CLJ-CMS Project Steering Committee Meeting **April 14, 2020**

DECISION POINTS – Statewide CLJ Electronic Filing Decisions

I. E-Filing Charging Model

MOTION:

- I move that the base service charge for CLJ-CMS e-filing be $5.00 per envelope, as proposed by Tyler Technologies, with waivers for protection order cases for which there is no filing fee, persons who are indigent, qualified legal services providers, and government filers.

Analysis

The CLJ-CMS Project Steering Committee (PSC) determined that electronic filing (e-filing) was necessary to improve efficiency and access to information. The PSC approved Odyssey File and Serve (OFS) as the e-filing solution for the CLJ-CMS project.

OFS is a service that is hosted by Tyler Technologies. Tyler will be responsible for implementation, training court personnel and the legal community, 24x7 Help Center support for courts and the public, and ongoing system maintenance.

Tyler charges a fee for their services, but exemptions are available for protection order cases and those involving indigent parties, qualified legal services providers, or government filers such as prosecutors and public defenders.

GR 34 allows persons who are indigent or their qualified legal services provider (QLSP) to seek a waiver of filing fees or surcharges. Filing fees are not charged for DV Protection Orders (RCW 26.50.040), Sexual Assault Protection Orders (RCW 7.90.055), and Stalking Protection Orders (RCW 7.92.080).

In addition, it has been the practice to exempt other governmental agencies, such as prosecutors and public defenders, from paying fees to access the courts' statewide electronic resources. RCW 2.68.010 provides that "no fee may be charged to county or city governmental agencies within the state of Washington using the judicial information system for the business of the courts."

Jurisdictions around the country have used different methods to fund e-fling implementation and maintenance, such as increased filing fees, transaction-based service charges, or government appropriations. For the CLJ-CMS project, Tyler proposes a transaction-based service charge based on $5 per "envelope". An envelope is a document or bundle of documents filed in a transaction.

There is no governmental appropriation for the e-filing services. The CLJ-CMS project plan and budget do not include the resources and time that would be necessary to develop a modern and secure e-filing system, implement the system in courts statewide, train hundreds of court personnel and the legal community, provide 24x7 customer service for courts and the general public, and maintain the software and infrastructure for such a system.

Most courts that have e-filing systems charge processing fees for matters that involve payment of filing fees and some require account set-up charges for participants to access documents. In other cases, the cost of providing e-filing services is absorbed by the city or county.

II. Optional or Mandatory E-Filing and Transition Period

MOTION:

- I move that local courts adopting the CLJ-CMS statewide e-filing solution initially allow optional e-filing, and move to mandatory e-filing by attorneys within 90 days of implementation for the pilot courts and 30 days after implementation for the remaining courts implementation.

Analysis

As Odyssey File and Serve is implemented in a court, the court staff's daily duties will increasingly change from a paper process to an electronic process. Due to this, Tyler recommends that courts transition to an e-File model quickly after the implementation to reduce the reliance on the paper process and to minimize the disruption from court personnel working with both paper and electronic documents. This has the potential to reduce the workload of the court staff, increase productivity, and increase the availability of electronic records for judicial decision-making and access to the public.

GR 30 allows courts to offer optional e-filing and/or e-service for both attorneys and non-attorneys. Courts can mandate e-filing and/or e-service *only* for attorneys, and only if they adopt a local rule requiring mandatory e-filing and/or e-service.

Statewide implementation of File and Serve could be handled in multiple ways:

1. File and Serve could be implemented statewide as an optional service for all filers.

   This option allows maximum flexibility for filers, but has disadvantages:

   - Court staff would have to continue to process paper documents, which is more labor intensive.
   - Court staff would have to scan more paper documents when they implement Odyssey.
   - Fewer documents would be available for viewing statewide.
   - Court staff would be operating in two different environments using two different processes which can be confusing for staff and would not be efficient for the office.
   - If fewer users file electronically, revenue may not be sufficient to cover costs of the service and support. There is no state funding to make up the difference.

2. All courts that use File and Serve could be required to adopt a local court rule mandating that attorneys file and serve documents electronically. King County, Pierce County, and the City of Spokane have all adopted local court rules mandating e-filing for attorneys.

   Some courts may not agree to mandatory e-filing for attorneys or want to adopt local rules. That could result in a patchwork implementation of CLJ e-filing around the state, resulting in less adoption of e-filing statewide. This would have some of the same negative consequences listed above: court staff would have to scan more paper documents later when they implement Odyssey, and fewer electronic documents would be available for viewing by judicial officers and the public statewide. GR 7 requires courts to file all proposed local rules with the Supreme Court by July 1 of any year in order to be effective by September 1 of that year. So if the CLJ-CMS project implemented statewide *mandatory* e-filing for attorneys by approximately September 1, 2021, all local courts would have to file their

proposed e-filing rules no later than July 1, 2021. That allows courts more than a year to adopt local rules. In addition, GR 7(e) allows courts to file emergency rules that remain in effect for 90 days, and can be readopted for subsequent 90-day periods. Emergency rules would not be ideal, but are permitted by GR 7.

3. GR 30 could be amended to mandate e-filing and/or e-service for attorneys for CLJs statewide.

   While this option would make it easier for the project to implement mandatory e-filing for CLJs statewide, there could be significant opposition among various stakeholder groups to changing GR 30 unilaterally for all courts of limited jurisdiction.

4. Individual courts could choose to adopt either permanent voluntary e-filing for attorneys, or mandatory e-filing for attorneys after a couple of months.

   This option would allow maximum flexibility for individual courts, but would add a burden for AOC, because each court's option would have to be separately configured at the time of implementation of e-filing.