

February 14, 1997
ILR 97-A

President R. Lane Beattie, Co-chairman
Speaker Melvin R. Brown, Co-chairman
Members of the Audit Subcommittee
State Capitol Building
Salt Lake City, UT 84114

Subject: Court Fees

Dear Legislators:

As you requested, we conducted an audit of court fees assessed in civil court cases. You requested that we determine whether recent fee increases have resulted in a situation where cases with lower claim amounts are paying a disproportionate amount of the total revenue collected in court fees. You also asked that we review the process by which fees are deposited into the Capital Projects Fund for constructing the courts complex. To comply with your request, we reviewed civil court filing fee increases from Senate Bill 275 (S.B. 275), effective in March 1994, and the more recent adjustment to court fees enacted in Senate Bill 47 (S.B. 47), effective in May 1995. We then related those fee increases to the total revenue generated in several ways. Finally, we reviewed the amount deposited and the process by which revenues generated from court fees are deposited into the Capital Projects Fund for the construction of the Salt Lake City courts complex.

Regarding fees, we found that although they have increased significantly in recent years, they are being assessed in accordance with the provisions of the **Utah Code**. Furthermore, fee increases of varying amounts and percentages were approved by the Legislature for the specific purpose of generating additional revenues to fund the Division of Facilities Construction and Management Capital Projects Fund and the State Courts Complex. With that approach, there was no apparent attempt to adjust fees to be commensurate with court costs, nor was there an attempt to generate revenues proportionate to the number or type of cases filed in any given category. Nonetheless, we found that revenues generated from fees in each category of cases

listed in the **Utah Code** are nearly proportionate to the percentage of claims filed for each category, as a percentage of the total number of cases. From that perspective we found no indication that lower claim cases are paying a disproportionate amount of the revenue generated from fees. Also, with one exception, we found that appropriate portions of those fees are being deposited into the Capital Projects Fund. Finally, we found that the courts database of case records had instances where an apparent incorrect filing fee had been assessed based on the amount of the claim. This apparent error is due to an administrative problem that should be corrected in the future.

Fee Increases Have Been Significant

Since prior to the enactment of S.B. 275 in 1994, civil court filing fees and other related service fees have increased significantly as a percentage of the prior rates. Fees are specified in statute and they vary under the current law depending on the amount claimed in the case. Nonetheless, the percentage of revenue generated from the various court fee amounts in each category are roughly proportionate to the percentage of cases in that category as related to total cases. Fee increases by the Legislature were intended to generate revenue to construct a new courts complex in Salt Lake City. As an example of the increases, the following figure depicts the increase in fees for filing a claim for damages in a civil case. The "Amount of Claim" categories presented in the figure are set forth in the **Utah Code**.

Figure I			
Civil Court Fee Increases			
Amount of Claim	Pre-SB 275 Fee	Post-SF 47 Fee	Percent Increase
\$0 - \$2,000	\$ 20	\$ 37	85%
\$2,001 - \$9,999	40	80	100%
\$10,000 or more	80	120	50%
Unspecified	80	120	50%

Source: Utah Code 1994 through 1996

The preceding figure shows how dramatic the fee increases have been. Percentage wise, greater increases occurred in the first two categories of claims, those where the amount of the

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claim is \$0 to \$2000 and where the claim is greater than \$2000 but less than \$10,000. However, as shown below, even with the fee increases the relative percentage of total revenues generated from fees in the lower category (\$0 - \$2,000) as compared to the percent of total claims for the category was less than either the middle or upper categories. In all three categories, the relative percentage of revenues to claims filed are slightly disproportionate, but not significantly.

In the next section of our report we provide information specifically addressing the issue of whether fee revenue generated is proportionate to claim amount. This is a difficult question to answer definitively because there are several ways of evaluating this issue which lead to different conclusions. The issue is further complicated by the fact that the courts have not collected information documenting whether different claim amounts require different levels of service and hence different fee rates. Without this information we do not know if differences in fees are based on differences in costs. Therefore, in this next section, we provide information detailing two different comparisons of fees and revenues.

Proportionality Depends on Perspective

Whether revenues generated are proportionate to claims depends on one's perspective. One perspective of evaluating the appropriateness of fees is to compare the fee generated revenues in each category of cases and relating that amount to the number of cases in the respective categories as a percentage of total cases. In the following figure we have made this revenues to number of claims comparison based on data from the combined claims of the Second and Third Judicial Districts for fiscal year 1996.

Figure II				
Relationship of Revenues to Claims				
Amount of Claim	Number of Claims	Percent of Total Claims	Fee Revenues	Percent of Total Revenues
\$0 - \$2,000	44,690	90%	\$ 2,098,766	83%
\$2,001 - \$9,999	4,813	9%	352,088	14%
\$10,000 or more	572	1%	67,170	3%
Totals:	49,775		\$ 2,518,024	
<i>Source: Administrative Office of the Courts</i>				

As Figure II shows, comparing the relative percentage of revenues generated from the claims in each category to the total revenue and cases, the fees charged for the second and third categories of claims may be slightly high while the fees charged for the first category are slightly low. However, overall the revenue generated is roughly proportionate to the percentage of claims. In addition, we made individual comparisons for each of these districts as well as for the courts in Salt Lake County alone and found nearly identical results in every case. We also analyzed the data by making sub-groupings within each of the categories based on the amount of claim and found the results were generally the same. Figure III shows an example where we evaluated the data from the Second and Third Judicial Districts within the \$0 to \$2000 category of claims only.

Figure III				
Relationship of Revenues to Claims				
(\$0 to \$2,000 Category)				
Amount of Claim	Claims	Percent of Total Claims*	Fee Revenues**	Percent of Total Revenues
\$0 - \$ 500	33,992	68%	\$1,707,903	68%
\$0 - \$1,000	40,672	82%	1,951,363	77%
\$0 - \$1,500	43,250	87%	2,045,661	81%
\$0 - \$2,000	44,690	90%	2,098,766	83%
<i>Source: Administrative Office of the Courts</i>				
<i>* Total claims for all categories are 49,775</i>				
<i>** Total revenues for all categories are \$2,518,024</i>				

Figure III shows the percent of total claims for each sub-group in this category exceeds the percent of total revenues for that group regardless of the amount of claim, with the exception of the \$0 to \$500 range where there is parity. The figure illustrates again that claims in this category are not resulting in a disproportionate amount of revenue collected.

From another perspective, we compared total revenues generated from fees in each category to the cumulative dollar amount being claimed in the category. In this case we found that the percentage of total revenue for each category is disproportionate to the value of claims. Proponents of this approach may argue that cases involving higher dollar claim amounts may involve more courtroom time than lower dollar claim cases. Therefore, these case should be charged an even higher fee than is currently assessed. The Figure IV shows our findings when making this comparison of revenues to the sum of the claims.

Figure IV				
Relationship of Revenues to the Value of Claims				
Amount of Claim	Value of Claims	Percent of Total Value	Fee Revenues	Percent of Total Revenues
\$0 - \$2,000	\$15,490,396	36%	\$ 2,098,766	83%
\$2,001 - \$9,999	\$19,327,845	45%	352,088	14%
\$10,000 or more	\$7,958,718	19%	67,170	3%
Totals:	\$42,776,959		\$ 2,518,024	
<i>Source: Administrative Office of the Courts</i>				

As can be seen in the above figure, the difference between the percent of total value of claims and the percent of total revenue is quite large. However, there are drawbacks in using this approach. The claim amount on a case and the actual amount awarded may vary dramatically, especially in large dollar cases. Also, we do not have any data which demonstrates average amounts of time that cases in the different categories actually spend in the courtroom. Without that data we can only postulate that courtroom time is increased for upper category claims. Finally, under the current fee schedule, claims filed in the upper (\$10,000 and over) and middle categories are already paying 69 percent and 46 percent higher fees respectively, than the fee paid in the \$0 - \$2,000 category.

We have shown two methods for evaluating proportionality. We cannot say one method is better than the other. However, the courts have not formally determined whether different claim amounts require different service levels and consequently different fees to recover costs. The Legislature may wish to direct the courts to do so.

Capital Projects Fund is Receiving Revenues

We found that the Capital Projects Fund is regularly receiving the deposits of fee revenues in accordance with the provisions of the **Utah Code** with one exception. According to the **Code Utah**, revenues generated from fees when filing a petition for trial de novo of an adjudication of the justice court or of the small claims department should result in a \$20 deposit into the Capital Projects Fund but the Administrative Office of the Courts has been depositing \$30 per occurrence. We brought this discrepancy to the attention of the Administrative Office of the

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Courts and they have taken action to correct this error. It is estimated that \$13,000 were erroneously deposited into the Capital Projects Fund instead of the general fund. Once the exact amount of the error is determined, the Administrative Office of the Courts will effect a transfer of funds for that amount to the general fund.

We reviewed several claims filed to ensure that the proper portion of fees were being identified for deposit into the Capital Projects Fund and found no discrepancies, except as noted above.

We conducted several tests and found it to be somewhat difficult to reconcile the amount reported to be deposited and the balance indicated in the Capital Projects Fund. The amount deposited into the Capital Projects Fund maintained by the Division of Facilities Construction and Management (DFCM), and records of deposits by the Administrative Office of the Courts could not be easily reconciled. The difficulty arises from having two methods of tracking deposits. The Administrative Office of the Courts tracks the deposits based on the filing dates of claims while DFCM relies on the FI-NET system which tracks deposits based on deposit date. The result is that a report of deposits from either agency will not agree with a report from the other agency for any given period.

Nonetheless, we ran tests to see to what extent the figures were in conflict. On each test, we found the FI-NET data showed more money having been deposited for any given period than the Administrative Office of the Court's data. For instance, a report of fiscal year 1996 deposits from DFCM indicated that \$3.7 million dollars were deposited in the Capital Projects Fund while the Administrative Office of the Courts data showed deposits of \$3.6 million. As another example, we reviewed deposit data for the period of January 1996 through June 1996. The FI-NET data indicated deposits of \$69,000 more than the Administrative Office of the Courts data. Since the discrepancy was consistently in the favor of the receiving agency, we did not pursue this issue further.

Some Incongruities Were Noted on Certain Fees

The Administrative Office of the Court's database of claims filed has instances where the fees assessed were apparently incorrect for the amount being claimed. In these cases, the fees were generally too high for the amount claimed. Typically this occurred when a counter claim was filed in a case and the counter claim was for a larger amount of money than the original case. Because the amount in the counter claim is in a higher category, the fee for filing the counter claim must be assessed at the higher rate as we found to be the case. However, in such instances, the system does not register the larger amount of the counter claim but instead reflects the amount of the original claim. That is the cause of the incongruity when simply comparing the

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fee assessed for the amount being claimed. We reviewed several such cases and found in all instances that the correct fee was collected for the amount being claimed, even though there appeared to be errors in the database. We brought this point to the attention of the Administrative Office of the Courts and they are reportedly working on a software change to rectify this problem.

Recommendation:

1. We recommend the Legislature consider whether they want the Administrative Office of the Courts to evaluate the cost of providing various services and determine if current fees are appropriate with respect to those costs.

We hope this letter has provided you with the information you need regarding your inquiry into court fees. If you have any questions or need additional information, please feel free to contact us.

Sincerely,

Wayne L. Welsh,
Auditor General

WLW:SRS/lm