

Faulk, Camilla

From: Sullins, Nancy
Sent: Friday, June 22, 2007 10:32 AM
To: Faulk, Camilla
Subject: FW: Comments Regarding Proposed Amendments to GR 30 (Electronic Court Filing Procedures)

Importance: High



Comments to
posed Amendme

-----Original Message-----

From: Lorton, Joy A. [mailto:JALORTON@stoel.com]
Sent: Thursday, June 21, 2007 4:11 PM
To: AOC DL - Rules Comments
Cc: roger.winters@kingcounty.gov
Subject: Comments Regarding Proposed Amendments to GR 30 (Electronic Court Filing Procedures)
Importance: High

TO: JUDICIAL INFORMATION SYSTEMS COMMITTEE

I appreciate this opportunity to submit my comments regarding the proposed amendments to GR 30. Overall, I strongly favor the amendments because I believe that, if adopted, they will make electronic filing in Washington Superior Courts considerably more user-friendly. I believe the amendments will maintain the integrity of electronic filing without sacrificing quality control. As a result, I think they will encourage more participation by those who haven't yet learned about the benefits of electronic filing. Attached is a pdf copy of my letter which more fully explains my comments and my reasoning behind them.

JOY

Joy A. Lorton
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June 21, 2007

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WASHINGTON COURTS
JUDICIAL INFORMATION SYSTEMS COMMITTEE

Re: Comments Re Proposed Amendments to GR 30

Dear JISC:

I appreciate your consideration of my comments concerning the proposed amendments to GR 30 which I have more fully explained below.

COMMENTS RE PROPOSED AMENDMENTS TO GR 30

Definitions of "digital signature, electronic filing, electronic document, electronic filing technical standards, and filer"

Comment

I completely agree with all of the definitions of the terms specified above as contained in the proposed amendments.

Electronic filing authorization, exception. Service, and technology equipment – Section (b)

- Requires filer or parties who agree to e-filing to provide their email address and to have a mailbox sufficient to receive electronic transmissions of court document. (See proposed GR 30(b)(3).)

No Comment



- Removes statement that electronic filing is voluntary. The proposed rule permits local courts to require attorneys (but no self-represented litigants) to electronically file. The work group felt that the revision would encourage attorneys to participate in electronic filing and protect a local court's authority to make e-filing mandatory.

Comment

I would very much like to see electronic filing made mandatory in Washington's Superior Courts, and I believe the proposed amendments are a step toward this goal.

I feel that Washington Superior Courts' electronic filing system would improve in a major way if the U.S. District Court's ECF system was used as a model. Those of us with extensive electronic filing experience have learned in the last few years to appreciate the efficiency of e-filing in Federal Courts. I believe there should be some uniformity in electronic filing between State and Federal Courts. I think that the proposed amendments help to achieve that purpose.

Before preparing my comments, I conducted an informal survey of litigation secretaries who work for STOEL RIVES LLP, as well as other litigation support staff who work in firms throughout greater Seattle. In the responses I received, I heard the same remark over and over and over. The one (and most often the only) reason why litigation staff persons say they refuse to use King County Superior Court's electronic filing system is because they must still have paper working copies delivered to the assigned Judge. Even if pleadings are electronically filed, there is currently no procedure in place to electronically transmit working papers to the Judge. The ability to do so would bring what is now perceived as an outdated procedure up to par with available technology. If only this one change were made, I'm confident that the number of litigation staff and attorneys willingly converting to electronic filing in Superior Courts would increase dramatically. While I advocate the implementation of mandatory electronic filing in Washington's Superior Courts, I (and many others with whom I've spoken) do not want it to take effect without first changing this part of the procedure.



Time of Filing, Confirmation, and Rejection—Section (c)

- If a document is rejected for failing to comply with applicable electronic filing requirements, the clerk must state the reason for the rejection. (See GR 30(c)(3).)

Comment

I agree it should be the responsibility of the Clerk to notify an e-filer of the reason that an electronically filed document has been rejected. That said, however, there's an underlying issue here that I think should also be addressed. Even if it isn't within the scope of GR 30, I believe it is interconnected with the topic of rejected electronic documents.

It is my understanding there will be a time lapse of 1-2 days after an electronic filing is completed before it is checked for quality control by staff in the Clerk's Office. This means it could be 1-2 days before an e-filer is notified that an e-filed document has been rejected (for whatever reason). At this time, the e-filer has the opportunity to correct the document and re-file it electronically. However, in this scenario I believe that the e-filing would be considered late, even if the corrected document is immediately e-filed. I think this problem could be resolved if the original e-filing date would be considered as the actual filing date.

Authentication of Electronic Documents—Section (c)

- The requirement that the filer obtain a password and personal identification number from either the Administrative Office of the Courts or the clerk is removed. Instead, the filer must apply for and receive a user ID and password from the electronic filing service provider and file the document using the user ID and password. This will simplify the authorization process. The filer may also authorize another person to use his or her user ID and password thereby allowing paralegals and others to electronically file documents at the request of others. Similar electronic filing procedures are used in the United States District Court—Western District of Washington. (See GR 30(d)(1)(A-C).)



Comment

I believe the current requirement that an attorney must ask for a new User ID, Password and Personal Identification No. (PIN) every time they are misplaced or forgotten is totally impractical. More likely than not, this has resulted in some e-filers having multiple User IDs, Passwords and PINS. I think this may have made their User IDs, Passwords and PINS more vulnerable to fraudulent use. For these reasons, I agree with the proposed amendment removing this requirement.

I also believe the current requirement that every affiant or declarant must log onto the Superior Court's electronic filing system with their own User IDs, Passwords and PINS because, together, they represent the individual's "electronic signature" is overly burdensome. I can't imagine having to tell clients they must go on-line to request a User ID, Password and PIN for this purpose only. This also ties in with what I've said above about needing to request a new User ID, Password and PIN every time they are forgotten or misplaced. I do not believe it is a client's responsibility to maintain their own User ID, Password and PIN for possible use in the future.

I believe that a permanent User ID and Password should be issued to each attorney who electronically files in Superior Court. This is common practice in the Federal Courts' ECF system. I think an e-filing service provider should issue permanent User IDs and Passwords and maintain a centralized record of them. Then if an e-filer loses or misplaces theirs, they can ask the e-filing service provider for the previously issued User ID and Password.

In all practicality, I think attorneys should be able to authorize appropriate individuals in their offices to access their User IDs and Password in order to electronically file documents on their behalf. This, too, is already common practice when electronic filing is done in Federal Courts.

- Any electronic document requiring the signature of an attorney may be signed with a digital signature or the manner set forth in GR 30(d)(2)(A).
- Any electronic document requiring a signature of a non-attorney and not signed under penalty of perjury may be signed by either digital signature or in the manner described in GR 30(d)(2)(B).



- A non-attorney signature that is made under penalty of perjury must either have a digital signature or be scanned with original document maintained by the filer for the duration of the case. (See GR 30(d)(2)(C).)

Comment

The proposed amendment designating that an attorney may use either a scanned digital signature or follow the prescribed format (/s Jane Attorney) for "signing" electronically filed documents would remove the earlier requirement regarding acceptable electronic signatures. Again, this is common practice in the Federal Courts' ECF system. Likewise, I think it is much more pragmatic for non-attorneys, affiants or declarants to use either a scanned digital signature or follow the prescribed format (/s Jane Citizen) for "signing" electronically filed documents. I believe it is extremely important to retain original-signature documents signed by non-attorneys for at least 60 days after a case has concluded. Therefore, I agree with this portion of the proposed amendments. In addition, I think it is equally important to retain original-signature documents signed by attorneys for at least 60 days after a case has concluded as well.

- An arresting or citing officer may sign citations...

No Comment—Not Applicable to Litigation Practice

- Documents that contain multiple signatures must be scanned unless the document contains digital signatures of all the signers or, for documents not signed under penalty of perjury, the signing attorney or judicial officer has the express authority to sign for another attorney or party and represents so in the document. The filer is required to maintain the document if any of the signatures are of non-attorneys. (See GR 30(d)(2)(D).)



Judicial Information Systems Committee

June 21, 2007

Page 6

Comment

My comment, above, regarding the use of scanned digital signatures or following the prescribed format (/s Jane Attorney) in "signing" electronically filed documents also makes good practical sense when there are multiple signers on an e-filed document. I think it would work equally as well for efficiency purposes if, in the absence of a scanned digital signature, the signing attorney states in the e-filed document that she/he has the authority to sign for another attorney, affiant or declarant.

- Signatures on electronic signature pads (such as UPS uses) are accepted as long as authorized and facilitated by the court. (See GR 30(d)(2)(F).)

No Comment

Thank you for this opportunity to submit my comments.

Very truly yours,

Joy A. Lorton

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cc: Roger Winters
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