The Court of Appeals
of the
State of Washington

C. KENNETH GROSSE, JUDGE
(RETIRED)
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May 13, 2014

Hon. Barbara Madsen, Chief Justice and
Members of the Supreme Court
c/o Clerk of the Supreme Court
PO Box 40929
Olympia, WA 98504-0929
supreme@courts.wa.gov

Re: Proposed Changes to GR 15

Dear Chief Justice and Members of the Supreme Court,

Please excuse this late entry, but I must confess to being taken aback both by the content and scope of the proposed changes, and by being caught flat footed as to the direction of the committee generating this proposal, as I was operating under the assumption that what was under consideration were necessary technical changes, particularly insofar as juvenile court records were concerned, not a sweeping substantive review. These proposed changes turn the basic tenet underlying GR 15 on its ear and disregard the decade's long effort at compromise and practical analysis encompassed by the existing rule.

Eric Stahl has sent you a thorough and accurate critical analysis of the proposal to which I can add nothing except to underscore the necessity of keeping an eye on the prize: Open courts and justice openly arrived at, including public access to court records, absent compelling counter-vialling privacy interests.

As some of you know, I spent a great deal of time and effort during my 29 years on the Court of Appeals struggling with these issues. While times and people change such that statutes and rules require periodic review and updating, I submit that those changes do not in any way justify the change in direction contemplated by these proposals.

Admittedly, it is both a strong point and a weakness of our judicial system that one can be subject to its processes and ministrations without consent, or compelled to seek access to it out of necessity. The balance between the lowered standard for initiation and the burden on the counter parties is always difficult and everyone who sits or has sat as a judicial officer knows that viscerally. Nevertheless, there is no privacy

interest, as such, in having ones records sealed or expunged, nor are there any compelling policy arguments that overcome the public's interest in access to judicial records, regardless of their content, except in the presence of individualized privacy concerns, e.g., financial records. Practical relief from the impact of judicial proceedings may be available through the legislative process and should be supported where a good case can be made, but a need for practical relief does not justify attempts to eradicate or obfuscate access to public records.

More work on these problems may be needed, and I am available to help should you request it, but the current proposal should be rejected in its entirety.

Yours very truly,

C. Kenneth Grosse