

Tracy, Mary

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Sent: Thursday, April 27, 2017 4:42 PM
To: Tracy, Mary
Subject: FW: Comment on Proposed Change to GR 30

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From: Jolene Sell [mailto:JSELL@wapa-sep.wa.gov]
Sent: Thursday, April 27, 2017 4:37 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on Proposed Change to GR 30

I am writing to voice my objection to the proposed change to GR 30 that would eliminate the requirement of an agreement to allow service of pleadings and documents by email. The rule should remain in its present form and continue to provide for electronic service "only by agreement."

I am a deputy prosecuting attorney. As such, the computer systems I access contain sensitive and confidential information on thousands of people. In the current electronic climate, these systems could be compromised by the opening of email and related attachments (which would be mandatory, if the rule as proposed is adopted). I deal with a large number of *pro se* litigants, some of whom get hostile and may take pleasure in damaging the computer systems. The change would also make it easier for parties to file and serve materials repetitively, and encourage voluminous filings. It may increase the existing gamesmanship sometimes occurring by allowing service at after-hours times when the office is closed for business, such that the receipt of materials would not be discovered until the following day or after the weekend, effectively reducing the time available for response while technically meeting service deadlines.

The proposed rule change is also a cost-shifting mechanism. The recipient of the electronic service would bear the cost of printing hard copies for motion and trial preparation. This cost, of course, will ultimately be paid by the public, in a governmental office such as ours.

Most importantly, however, is the problem of service on an attorney who is unavailable, sometimes for a lengthy period of time, to open that email. It would not be appropriate for that attorney to allow anyone else to access his or her email to check for potential service, so the possibility of missed deadlines and hearings is high.

Practitioners need to be able to allocate their limited resources and prioritize according to the needs of their caseloads. The requirement of consent allows practitioners the flexibility to consent in whole or in part to service or receipt of certain materials electronically. The prevalence of hacking, viruses, interceptions, and computer fraud make it imperative that practitioners be permitted to exercise their professional judgment and to weigh the risks and benefits of various forms of communication and service. This is particularly true given that the liability for breach and improper disclosures would be on the practitioner.

Thank you for the opportunity to comment.

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