

Judge blocks proposal for big hikes in immigration filing fees

By [Keith Lewis](#), CQ

A federal judge has blocked a proposal by the Justice Department's Executive Office for Immigration Review to significantly increase filing fees in immigration proceedings, in some instances by more than 800 percent.

Judge Amit Mehta of the U.S. District Court for the District of Columbia on Monday issued a nationwide injunction to stop most of the fee increases, ranging from \$205 to \$865, from taking effect the following day.

The court left in place some of the more modest increases, including an uptick from \$110 to \$145 to file a motion to reconsider and a \$675 fee to appeal a practitioner disciplinary case. It also declined to rule on a \$50 asylum application fee, which is already the subject of two federal court injunctions, according to the 35-page ruling.

EOIR unveiled the interim final rule on Dec. 18 to sharply increase filing fees in immigration courts and before the Board of Immigration Appeals, including a \$975 fee to appeal a decision, up from \$110. Since 1986, no immigration-related filing fee has exceeded \$110, according to the court.

The revised fee schedule was supposed to take effect Tuesday, but a handful of nonprofit immigrant rights groups led by the Catholic Legal Immigration Network Inc. sued on Dec. 23.

"These exorbitant fees are another 'wealth test' for immigrants that would further cut off avenues to justice for those seeking safety in the United States and long-term residents who are essential members of their communities," said Kate Melloy Goettel, legal director at the American Immigration Council in a Dec. 24 statement.

"The fee increases are staggering. They will have an immediate, devastating impact on access to justice for individuals with few or no economic resources fighting to stay in their communities and out of harm's way," she added.

The judge agreed. In a review of more than 600 comments received on a notice of proposed rulemaking published March 5, 2020, the court highlighted emerging themes that supported plaintiff's challenges: that the increases were too severe and would harshly impact lower-income litigants with fewer financial resources.

Many comments questioned the methodology behind a 2018 study EOIR relied upon to justify the fee increases, and federal officials ignored multiple requests to extend the comment period in light of the ongoing COVID-19 pandemic, according to the court.

The court's granting of a preliminary injunction is based on a finding that the plaintiffs are likely to succeed on the merits and would suffer irreparable harm if the policy isn't blocked pending trial.

The parties were ordered to convene by Jan. 27 to schedule further proceedings in the case.

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