

Superior Court of the State of Washington
For Whatcom County

311 Grand Avenue, Bellingham, Washington 98225

Chambers of
CHARLES R. SNYDER
Judge



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November 3, 2009

Whatcom County Council Members

RE: *Superior Court 2010 Additional Services Requests*

On October 27th the Executive's office advised the court that they would not forward for recommendation our 2010 ASR numbers 914, 916 and 922. As the court is part of the independent third branch of government, it will submit its budgetary needs directly to the legislative branch providing a courtesy copy to the executive branch.

A copy of the Executive's memo and the originals of the un-forwarded ASR's are attached. The memo also describes a delay in considering two more ASR's, numbers 915 and 917, both of which have since been approved and are to be forwarded.

ASR #914 – Budget Adjustments: NET \$56,160 *(Actually \$200,000 increased expenses)*

This ASR was prepared by the administration as a NET adjustment for the identified line items, predicated on potential budget surpluses and increased, mostly one-time windfall revenue elsewhere in the Court's budget. The specific 2009 shortfalls thought to be necessary in 2010 are understated, however, in the opinion of the Court. The Court is confident that if the lines are increased as originally proposed by the administration the 2010 mandated services expenses will again exceed the too-meager budget. The court's request is actually for increases of \$200,000 comprised of the increases in the following line items:

<u>Expense</u>	<u>Increase</u>
Criminal Conflict Contract	\$70,000*
Non-Criminal Conflicts	\$40,000*
Dependency & Conflict Expenses	\$18,000*
Jury Fees	\$40,000
Interpreter Services	\$14,000
Arbitrators	\$ 8,000
Advertising (Legal Notices)	\$10,000

These expenses are mandatory expenditures under statute, constitution or case law, solely controlled by others outside of the court. The unpredictable and uncontrollable nature of these expenses include the number and nature of criminal cases filed, the number and length of jury trials, state-filed dependency filings, the need for interpreters, number of multiple defendant cases filed, etc. All other elements of the Court/Clerk budgets are within budget limits. These underfunded expenses must be paid and will subject the County to liability if not paid.

**The Court has requested that all conflict attorney contracts and expenses be returned to the executive branch. Indigent defense when there is an ethical conflict for a public defender is a constitutional executive branch responsibility. It is a limited substitute for the Public Defender, which is an executive branch department. The court may not and should not be seen to be providing counsel for one side or another, civil or criminal. This impinges on the court's ethical duty to be actually and seemingly impartial. These indigent defense services were created in 1982 as executive branch divisions and only*

came to be a part of the court organization as a temporary accommodation when the Director of Assigned Counsel incumbent also became the Court Administrator.

ASR #916 – Dispute Resolution Center (Contract): \$15,000

This ASR is a request to increase the contract to the Whatcom Dispute Resolution Center for mandatory parenting class and mediation fee subsidies for families in domestic relations cases. Court rules demand that all parents in child custody issues in dispute are required to complete a parenting class to alert them to peril to their children when parents are in disputes and for un-reconciled custody disputes to be mediated. For many years the Center has been reimbursed for parenting class and mediation low-income parents who have been determined to be indigent by Whatcom County standards. In the current strained economy the number of indigent families has increased significantly.

This ASR is to increase the amount available to subsidize indigent family fees for these highly effective services, demonstrably effective in serving the children of parents in dispute.

While the Center contract “maxed-out” its contractual reimbursement amount in June of 2009 it has continued to provide reduced-fee services, absorbing the cost of the reductions out of its operating expenses.

ASR #922 – Calendar Clerk Position: \$70,733

In the summer of 2008, as part of the 2009/2010 budget submission, the Clerk identified a 2008 and a 2009 retirement of two senior staff members. We diligently assessed our ability to leave the positions vacant for a period of time. We submitted our balanced budget leaving one position vacant for six months in 2009 and the second position vacant for six months in 2010. Unbeknownst to the Court and without consultation with it the first position was entirely deleted by the administration. As has been the custom for many, many years, we were permitted to fill the senior position from within and leave a junior position vacant.

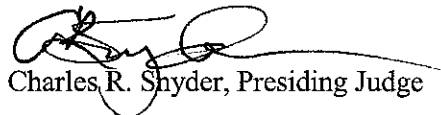
The most senior and responsible Deputy Clerk in the office, the Calendar Clerk, is retiring at the end of 2009. When asked the administration replied to the effect that the fill and back-fill protocols leaving a less-responsible junior position may no longer apply. We are initiating the formal request to fill the position from within, today.

It is expected that senior employees will retire as they are eligible. They by definition fill the most responsible positions in any office. It is unrealistic to expect that senior position tasks will “go away” when the incumbent retires or leaves. The Calendar Clerk performs multi-judge/commissioner duties that none other is able to or qualified to perform. The Calendar Clerk duties cannot be distributed and absorbed by junior staff already having absorbed the duties of two other vacant positions. The Calendar Clerk is solely qualified and needed to provide a coordinated method for managing the vagaries of scheduling the 45- case-per-week trial calendar for the three Judges. A copy of the duties of the Calendar Clerk is attached.

The legislative branch is mandated to provide to the judicial branch the resources necessary to perform its responsibilities; the court cannot function and perform its duties without a senior Calendar Clerk.

The Whatcom County Bar Association is apparently planning to address this and other Court issues with the County Council.

Respectfully,


Charles R. Shyder, Presiding Judge

Cc:
Pete Kremen, Whatcom County Executive

Duties on Calendar Clerk Desk

1. Assign Courtroom clerks on daily basis. Do Daily Schedule that is distributed by e-mail to judges/commissioners/JA's/clerks/court reporters/Corpolongo/PA & PD office. Twelve hard copies are distributed and posted in various places. Do board outside courtroom, inside office & deliver copies of all calendars on a daily basis to kiosk. Do Bulletin board in office.
2. Prepare and clerk Ready for Trial calendar (heard on Wed)
3. Prepare and clerk Criminal Trial Setting Calendar (Fridays at 8:00 am)
4. Prepare and clerk Civil Trial Setting Calendar, review files to determine if ready, jury or non-jury, etc - be available in afternoon to meet with parties that are sent from courtroom by judge to get an expedited trial date.
5. Prepare and send out Orders Setting Jury Trials (civil)
6. Schedule all trials for Judges and notify parties if cases are going.
7. Go to Juvenile Dependency court 2-3 times a month on Tuesday morning to set Termination trials to be heard by Judges.
8. Update Excel trial calendar when Orders Setting Trial Date, Dismissal & Cont. are signed
9. Notify Jury Coordinator of jury panels needed---e-mail is sent to judges/JA's/attorneys and jury coordinator with Dept. assigned, name & no. of case, charges, expected length of trial & time for jury to report on Friday morning and in questionnaires will be used.
10. Arrange for special sets with Comm., arrange telephonic hearings for comm.
11. Schedule settlement conferences and send out letter to parties and notify Comm. keep cal. in GroupWise-hard copy in calendar book.
12. Schedule all matters on Comm. Domestic Calendars, take confirmations and prepare calendars
13. Arrange for interpreters/sign language---keep track on a calendar as required to sign off when they file their bill.
14. Arrange for Judge trades/Visiting Judge---send letters to parties, track out of county hearings, our responsibility to make sure they have all file documents sent to them prior to hearing.
15. Check Judgments and Daily Documents
16. Mental settings - arrange for Comm. to cover & cancel on short notice. Arrange jury trials as needed.
17. Monitor Affidavits of Prejudice, reassign depts. Orders of Dismissal, etc
18. All calendar documents that are incorrect (civil & domestic) are given to Calendar Clerk to call parties.
19. Sign checks.
20. Backup for payroll.



MEMORANDUM

To: N.F. Jackson, Superior Court Administrator
From: Tawni Helms, Administrative Supervisor *TH*
Subject: 2010 Supplemental Budget Request
Date: October 27, 2009

Attached are three supplemental budget requests submitted for the 2010 budget. After careful review and deliberation we are unable to move these forward for recommendation. The supplemental budget requests include the following:

- | | | |
|-------------------------|---------------------------|-----------|
| 1. Supplemental ID #916 | Dispute Resolution Center | \$15,000. |
| 2. Supplemental ID #922 | Calendar Clerk Position | \$70,733. |
| 3. Supplemental ID #914 | 2010 Budget Adjustments | \$56,160. |

Due to the ever growing budget gap caused by flattening and shrinking revenues we are faced with an urgent need to reduce our expenditures. We are unable to put forward additional impacts to the general fund unless they are offset by increased revenues. That does not appear to be the case with any of the above budget supplemental requests.

In addition to the three requests listed above there are two requests that will be held until next month. Those supplementals are listed below:

- | | | |
|----------------------|------------------------|------------|
| 1. Supplemental #915 | Family Treatment Court | \$258,271. |
| 2. Supplemental #917 | Adult Drug Court | \$ 18,000. |

Both of the supplementals will be funded through the Mental Health Tax Fund which will require a formal written agreement between the Health Department and Superior Court. Please prepare to submit that agreement to our office so it can be moved forward together with the above supplemental requests.

Please call if you have any questions.

cc: Marianne Caldwell

Supplemental Budget Request

Status: Pending

Superior Court

Suppl ID # 914 Fund 1 Cost Center Originator: Mcaldwell/NF Jackson

Expenditure Type: One-Time Year 2 2010 Add'l FTE Add'l Space Priority 1

Name of Request: 2010 Budget Adjustments

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	4341.3400	Records Service - Sup Ct	(\$13,840)
	6650	Ct Eval/Investigations	\$10,000
	6650.8901	Civil Contempt	\$12,000
	6650.8903	Guardianship	\$8,000
	6650.901	Arbitrators	\$3,000
	6655	Interpreter Services	\$7,000
	6810	Advertising	\$5,000
	7130.901	Jury/Witness Fees	\$25,000
	Request Total		\$56,160

1a. Description of request:

These additional funding needs reflect part of the apparent needs based on 2009 actual costs related to these and a number of other kinds of expenses. A number of the anticipated shortfalls in specific line items may be funded with apparent surpluses in other expenditure lines, and offset to a modest extent by projected increased revenues in 2010.

1b. Primary customers:

All of the needs are in areas for which the Court has no control: Criminal conflict and other mandated attorneys, jurors, interpreters, arbitrators and statutorily required publication of legal notices.

2. Problem to be solved:

Based on 2009 projected year-end costs, the Court has advised the administration that the Court budget for 2010 apparently needs the following amounts to comply with constitutional and statutory requirements:

Indigent criminal defense: \$70,000
Indigent non-criminal defense: \$40,000
Interpreters: \$14,000
Arbitrators: \$8,000
Publication of Legal Notices: \$10,000
Jurors: \$40,000
Expert Witnesses: \$15,000

TOTAL: \$202,000

The administration believes that a combination of budget transfers from Court and other budget authority, some increased revenue projections and a budget supplemental can meet about \$120,000 of the \$202,000 perceived need, and that such amount is sufficient to anticipate and provide for the Court's budget through the end of 2010.

The Court is not fully confident that the administration's estimates will be sufficient, as they are to a certain

Supplemental Budget Request

Status: Pending

Superior Court

Suppl ID # 914	Fund 1	Cost Center	Originator: Mcaldwell/NF Jackson
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extent driven by and limited to a budget that was created almost two years ago. These externally determined expenses are historically under funded. The Court feels that there is a high probability that adding \$120,000 to meet these needs will be insufficient and that prudence and history suggest that without the requested additional \$202,000 the county will again have to deal with over-budget constitutionally and statutorily-mandated services by the end of 2010. The Court will continue its on-going diligent efforts to curtail The administration believes that a combination of budget transfers from Court and other budget authority, some increased revenue projections and a budget supplemental can meet about \$120,000 of the \$202,000 perceived need, and that such amount is sufficient to anticipate and provide for the Court's budget through the end of 2010.

The court will continue ongoing efforts to diligently curtail its expenses when possible and permissible

3a. Options / Advantages:

Cancellation of hearings and trials - merely delays costs, and imperils cases which might have to be dismissed within required deadlines

Termination of staff - would have severe impact on sister departments, agencies and the public at large.

3b. Cost savings:

4a. Outcomes:

Required legal representation, interpreters, arbitrators, legal notices publication and jury services will be provided, avoiding dismissal of cases or exposure to civil liability for failing to provide those services.

4b. Measures:

If the services are adequately provided, within the allocated budget.

5a. Other Departments/Agencies:

Failure to provide for the services so funded would negatively impact the jail, the Prosecutor, the Public Defender and the public at-large.

5b. Name the person in charge of implementation and what they are responsible for:

Finance will process other fund/departmental budget transfers necessary to provide the \$120,000 portion of the estimated \$202,000 need and will assist the Court to correctly identify similar Court budget transfers.

6. Funding Source:

General Fund ending balance and approximately \$13,840 in increased projected revenues in 2010.

Supplemental Budget Request

Status: Pending

Superior Court

Suppl ID # 916

Fund 1

Cost Center 3100

Originator:

Expenditure Type: One-Time

Year 2 2010

Add'l FTE

Add'l Space

Priority 1

Name of Request: *Dispute Resolution Center*

X



9/30/2009

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6630	Professional Services	\$15,000
	Request Total		\$15,000

1a. Description of request:

Increase contract for fee subsidies for parenting classes and mediation for indigent parents required by court rule to attend class and enter mediation in disputed family law cases.

1b. Primary customers:

2. Problem to be solved:

The current economic condition has substantially increased the number of parents qualifying for fee subsidies, to the extent that the contracted amount for those subsidies was consumed in June of 2009.

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund

Supplemental Budget Request

Status: Pending

Superior Court

Suppl ID # 922

Fund

Cost Center 3150

Originator: N.F. Jackson

Expenditure Type: Ongoing

Year 2 2010

Add'l FTE

Add'l Space

Priority 1

Name of Request: Calendar Clerk Position

X

Department Head Signature (Required on Hard Copy Submission)

Date

Costs:	Object	Object Description	Amount Requested
	6110	Regular Salaries & Wages	\$49,824
	6210	Retirement	\$3,951
	6230	Social Security	\$3,812
	6245	Medical Insurance	\$10,796
	6255	Other H&W Benefits	\$1,681
	6259	Worker's Comp-Interfund	\$520
	6269	Unemployment-Interfund	\$149
	Request Total		\$70,733

1a. Description of request:

Fill the vacancy from the retirement of the most responsible Deputy Clerk, the Calendar Clerk.

1b. Primary customers:

2. Problem to be solved:

There is no other Deputy Clerk or Judicial Assistant, or combination of them, that can fully perform the unique tasks of this position. Those elements are added below.

No other position is or can be charged to manage all the business of ALL six courtrooms, for all case types. ALL trials are managed by this position. All calendars for all Commissioners are managed by this position. All courtroom assignments of personnel are managed by this position.

Duties on Calendar Clerk Desk

1. Assign Courtroom clerks on daily basis. Do Daily Schedule that is distributed by e-mail to judges/commissioners/JA's/clerks/court reporters/Corpolongo/PA & PD office. Twelve hard copies are distributed and posted in various places. Do board outside courtroom, inside office & deliver copies of all calendars on a daily basis to kiosk. Do Bulletin board in office.
2. Prepare and clerk Ready for Trial calendar (heard on Wed)
3. Prepare and clerk Criminal Trial Setting Calendar (Fridays at 8:00 am)
4. Prepare and clerk Civil Trial Setting Calendar, review files to determine if ready, jury or non-jury, etc - be available in afternoon to meet with parties that are sent from courtroom by judge to get an expedited trial date.
5. Prepare and send out Orders Setting Jury Trials (civil)
6. Schedule all trials for Judges and notify parties if cases are going.
7. Go to Juvenile Dependency court 2-3 times a month on Tuesday morning to set Termination trials to be heard by Judges.
8. Update Excel trial calendar when Orders Setting Trial Date, Dismissal & Cont. are signed
9. Notify Jury Coordinator of jury panels needed---e-mail is sent to judges/JA's/attorneys and jury

Supplemental Budget Request

Status: Pending

Superior Court

Suppl ID # 922

Fund

Cost Center 3150

Originator: N.F. Jackson

coordinator with Dept. assigned, name & no. of case, charges, expected length of trial & time for jury to report on Friday morning and in questionnaires will be used.

10. Arrange for special sets with Comm., arrange telephonic hearings for comm.

11. Schedule settlement conferences and send out letter to parties and notify Comm. keep cal. in GroupWise-hard copy in calendar book.

12. Schedule all matters on Comm. Domestic Calendars, take confirmations and prepare calendars

13. Arrange for interpreters/sign language—keep track on a calendar as required to sign off when they file their bill.

14. Arrange for Judge trades/Visiting Judge—send letters to parties, track out of county hearings, our responsibility to make sure they have all file documents sent to them prior to hearing.

15. Check Judgments and Daily Documents

16. Mental settings - arrange for Comm. to cover & cancel on short notice. Arrange jury trials as needed.

17. Monitor Affidavits of Prejudice, reassign depts. Orders of Dismissal, etc

18. All calendar documents that are incorrect (civil & domestic) are given to Calendar Clerk to call parties.

19. Sign checks.

20. Backup for payroll.

3a. Options / Advantages:

Some, but not all of the duties could be partially assumed by the Judicial Assistants, but would require resorting to on-call jury bailiffs.

Other deputies are already covering for two other vacancies and are continuously docketing cases and documents, in court or preparing calendars and minutes.

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

All trial counsel, including Prosecutors and Public Defenders presently are able to coordinate the hundreds of cases set for trial by going to a single position, and would not be able to if the duties were somehow divided.

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:

General Fund