford the filing fee. Thus, I write to address the fees associated with the electronic filing process.

Under section (3) of the proposed eFiling rule, all licensed Wisconsin attorneys, other than those who are representing themselves, are required to participate in the electronic filing system. Section (7) of the proposed rule addresses payment of fees. It allows the user of the electronic filing system to submit a fee waiver pursuant to Wis. Stat. § 814.29 to request waiver of the filing fee. Rule, (7)(b). However, section (7)(c) states that "Users shall be charged a fee for use of the electronic filing system as provided under s. 759.19(4m) and determined by the director of state courts. **The electronic filing fee shall not be waived by the court except in accordance with policies set by the director**" (emphasis supplied).

Our clinics do not have the funds available to pay these filing fees and we cannot expect that our impoverished clients will be able to afford to pay them. The result may be a barrier to access to the court system that is not addressed by the proposed rule but will be left to the discretion of the Director of State Courts.

In his cover letter to the Court, the Honorable Robert J. Wirtz wrote:


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"3. Under the authority provided by Wis. Stat. § 758.19(4m), the Director of State Courts will set the electronic filing fee at \$20 per party per case. We expect that the director will waive the fee for indigent parties and for governmental units such as the district attorneys, public defender, child support agencies, Department of Justice, and county and municipal attorneys."

It is unclear whether or not attorneys who represent indigent parties also will be covered by the waiver or whether the intent is to provide a fee waiver only to self-represented indigent parties and, although the University of Wisconsin Law School is a state agency, it is unclear whether the possible waiver will cover our Law School clinics. The proposed fee will also impact our criminal clinical programs as well if and when the rule is expanded to include all matters filed in circuit courts.

Thus, it is my concern that the proposed rule's unintended consequence will financially impact those low-income individuals who are represented by attorneys (or law students under an attorney's supervision). I trust that this is not the intent of the rule, but I request more clarity so that rule specifically exempts those attorneys providing representation to clients who are eligible for fee waivers from paying any fees associated with electronic filing. Thank you for your consideration.

Respectfully Submitted,


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