

RECALL OF YAKIMA COUNTY CLERK, JANELLE L. RIDDLE  
STATEMENT OF CHARGES  
With Supporting Declarations and Exhibits  
Pursuant to RCW 29A.56.110, *et. Seq*

Ms. Kathy Fisher  
Yakima County Auditor, Elections Manager  
128 N. 2<sup>nd</sup> Street, Rm. 117  
P. O. Box 12570  
Yakima, WA 98909

RE: Filing of Statement of Charges for Recall of Janell L. Riddle, Yakima County Clerk

Dear Ms. Fisher:

This letter, and the attachments, constitute the Statement of Charges in support of the Recall of Yakima County Clerk, Janelle L. Riddle pursuant to RCW 29A.56.110 and the WASHINGTON STATE CONSTITUTION, Article 1, §§ 33 and 34. Yakima County Clerk, Janelle L. Riddle has committed acts of malfeasance and misfeasance while in office, and has violated her oath of office. This Statement of Charges is verified under oath, states the acts complained of in concise language, gives a detailed description including the approximate date, location and nature of each act complained of, and is signed by the person(s) making the charge.

I. *Introduction to Statement of Charges*

A. *The Election of Janelle L. Riddle as Yakima County Clerk*

Yakima County is a political subdivision of the State of Washington, established under by the territorial government in 1865, and made one the original counties of the State of Washington pursuant to WASHINGTON STATE CONSTITUTION, Art.11, §1 (1989). Janelle L. Riddle was elected Yakima County Clerk on November 4, 2014, with 28,080 votes, a percentage of 66.14 per cent of the 42,455 votes cast for the office<sup>1</sup>

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<sup>1</sup> Ex. 1, 2014 General Election Results, Yakima County, Yakima County Auditor's Elections Website.

WASHINGTON STATE CONSTITUTION, Art. 4, §20 provides:

The county clerk shall be by virtue of his office, clerk of the superior court.

RCW 2.32.050 prescribes the powers and duties of court clerks as follows:

The clerk of the supreme court, each clerk of the court of appeals, and each clerk of a superior court, has power to take and certify the proof and acknowledgment of a conveyance of real property, or any other written instrument authorized or required to be proved or acknowledged, and to administer oaths in every case when authorized by law; and it is the duty of the clerk of the supreme court, each clerk of the court of appeals and each county clerk for each of the courts for which he or she is clerk:

- (1) To keep the seal of the court and affix it in all cases where he or she is required by law;
- (2) To record the proceedings of the court;
- (3) To keep the records, files, and other books and papers appertaining to the court;
- (4) To file all papers delivered to him or her for that purpose in any action or proceeding in the court as directed by court rule or statute;
- (5) To attend the court of which he or she is clerk, to administer oaths, and receive the verdict of a jury in any action or proceeding therein, in the presence and under the direction of the court;
- (6) To keep the journal of the proceedings of the court, and, under the direction of the court, to enter its orders, judgments, and decrees;
- (7) To authenticate by certificate or transcript, as may be required, the records, files, or proceedings of the court, or any other paper appertaining thereto and filed with him or her;
- (8) To exercise the powers and perform the duties conferred and imposed upon him or her elsewhere by statute;
- (9) In the performance of his or her duties to conform to the direction of the court;

(10) To publish notice of the procedures for inspection of the public records of the court.

Janell L. Riddle's oath of office, executed by her, under oath, on December 29, 2014, a true and correct copy of which is attach as Exhibit 1, states:

I, Janelle Riddle, being first duly sworn upon oath, do depose and say, that I will support the Constitution of the United States and the Constitution and Laws of the State of Washington and faithfully and impartially discharge and perform the duties of *County Clerk* of Yakima County, Washington, according to the best of my ability,  
SO HELP ME GOD.

Janelle L. Riddle commenced duties to the elected position of county clerk on January 1, 2015.

## II. Summary of Charges

Since commencing the duties of county clerk, Janelle L. Riddle: (1) has engaged in a pattern and practice of behavior that is unlawful; (2) has interfered with and obstructed the operations of the superior courts; (3) has exceeded her authority as county clerk; (4) has failed to discharge her duties as set forth in RCW 2.32.050(2), (3), (4), (5), (6), and has failed to keep the books and records of the court, including an account of moneys paid to the Clerk of Court for distribution to others; (5) has interfered with and impaired valid contracts between Yakima County and third parties and other governmental agencies resulting in substantial loss of money to Yakima County; (6) has imperiled and obstructed programs enacted in the juvenile court; and (7) has exposed the county to potential liability for the foregoing actions.

All of the acts by County Clerk, Janelle L. Riddle, summarized above, and further described below, were done by her wrongfully, knowingly, and with intent, and constitute malfeasance, misfeasance and/or a violation of her oath of office.

## III. Factual and Legal Sufficiency for Recall of Janelle L. Riddle

### A. *Constitutional Right to Recall*

The right to recall elected officials is a fundamental right of the people guaranteed by article I, sections 33 and 34 (amend. 8) of the Washington Constitution. *Chandler v. Otto*, 103 Wn.2d 268, 270, 693 P.2d 71, 72 (1984). Section 33 contains the substantive right of recall and provides “[e]very elective public officer of the State of Washington . . . is subject to recall and discharge by the legal voters of the state. . . .” Section 34 permits the Legislature to “pass the necessary laws” to carry out section 33 “and to facilitate its operation and effect without delay.” Pursuant to this authority, the Legislature adopted Chapter 29.82 RCW, which was enacted “to provide the substantive criteria and procedural framework for the recall process.” *Matter of*

*Pearsall-Stipek*, 136 Wn.2d 255, 262-63, 961 P.2d 343, 347 (1998). Chapter 29.82 RCW has since been re-codified as Chapter 29A.56 RCW. Recall statutes are construed in favor of the voter, not the elected official. *In re Recall of Washam*, 171 Wn.2d 503, 510, 257 P.3d 513, 516 (2011).

Elected officials in Washington State may be recalled for malfeasance, misfeasance, and/or violation of oath of office. WASH. CONST. art. I, §§ 33-34; “Courts act as a gateway to ensure that only charges that are factually and legally sufficient are placed before the voters, but we do not evaluate the truthfulness of those charges.” RCW 29A.56.140. *In re Recall of Washam*, 171 Wn.2d 503, 510, 257 P.3d 513, 516 (2011).

#### B. *The Requirement of Factual Sufficiency*

Charges are factually sufficient if “taken as a whole they do state sufficient facts to identify to the electors and to the official being recalled acts or failure to act which without justification would constitute a prima facie showing of misfeasance, malfeasance, or violation of oath of office.” *Chandler v. Otto*, 103 Wn.2d 268, 274, 693 P.2d 71 (1984). “Voters may draw reasonable inferences from the facts; the fact that conclusions have been drawn by the petitioner is not fatal to the sufficiency of the allegations.” *In the Matter of the Recall of West*, 155 Wn.2d 659, 665, 121 P.3d 1190 (2005); *In re the Recall of Washam*, 171 Wn.2d 503, 514, 257 P.3d 513 (2011).

A charge is factually sufficient if the facts “establish a prima facie case of misfeasance, malfeasance or violation of the oath of office” and are “stated in concise language and provide a detailed description” in order to “enable the electorate and a challenged official to make informed decisions.” *In re Recall of Telford*, 166 Wn. 2d

148, 206 P.3d 1248; 2009 (quoting *In re Recall of Wassan*, 149 Wn.2d 787, 791, 72 P.3d 170 (2003), citing *Cole v. Webster*, 103 Wn.2d 280, 285, 692 P.2d 799 (1984); *Chandler*, 103 Wn.2d at 274, 693 P.2d 71). “In this context, ‘prima facie’ means that accepting the allegations as true, the charge on its face supports the conclusion that the official committed misfeasance, malfeasance, or violations of the oath of office.” *In re Recall of Wade*, 115 Wn.2d 544, 548, 799 P.2d 1179 (1990).

RCW 29A.56.110 requires that “the person . . . making the charge . . . have knowledge of the alleged facts upon which the stated grounds for recall are based.” There is no requirement that the petitioner have firsthand knowledge of such facts. Rather he or she must have some knowledge of the facts underlying the charges. *In re Recall of Wasson*, 149 Wn.2d 787, 791, 72 P.3d 170 (2003); *In re Recall of Ackerson*, 143 Wn.2d 366, 372, 20 P.3d 930, 933 (2001). When the charge is violation of law, the Supreme Court has repeated that the petitioner must have knowledge of facts indicating that the official intended to commit an unlawful act. *In the Matter of Pearsall Stipek*, 136 Wn.2d 255, 263, 961 P.2d 343, 347 (1998). The courts may use supplemental materials to determine whether there is a factual basis for the charge. *In re Recall of*

*West*, 155 Wn.2d 659, 665-66, 121 P.3d 1190 (2005). It may go outside the petition to determine whether there is a factual basis for the charge. *In re Recall of Anderson*, 131 Wn.2d 92, 95, 929 P.2d 410 (1997).

### C. *The Requirement of Legal Sufficiency*

To be legally sufficient, the charges “must specifically allege substantial conduct” amounting to misfeasance, malfeasance, or violation of the oath of office. *In re Recall of Washam*, 171 Wn.2d 503, 514-15, 257 P.3d 513, 518 (2011). The legal sufficiency requirement protects officials from being “recalled for appropriately exercising the discretion granted him or her by law.” *Chandler*, 103 Wn.2d at 274, 693 P.2d 71. “Officials may not be recalled for their discretionary acts absent manifest abuse of discretion.” *In re Recall of Washam*, 171 Wn.2d 503, 515, 257 P.3d 513, 518 (2011).

### D. *Grounds for Recall*

The definition of misfeasance, malfeasance and violations of oath of office are set forth in RCW 29A.56.110, as follows:

For the purposes of this chapter:

- (1) “Misfeasance” or “malfeasance” in office means any wrongful conduct that affects, interrupts, or interferes with the performance of official duty;
  - (a) Additionally, “misfeasance” in office means the performance of a duty in an improper manner; and
  - (b) Additionally, “malfeasance” in office means the commission of an unlawful act;
- (2) “Violation of the oath of Office” means the neglect or knowing failure by an elective public officer to perform faithfully a duty imposed by law.

## IV. Acts and Omissions Constituting the Statement of Charges

The acts and omissions of Janelle L. Riddle as Yakima County Clerk, for which this Statement of Charges is brought are divided into the following general factual categories. Together, these charges amount to an indictment against Yakima County Clerk, Janelle L. Riddle, that she has conducted herself, while in office, in a manner that constitutes misfeasance, malfeasance and/or a violation of her oath of office. The charges are summarized as follows:

A. Actions or omissions by Janelle L. Riddle resulting in a failure of the Clerk of Court to transmit child support orders entered by the Yakima County Superior Court to the Washington State Support Registry (DCS) within five days of entry as required by statute, RCW 26.23.033(4), impairing the function of the court and causing delay or inability in the enforcement of such orders, loss of revenue to Yakima County, and exposing Yakima County to a risk of substantial liability;

B. Actions or omissions by Janelle L. Riddle resulting in a failure of the Clerk of Court to forward to appropriate law enforcement agencies domestic relations restraining orders (Type 3 Cases), paternity restraining orders (Type 5 Cases), and No-contact Orders (Type 1 Cases) entered by the Yakima County Superior Court as specifically required by statutes, RCW 7.92.180(1), 10.99.040(6), 26.50.100(1), 26.09.050(3), 060(8), and 26.26.130(11), thereby impairing the function of the court, the protections granted in such orders, and exposing Yakima County to a substantial risk of liability;

C. Actions and omissions by Janelle L. Riddle that have impaired the operation and functioning of the Superior Courts of Yakima County by refusing and/or failing to conform to the direction of the Yakima County Superior Court pursuant to statute, RCW 2.32.050(9) regarding in court duties and threat to close Yakima County Superior Court and Yakima County Clerk's Office;

D. Actions or omissions by Janelle L. Riddle resulting in a failure or delay in creating a record of judgments entered by the superior court and indexing of such judgments as required by RCW 4.64.030 and Civil Rule 78(e).

E. Actions and omissions by Janelle L. Riddle resulting in a failure to maintain proper accounts of moneys received by the County Clerk and failure to use the proper financial codes for deposits and track certain deposits in violation of RCW 2.32.050(2), which requires the Clerk to "keep records, files and other books and papers appertaining to the court.";

F. Actions and omissions by Janelle L. Riddle resulting in the Yakima County's failure to timely bill the Yakima County District and three municipalities for jurors provided to such courts from the Yakima County Superior Court juror pool, pursuant to agreement.

V. The substance of the charges is as follows:

A. Clerk's Failure to Forward Child Support Orders to Washington State Child Support Registry in Compliance with RCW 26.23.033(4).

RCW 26.23.033(4) provides:

Effective October 1, 1998, the superior court clerk, the office of administrative hearings, and the department of social and health services **shall, within five days of entry, forward to the Washington State Support Registry** a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation.  
(Emphasis added)

The Superior Court Clerk is required by statute, RCW 26.23.033(4), to forward to the Washington State Support Registry a true and correct copy of any order establishing or modifying a support obligation within five (5) days of when the order is entered. The

Division of Child Support will pay to Yakima County, in monthly installments, a portion of the budget for the County Clerk PROVIDED the County Clerk, among other things, complies with RCW 26.23.033(4). The payment for 2016 was to be \$256,000.00. (Declaration of Robyn Berndt, Ex. 14.

The County Clerk, between November, 2015, and, at least, August, 2016, failed to comply with RCW 26.23.033(4). Yakima County, in 2016, did not receive over \$200,000.00 in payments from DCS due in part to the County Clerk's failure to comply with RCW 26.23.033(4). Declaration of Michael Leita and Rand Elliott, Exhibit 3, Washington State Auditor's Report No. 1018319, p. 7.

On January 6, 2016, an employee of the Division of Child Support in the Yakima Field Office notified Division of Child Support Central Services that there was a possible issue with the Yakima County Clerk not sending support orders to the Washington State Support Registry as required by statute. On January 11, 2016, Central Services determined that orders in fact had not been forwarded to the Washington State Support Registry as required. Gail Hurlbert, County Fiscal Liaison, Child Support Program Administrator for the Division of Child Support sent Janelle Riddle an e-mail on January 11, 2016 advising there appeared to be a problem with forwarding support orders.

Gail Hurlbert, on January 12, 2016, sent Ms. Riddle an e-mail identifying certain case type 5 (Paternity cases) in which support orders had been entered but which orders had not been forwarded to the Washington State Support Registry. The e-mail asked Ms. Riddle to investigate, identify and resolve the problem.

Ms. Riddle, on January 13, 2016, responded to Ms. Hurlbert. Ms. Riddle stated:

*As an "early adopter" of this state courts' program, we are just to the point of finishing up the workflow process for those documents to automatically be emailed to the designated staff that WSSR would like to receive them. This has caused us a delay in processing as we anticipated and we are working diligently to get this workflow in place. What will happen is that when the document is data entered into the record and scanned for retention purposes, my staff will send it to a "queue" which will email those orders to your office every 15 minutes.*

The problem was not timely resolved and Ms. Hurlbert sent Ms. Riddle an e-mail on February 3, 2016, stating, in part:

*I don't believe this issue has been resolved yet as we are still getting calls from our field offices about missing orders. While we do understand the difficulties often encountered when switching to a new system, there must be a 'workaround' in place so that you can continue to transmit orders to WSSR during this transition period.*

*Our Central Operations unit receives the orders you transmit. Megan Saffold, the Supervisor from the intake unit, will be getting in touch with you tomorrow to get this worked out. Please let her know the status of the automated transmission of orders under the new Odyssey system and also when all of the orders NOT previously sent since November 1, 2015 will be transmitted.*

*Also note that the monthly reimbursements you receive from DCS are payment for the transmission of orders and copy requests. Since orders are not being transmitted I will likely need to withhold future reimbursements until all of the past orders are received and you are sending orders regularly again.*

Ms. Riddle's response prompted a reply e-mail from Ms. Hurlbert sent on February 16, 2016, stating in part:

*Thank you for the update on this.*

*I note you say you'll be getting orders back through January, but we will need orders back through November when you first switched over. So please talk to AOC about that also. Otherwise that's 2 months of orders not submitted to WSSR, which can mean several people not having their cases set up to collect child support for them!*

This issue came to the attention of Robyn Berndt in early February, 2016. She received three telephone calls from individuals with children in whose cases orders of child support had been entered. (Declaration of Robin Berndt). These individuals were not receiving child support because the County Clerk had not sent to DCS the orders of Child support entered in their cases. Without those orders, DCS could not collect for these individuals. Ms. Berndt, investigating further, learned that orders of child support obtained by the Yakima County Prosecutor's Office also were not being sent to DCS in accordance with the statutory requirements. (Declaration of Robin Berndt).

Ms. Berndt contacted Megan Saffold, an employee of DCS in Olympia. Ms. Berndt learned DCS was having trouble obtaining orders of child support from the Yakima County Clerk. Ms. Berndt offered to help DCS resolve the problem. (Declaration of Robin Berndt).



Ms. Berndt had her staff issue a report listing the number of family law (not paternity) cases in which support orders had been entered between November 1, 2015 and February 17, 2016 and identifying each one of those orders by date of entry, case name and case number. The report identified 1525 cases in which support orders had been entered. DCS received from the Yakima County Clerk only 681 or 44.7% of the support orders entered in that time frame. That report was sent to Ms. Saffold at DCS. (Declaration of Robin Berndt).

Ms. Berndt also had her staff prepare a report containing the same information for the time period February 18, 2016 through May 31, 2016. The report identified 1373 support orders which had been entered. DCS received only 451 or 33% of the support orders entered in that time frame. This report also was also sent to Ms. Saffold at DCS. (Declaration of Robin Berndt).

Between November 1, 2015 and May 31, 2016, Janelle Riddle, the Yakima County Clerk, failed to send to DCS 1760 support orders despite her obligation under RCW 26.23.033(4) and the substantial efforts made by DCS to obtain her compliance. Ms. Riddle's failure to comply with RCW 26.23.033(4) has caused Yakima County to lose approximately \$206,500.00 in reimbursement payments from DCS for the period January, 2016 through August, 2016. Ms. Riddle's failure to comply with RCW 26.23.033(4) also resulted in at least three custodial parents not being able to have their support orders enforced in a timely fashion by DCS. Another person currently is subject to a contempt proceeding because the Clerk did not send to DCS an order re child support entered June 30, 2016 until October 26, 2016. Yakima County Cause No. 16-3-00063-39.

An audit of the Yakima County Clerk's Office for the period January 1, 2015 through December 31, 2015, published as Washington State Auditor's Report No. 1018319, Declaration of Michael Leita and Rand Elliott; Exhibit 3, specifically found that:

*The Clerk's Office receives state and federal grant funding through the child support enforcement program. As a part of the statutory requirements, the Office must submit orders for child support to the State Department of Social and Health Services (DSHS) within five days of the*

*court order. If not received timely by DSHS, the Department may not allow reimbursement through the program. We noted the following control deficiencies related to the reporting of child support orders and Child Support Enforcement Grant reimbursement claims:*

- The Clerk's Office does not monitor the reporting of child support enforcement orders to ensure DSHS receives them within the required five-day period.*
- The Clerk's Office does not monitor grant activity to ensure grant claims are approved and reimbursements are received.*

*Additionally, in November 2016 the Clerk's Office was notified by DSHS that it may not be reimbursed for child support enforcement grant claims submitted from January to August 2016 as the Office did not ensure DSHS received child support orders within the required five-day timeframe. According to DSHS, only 3 percent and 7.8 percent of court orders were received timely during January and February 2016, respectively. This percentage increased from 22 percent to approximately 74 percent between March and August 2016. According to reimbursement requests, the amount of lost revenue is estimated to be approximately \$206,500.*

The Clerk's failure to timely transmit orders for child support to DSHS, over a period of more than eight months, is misfeasance, malfeasance and a violation of the Clerk's Oath of Office, and grounds for recall.

B. Clerk's Failure to Transmit Restraining Orders and No-contact Orders to Law Enforcement Agencies as Required by Statute or Law).

Restraining orders entered in domestic relations cases, paternity cases and criminal cases are required by law to be forwarded by the County Clerk to the appropriate law enforcement agency by the next judicial day after entry by the court. RCW 26.09.060(8), 26.09.050(3), 26.26.130(11), 26.50.100(1), 10.99.040(6), and 7.92.180(1). Such orders, if not forwarded to the appropriate law enforcement agencies, will not be enforced by law enforcement.

On July 25, 2016, Robyn Berndt, Court Services Director for Yakima County, was notified by a staff member that the staff member's adult daughter had obtained restraining orders in Yakima County Superior Court, Cause Number 15-3-01081-9, on May 4, 2016, May 17, 2016, and June 7, 2016. On the weekend preceding July 25, 2016, the protected person sought law enforcement agency assistance to enforce the

restraining orders and was advised that the order(s) had not been entered into the Spillman Data Base (data base used by law enforcement agencies in the State of Washington) and could not be enforced. (Declaration of Robyn Berndt)

As a result of the foregoing notification, Robyn Berndt asked a staff member to conduct a sampling of ten random domestic relations and parentage cases in which restraining orders recently had been entered to see if the Odyssey record indicated that the restraining orders had been forwarded to law enforcement in accordance with the County Clerk's statutory duty. Of the ten cases sampled, 40 per cent did not indicate that those orders were forwarded to the law enforcement agencies. This was verified by a telephone call to the applicable law enforcement agencies. Four of the ten orders sampled had not been forwarded to the applicable law enforcement agencies.

(Declaration of Robyn Berndt)

Robyn Berndt then asked one of her staff to prepare a broader report of all Case Types 1(Criminal), 3 (Domestic Relations) and 5 (Paternity), where restraining or no-contact orders had been entered for the months of June and July, 2016, to determine if those orders had been entered into Odyssey as having been forwarded to the law enforcement agencies, and whether those orders had been entered into the Spillman Law Enforcement Data Base. The results of that report reflect only the two month parameters of the report prepared. The results were as follows:

- Between June 1, 2016 and July 27, 2016, 129 Type 3 and 5 cases, were identified in which restraining orders were entered by the court. Of those orders, 121 should have been forwarded to the appropriate law enforcement agencies by the next judicial day after entry. 65 of those orders were marked "Faxed to LEA," and 64 of those orders were not marked;
- Of the 121 orders that should have been sent to a law enforcement agency, only 43 had actually been received by the law enforcement agency;
- Of the case type 1, criminal no-contact orders, for the period June 1, 2016 through July 27, 2016, 264 orders were entered by the court. 106 did not appear in the appropriate law enforcement agency data base, however, many of these had already expired at the time this investigation and report was prepared.
- As of July 27, 2016, we were able to identify 41 no-contact orders, in active cases, that had not been forwarded to the law enforcement agencies.

(Declaration of Robyn Berndt)

Ms. Berndt asked that report prepared by her office be sent to the Yakima County Sheriff's Office, to confirm and/or correct the information this investigation had produced. CarriAnn Ross, of the Yakima County Sheriff's Office, and her staff, reviewed the report, on a cases by case basis, checking the Spillman data base for entry of the orders. They did find a few of the orders that appeared in the Odyssey system as unmarked as "faxed to Law Enforcement," had actually been received by the appropriate law enforcement agency, however, the majority of the cases identified in the report as not forwarded to law enforcement, in fact, were not received by the appropriate law enforcement agency. (Declaration of Robyn Berndt; Declaration of Casey Schilperoort).

Robyn Berndt alerted the County Clerk of this problem on July 28, 2016, at a Law and Justice Meeting, and sent Janelle Riddle the Court Services report on July 28, 2016, offering the assistance of the Court Services Office if she needed it. (Declaration of Robyn Berndt; Exhibit 19). Ms. Riddle responded that they were running their own reports and did not need help. (Declaration of Robyn Berndt; Exhibit 20).

Judge Richard Bartheld met with Janelle Riddle on August 4, 2016, and instructed her to run reports back to January 1, 2016, and determine what restraining orders, protection orders and no-contact orders had been entered by the court, but not sent to the appropriate law enforcement agencies, and requested that she report to him within two weeks. On August 18, 2016, Ms. Berndt asked one of her staff to prepare a spot check report for the period July 22, 2016 through August 18, 2016. That report indicated that 21 orders had not been transmitted by the Clerk's Office to the appropriate law enforcement agencies, effectively denying court ordered protections to the protected parties. (Declaration of Robyn Berndt).

On September 19, 2016, Casey Schilperoort and CarriAnn Ross, of the Yakima County Sheriff's Office completed a case by case audit of all domestic relations and paternity (Case Types 3 and 5) and all criminal no contact orders (Case Type 1),

entered by the Yakima County Superior Court between January 1, 2016 and August, 2016. (Declaration of Casey Schilperoort, Ex. 1).

That investigation and report indicated that of all domestic relations and paternity case restraining orders entered during that period, which were required by statute to be transmitted to the appropriate law enforcement agencies by the next judicial day after entry, 157 of those orders had no record of receipt by the appropriate law enforcement agencies. 28 of those orders were still active restraining orders, and had not been entered into the data base. Five of those orders were orders that were required to be sent to the Yakima County Sheriff's Office but were not. The remaining 23 restraining orders were required to be sent to other identified law enforcement agencies but were not. (Declaration of Casey Schilperoort, Ex. 1).

Of the criminal no contact orders (Case Type 1) entered by the Yakima County Superior Court during that period, 38 orders were required by statute to be transmitted to the appropriate law enforcement agencies by the next judicial day after entry, but were not transmitted by the Clerk's Office to the appropriate law enforcement agencies.

Six of those orders were required to be transmitted by the Yakima County Clerk to the Yakima County Sheriff's Office, but were not. 32 of those orders were required to be transmitted to other law enforcement agencies by the next judicial day after entry, but were not. (Declaration of Casey Schilperoort, Exhibit 1).

The Clerk's failure to timely transmit Restraining Orders and No Contact Orders to law enforcement is misfeasance, malfeasance and a violation of the Clerk's Oath of Office, and grounds for recall.

C. Clerk's Failure to Perform In-Court Duties and Threat to Close Yakima County Superior Court and Yakima County Clerk's Office.

RCW 2.32.050 prescribes the powers and duties of court clerks as follows:

The clerk of the supreme court, each clerk of the court of appeals, and each clerk of a superior court, has power to take and certify the proof and acknowledgment

of a conveyance of real property, or any other written instrument authorized or required to be proved or acknowledged, and to administer oaths in every case when authorized by law; and it is the duty of the clerk of the supreme court, each clerk of the court of appeals and each county clerk for each of the courts for which he or she is clerk:

- (2) To record the proceedings of the court;
- (3) To keep the records, files, and other books and papers appertaining to the court;
- (4) To file all papers delivered to him or her for that purpose in any action or proceeding in the court as directed by court rule or statute;
- (5) To attend the court of which he or she is clerk, to administer oaths, and receive the verdict of a jury in any action or proceeding therein, in the presence and under the direction of the court;
- (6) To keep the journal of the proceedings of the court, and, under the direction of the court, to enter its orders, judgments, and decrees;
- (8) To exercise the powers and perform the duties conferred and imposed upon him or her elsewhere by statute;
- (9) In the performance of his or her duties to conform to the direction of the court;

“[A] clerk of court is an officer of a court of justice, who attends to the clerical portion of its business, and who has custody of its records and files and of its seal.”  
*Swanson v. Olympic Peninsula Motor Coach Co.*, 190 Wash. 35, 66 P.2d 842 (1937).

Court clerks are “ministerial officers of the court. *Buckley v. Harkens*, 114 Wash. 468, 473, 195 Pac. 250 (1921). RCW 2.28.010 provides states that, “Every court of justice has power . . . (5) to control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto . . . .”

#### (1) Electronic Record of Proceedings

Although Certified Court Reporters were once used by the superior court of this state to make the verbatim record of proceedings, most counties now use some kind of electronic recording technology instead of certified court reporters. (Declaration of Rand Elliott and Mike Leita, Exhibit A, Law & Justice Panel Review Committee Report, May 31, 2016) Former Yakima County Clerk, Kim Eaton, and the Yakima County Superior

Court, entered into a written Memorandum of Understanding in March, 2010, which provided that in-court deputy clerks would assume the duties of operating the electronic recording equipment for recording court proceedings, in addition to their other in-court duties. (Declaration of Sara Wixson; Exhibit 1). Two employees of Yakima County were transferred from Superior Court to the Yakima County Clerk's Office and the Clerk's budget was increased accordingly.

On December 29, 2014, Janelle Riddle, as Clerk-elect, entered into a written agreement with the Judges of the Yakima County Superior Court, which provided that ten designated employees of the County Clerk would be cross-deputized for service in the courtroom and would perform the statutory duties of the Clerk of Court under RCW 2.32.050, and 36.23.030, and the duties of the official reporter to keep a full record of all oral proceedings in court as required by RCW 2.32.200, effective January 1, 2015. (Declaration of Robyn Berndt; Exhibit 1, p. 2). The December 29, 2014 agreement also provided that the Clerk and the Presiding Judge of the Superior Court, or his/her clerks, and that all hiring, disciplinary and termination decisions were to be made jointly by the Clerk and Presiding Judge, or his/her designee. In the event of an impasse, disputes would be submitted to the "Hutton Commission" for resolution. (Declaration of Robyn Berndt; Exhibit 1, p. 2). The December 29, 2014 Agreement also provided that the parties (Clerk and Presiding Judge or designee) would meet on a regular basis to discuss concerns, issues or problems and would meet by June 30, 2015 to determine whether the Agreement would be continued and report to the Board of County Commissioners. (Declaration of Robyn Berndt; Exhibit 1, p. 2).

In an e-mail, dated March 20, 2015, Ms. Riddle announced she was backing out of the December 29, 2014 agreement stating:

*I have agreed to allow the court clerks to continue certifying my in-court deputy clerks to "take" the court's record, however, we can no longer be responsible for preserving those records along with the public's record after the court hearings. My deputies are only supposed to present the "start and stop buttons at the beginning and end of each session they attend. It is the responsibility of court administration to make sure the FTR recording device is running and tested*

*before and after court. We will also not be able to perform the courtroom duties as bailiff getting the courtroom prepared) the crier, and the reporter.*

A true and correct copy of Ms. Riddle's March 20, 2015 e-mail identified above, is attached to the Declaration of Robyn Berndt, Exhibit 2, p. 5.

At an "all-judges" meeting on March 30, 2015, called for the specific purpose of discussing Ms. Riddle's position regarding the operation of the FTR, and several additional issues having to do with the clerk's office being called upon to perform certain functions for the courtrooms, including proving copies of FTR sessions as requested and filling water pitchers for the courtrooms. (Declaration of Robyn Berndt, Exhibit 3, Transcript of Proceedings, Judicial Meeting with Janelle Riddle, Yakima County Clerk, March 30, 2015, pp. 3.5). Ms. Riddle complained that the in-court duties were taking the time of her clerks, at the conclusion of court sessions, but admitted in response to a question by The Honorable Gail Harthcock, that she really didn't know how much time that took. (Declaration of Robyn Berndt, Exhibit 3, Transcript of Proceedings, Judicial Meeting with Janelle Riddle, Yakima County Clerk, March 30, 2015, pp. 6-7).

Ms. Riddle asserted, several times during that meeting, that she did not want her clerks to be responsible for providing copies of specific court proceedings to those requesting them. At page 4 of the Transcript of Proceedings of the March 30, 2015 meeting, Ms. Riddle stated:

*Again, I want to work with the court, anything we can do, but There are certain duties I believe now that do fall under the court administration area. And should—I'm asking that the court take Back those responsibilities with the FTR requests.*

At page 11-12 of the Transcript of Proceedings of the March 30, 2015 meeting, the following colloquy occurred between Ms. Riddle and Judge Harthcock:

*JUDGE HARTHCOCK: Let me understand. So you don't have any problems with your in-court clerks doing the functions that they have been doing for us for years at this point in time. You are really just talking about the FTR requests right now?*



*MS. RIDDLE: correct.*

The duty to provide transcripts of court proceedings is clearly the duty of the court clerk, as set forth in RCW 2.32.050(7). Ms. Riddle's continuing threat to cease performing these functions is malfeasance, misfeasance and a violation of her oath of office.

At the March 30, 2015 meeting, Robyn Berndt informed Ms. Riddle of the significant budget consequences of her decision regarding in-court clerks duties and their operating the FTR system. Ms. Berndt had been asked by the Superior Court Judges to prepare an estimate of the cost to be incurred if the court hired additional staff to take over the in-court and FTR duties Ms. Riddle complained about. Based on Ms. Berndt's analysis and projection, the first year cost for such additional staff, including salary and benefits for ten employees would be \$475,498.00, and a one-time set-up cost of \$52,500.00, resulting in total first year cost projected at \$527,998.00. Staffing would increase from one person, a clerk, to two people per courtroom, performing these in-court functions.

Ms. Berndt surveyed other counties to see how they were handling these same tasks. 28 Counties responded to the inquiry. The in-court clerk operated the FTR in 26 of the responding counties; in two counties they did not, although one of those counties was Clark County, where they use live court reporters or JAVS. In 23 of the 28 counties responding, the clerk's office handled all FTR copy requests. Ms. Riddle acknowledged that she had not considered the cost or what other counties were doing in this regard, and agreed to continue with the status quo. (Declaration of Robyn Berndt, Exhibit 3, Transcript of Proceedings, Judicial Meeting with Janelle Riddle, Yakima County Clerk, March 30, 2015, p. 31, ll 18-24). Ms. Riddle also acknowledged that communication between her and the courts was desirable. She also agreed to, and signed an extension of the agreement between the Court and the Clerk, providing that the clerks would continue to be "cross-deputized" for service in the courtrooms. That agreement was, by its terms to continue in effect through December 31, 2015.

On April 14, 2015, the Clerk advised Court Administration that Court Administration staff no longer had access to the Clerk's office.

On October 6, 2015, Ms. Riddle informed the Court that she did not intend to renew the agreement relating to the operation of the in-court recording system when it expired on December 31, 2015. (Declaration of Robyn Berndt, Exhibit 4.) Ms. Riddle was sent an e-mail, stating that if it was in fact her intention to not renew the March 30, 2015 agreement with the Court, to notify the presiding judge immediately. (Declaration of Robyn Berndt, Exhibit 5; Email to Janelle Riddle from Presiding Judge Bartheld). Ms. Riddle did not respond to that request, but she did meet the Yakima County Budget Director, regarding the budgetary impact of such a change in operations, and subsequently sent a memorandum to the Budget Director, informing him that she would be willing to renew the agreement through 2016. (Declaration of Robyn Berndt, Exhibit 6; Memorandum to Budget Director)

It was this on-going concern relating to in-court clerk's duties and responsibilities, among several other concerns, that prompted Robyn Berndt to take this matter to the Yakima County Law and Justice Committee meeting on February 25, 2016.

Pursuant to Article IV. Section 24, of the Washington State Constitution, RCW 2.04.210, 2.08.23 and Civil Rule 83 (CR 83), the Judges of the Yakima County Superior Court adopted Local Administrative Rule 3 (LAR 3), entitled, "Courtroom Responsibilities and Procedures Assigned to Clerk," effective April 20, 2015. (Declaration of Robyn Berndt, Exhibit 8, p. 1). LAR 3 provides that the Clerk or her/his deputies shall be responsible for opening and closing courtroom before and after each court session, ensuring the courtrooms are provided with supplies and other customary requirements as directed by the judicial officer, announcing the opening and closing of each session of court, continuing to assist in efficiently carrying out the court process and assist in court as directed by the judicial officer, including providing forms necessary for the administration of the docket, calling the "Court Call"<sup>2</sup> operator to connect attorneys and/or parties on line, calling for security, paging interpreters,

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<sup>2</sup> Telephone service used by the Yakima County Superior Court to facilitate a telephonic appearance by a lawyer or litigant. (Declaration of Robyn Berndt)

ensuring the scanned files for cases and/or hearing assigned to the individual judicial officers to be heard are loaded in Liberty/Odyssey folders no later than 4:30 p.m. the day before matters are scheduled, ensuring that the digital recording system is working correctly by performing a systems test before each session of court, activating the recording system for each session and ensuring the integrity of the recordings by periodic checks, maintaining a log which described the events which occur in the courtroom and are the subject of the recording,<sup>3</sup> saving, maintaining and cataloging each recorded session in a manner allowing ease of access, making copies of digital recordings available on request of the Court, lawyers or the public, complying with all statutory requirements and otherwise conforming to the order and direction of the Court.

Janelle Riddle announced, on or about August, 2016, that she would not continue to abide by the December 29, 2014 Agreement, as Extended, and would not agree to any further extensions of that agreement, stating that in 2017 the in-court deputy clerks in Yakima County Superior Court will not operate the recording equipment, nor perform other courtroom functions they were then performing. (Declaration of Robyn Berndt). In so doing, Janelle Riddle has stated her intention to willfully and deliberately refuse to comply with RCW 2.32.050(2)(3)(5)(6) and (9).

After over a year of dysfunction in the office of the County Clerk, directly affecting the operations of the Yakima County Superior Courts, the Yakima County Commissioners appointed a panel of three, Jeffrey C. Sullivan, Abby M. Sanders and Richard R. Johnson to conduct an investigation and “assess and report on issues concerning Janell Riddle, the elected Clerk of Yakima County. (Declaration of Rand Elliott and Mike Leita, Exhibit A, Law and Justice Panel Report). Janelle Riddle was contacted in during the course of the investigation. In response, Janelle Riddle stated she would provide a written response to the investigation inquires on Friday, May 27, 2016. However, no response to the investigation inquiries was made by Janelle Riddle. The Law and Justice Panel Review Committee Report was published May 31, 2016.

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<sup>3</sup> To aid in the location of a particular proceeding in a full day’s recording CR 80.1 requires that “[w]hen the proceedings are electronically recorded, the court shall ensure that a written log of the proceedings is created that indicates the time of relevant events.”

The Committee Report with regard to the duties and performance of those duties by in-court clerks, was addressed by Yakima County Superior Court LAR 3, in effect from April 20, 2015. The Committee Report, citing Attorney General Opinion 2001, No. 6, September 10, 2001, suggested that the remedy available to the court if a county clerk violates a court rule is to issue an order and if the order is disregarded, impose contempt sanctions. (Declaration of Rand Elliott and Mike Leita, Exhibit A, Law and Justice Panel Report, Appendix A).

In a written response by Janelle Riddle, dated July 3, 2015, Ms. Riddle states, at paragraph 24:

*I have been threatened with contempt and going to jail if I don't do what the County Commissioners and Court want me to do. Therefore, I have no choice other than to prepare for this possibility by sending a Clerk's directive to the Prosecuting Attorney. I don't believe they realize what the severity of the consequences will be. I would have no choice other than to revoke the deputization (sic) of all my deputies (staff) and they would not be able to perform my duties in my absence which would close the Clerk's Office. The Court will not be able to hear cases without a Clerk present so the Courts will shut down. The jail will be overflowing because the Prosecutor will have no way to prosecute individuals. I would hope they know these consequences and will choose not to shut down our judicial system by such an action. I would be given no choice as I must ensure my mandated responsibilities are being met according to law.*

(Declaration of Rand Elliott and Mike Leita, Exhibit B, July 3, 2015 letter from Janelle Riddle)

Janelle Riddle threatened to shut down the Yakima County Superior Court and the Yakima County Clerk's Office. Those threats are misfeasance, malfeasance and a violation of her oath of office.

On August 9, 2016, the Yakima County Superior Court adopted Local Rules 7, 8, 9 and 10, copies of which are attached to the Declaration of Robyn Berndt as Exhibit 8, to address additional issues relating to the performance of duties by the Clerk and to

compel the Clerk of perform the in-court services and proper docketing services necessary to the operations of the court.

The Clerk's refusal to perform in-Court duties, the Clerk's threat to shut down the Yakima County Superior Court and the Clerk's threat to close the County Clerk's Office is misfeasance, malfeasance and a violation of the Clerk's Oath of Office, and grounds for recall.

D. Actions or omissions by Janelle L. Riddle resulting in a failure or delay in creating a record of judgments entered by the superior court and indexing of such judgments as required by RCW 4.64.030 and Civil Rule 78(e).

RCW 4.64.060 provides that:

Every county clerk shall keep in the clerk's office a record, to be called the execution docket, which shall be a public record and open during the usual business hours to all persons desirous of inspecting it. The record must be indexed both directly and inversely, and include all judgments, abstracts and transcripts of judgment in the clerk's office. The index must refer to each party against whom the judgment is rendered or whose property is affected by the judgment.

RCW 4.64.030 provides that:

(1) The clerk shall enter all judgments in the execution docket, subject to the direction of the court and shall specify clearly the amount to be recovered, the relief granted, or other determination of the action.

RCW 4.64.120 provides that:

It shall be the duty of the county clerk to enter in the execution docket a duly certified transcript of a judgment of a district court of this state and any duly certified abstract of any judgment of any court mentioned in RCW 4.56.200, filed in the county clerk's office and to index the same in the same manner as judgments originally rendered in superior court for the county of which he or she is clerk. Jurisdiction over the judgment, including modification to or vacation of the original judgment, transfers to the superior court. The superior court may, in its discretion, remand the cause to district court for determination of any motion to vacate or modify the original judgment.

The clerk of the court has similar statutory duties with regard to tax warrants, which shall be entered in the execution docket, in the same manner as judgments. RCW 82.32.210.

RCW 4.56.200 provides that:

The lien of judgments upon the real estate of the judgment debtor shall commence as follows:

(1) Judgments of the district court of the United States rendered or filed in the county in which the real estate of the judgment debtor is situated, from the time of the entry or filing thereof;

(2) Judgments of the superior court for the county in which the real estate of the judgment debtor is situated from the time of the filing by the county clerk upon the execution docket in accordance with RCW 4.64.030;

(3) Judgments of the district court of the United States rendered in any county in this state other than that in which the real estate of the judgment debtor to be affected is situated, judgments of the supreme court of this state, judgments of the court of appeals of this state, and judgments of the superior court for any county other than that in which the real estate of the judgment debtor to be affected is situated, from the time of the filing of a duly certified abstract of such judgment with the county clerk of the county in which the real estate of the judgment debtor to be affected is situated, as provided in this act;

(4) Judgments of a district of this state rendered or filed as a foreign judgment in a superior court in the county in which the real estate of the judgment debtor is situated, from the time of the filing of a duly certified transcript of the docket of the district with the county clerk of the county in which such judgment was rendered or filed, and upon such filing said judgment shall be come to all intents and purposes a judgment of the superior court for said county; and

(5) Judgment of a district court of this state rendered or filed in a superior court in any other county in this state than that in which the real estate of the judgment debtor to be affected is situated, a transcript of the docket of which has been filed with the county clerk of the county where such judgment was rendered or filed, from the time of filing, with the county clerk of the county in which the real estate of the judgment debtor to be affected is situated, of a duly certified abstract of the record of said judgment in the office of the county clerk of the county in which the certified transcript of the docket of said judgment of said district court was originally filed.

The Execution Docket is relied upon by the public, title companies and others with regard to the conduct of their business within the county. Particularly title

insurance companies rely upon the execution docket record prepared and maintained by the county clerk for the purposes of reporting upon the title to real estate and insuring the title to such real estate. The title companies doing business in Yakima County have been unable to rely upon the execution docket kept and maintained by the county clerk because the clerk has failed to perform her statutory duties of keeping and maintaining the execution docket.

Upon investigation, the Law and Justice Panel Review Committee Report, dated May 31, 2016, Summary of Investigative Findings, found that:

*The issue regarding judgments predated Odyssey's implementation. At one point the Clerk's office was simply very far behind in entering documents. However, Oma Jolly, with Fidelity Title Company, has been tracking judgments since Odyssey went live. Every day she checks the new judgment index and notes any missing judgment numbers. If she runs into missing numbers she searches the judgment number in Odyssey and can find out what case they belong to. She then puts the missing judgments in her report so that she can be up to date on what judgments have been entered even when they don't show on the index. When older judgments hit the index she crosses them off her list, but she notes that there are still a good number of judgments that are never shown. She is concerned that judgments are falling through the cracks.*

*It appears that some of the judgments on the list are not really judgments at all. Odyssey assigns a judgment number to cases, like Juvenile Court's Order on Adjudication and Disposition, which should not receive a judgment number at all. However, not all of the missing judgments are misclassified; some actual judgments are not showing up on the index.*

*Ms. Riddle's response to the judgment issue by e-mail through her counsel, was: "I am not sure what else can be done until the staffing issue is sorted out. It seems to me if the County Clerk's office had adequate staffing then there probably would not be a problem."<sup>4</sup>*

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<sup>4</sup> The issue of adequate staffing of the Clerk's Office was also investigated by the Panel. The investigation revealed that the clerk's office was in fact short employees. However, the reason for the staff shortage was because Ms. Riddle did not submit the proper paperwork to the County Human Resources Director, Linda Dixon, including job descriptions sufficient to permit hiring of additional employees. (Declaration of Sara Wixson, Exhibit 1 Law and Justice Panel Review Committee Report, Summary of Investigative Findings, dated May 31, 2016, p 30) Moreover, as noted in the Summary of Investigative Findings, at page 38, "There were four experienced staff at the Juvenile Court facility. Three have quit. The clerk's office in the facility is sometimes closed during business hours with a note affixed to the door directing people to the downtown office. This is the result of staffing shortages and happens without warning."

(Declaration of Sara Wixson, Exhibit 1, Summary of Investigative Findings, pp. 21-22).

The Yakima County Juvenile Court relies heavily on diversion programs, requiring an alleged offender to make restitution payments, have no violations of the law, and upon completion of the diversion program, the case is dismissed. (Declaration of Sara Wixson, Exhibit 1, Law and Justice Panel Review Committee Report, Summary of Investigative Findings, dated May 31, 2016, p. 38). Since the Odyssey program went “live,” in November, 2015, no accounts have been opened in Odyssey, and no receipts of money paid for restitution and/or other charges have been receipted to the juvenile cases. Victims are not receiving the restitution ordered by the court and the juvenile probation office case managers are unable to track the money being paid into the court. (Declaration of Sara Wixson, Exhibit, Panel Review Committee Report, Summary of Investigative Findings, dated May 31, 2016, pp. 38-39)

Neither the court, nor the juvenile diversion staff have any means by which to track these diversion payments. As a result a number of juvenile cases on diversion cannot be closed, even after the juvenile has paid the court ordered restitution, because the diversion staff cannot verify such payments. This has resulted in a substantial delay in closing juvenile cases on diversion, and created a hardship to both the victims and juvenile offenders who have completed the diversion requirements. (Declaration of Sara Wixson, Exhibit 1, Law and Justice Panel Review Committee Report, Summary of Investigative Findings, dated May 31, 2016, pp. 38-39).

By January 12, 2016, Robyn Berndt, Yakima County Court Services Director, had received a number of e-mails from Juvenile Court Administration, complaining that for over three months they had been unable to resolve issues with the Clerk’s Office regarding overpayments of restitution by juveniles and reimbursement. Nor were they able to determine if the victims had received restitution. Ms. Berndt requested that Ms. Riddle “look into” the matter. Ms. Riddle did not respond. (Declaration of Robyn Berndt; Exhibit 1, pp. 1-5)



On January 22, 2016, Ms. Berndt, again e-mailed Ms. Riddle. (Declaration of Robyn Berndt; Exhibit 1, p. 6). Still no response from Ms. Riddle was received. (Declaration of Robyn Berndt).

On February 4, 2016, Ms. Berndt again sent an e-mail to Ms. Riddle, offering assistance and requesting a response from Ms. Riddle. (Declaration of Robyn Berndt; Exhibit 1, p. 6).

By March 16, 2016, additional juvenile cases, involving restitution issues, had been discovered. (Declaration of Robyn Berndt; Exhibit 1, p. 9).

By April 5, 2016, the problem was still not resolved. Robyn Berndt sent another e-mail to Janelle Riddle, notifying her of this continuing problem and offering the assistance of the Court Services Office. (Declaration of Robyn Berndt; Exhibit 1, p. 14).

By June 10, 2016, the issue regarding restitution in juvenile diversion cases had not been resolved. Ms. Berndt sent another e-mail to Janelle Riddle, notifying her that these issues had still not been resolved and that the Superior Court Judges wanted the issues resolved by June 13, 2016. (Declaration of Robyn Berndt; Exhibit 1, p. 13).

By an e-mail dated August 9, 2016, sent to Judges Reukauf and Elofson and to Robyn Berndt, Janelle Riddle notified the recipients that the clerk's office staff "would not be entering anything into Odyssey" (regarding juvenile diversions). (Declaration of Robyn Berndt; Exhibit 1, p. 15). Judge Elofson responded by e-mail to Ms. Riddle promptly, advising her that her position was unacceptable, and encouraging Ms. Riddle to discuss this issue with him. (Declaration of Robyn Berndt; Exhibit 1, p. 19).

The Clerk's failure to or delay in creating a record of each judgment entered in Yakima County Superior Court is misfeasance, malfeasance and a violation of the Clerk's Oath of Office, and grounds for recall.

E. Actions and omissions by Janelle L. Riddle resulting in a failure to maintain proper accounts of moneys received by the County Clerk and failure to use the proper financial codes for deposits and track certain deposits in violation of RCW 2.32.050(2), which requires the Clerk to “keep records, files and other books and papers appertaining to the court.”

An audit of the County Clerk was conducted by the Washington State Auditor, for the period January 1, 2015 through December 31, 2015, and published as Report No. 1018319. A true and correct copy of the aforesaid Accountability Audit Report is attached to the Declaration of Rand Elliott and Mike Leita, marked Exhibit C, and by this reference incorporated herein.

The audit found that, “The Clerk’s Office does not have adequate internal controls or oversight of its financial operations to safeguard public resources. (Declaration of Rand Elliott and Mike Leita, Exhibit C, page 5.) Noting that the County Clerk’s Office collected \$1,157,034.00 in revenue from fines, fees, and restitution payments in 2015, the audit report found the following control deficiencies regarding the monthly bank account reconciliation process for trust accounts:

- The person responsible for reconciling the trust account is also responsible for receipting money, preparing and depositing funds to the County Treasurer and adjusting cash receipts and accounts receivable. There has been no secondary or independent review of bank reconciliations since the implementation of the new software system in November 2015.
- The office does not retain adequate supporting documentation of trust account reconciliations to allow for an effective secondary review.
- Specifically, the Office did not retain complete documentation of reconciling items used to support the difference between the bank balances and system balances. Without documentation of the reconciling items, we were unable to verify that bank reconciliations were performed accurately and that all funds were accounted for.
- In the prior audit we noted several pages of reconciling items dating back to 2009 that were not adjusted in the system or corrected through the bank. Through discussion with staff, these reconciling items remain uncorrected.
- Trust account bank reconciliations are not always performed timely. The August reconciliation was performed 37 days after the statement date and

the September reconciliation was not yet complete during our audit in late November.

- The policy governing bank reconciliations is outdated as it specifically refers to the previous accounting systems and former County Clerk.

The audit report notes that, “**Similar concerns were identified during the prior two audits and discussed with management during the audit exit conferences.**”

The Clerk’s failure to maintain proper account of the moneys received by the Yakima County Clerk’s Office is misfeasance, malfeasance and a violation of the Clerk’s Oath of Office, and grounds for recall.

F. Actions and omissions by Janelle L. Riddle resulting in the Yakima County’s failure to timely bill the Yakima County District and three municipal for jurors provided to such courts from the Yakima County Superior Court juror pool, pursuant to agreement.

The Clerk’s Office provides jury services (jurors form the County Pool) to the Yakima County District Court and three municipal Courts, Yakima Municipal Court, Union Gap Municipal Court, and Grandview Municipal Court. The District Court and the municipalities are to be billed monthly for the jurors provided by the County. The Audit Report found that,

*The Clerk has not established procedures to ensure the Office is paid for these services. The Office has not billed or collected for jury services provided to the District and two municipal court from May 2015 through August 2016. We estimate these services to be approximately \$44,500. In addition, the Clerk provided jury services for one municipal court without an agreement in place from May 2015 to September 2016. The agreement was subsequently signed and billed in October 2016 for \$52,411, sixteen months after the service period started.*

Declaration of Michael Leita and Rand Elliott, Exhibit 3 Washington State Auditor’s Report No. 1018319, p. 6.

These issues have been on-going, since the prior State Audit. The Clerk’s failure to timely bill Yakima County District Court and certain municipal courts for jury services provided by the Yakima County Clerk’s Office is misfeasance, malfeasance and a violation of the Clerk’s Oath of Office, and grounds for recall.

V. Conclusion.

In the two years since taking office, County Clerk, Janelle Riddle: (1) failed to properly discharge her statutory duty to timely transmit to DSHS, Division of Child Support, orders of child support entered in Yakima County Superior Court, resulting in the loss of an estimated \$206,500.00 of revenue to Yakima County; (2) has failed to properly discharge her statutory duties to timely transmit to the appropriate law enforcement agencies, restraining orders entered in Yakima County Superior Court; (3) has refused to perform in-Court duties imposed on the Clerk by statute and Court Rule, has threatened to shut down the Yakima County Superior Court and has threatened to close the Yakima County Clerk's Office; (4) has delayed or failed comply with the statutory duty to create a record of each judgment entered in the Yakima County Superior Court; (5) has failed to comply with the statutory duty to maintain account of the moneys received by the Yakima County Clerk's Office; and 6) has failed to provide the data necessary to create billing to the Cities of Yakima, Union Gap and Grandview, Washington for jurors provided to such municipalities, resulting in extensive delays in billing or the failure to bill for such jurors.

The factual basis for these charges includes the information contained in the attached Exhibits, which by this reference, are incorporated herein

The undersigned declare, under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct to the best of our knowledge, and that we have sufficient knowledge of the alleged facts upon which the stated grounds for recall are based.

Dated: at Yakima, Washington, \_\_\_\_\_, 2017.

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Rickey C. Kimbrough  
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#### EXHIBIT INDEX

- EXHIBIT NO. 1: Declaration of Robyn Burndt
- EXHIBIT NO. 2: Declaration of Christine Crouch
- EXHIBIT NO. 3: Declaration of Casey Schilperoort
- EXHIBIT NO. 4: Declaration of Rand Elliot and Mike Leita
- EXHIBIT NO. 5: Declaration of Sarah Wixson

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RECALL OF YAKIMA COUNTY CLERK ) DECLARATION OF ELECTRONIC  
JANELLE L. RIDDLE, STATEMENT ) TRANSMISSION  
OF CHARGES )  
)  
\_\_\_\_\_ )

I certify under penalty of perjury under the law of Washington that the following is true.

I have examined the attached which consists of 1 page(s) including this Declaration and determined that they are complete and legible. The foregoing documents were received by me at DOBBS & YOUNG LAW OFFICE, P.S., 302 N. 3<sup>rd</sup> Street, Suite 202, Yakima, Washington 98901; telephone number (509) 577-9177; facsimile number (509) 452-8815 on May 17, 2017.

DATED this \_\_\_\_ day of MAY, 2017.

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KIMBERLEY JONES