

SUGGESTED AMENDMENTS

GENERAL RULES

GR 30 - ELECTRONIC FILING AND SERVICE

(a) Definitions.

(1) "Digital signature" is defined in RCW 19.34.020.

(2) "Electronic Filing" is the electronic transmission of information to a court or clerk for case processing.

(3) "Electronic Document" is an electronic version of information traditionally filed in paper form, except for documents filed by facsimile which are addressed in GR 17. An electronic document has the same legal effect as a paper document.

(4) "Electronic Filing Technical Standards" are those standards, not inconsistent with this rule, adopted by the Judicial Information System committee to implement electronic filing.

Commented [S1]: Are these consistent with the recently adopted Plain Language Family Law Pattern Forms?

(5) "Filer" is the person whose user ID and password are used to file an electronic document.

Comment: The form of "digital signature" that is acceptable is not limited to the procedure defined by chapter 19.34 RCW, but may include other equivalently reliable forms of authentication as adopted by local court rule or general.

Commented [S2]: Is it expected the Administrator of the Courts will issue these to pro-se litigants?

(b) Electronic filing authorization, exception, service, and technology equipment.

(1) The clerk may accept for filing an electronic document that complies with the Court Rules and the Electronic Filing Technical Standards.

(2) A document that is required by law to be filed in non-electronic media may not be electronically filed.

Comment: Certain documents are required by law to be filed in non-electronic media.

Examples are original wills, ~~certified records of proceedings for purposes of appeal~~, negotiable instruments, and documents of foreign governments under official seal.

(3) Electronic Transmission from the Court. The court or clerk may electronically transmit notices, orders, or other documents to all attorneys as authorized under local court rule, or to a party who has filed electronically ~~or~~ has agreed to accept electronic documents from the court, and has provided the clerk the address of the party's electronic mailbox. It is the responsibility of all attorneys and the filing or agreeing party to maintain an electronic mailbox sufficient to receive electronic transmissions of notices, orders, and other documents.

Commented [S3]: This is inconsistent with striking out "only by agreement" below

Commented [S4]: Pro Se litigants

(4) A court may adopt a local rule that mandates electronic filing by attorneys and/or electronic service of documents on attorneys for parties of record, provided that the attorneys are not additionally required to file paper copies except for those documents set forth in (b)(2). Electronic service may be made either through an electronic transmission directly from the court (where available) or by a party's attorney. Absent such a local rule, parties may electronically serve documents on other parties of record, ~~only by agreement~~. The local rule shall not be inconsistent with this Rule and the Electronic Filing Technical Standards, and the local rule shall permit paper filing and/or service upon a showing of good cause. Electronic filing and/or service should not serve

Commented [S5]: Is it the intent of the rule that original service of process may be accomplished by e-mail or that the court may serve documents on attorneys of record?

Commented [S6]: This seems contrary to the work done by those who labored to draft the Family Law Plain Language Pattern Forms, and won't they need to draft a new form?

as a barrier to access.

Comment: When adopting electronic filing requirements, courts should refrain from requiring counsel to provide duplicate paper pleadings as "working copies" for judicial officers.

(c) Time of Filing, Confirmation, and Rejection.

(1) An electronic document is filed when it is received by the clerk's designated computer during the clerk's business hours; otherwise the document is considered filed at the beginning of the next business day.

Commented [S7]: This does not address the dating of filing and serving of attorneys of record. What service dates are contemplated between parties, represented or otherwise?

(2) The clerk shall ~~shall~~ may issue confirmation to the filing party that an electronic document has been received.

(3) The clerk may reject a document that fails to comply with applicable electronic filing requirements.

The clerk must notify the filing party of the rejection and the reason therefor.

Commented [S8]: What about attorneys of record that have been sent the same document, must the Clerk notify opposing counsel of failed filing? Shouldn't that happen?

(d) Authentication of Electronic Documents.

(1) Procedures

(A) A person filing an electronic document must have received a user ID and password from a government agency or a person delegated by such agency in order to use the applicable electronic filing service.

Comment: The committee encourages local clerks and courts to develop a protocol for uniform statewide single

user ID's and passwords.

(B) All electronic documents must be filed by using the user ID and password of the filer.

(C) A filer is responsible for all documents filed with his or her user ID and password. No one shall use the filer's user ID and password without the authorization of the filer.

Commented [S9]: What remedy for unauthorized use? Who will notify everyone their ID has been stolen? Will this be the same as being hacked?

(2) Signatures

(A) Attorney Signatures. An electronic document which requires an attorney's signature may be signed with a digital signature or signed in the following manner:

s/ John Attorney

State Bar Number 12345

ABC Law Firm

123 South Fifth Avenue

Seattle, WA 98104

Telephone: (206) 123-4567

Fax: (206) 123-4567

E-mail: John.Attorney@lawfirm.com

(B) Non-attorney signatures. An electronic document which requires a non-attorney's signature and is not signed under penalty of perjury may be signed with a digital signature or signed in the following manner:

s/ John Citizen

123 South Fifth Avenue

Seattle, WA 98104

Telephone: (206) 123-4567

Fax: (206) 123-4567

E-mail: John.Citizen@email.com

(C) Non-attorney signatures on documents signed under penalty of perjury. Except as set forth in (d)(2)(D) of this rule, if the original document requires the signature of a non-attorney signed under penalty of perjury, the filer must either:

(i) Scan and electronically file the entire document, including the signature page with the signature, and maintain the original signed paper document for the duration of the case, including any period of appeal, plus sixty (60) days thereafter; or

Commented [S10]: Plain Language Family Law Forms will need to be altered to add this provision.

(ii) Ensure the electronic document has the digital signature of the signer.

(D) Law enforcement officer signatures on documents signed under penalty of perjury.

(i) A citation or notice of infraction initiated by an arresting or citing officer as defined in IRLJ 1.2(j) and in accordance with CrRLJ 2.1 or IRLJ 2.1 and 2.2 is presumed to have been signed when the arresting or citing officer uses his or her user id and password to electronically file the citation or notice of infraction.

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(ii) Any document initiated by a law enforcement officer is presumed to have been signed when the officer uses his or her user ID and password to electronically submit the document to a court or prosecutor through the Statewide Electronic Collision & Traffic Online Records application, the Justice Information Network Data Exchange, or a local secured system that the presiding judge designates by local rule. Unless otherwise specified, the signature shall be presumed to have been made under penalty of perjury under the laws of the State of Washington and on the date and at the place set forth in the citation.

(E) Multiple signatures. If the original document requires multiple signatures, the filer shall scan and electronically file the entire document, including the signature page with the signatures, unless:

(i) The electronic document contains the digital signatures of all signers; or

(ii) For a document that is not signed under penalty of perjury, the signator has the express authority to sign for an attorney or party and represents having that authority in the document. If any of the non-digital signatures are of non-attorneys, the filer shall maintain the original signed paper document for the duration of the case, including any period of appeal, plus sixty (60) days thereafter.

(F) Court Facilitated Electronically Captured Signatures. An electronic document that requires a signature may be signed using electronic signature pad equipment that has been authorized and facilitated by the court. This document may be electronically filed as long as the electronic document contains the electronic captured signature.

(3) An electronic document filed in accordance with this rule shall bind the signer and function as the signer's signature for any purpose, including CR 11. An electronic document shall be deemed the

equivalent of an original signed document if the filer has complied with this rule. All electronic documents signed under penalty of perjury must conform to the oath language requirements set forth in RCW 9A.72.085 and GR 13.

(e) Filing fees, electronic filing fees.

(1) The clerk is not required to accept electronic documents that require a fee. If the clerk does accept electronic documents that require a fee, the local courts must develop procedures for fee collection that comply with the payment and reconciliation standards established by the Administrative Office of the Courts and the Washington State Auditor.

(2) Anyone entitled to waiver of non-electronic filing fees will not be charged electronic filing fees. The court or clerk shall establish an application and waiver process consistent with the application and waiver process used with respect to non-electronic filing and filing fees.

[Adopted effective September 1, 2003; December 4, 2007; September 1, 2011; December 9, 2014.]

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Friday, November 18, 2016 2:56 PM
To: Tracy, Mary
Subject: FW: GR 30 proposed changes
Attachments: Jane Risley.vcf; GR30.doc

Forwarding.

From: Jane Risley [mailto:JRisley@wapa-sep.wa.gov]
Sent: Friday, November 18, 2016 2:17 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: GR 30 proposed changes

Justices:

I have attached the proposed rule, with comments. I hope this will speed review. I am a deputy prosecuting attorney for child support cases, I file and appear almost exclusively against pro se litigants. The Supreme Court mandated and many people labored to produce the Plain Language Family Law Pattern forms. They did not include any instructions for electronic filing. I would like the Court to maintain the ability of attorneys to agree to electronic receipt of documents from the opposition in family law cases, based on the comments I have set forth on the proposed rule itself. The Word counter says there are 1365 words, most of them don't have to be read. Thank you for your attention to these comments.

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Asotin, WA 99402
509.243.2065 fax 509.243.2077

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