

EXHIBIT 1  
DATE 01/21/05  
HB 2



State of Montana  
Office of Clerk of the Supreme Court  
P.O. Box 203003  
Helena, 59620-3003  
406-444-3858 phone  
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ED SMITH  
CLERK

January 19, 2005

Representative John Sinrud, Chair  
Joint Appropriations Subcommittee on  
General Government and Transportation  
PO Box 200400  
Helena, MT 59620-0400

Dear Chairman Sinrud :

I write this letter to aid your preparation as you review the budget of the Office of the Clerk of the Supreme Court as part of the overall Judicial branch budget. In this regard, there are several points I wish to make concerning technology, records management, vacancy savings, Supreme Court caseload, and revenue collection.

First, I have great news to report. In November of 2003, I met with Senator Conrad Burns to request his assistance in securing federal funding for a modern case management and document management system for my office and the Supreme Court. As you may be aware, my office has been operating for the past 16 years with a DOS-based WordPerfect 5.1 application with no database. In the Fall of 2003, I had a full technology needs assessment completed that detailed the glaring absence of appropriate technology at the Supreme Court level. I provided this assessment to Senator Burns, who immediately recognized the severity of our problem.

Because of Senator Burns leadership and his strong interest in the application of technology, he secured a \$600,000 federal appropriation this past Fall to obtain a modern case management and document management system for my office and the Supreme Court. The funds will be available later this year. I am very grateful to Senator Burns for his assistance.

In keeping with the technology needs assessment, this new system will use cutting edge, web-based technology, which will significantly enhance public access to the Supreme Court by enabling remote viewing of Supreme Court cases by the public and eventually, electronic filing with the Court via the internet. The system will also facilitate in the storage of Court records which brings me to my second point.

The public's access to the Supreme Court and its records is a fundamental cornerstone of the role of Clerk of Court in the court system, whether it be my office here at the Supreme Court, or the fifty-six Clerks of District Court throughout Montana. After the current cases are completed, clerks of court are required by law to preserve the records in perpetuity. For my office, the effort to safely store the Supreme Court records is, literally, a growing problem. Supreme Court records dating from 1938 forward are stored in boxes at both the Historical Society and at the Secretary of State's Records Management Facility.

As the custodian of these records, I have tried in the past, unsuccessfully, to obtain funding to place the records on microfiche. And while the installation of a modern document management system will allow future records to be stored electronically as they come in, the problem of the physical records from 1938 to present is a records management issue that needs to begin to be addressed. Using technologies available today, those records will need to be scanned and digitally stored.

The third point I wish you to consider is the issue of vacancy savings. Because my small office does not experience vacancies, there is no room in my personal services budget to absorb vacancy savings or personal services benefits that are not funded by the legislature. Therefore, I urge you to bear this fact in mind if a vacancy savings issue arises.

Fourth, I would like to draw your attention to the attached 2004 general caseload statistics for the Supreme Court. It was another very busy year as my office docketed 882 cases--the second highest in the Court's history. I also note that the number of "pro se" appearances (people representing themselves) continues to comprise a significant amount of the total filings, totaling over 29% in 2004. Of that total, nearly 68% are inmates. I draw this to your attention only to point out that cases involving pro se litigants place a greater burden on staff and resources in terms of guiding these cases through the appellate process given that pro se filers are not familiar with procedure and appellate requirements.

Lastly, for your general revenue information, I collected \$123,931 in revenue for the State during fiscal year 2004. This total includes \$97,750 obtained from the collection of the Montana Attorney License Tax from approximately 3800 attorneys. It also includes \$26,181 collected in general filing, and case-related related fees.

I am happy to answer any questions you may have in this regard. Thank you for your consideration, and I wish you well with your decisions.

Sincerely,



Ed Smith

Clerk of the Supreme Court

Att.



State of Montana  
Office of Clerk of the Supreme Court  
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ED SMITH  
CLERK

January 20, 2005

MEMORANDUM

TO: All Justices and Interested Parties

FROM: Ed Smith, Clerk of the Supreme Court

A handwritten signature in dark ink, appearing to be "E. Smith", written over the printed name.

RE: 2004 Case Filing Statistical Reports

Attached are statistical reports, compiled by my office, for the 2004 Supreme Court caseload. They include:

- Report 1 - 2004 Filings and Dispositions Overview*
- Report 2 - Summary of Major Statistical Categories*
- Report 3 - Statistical Comparison*
- Report 4 - 2004 Pro Se Statistics*
- Report 5 - 2004 Statistics For Mediation Appeals*
- Report 6 - Opinion Overview - 2002-2004*
- Report 7 - Original Proceedings Detail- 2004*
- Report 8 - 2004 Dispositions Detail*
- Report 9 - Supreme Court Caseload Statistics 1972-2004*

I hope you will find them useful. Please contact me if you have any questions or concerns in this regard.

OFFICE OF THE CLERK OF THE SUPREME COURT

*Report 1 - 2004 FILINGS AND DISPOSITIONS OVERVIEW*

2004 Caseload Statistics Overview

Filings carried over from 2003:	<u>564</u>
New Civil Filings	693
Direct Civil Appeals: 471	
Original Proceedings: 222	
New Criminal Filings	189
(All Direct Appeals)	
<u>Total New Filings:</u>	<u>882</u>
Dispositions by Remittitur in 2004	376
Dispositions by Dismissal	207
Dispositions - Writ Denied	175
Dispositions - Writ Granted	13
Dispositions - Other	29
<u>Total Dispositions:</u>	<u>800</u>
Cases Pending as of December 31, 2004:	<u>646</u>

# OFFICE OF THE CLERK OF THE SUPREME COURT

## *Report 2 - SUMMARY OF MAJOR STATISTICAL CATEGORIES*

### Summary of the major statistical categories relating to the Supreme Court Caseload in the Year 2004:

Total number of notices of appeal filed:	670
Total number of appeals docketed:	660
Total number of appeals sent to mediation:	234
Total number of successfully mediated appeals:	44
Total new case filings:	882
Direct Appeal:	660
Civil Appeals:	471
Criminal Appeals:	189
Original Proceedings:	222
Total number of Pro Se cases:	258
Total number of opinions issued:	395
Total number of cases closed:	800
Total number of pending cases carried over into 2005:	646

# OFFICE OF THE CLERK OF THE SUPREME COURT

## *Report 3 - STATISTICAL COMPARISON*

Below is a summary comparison of the major statistical categories relating to the Supreme Court Caseload between the years 2003 and 2004.

	2003	2004	Percentage Difference
Total notices of appeals filed:	609	670	+ 9%
Total number of appeals docketed:	545	660	+21.1%
Total number of appeals sent to mediation:	221	234	-5.9%
Total number of successfully mediated appeals:	43	44	+2.3%
Total new case filings:	860	882	+2.6%
Direct Appeal:	545	660	+21.1%
Original Proceedings:	315	222	- 29.5%
Total number of Pro Se cases:	319	258	-19.1%
Total number of opinions issued:	377	395	+4.8%
Total number of cases closed:	878	800	- 8.8%
Total number of pending cases carried over:	564	646	+14.6%

# OFFICE OF THE CLERK OF THE SUPREME COURT

## *Report 4 - 2004 PRO SE STATISTICS*

### A. PRO SE APPEARANCES:

#### 1. Appeals

- a. Civil: 105
- b. Criminal: 32

#### 2. Original Proceedings: 121

**TOTAL PRO SE FILINGS: 258**

#### 3. Percentage of Total

- a. Pro Se as a percentage of Total Filings: 29.2%  
(258 divided by 882)

### B. BREAKDOWN OF TYPES OF PRO SE FILERS:

#### 1. a. Pro Se Inmate

- 1. Civil Appeals: 43
- 2. Criminal Appeals: 21
- 3. Original Proceedings: 111

**TOTAL: 175**

#### b. Percentage of Pro Se Inmate Filings

- 1. Inmates as percentage of Total Pro Se: 67.8%  
(175 divided by 258)
- 2. Inmates as percentage of Total Filings: 19.8%  
(175 divided by 882)

#### 2. a. Non-Inmate Pro Se

- 1. Civil Appeals: 62
- 2. Criminal Appeals: 11
- 3. Original Proceedings: 10

**TOTAL: 83**

#### b. Percentage of Non-Inmate Pro Se Filings

- 1. Non-Inmate Pro Se as percentage of Total Pro Se: 32.2%  
(83 divided by 258)
- 2. Non-Inmate Pro Se as percentage of Total Filings: 9.4%  
(83 divided by 882)

OFFICE OF THE CLERK OF THE SUPREME COURT

*Report 5 - 2004 STATISTICS FOR MEDIATION APPEALS*

I. CATEGORIES:

1. DOMESTIC RELATIONS: 64

Mediator appointed by:  
Attorneys: 17  
Clerk of Court: 47  
Settled: 13  
Not Settled: 37  
Not Pursued: 0

2. WORKERS' COMPENSATION: 18

Mediator appointed by:  
Attorneys: 6  
Clerk of Court: 12  
Settled: 5  
Not Settled: 14  
Not Pursued: 0

3. MONEY JUDGMENTS: 152

Mediator appointed by:  
Attorneys: 50  
Clerk of Court: 102  
Settled: 26  
Not Settled: 81  
Not Pursued: 0

II. TOTALS:

-Notices of Appeal received since January 1, 2004: 670

-Appeals sent to mediation since January 1, 2004: 234

-Cases settled since January 1, 2004: 44

-Cases not settled since January 1, 2004: 132

-Successfully mediated appeals since January 1, 2004:

- a. Success percentage in relation to total appeals filed: 6.5%
- b. Success percentage in relation to total appeals subject to mediation: 18.8%

# OFFICE OF THE CLERK OF THE SUPREME COURT

## *Report 6 - OPINION OVERVIEW - 2002-2004*

2002

TOTAL OPINIONS ISSUED: 353

DISPOSITION TYPE:

Affirmed:	220
Reversed:	82
Affirmed & Reversed:	34
Other:	17

2003

TOTAL OPINIONS ISSUED: 377

DISPOSITION TYPE:

Affirmed:	255
Reversed:	67
Affirmed & Reversed:	29
Other:	26

2004

TOTAL OPINIONS ISSUED: 395

DISPOSITION TYPE:

Affirmed:	265
Reversed:	58
Affirmed & Reversed:	50
Other:	22

OFFICE OF THE CLERK OF THE SUPREME COURT

*Report 7 - ORIGINAL PROCEEDINGS DETAIL- 2004*

2004 Total Original Proceedings Filed - 222

Attorney Discipline: 23  
Certified Question: 6  
Administrative/Other: 6  
Petitions for Writ: 187

Total: 222

2004 Petitions for Writ of Supervisory Control - 62

Writ of Supervisory Control Denied: 52  
Writ of Supervisory Control Granted: 7  
Writ of Supervisory Control Pending: 3  
*(As of December 31, 2004)*

Total: 62

2004 Pro Se Appearances in Original Proceedings: 121

Filed by Pro Se Inmates: 111  
Filed by Non-Inmate Pro Se: 10

Total: 121

OFFICE OF THE CLERK OF THE SUPREME COURT

*Report 8 - 2004 DISPOSITIONS DETAIL\**

2004

Dispositions by Opinion/Remittitur in 2004	376
Dispositions by Dismissal	207
Dispositions - Writ Denied	175
Dispositions - Writ Granted	13
Dispositions - Other	29
<b>TOTAL DISPOSITIONS:</b>	<b><u>800</u></b>

A: 2004 Dispositions By Opinion/Remittitur:

-Total Affirmed: 271

Civil: 175

Criminal: 96

- Total Reversed: 52

Civil: 41

Criminal: 11

-Total Affirmed in part &  
Reversed in part: 46

Civil: 30

Criminal: 16

-Total Other: 7

Civil: 4

Criminal: 3

**GRAND TOTAL: 376**

*\*This number reflects cases closed during a calendar year (i.e. when the remittitur issued or when the time for filing a petition for rehearing had run or was ruled upon.)*

B. 2004 Classifications of Dispositions:

-Five-Justice Panel:	295
-En Banc:	68
-Oral Argument:	<u>13</u>
Total:	376

C. 2004 Dispositions where a Petition for Rehearing was Filed:

-Petitions for Rehearing in

Cases Submitted to Five-Justice Panel:	27
Rehearing Denied:	26
Rehearing Granted:	1

-Petitions for Rehearing in

Cases Submitted to En Banc:	8
Rehearing Denied:	6
Rehearing Granted:	2

-Petitions for Rehearing in

Cases Submitted for Oral Argument:	1
Rehearing Denied:	1
Rehearing Granted:	0

<b>-TOTAL PETITIONS FOR REHEARING:</b>	<b>36</b>
Total Rehearing Denied:	32
Total Rehearing Granted:	3

## OFFICE OF THE CLERK OF THE SUPREME COURT

### *Report 9 - SUPREME COURT CASELOAD STATISTICS 1972-2004*

<u>Year</u>	<u>Case Filings</u>	<u>Averages &amp; Percentage of Increase (1975-2004)</u>	
1972	230		
1973	244		
1974	266		
1975	301	1972-1975 = 260.25	-----
1976	409		
1977	470		
1978	518*		
1979	477		
1980	490	1976-1980 = 472.8	181% Increase
1981	574*		
1982	522		
1983	561		
1984	567		
1985	639*	1981-1985 = 572.6	21% Increase
1986	602		
1987	571		
1988	628		
1989	633		
1990	633	1986-1990 = 613.4	7% Increase
1991	636		
1992	627		
1993	659*		
1994	633		
1995	580	1991-1995 = 627	2% Increase
1996	731*		
1997	729		
1998	731		
1999	706		
2000	868*	1996-2000 = 753	20% Increase
2001	909*		
2002	798		
2003	860		
2004	882	2001-2004 = 862	14.5% Increase

\*Record-setting years for filings