



NEW JERSEY STATE BAR ASSOCIATION

MILES S. WINDER III, PRESIDENT
12 Quimby Lane
P.O. Box 775
Bernardsville, NJ 07924-0775
908-766-3300 • FAX: 908-766-6253
mswinder@gmail.com

February 17, 2016

Amanda S. Trigg, Esq.
Chair, NJSBA Family Law Section
Lesnevich & Marzano-Lesnevich, LLC
21 Main Street
Court Plaza South, Suite 250
Hackensack, NJ 07061

Re: Court Fees and Rule 1:43

Dear Amanda:

Thank you for your February 15 letter outlining the frustration of your section members with the new filing fees implemented by the Administrative Office of the Courts last year. The fees you note in your letter have been a concern of the NJSBA's since they were implemented, as well. The Executive Committee raised them as an issue with the Court in a meeting last year, followed up with a letter to the Court this fall, and have included them on the agenda of an upcoming meeting with the Court next month.

For your information, I am enclosing a copy of the October 22, 2015 letter sent to Chief Justice Rabner asking that the fees complained of be reconsidered. I will raise the Notice of Appearance Fee referenced in your recent correspondence as an additional fee to be reconsidered at our upcoming meeting. Be assured that the issue continues to be pursued with the Court.

Please feel free to share this information with the members of the Family Law Section to let them know that the NJSBA continues to take action on their behalf.

Thank you again for bringing the matter to my attention.

Very truly yours,

Miles S. Winder III, Esq.
President

/sab

cc: Thomas S. Prol, Esq.
Timothy F. McGoughran, Esq.
Stephanie F. Hagan, Esq.
Michael A. Weinberg, Esq.
Sheryl J. Seiden, Esq.
Jeralyn L. Lawrence, Esq.



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October 22, 2015

Honorable Stuart Rabner
Chief Justice
New Jersey Supreme Court
Hughes Justice Complex
P.O. Box 037
Trenton, NJ 08625-0037

Dear Chief Justice Rabner:

This letter is to follow-up on an issue that we discussed at our meeting with the Court this past March regarding increases in certain filing fees. The NJSBA respectfully requests your reconsideration of three of the more than 75 fee increases instituted.

Last year, the NJSBA supported legislation that authorized the Court to increase filing fees, recognizing the importance of funding bail reform, e-courts and Legal Service of New Jersey. The NJSBA reaffirmed support for these important purposes when the filing fees were specifically proposed. Nonetheless, at that time we did not feel we had enough information at that time to communicate our views on any of the proposed fees. Specifically, the NJSBA had asked for information about the amount of revenue anticipated to be generated by the new fees, whether there were any projections for a cost savings to the bar, and whether the fee increases were expected to meet or exceed projected costs for bail reform and the e-courts system. Even without that detailed information, however, the NJSBA urged that fairness, efficiency and transparency be the primary considerations in implementing any fee increases.

Now that the increases have been in effect for almost a full year, we have heard from a number of our members that some of the fees have produced unintended hardships, are unfair, and are unnecessarily burdensome in practice. Those fees are discussed below.

(1) The \$35 fee for substitutions of attorneys – This fee is borne primarily by attorneys. It becomes particularly burdensome if a firm dissolves and attorneys must file substitutions in every case they continue to handle at a new firm. It is also particularly burdensome on attorneys whose practice is primarily in the Special Civil Part, since they often have hundreds of cases pending at a time. One attorney remarked that if he wanted to sell his practice, it would cost him more money to file the necessary substitutions of attorneys than he would receive for the practice itself. This is a new fee that, in practice, unfairly burdens attorneys who simply want to provide uninterrupted representation to their clients.

(2) The \$25 fee for a certified document with the seal of the Court – This fee is imposed most frequently in order to receive a Final Judgment of Divorce with a gold seal affixed to it indicating the judgment was certified by the judge. Historically there had been no charge for receiving a certified document with the seal of the Court. The new fee is especially harsh because it creates unintended delays and burdens in obtaining final orders, particularly in divorce cases. The seal is required on a Final Judgment of Divorce for many post-judgment activities, such as dividing retirement assets, permitting spouses to revert to their maiden names, and remarriage.

In practice, once a judge has verbally entered a Final Judgment of Divorce, instead of signing and sealing a written judgment on the spot, the parties and counsel must now go to the county's finance department to pay the fee and return to the judge with proof of payment. If the judge is unavailable upon return, the parties and counsel either have to wait for the judge to become available, or submit their proof of payment at a later date and wait for the Final Judgment to be sent. This adds additional cost to the process and delays final resolution of the matter. Even more, in cases involving pro se litigants, there is a great likelihood that the importance of the gold-sealed document will not be realized, and a pro se litigant will forego taking the extra steps needed to obtain one, causing still more difficulties later on.

Therefore, while the fee may appear nominal, the unintended delays and consequences stemming from it detrimentally affect the efficiency of bringing final resolution to matters, particularly in Family Court.

(3) The \$175 fee for filing an answer to a counterclaim -- Pursuant to the February 20, 2015 Notice to the Bar, a fee is imposed for filing an Answer to a counterclaim because the Answer is filed in response to a new cause of action. This fee is in addition to the \$35+, \$250 or \$300 already paid for filing the initial Complaint, depending where it is filed. While the fees for simultaneously filing an Answer and Counterclaim are capped at the cost of filing a Complaint, a similar cap is not placed on an Answer to a counterclaim, even though the original Complaint and any Counterclaims are typically handled as a single matter. Counterclaims are often filed with an Answer, and in matrimonial matters, are routinely filed by the defendant with his/her own request for dissolution of a marriage, often citing the same cause of action as the plaintiff, i.e. the same grounds for divorce pursuant to N.J.S.A. 2A: 34-2. Therefore, this fee appears to arbitrarily and unfairly impact plaintiffs, who are required to pay higher fees for the same access to the court enjoyed by defendants.

For these reasons, the NJSBA respectfully requests the Court's reconsideration of these three fees. We strongly feel that they are unfair, unnecessarily burdensome, and result in unintended harsh consequences to attorneys and litigants.

As always, the NJSBA appreciates your willingness to consider our comments. We stand ready to provide any additional information you may need to adequately review the issues raised.

Very truly yours,

A handwritten signature in black ink that reads "Miles S. Winder, III". The signature is written in a cursive style with a long horizontal line extending to the right.

Miles S. Winder, III
President