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OJCIN Fee Comment
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Dear Chief Justice Balmer,

I am writing to comment on the proposed fee increases in CJO 17-037. These comments make two fundamental points. First, that the proposed fee increase is being driven without adequate notice and opportunity to comment. Second, that it appears that the fee increases dis-proportionally impact sole and small firm lawyers.

Lack of Reasonable Notice

ORS 1.002(6) requires a “reasonable opportunity to comment.” As of now, no reasonable opportunity has been given.

In order for the opportunity to be “reasonable” there must be access to information sufficient to form a basis for comment. Some information is available in the Chief Justice’s Recommended Budget for 2017-19 (“CJRB”). But that information raises more questions than answers. For example, the table on page 252 of the proposed budget shows an intent to increase User Fees by a relatively modest \$700,000, about 15%. But the proposed fee schedule appears to increase user fees for sole and small firm lawyers by 60% or more in some cases.

Clearly there must be other users who will receive similarly dramatic decreases in cost. In order to be able to comment, information should be available as to the allocation of the proposed fees among the various users. This is a matter of basic equity.

Proposal Lacks Basic Equity.

Proposed CJO 17-037 establishes categories of law firms. While each “user profile” has the same \$10 per month cost, the firm also has a base rate depending on size. On its face, it appears to charge larger firms more. What is neglected, however, is that a firm does not necessarily have one user profile per lawyer. Indeed, it appears to be assumed that law firms may share user profiles, or have one person designated to retrieve data per firm. Under the proposed order, sole practitioners will pay a minimum of \$50 per month per lawyer for electronic case access. A large firm, having 100 lawyers, could conceivably have just one user profile. While they would pay \$100 per month, that would only be \$1 per lawyer.

In the absence of reliable data from the Oregon Judicial Department, I have undertaken a survey. An analysis of that survey is attached. Although there are weaknesses in this survey, I believe it has at least some probative value. A report of the survey is attached consisting of a 1 page summary, the data points extracted from the raw survey data, and several pages of user comments.¹

The known weaknesses in the survey are as follows: (1) The sample is self selected from lawyers within my network; (2) With the exception of the deletion of duplicate responses and verification of outlier responses, very little was done to validate data; (3) The questions do not take into account the need in larger firms for OJCIN access on a per lawyer basis. For example, transactional lawyers may never need to access court records.

Even with the admitted weaknesses, there is value in this data. Whether a firm consists of 1 lawyer or 100, the individual lawyer is the main producer of income for the firm. This survey suggests that an OJCIN “user profile” will be shared among a number of lawyers if possible. Indeed, one of the medium firms has 24 lawyers and one OJCIN profile at a current cost of \$35 per month. While that firm’s increase under the new proposal will be \$85 per month, their per lawyer cost will only be \$3.50. A sole practitioner’s per-lawyer cost will be \$50.

As noted above, the CJRB proposes to raise the fees from paid subscribers by \$700,000. Paid subscribers are reported to be “about” one quarter of the total non-OJD subscribers, or 2,650 subscribers. (CJRB, Pg248) The increase is accordingly about \$22 per month per subscriber. Most sole practitioners will see a slightly smaller increase on a per firm basis (\$35 to \$50) and medium and large firms will see larger increases on a per firm basis. But the change should be rated based a per user basis, not per firm or “user profile.”

Summary.

I request that the Chief Justice take the following steps to amend the OJCIN fee increase:

- 1) Extend the comment period until a reasonable time after meaningful data is released about how the impact of the fee increase will be spread across the paid subscribers;²
- 2) Adjust the fee increase to take into account the number of law firm producers benefiting from having OJCIN access;

1 The raw survey data is available if required.

2 If the OJD does not have this data readily available, I believe it is impossible to even consider the equity of a fee increase.

3) Add the comments from the attached survey to the responses officially received.

Thank you for your attention to these comments.

A handwritten signature in black ink, appearing to read 'M. Patton Echols', written in a cursive style.

M. Patton Echols, OSB# 932595

Summary

Solo Practice

Number of Respondents	73	
Avg Num Profile / Lawyer	1.1	*
Average Firm Cost	\$39.05	
Average Cost /lawyer	\$39.05	
Highest Monthly Cost	\$200.00	**
Lowest Monthly Cost	\$10.00	

Small Firm

2 – 10		
Number of Respondents	23	
Avg Num Profile / Lawyer	0.4	***
Average Firm Cost	\$48.78	
Average Cost /lawyer	\$10.45	
Highest Monthly Cost	\$133.00	
Lowest Monthly Cost	\$30.00	

Medium Firm

11 – 50		
Number of Respondents	3	
Avg Num Profile / Lawyer	0.1	
Average Firm Cost	\$58.00	
Average Cost /lawyer	\$3.48	
Highest Monthly Cost	\$77.00	
Lowest Monthly Cost	\$35.00	

Large Firm

51+
No Responses

Notes:

* For firms having existing account

** Two sole practitioners responding have been paying \$187 and \$200 per month since 2014

*** Includes one firm with three lawyers and 14 profiles, current cost \$73

Parse

Solo Resp	# Profiles	Mo Cost	Small Resp	# Profiles	Mo Cost	Med Resp	# Profile	Mo Cost
1	1	35						
1	1	35						
1	1	85						
1	2	15						
1	1	35						
			3					
1	1	50						
1								
1	1	42						
			7	1	30			
1			2	4	35			
			2	3	34			
1								
1	1	18						
			5	1	43			
1	1	35						
1								
1	1	32						
1	1	35						
1	1	40						
1								
1	1	15						
			3	1	35			
1	2	26						
1	1	35						
1	1	35						
			9	1	35			
1	1	50						
			2					
			3	2				
			10	1	97			

Parse

Solo Resp	# Profiles	Mo Cost	Small Resp	# Profiles	Mo Cost	Med Resp	# Profile	Mo Cost
1	1	35						
1	1	31						
1	1	37						
1	1	50						
1								
			7	1	37			
			2	3	35			
1	1	14						
			2	1	35			
1	1	35						
1	1	35						
1	1	35						
1	1	35						
1								
			2	1	35			
1								
1								
1	1	182						
			2					
1	1	35						
1	1	35						
1	1	200						
1								
1	1	10						
1	1	35						
1	1	35						
1	1	13						
1	1	37						
						14	1	77
1	1	50						
			2	1	36			
1	1	13						

Parse

Solo Resp	# Profiles	Mo Cost	Small Resp	# Profiles	Mo Cost	Med Resp	# Profile	Mo Cost
			5	1	35			
						12	2	62
1	1	14						
1	1	20						
1	1	28						
1	1	19						
1	1	35						
			5	1	133			
1	1	35						
1	1	35						
1	2	80						
			3	3	80			
1	1	35						
1	1	49						
			3	14	73			
1	1	45						
			2	1				
1	1	21						
1	1	35						
1	1	20						
			2	1	35			
1	1	10						
1	2							
			1	1	35			
1	1	35						
1	1	35						
1	1	35						
1	1							
1	1							

Parse

Solo Resp	# Profiles	Mo Cost	Small Resp	# Profiles	Mo Cost	Med Resp	# Profile	Mo Cost
						24	1	35
1	1	35						
1	1	35						
73	58	57	23	20	18	3	3	3 Number
1.0	1.1	39.1	3.7	2.2	48.8	16.7	1.3	58.0 Average
Solo Resp	# Profiles	Mo Cost	Small Resp	# Profiles	Mo Cost	Med Resp	# Profile	Mo Cost

OJCIN Survey – Respondent Comments

(Sorted by order received)

-
- I cannot afford various increases whether it's the Bar, Ojin, PLF fee, & on & on every year!
-
- The proposed change will almost triple my bill without any apparent increase in benefits
-
- Thank you for taking the time to do this.
-
- I believe access to court records and OJD eFile should be part of the same system with fees related only to paper copy requests (certification for example) and filing fees. Viewing court files and downloading should be at no additional cost.
-
- 1) The charge went from \$35 to \$40 + \$10 per user profile = \$50. I think. The letter from the OJD does not clearly state, but I don't THINK my secretary is a "user profile." This is, at a minimum a 43% increase. It is a 71% increase if my secretary is also a "user profile."
- 2) The computerization was supposed to SAVE everybody money. There is a cost to the system to vet and add a new user. There is basically no cost to the system to allow an existing user to access the data that is already in the system.
- 3) The statement often made when the new computerized system went into effect, that OJCIN was optional, is not an accurate reflection of reality for most of us.
-
- I have a login for purposes of filing pleadings and documents but do not pay the monthly fees as i can't afford it. my litigation activity involving the court is intermittent and there are many months that i do not need such access. the current fee already represents a hardship as a regular monthly expense and the proposed increases would put that further out of reach.
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- I regularly research online case information in other states. Arizona, WA, CA, Ohio. None charge. All are public access at no charge.
-
- I'm not sure what our cost is but I do know that it's so small that it doesn't show separately on our balance sheets.
-
- Yes. I currently have to access OJCIN down at the courthouse, as I am on such a tight budget I am not able to open an account. I was hoping to open an account in the very near future, but the increase in fees will make it that much more difficult. I would really like to see some more equitable distribution of the fees per actual user or actual usage, rather than giving such a deep discount to larger firms. After all, it is the larger firms who are more likely able to afford a fee structure based on actual user/actual use (as in Pacer).

Thank you for the opportunity for input!

-
- I am just about to file my first Oregon probate and looked into registering for OJCIN.

As a transplant from Arizona, the fees for access to the Oregon Courts is very shocking. In AZ we pay to electronically file documents; accessing the documents in a case where you are the attorney of record is free (no monthly fee, no per document fee, no access fee). Having to pay \$600/yr to look at my own cases is absurd.

- I was surprised when I received notice of the proposed increase. \$50 a month for access is a large jump from the \$18 I am currently paying. It won't break the bank, but the higher cost appears to more negatively impact the solo and small firms. I also have a hard time paying more for a service we are essentially required to have. Since we don't get notices for every judgment/order that is signed, we rely on this service to know what is going on with our cases. We can't simply choose not to pay this.

- I'm a relatively new solo and administrative costs make up a lot of my overhead. OECI access is a necessity for me because my practice is focused on family law litigation. I am also one of the very small number of private practice attorneys who employ a sliding scale fee structure for all cases. This means that a large percentage of my clients are the "have not" spouses who end up having to pay for my services on a payment plan. Meanwhile the opposing party can afford to hire the Gevurtz Menashes of family law.
This proposed rate increase will raise the cost of my OECI access by nearly 50%. This is nowhere near the impact on larger firms that have deeper cash reserves, more revenue generating attorneys, charge significantly more than @150/hr, and will be able to spread the costs of additional profiles by only having a couple of log-ins shared within the firm. The disparate impact of this fee increase serves to effectively punish the smaller firms and solo practices.
I wish I could believe that this was not considered in determining the new fee structure, but I can't help but believe that it was considered and judged unimportant.

- The only court work I handle are probates, and the only time I need OCJIN is to confirm that a Judgment has been signed. My need for OCJIN is rare -- maybe 6 times a year. I cannot justify the cost to have a OCJIN account given how infrequently I would use it. My "work around" is very inconvenient, however. I would love to have a system where the charge more-closely mirrored actual use. In my opinion, that would be the "fairest" approach.

- Any OJCIN increases should not disproportionately affect smaller firms while subsidizing larger firms' profiles.

- Too expensive

- Thanks for doing this. I was planning on enrolling so this information is timely.

- I do not think the fee increase is fair to small firms.

- proposed increase more than doubles the monthly fee to \$60.00

- I join other small firm and solo practitioners in objecting to the proposed fee increase. The proposal is patently unfair. OECI/OCJIN is essential to the work many of us do and we should not be expected to subsidize large firms.

- It seems odd that OJIN charges for access, while efilng is free. Ideally, the two systems should be integrated. Also, the proposed fee increase (up to \$55 for a solo attorney, as I understand it) seems disproportionate to the service provided: I pay about as much for a well-managed, highly functional, intuitively interfaced client management software system. At OJIN's new price point, I would expect much more functionality.

- OJCIN costs should not impact sole attorneys greater than large firm practitioners

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- I applaud your goal of gathering empirical data. I suspect not every attorney in a large firm would visit the courthouse to get copies of records and today's electronic access is the same; delegated to a handful of paralegals/associates.

The survey asks for the number of attorneys in the firm but does not ask for the number of attorneys that need access to state court records. To the extent that attorneys in the firm do not need access, it appears the survey data may not be able to distinguish the proportionate cost to a firm's realized value, where realized value is reflected by the number of attorneys that benefit from the access.

Prior to electronic filing we had no influence over access costs; we were forced to pay higher rents to be in walking distance of the courthouse or pay for parking and travel time if we opted for lower rents where walking was impractical. Today we pay for online access and can reduce our commute, but we can also influence the allocation of those costs through our comments to OCJIN.

While I don't think it is practical to argue for usage based charges in the current proposal because of software limitations, I still think it is worthwhile to comment that enhancements should be considered to convert to usage based charges in the future.

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- Government clients are more than 50% of our practice, so monthly fee is waived.
-
- Hope it doesn't increase too much. The prior plan charged by the minute and it was much more expensive for our firm.
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- I think it is about the disrespect that the judicial department has in the legislature and the drive to be cheap. They want the users of the system to truly pay for the cost. This is a burden on the civil side, not the criminal. Any method of payment has some way to become an unfair inequality. But the burdens should still be somehow proportional. I think what they propose has the solo carrying more of the weight as a firm of 100 does not need to have 100 accesses. If they do, then they are getting a per capita reduction in their fees. Perhaps that is intended.
-
- According to the letter I received, it looks like my average monthly cost is going up 40%.
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- Another unfair burden on the solo practitioners and Court Arbitrators.
Thanks for doing this.
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- Thank you :)
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- The OJCIN online document access is invaluable to our firm.
-
- I don't mind paying for access to this system. It would be ideal if payment was determined in some reasonably fair manner.
-
- Yes, \$40 per month plus the additional \$10 per account is outrageous for a solo attorney who is practicing part time and hoping to retire soon! And, we almost have to have it, so they have us over a barrel. Needless to say, I am not happy about it and considering terminating my subscription if the rates are increased that much.
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- While I see the logic in discounting multiple accounts coming from one firm, this will certainly disproportionately impact solos and small firms. I'd agree with a plan to tie costs to bar dues, as I expect that raising costs per user account will just result in larger firms sharing accounts (as our office already does with OCJIN requests all going through myself).
-
- I hope you present this survey as part of the comments. Thanks to your post, I actually took my lunch hour to voice my opinion -- my very mouthy opinion.
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- I don't subscribe because I only need OCJIN of very rare occasions, and setting up an account and monthly access to pull 1-2 records per year doesn't make sense. I wish our system were more like federal PACER, with a minimum of public access for free, additional charges based on usage.
-
- OCJIN is an inappropriate method of collecting fees for a service with respect to which we all have already paid. I may do 1 or 2 probates in Oregon each year. For me to have to pay \$600 for access to the documents I prepare and file with the Court is an abomination. My clients already pay massive filing fees for the probate itself....which easily justify the Court's "bother" in attaching a .pdf document to an e-mail which it could easily send to the practitioner (which document, by the way, is already scanned into the OCJIN system). It takes the same amount of time to send me an e-mail with the attachment as it does to send me a worthless e-mail which tells me that documents have been added to the file....which really tells me nothing. To charge to access documents I prepare and file with the Court is simply WRONG!, especially when the Court already receives a massive fee for filing of these probate matters. How is it that Washington Courts are able to charge smaller fees to file probate matters and NEVER charge to access the documents which are part of the file. Oregon is a disaster in the probate area. It could do a lot better....as is evidenced by a system that works much better and smarter for the citizens of the State to your North. Oregon practitioners argue their system is "great"....but its not. It needs to swallow its pride and take lessons from others who do it better and cheaper....without sacrificing anything as far as the safety and security of the beneficiaries and creditors of an estate.
-
- Good idea. When I need court records I call the friendly keeper of those records - so far.
-
- Only need court docs in probate cases. We are in Lane County, and the court kindly sends us file-stamped docs by email. This is a problem if cases are in other counties. The cost is simply overwhelming if we paid it for the very limited need we have.
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- Over 50% of my cases are indigent defense court appointed cases. I earn only \$46 an hour. I cannot afford a fee increase for access to odyssey.
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- System should support sole practitioners, not penalize them as the proposal does now
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- Thanks for gathering this data.
-
- This increase will push my annual cost up from \$120 to \$600 (400%). I get to pay \$50 a month, but a 100 attorney for will pay only \$10.75. This fee disparity is not reasonable.
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- Yes, I want fair pricing for these services! I don't wish to subsidize large firms.
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- As proposed, the new scheme is outrageous and oppressive to small firms and solos. It disproportionately burdens them. If the thinking is to make users pay, then why not a per-page or per-megabyte charge? Such a charge could be imposed after the user pays a one-time access charge.
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- Why not ask our opinion what a fair rate would be and whether it should decrease with the number of user accounts in a firm?
-
- I do alot of litigation, but little in Oregon. I have only one active Oregon case now and little use for OCJIN, but need it because it is the only way to get signed orders and judgments.
-
- I'm not sure why my current rate is so low compared to others. Perhaps OCJIN overlooked increasing my rate when rates were previously increased. But the new rate will be a substantial increase for me.
-
- Our bill is increasing to \$95.00/mo. Not happy but was expecting this....
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- An increase to \$40 from \$14 for a sole practitioner is an increase of over 300% and is grossly unfair. You are asking me to subsidize other users who have multiple accounts and higher volume.
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- Although OJIN is not technically mandatory, for most attorneys it is a practical requirement based on how the courts are now operating. You can no longer use court cards and they do not return phone calls checking on the status of orders that can be found on OJIN. There should be some equalization of the cost among all lawyers - it should not be more expensive for those who are solo practitioners or who work in small firms than it is for lawyers in large firms. The formula on creating the cost may be based on the administrative expense of maintaining and billing a single account. However, there is also administrative expense in accounts with a large number of attorneys.
-
- The Chief Justice's Recommended Budget for 2017-2019 recommends a budget of \$10,690,190 and proposes to pay for the same by increasing user fees and filing fees. Increasing user fees puts the burden on the attorney who must then pass the cost to the clients. I recommend that the court raise filing fees rather than placing the burden on the legal service providers. Imposing higher fees on users ignores the fact that the users are accessing the information for the benefit of the clients, not the benefit of the user.
-
- The OCJIN costs are prohibitive to my small, largely transactional practice. I do probates, guardian and conservatorships and some adoption cases and cannot justify the current start up and monthly cost involved in accessing the documents I need for these cases. I am appalled that the burden is being put on the attorneys and skewed against solo and small firms when we are the majority of practitioners in this state by what I have read. This will ultimately hurt the public by curtailing the services that many can afford to provide them, especially in rural areas where I practice. I do not understand why the court system cannot set this up with user fees that make sense for all attorneys -- perhaps by transaction only -- instead of cost prohibitive monthly fees PLUS cost of obtaining documents that really should be accessible online for free.
-
- Access to OJIN, like access to BarBooks, would seriously shift the scales to a more equitable point for those of operating small businesses. If it's concluded that BarBooks is a necessity then why not access to OJIN.
-
- The proposed fee increases appear to result in a greater per month cost per user to sole practitioners than to larger firms. I object to paying more for the same product as other attorneys.
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- I believe that the new fee structure is weighted against solos and smaller firms, and should be reevaluated before being implemented.
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- An increase of \$15 per month with no additional services provided seems unfair. If I want to expand to hire one associate in the future, the cost goes up an additional \$25 per month. A total \$40 per month increase (\$480 per year) is substantial to a solo/small firm when no additional benefits are being provided.
-
- For those who use the service only a few times per month, the cost is excessive.
-
- Increasing costs to small firms does not seem appropriate... especially based on number of user profiles. Perhaps charge based on number of attorneys, but don't charge for staff user accounts.
-
- a flat monthly fee for unlimited use has been the most useful.
-
- I received a notice that my fee is going up from \$21 per month, which was based on average previous usage, to \$50 per month.
-
- OCJIN is a monopoly. I have to have the service, but I have no options for a competitive rate for the service.
-
- I currently pay \$35. The increase will take me up to \$65 for the service plus one user profile. This is a substantial increase in price and impacts small firms and sole practitioners particularly hard, particularly those of us who serve modest means clients and other members of the community such as immigrants who often have barriers to accessing justice.
-
- I stopped paying for OCJIN because I only use it a couple of times a year. The cost is too high to incur for a few times. Plus it is hard to pass through to clients as a discrete charge. I mostly do transactional and tax work. When I do probate or other state court work, it is a definite disadvantage relative to other law firms and the cost to my clients to not have digital access to court records.
-
- Thanks for doing this.
-
- I do not use OJIN--my practice is mainly office practice and cost is prohibitive. When I do need filing info (i.e. Probates, guardianships) I just have to call the clerks, who range from quite nice to terribly cranky, especially in certain counties starting with W) to get that info.
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- Quite an increase percentage wise
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- I am strongly against the increase in the OJCIN fees insomuch that any increase is disproportional between lawyers. As it stands, solos and small offices pay more than lawyers at large firms. The advantages to the firm lawyers are big enough in this state and OJCIN shouldn't continue to add to that frustration. Fees should be the same to all lawyers. Period. Increase the fees so that a lawyer in a large firm is paying the same as my monthly fee as a solo before we talk about raising my monthly fee.
-
- The current cost is high for a 1 lawyer firm. I spend significantly less to get copies at the courthouse around \$10 to \$15 a month.
-
- Seems a 214% increase in monthly fees is a large increase...
-