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TO: County Administrative Officers
County Auditor-Controllers
Executive Officers of the Superior Courts

FROM: Rubin R. Lopez and Elizabeth Howard, Administration of Justice Staff
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Christine M. Hansen, Director and Chief Financial Officer
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The Uniform Civil Fees and Standard Fee Schedule Act of 2005 (Stats. 2005, ch. 75 (AB 145)) (UCF) was signed into law on July 19, 2005. This statute reorganizes civil fees and becomes operative January 1, 2006. In addition to standardizing fees, it changes the methods of depositing and distributing filing fees and other civil fees. The purpose of this joint communication from the Administrative Office of the Courts (AOC) and the California State Association of Counties (CSAC) is to explain the changes and to provide assistance in implementation of the new fee structure. It is essential that courts and counties work together to assure a smooth transition.

The Court Fees Working Group was appointed by the Chief Justice in December 2003 to undertake a comprehensive review of civil fees and make policy recommendations to the Judicial Council. In April 2004, the working group developed a unanimous recommendation for a new fee structure that would separate court fees from county fees, incorporate local add-on fees and state surcharges into flat fees that would be uniform statewide, and include modest increases to restore court revenues to the Budget Act 2003 level. The Judicial Council approved the recommendation of the working group and directed AOC staff to work with all interested and affected groups to address various details and to draft a legislative proposal. AOC staff conferred with counties, law library representatives, and others to develop structures that would ensure that funding for non-court entities that receive portions of court fees would be preserved.

One of the mechanisms for preserving county revenues received from court fees prior to the UCF is a “buyout” of the county portion of certain fees under new Government Code section 68085.2. This is explained in an attachment which includes a certification template that must be completed jointly by each court and county (or separately by each court and each county if necessary). **Courts and counties are urged to read this attachment and complete the certification template — jointly, if possible — as promptly as possible in order to avoid**

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delay in the implementation of the buyout. See further discussion on this topic on page 6, under the heading "Template and Certification for 'Buyout.'"

Highlights of AB 145

Issues that led to the formation of the Court Fees Working Group

- Complexity of the numerous new and enhanced fees from 2003 legislation.
- Lack of uniformity and statewide consistency of filing fees.
 - Of 89 civil fees, none was consistently collected at the same level with the same distribution across all 58 counties.
 - Fees were charged differently across the state depending on actions by County Boards of Supervisors and included:
 - Law library fees varying from \$3 to \$41;
 - Dispute Resolution Program Act (DRPA) fees set at either \$0, \$3, or \$8; and
 - Children's waiting room fee varying from \$0 to \$5 per filing.
- Shortfall in expected fee revenues.

Benefits of the Uniform Civil Fee Legislation Identified by the Court Fees Working Group

- *Streamlining and simplifying the civil fee structure.* Various surcharges and add-on fees are consolidated into one uniform filing fee.
- *Creating uniformity.* For the vast majority of fees, the same fee is charged for the same service across all 58 counties (with an exception for the first paper filing fees in three counties; see footnote 2).
- *Stabilizing funding.* The legislation will:
 - Remove sunset dates.
 - Provide a modest increase in fees to eliminate the current deficiency in the trial courts' budget (restoring revenues to the level of the 2003 Budget Act).
 - Preserve the current level of revenue and the ability to make certain distribution increases during the fee moratorium for non-court recipients of fees, including law libraries, counties, children's waiting rooms, and dispute resolution services.
- *Increasing access to the courts.* The new structure provides additional funding for equal access programs.
- *Ensuring fairness.* Reasonable differentials based on different types of cases and services remain in the fees.
- *Ensuring accuracy and accountability.* The implementation of a single, statewide civil fee schedule will increase accuracy in the collection and distribution of fees and will provide more detailed fee information to local courts, counties, and the state.
- *Offering predictability.* Courts and attorneys will know what the fees are and that fees will not be changed for at least two years.

New Fee Structure Under UCF

First Paper Filings

- A statewide, uniform first paper and first responsive paper fee is set at three graduated levels:
 - Limited Civil Fee (less than or equal to \$10,000).....\$180
 - Limited Civil Fee (greater than \$10,000 and less than \$25,000).....\$300
 - Unlimited Civil and Family Law Fee.....\$320
- The first paper fees will differ slightly in the counties of Riverside, San Bernardino, and San Francisco because a surcharge in those counties is required to pay for bonds for courthouse construction.
- The court security fee, \$25 court reporter fee, amended and cross complaint fee, and 10 percent surcharge under Government Code section 68087 are consolidated into the uniform fee.
- The facilities surcharges at \$20, \$25 and \$35 are consolidated into the uniform fee.
- A new distribution of \$4.80 for the Equal Access Fund is included in the uniform fee.
- A moratorium on fee changes is established: the uniform civil fee amounts will stay in effect through December 31, 2007, except for possible changes by the Legislature to implement recommendations of the Task Force on County Law Libraries or to revise the graduated filing fee for probate petitions.
- The fees for children’s waiting rooms, dispute resolution, judges’ retirement, and law libraries are consolidated into the first paper fees and distributed at current levels. A budget set-aside is established for increases in these distributions during the moratorium ending December 31, 2007.

Probate

- A statewide, uniform consolidated probate filing fee is established with the lowest level (estates valued at \$250,000 or less) at the same level as the unlimited civil fee with each additional level preserving the existing variance in graduated levels.
- A fee for petition and response and appointment of guardian (for the person only) is set at \$180.
- A fee for certain second or later-filed petitions, petitions concerning internal affairs of trusts, and for appointment of guardians and conservators (for person and estate(s)) is established at \$320.

Small Claims

- A fee with a graduated structure is established:
 - Claims less than or equal to \$1,500.....\$30
 - Claims greater than \$1,500 but less than or equal to \$5,000\$50
 - If more than 12 claims have been filed in the previous 12 months\$75
- Out of the small claims fee, the following distributions will be made to fund small claims advisor services:
 - Less than or equal to \$1,500.....\$6

- Greater than \$1,500; less than or equal to \$5,000.....\$8
- If more than 12 claims have been filed in the previous 12 months.....\$14
- If AB 1459 or SB 422 becomes law,¹ the following changes would be made in the fee structure and distributions:
 - Claims greater than \$5,000 but less than or equal to \$7,500 (claims by natural persons only)\$75
 - If more than 12 claims have been filed in the previous 12 months.....\$100
 - A distribution of \$10 will be made from the fee for claims over \$5,000 to fund small claims advisor services.
 - A distribution of \$2 will be made from the fee for claims over \$5,000 to the local law library.
- The 10 percent surcharge is eliminated and included in the consolidated fee.

Changes to Other Fees

- Statewide uniform fees are established for the following existing fees eliminating the 10 percent surcharge and increasing the motion and summary judgment motion fees:
 - Complex filing fee (consolidation of 10% surcharge only) \$550
 - Motion fee (previously \$36.30 with 10% surcharge)..... \$40
 - Summary judgment motion (previously \$165 with 10% surcharge)..... \$200
- For other miscellaneous fee categories, fees for similar types of services are grouped together, and a uniform fee is set at an appropriate level for each group.
- New fees are established for handling funds held in trust, appearance by videoconferencing, filing a stipulation and order (without a hearing), processing partial payments, and other services (with Judicial Council approval) for which a fee is not otherwise provided.

Impact on Court and County

Deposits into Court Bank Account and Distributions

In addition to creating a new fee schedule, the UCF has created a new structure for processing and distributing civil fees. The plan under the new structure is for each court to deposit civil fees as soon as possible after collection into a bank account established by the Administrative Office of the Courts, rather than depositing fees into the county treasury. The courts will report to the AOC the types and amounts of fees that have been collected. On the basis of this information, the AOC will make the required local distributions to law libraries, small claims advisors, dispute resolution programs, and local courthouse construction funds.² Then the

¹ AB 1459 and SB 422 would raise the small claims jurisdictional limit to \$7,500 for claims filed by natural persons only. The bills have been passed by the Legislature but have not yet been signed into law.

² Under current law, the counties of Riverside, San Bernardino, and San Francisco have local surcharges on first paper filing fees that are used to pay off bonded indebtedness for courthouse construction. Under the UCF, the local surcharge has been incorporated into the first paper filing fees, some of which

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AOC will forward the remaining funds to the state with instructions for distributions to any state funds (such as judges' retirement and the Equal Access Fund), and for deposit into the Trial Court Trust Fund. Certain fees collected by the courts (particularly fees designed to offset court costs for services) will be returned to each court dollar for dollar with the monthly allocation from the Trial Court Trust Fund. Other fees deposited into the trust fund will be used for general funding of the trial courts.

We have been informed, however, that not all courts will be able to deposit fees directly into the court bank account by January 1, 2006. To accommodate this, the legislation allows for initial deposit with the county, and requires that the fees be deposited "as soon as practicable after collection and on a regular basis" into the bank account. (Gov. Code § 68085.1(b).) However, the money should be transferred to the court bank account as promptly as possible. Additionally, initial deposit with the county should be a temporary solution until procedures are developed to allow direct deposit of fees into the court bank account. Each court will receive the interest earned on the funds in its account.

Report to AOC

The AOC is required to distribute all civil fees as required by statute within 45 days after the end of the month in which the fees were collected. The information needed to do this must be obtained from the courts. Each court is required to report to the AOC what fees were collected, by category, within 15 days after the end of the month in which the fees were collected. (Gov. Code § 68085.1(b).)

We understand that some courts may be unable to meet this 15-day deadline, at least initially. Courts have expressed their concern that this timeframe is insufficient due to current system constraints, the labor intensity of the task, and the courts' concurrent reconciliation requirements. Other operational concerns exist, such as clarification of roles and requirements in depositing, transferring, and remitting funds. CSAC and AOC will work with the counties to clarify operational requirements as they may affect the counties. The AOC will work with the courts to resolve difficulties and to provide direction in seeking to meet the deadline. In the interim, a process for granting exceptions on a case-by-case basis is being developed. A penalty of 1 ½ percent per month applies if the AOC does not meet its 45-day deadline, which is passed through to the court if the delay is caused by the court. (Gov. Code § 68085.1(i), (j).)

The reporting form submitted to the AOC is distinct from the TC-31 used by the county to report on court revenues transmitted to the state. The new form, called a TC-145, lists all of the new fees by code section, and the court should report the amount received for each one. The old code sections should no longer be used, except as occasionally necessary to report fees

have been set higher in those counties only in order to incorporate the surcharge. The local courthouse construction surcharges will be distributed by the AOC in those three counties. However, the distributions to the State Court Facilities Construction Fund (applicable in all counties) will be made by the State Controller.

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charged before January 1, 2006 but collected afterward (such as fees initially waived but collected later, or fees collected after judgment as part of costs).

Separation of Court and County Fees

Beginning January 1, 2006, the courts should no longer charge fees provided in Government Code 26820 et seq. Those fees should be charged only by counties. Most civil court fees will be found in Government Code 70600 et seq., a new chapter dedicated to superior court fees. Only a few fee provisions designed to reimburse costs should still be used by both courts and counties. These include:

- Government Code § 71386 – Charge for check returned for insufficient funds.
- Probate Code § 1513.1 – Reimbursement of costs of guardianship investigation.
- Penal Code §§ 1203.4 and 1203.45 – Expungement and sealing of records.

A UCF Working Group, composed of trial court and AOC staff, is developing a statewide schedule of court fees for use by the trial courts and the public. This schedule will be provided to the courts as soon as it is ready to assist the courts in preparing for the new fee structure. Training sessions for court staff will also be scheduled at the AOC regional offices this fall.

Template and Certification for “Buyout”

Because of the separation of court and county fees, under the UCF the counties will no longer receive portions of certain fees to which they were previously entitled by statute. (These fees are listed on the attached template entitled “Court and County Template for Buyout of County Portion of Fees under Government Code section 68085.2 (AB 233 fees)”.) As mentioned previously in this memorandum, the UCF compensates the counties for this loss of revenue by “buying out” the amount counties received from those fees. This is accomplished by reducing each county’s annual maintenance of effort obligation under Government Code section 77201.1. The amount of the reduction is set at the amount the county received from those fees in fiscal year 2003–04. To determine this amount, a certification template is included with this memorandum for **completion and certification by each court and each county (jointly, if possible) by November 14, 2005**. Detailed instructions for submission are included in the “instructions” portion of the attached certification template. Please give this your prompt attention so that the buyout can be implemented in a timely manner.

Transfer of Funds for Children’s Waiting Rooms

Another change made by the UCF is a transfer of the money in the Children’s Waiting Room Fund, in counties that have one, from the county to the court. Under current law, in any county that has established a children’s waiting room surcharge on filing fees to defray the costs of the waiting room, the surcharge is remitted to the county treasurer for deposit in a special fund designated the Children’s Waiting Room Fund. Expenditures from this fund are

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made by the board of supervisors only for costs connected with the waiting room such as personnel, furnishings, utilities, furnishings, etc. (Gov. Code § 26826.3.)

Under the UCF, the children's waiting room fee will be incorporated into the uniform fee rather than added as a surcharge. Each court that is in a county where a children's waiting room fee has been established will receive the amount allocated for that purpose out of the filing fees it collects with its monthly allocations from the Trial Court Trust Fund. (New Gov. Code § 70640(a), (b) [copy attached].) Expenditures from these amounts may be made by the court for the same purposes that the county previously was authorized to make expenditures from the Children's Waiting Room Fund. (Gov. Code § 70640(c).)

Because expenditures for children's waiting rooms will be made by the court rather than the county under the UCF, the moneys in Children's Waiting Room Funds should be held in the court's operations fund rather than in the county treasury. **The UCF requires each county that has a Children's Waiting Room Fund as of January 1, 2006 to transfer these moneys immediately to the court's operations fund as a restricted fund. The county must provide an accounting of the fund to the Administrative Office of the Courts by February 15, 2006.** (Gov. Code § 70640(d).)

We recognize that the provisions of AB 145 may present a number of complexities and operational challenges for courts and counties. However, we believe that the ultimate goal of establishing a more rational, uniform, and streamlined civil fee structure will be to the benefit of all parties. We will be available to provide you with assistance as you work toward the implementation of AB 145. Please feel free to contact one of the following individuals with any questions:

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Thank you.

Attachments

- Court and County Template for Buyout of County Portion of Fees under Government Code section 68085.2 (AB 233 fees)
- Draft Table of Fees in Uniform Civil Fee Structure
- Government Code section 68085.1 (new structure for deposit and distribution of civil fees)
- Government Code section 70640 (children's waiting rooms)
- Sample TC-145 (the court's remittance advice to the AOC)
- Key Deadlines in AB 139 and AB 145

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