Judicial Information System Committee Meeting April 22, 2022

DECISION POINT – Proposed Amendment to GR 31.

MOTION:

I move that the JISC propose two amendments to GR 31 to the Supreme Court for their review and potential adoption. The proposed amendments to GR 31 would have two effects:

- Clarify that AOC has no duty to review or redact court documents filed in systems connected to the JIS.
- Clarify that the AOC is not responsible for the content of any court documents filed in systems connected to the JIS as part of projects reviewed and approved by the JISC.

I. BACKGROUND

In April of 2018, JISC approved the development of a public access viewer for appellate court records filed electronically with the Courtof Appeals and the Supreme Court. AOC staff from the Court Services Division and Information Services Division worked with the appellate clerks to develop detailed requirements for the system. This work resulted in the creation of draft Public Access Parameters Documentation in September of 2020. The draft requirements would require publication of 24 categories of documents for the Court of Appeals and 24 categories of documents for the Supreme Court. Many of these documents contain information that may be considered sensitive, confidential, or special-handling required.

II. DISCUSSION

This is the first time AOC has been asked to maintain a portal that will broadly expose court records (other than briefs and opinions) to the public, but this issue is likely to also arise in the trial court context in the near future as eFiling is implemented across the Courts of Limited Jurisdiction Case Management System (CLJ-CMS) and Superior Court Case Management System (SC-CMS). The AOC regularly receives communications and threats of litigation from members of the public unhappy with information that is published by existing systems or posted on the courts.wa.gov domain, and the frequency of these communications is likely to grow proportionately when the amount of information and documents is substantially increased as AC-ECMS and other document systems go live.

AOC does not have authority to review or remove any documents published through systems like the AC-ECMS, but also does not have an explicit disclaimer of liability for these documents and the information contained therein.

III. PROPOSAL

AOC is asking the JISC to propose two amendments to GR 31 to the Supreme Court for their review and potential adoption. The proposed amendments to GR 31 would have two effects:

- Clarify that AOC has no duty to review or redact court documents filed in systems connected to the JIS.
- Clarify that the AOC is not responsible for the content of any court documents filed in systems connected to the JIS as part of projects reviewed and approved by the JISC.

IV. OUTCOME IF NOT PASSED –

If the bylaw amendments are not passed, AOC may be subject to challenge based on the content of documents contained within the AC-ECMS or future eFiling repositories.