

Suit asks state to pay for all trial courts

By Tim Richard
staff writer

Local city and county officials are pondering whether to join a major lawsuit that asks state government to pay for all trial courts.

"You rarely get a chance to participate in something as fundamental as this constitutional question," attorney Robert W. White told an audience of 30 — mostly city attorneys and county budget officials — in a Southfield hotel last week.

White and partner Douglas Van Eszen held meetings all around the state, hoping to sign up as many as possible of the 174 units that pay for 55 circuit courts, 79 probate courts, 100 district courts, six municipal courts and a recorder's court as clients in their class action lawsuit.

Deadline is Aug. 20 for them to sign up for a suit which, if successful, could cost the state \$400 million.

WHITE AND Van Eszen are in a

Grand Rapids firm which represents many counties and cities. So far, eight western Michigan counties and the city of Grosse Pointe have paid a \$300 retainer fee to be part of the class action, and others have passed resolutions of intent.

In this area, only the city of Plymouth issued a prompt, flat "no," they said.

Phase one will be a largely legal battle in the Court of Claims division of Ingham Circuit Court. Their suit contains three counts:

• The state Legislature in 1979 passed a law (PA 438) stating its intention of gradually taking over funding of all courts, but never appropriated the money in subsequent years. The formula called for 50 percent state funding in 1986 and '87. The counties ask for that 80 percent. (Under the statute of limitations, they can't ask for the money from prior years.)

Legislators and Gov. James Blanchard's legal adviser say one

Legislature can't bind another. The counties say PA 438 "created a legal duty."

• The 1963 Michigan Constitution creates "one court of justice." The counties say that makes all courts part of the judicial branch of state government. "The state can't pass on its costs to local units any more than it can pass on the cost of renovating the Capitol to Ingham County or the costs of the University of Michigan to Washtenaw County," said Van Eszen.

• They want court expenses audited, just like every other unit of government.

ATTORNEY GENERAL Frank Kelley's staff is characterizing the movement as a "break the bank" kind of suit.

But Van Eszen said the total cost would amount to a small fraction of the state's nearly \$7 billion budget, whereas local subsidies of courts are a far bigger proportion of local

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budgets.

In a 1980 bailout, the state took over funding of Wayne Circuit and the Detroit courts — costs and revenues both. Many outstate counties resent that double standard of court funding.

White believes the Court of Claims will rule late this year or early in 1990. Appeals could take two or three years.

If phase one is successful, phase two will be for all the counties, cities and townships to present their claims. That will be time-consuming.

SOME LOCAL units think their courts are money-makers — that the fines and charges they levy cover their costs.

"But are you sure?" White asks, advising them to have their accountants look not only at payroll and

cash costs but overhead, building depreciation, parking lots and the like. He argues the state could be paying them rent.

He asks those who want to opt out of the class action: "In fairness, reject it on some theory other than (the current system is) a good deal — say you don't like the lawyers, or you think courts shouldn't be funded by the state."

Van Eszen added, "We believe it is a more powerful statement if we stand before the seven justices as a class rather than eight wild-haired counties."

If they win, Van Eszen envisions a system whereby local units would "front-end" court costs and be reimbursed by Lansing. Such a system would be far preferable to a single statewide plan, in which court personnel in Keweenaw and Detroit would get the same pay rates.

THEY TOLD "horror stories" of conflicts between judges and local governing boards over court budgets, saying the conflicts would be ended by state funding.

"You can no longer line-item a budget. You must give them a lump-sum budget," said Van Eszen. "You can't even audit them."

"Sometimes (conflicts are) blamed on a failure of diplomacy. Bob and I originally subscribed to that view. But diplomacy alone isn't enough."

They told of a judge who threatened to jail county officials who wouldn't buy the brand of photocopier he wanted and of a northern Michigan judge who recognized his four employees as a union one morning, gave them a 100 percent pay raise and sent the bill to the county that afternoon; the county won — at the cost of \$100,000 in legal fees.

Oakland County has its own internal battle over court funding. The county pays for the 52nd District Court, which serves Troy, Rochester, and some of the well-to-do suburbs. But the Birmingham-Bloomfield, Southfield and Farmington areas pay for their own district courts plus county taxes. They call the system "double taxation."

O&E reporter wins media award

Observer & Eccentric Newspapers reporter Alice Collins has won a merit award in the 1989 Media Citation Awards competition sponsored by the Southeast Michigan Hospital Council.

The award recognized a series of articles detailing how emergency rooms in Oakland County hospitals

were turning away ambulances.

First place in the competition for newspapers went to Dwight E.M. Angell of The Detroit News, who won his second consecutive award with a series on mammography services.


For broadcasting, WJRH-TV won first place for a series examining the

trauma system at southeastern Michigan hospitals.

Collins' stories appeared in the Birmingham-Bloomfield, West Bloomfield, Southfield, Troy and Rochester Eccentrics.

The awards are given each year to those who excel in health care reporting in southeastern Michigan.

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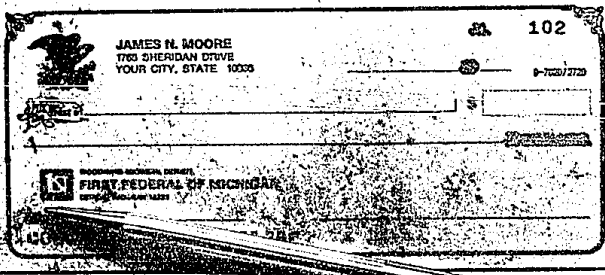
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