



King County

Department of Judicial Administration

Barbara Miner

Director and Superior Court Clerk

(206) 296-9300 (206) 296-0100 TTY/TDD

September 30, 2020

Clerk of the Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

RE: Proposed Changes to GR 30

Dear Clerk:

We have reviewed various local, state, and federal rules and practices as well as the Uniform Electronic Transactions Act. We are wholly in agreement with the comments submitted by Lisa Benedetti on August 11, 2020 regarding the proposed changes to GR 30. Eliminating the definition of "Digital Signatures" and replacing it with the more inclusive "Electronic Signatures" would help Washington Courts keep up with current practices and technology.

We would also recommend adding a provision that requires electronic filers to maintain any electronically signed documents, similar to the requirement for "wet signature" scanned signature documents. There are continually new technologies and new providers in the field of electronic authentication, and software used by courts to permit e-filing may have the effect of flattening or removing certain elements of electronic signatures. The courts should be able to refuse such documents if they are not compatible with their e-filing systems.

However, the courts recognize that parties must be permitted to embrace modern technology. As such, the ultimate responsibility for the integrity of an electronic signature should be with the filer, just as it is with paper documents with "wet" signatures. Keeping the responsibility for maintaining authenticated documents should remain with the parties, regardless of whether the documents are paper or electronic.

We respectfully request that you incorporate our proposed revisions into GR 30 instead of the proposed changes that were published.

Sincerely,

Barbara Miner
King County Clerk

GR 30
ELECTRONIC FILING AND SERVICE

(a) Definitions.

~~(1) “Digital signature” is defined in RCW 19.34.020.~~

~~(2)~~ (1) “Electronic Filing” is the electronic transmission of information to a court or clerk for case processing.

~~(3)~~ (2) “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)~~ (3) “Electronic Filing Technical Standards” are those standards, not inconsistent with this rule, adopted by the Judicial Information System committee to implement electronic filing.

(4) “Electronic Signature” is an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign a document or record created, generated, sent, communicated, received, or stored by electronic means.

(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 order.~~

(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.

(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 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.

(2) The clerk shall 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.

(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.

(2) Signatures

(A) Attorney Signatures--An electronic document which requires an attorney's signature may be signed with ~~a digital~~ an electronic 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~~ an electronic 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

(ii) ~~Ensure the electronic document has the digital signature of the signer.~~ Electronically file the document containing the electronic signature of the signer and maintain the original electronic document with the electronic signature attached for the duration of the case, including any period of appeal, plus sixty (60) days thereafter.

(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.

(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~~ electronic 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~~ electronic 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. For any document containing electronic signatures, the filer shall maintain the original electronic document with the electronic signature attached 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; Amended effective December 4, 2007; September 1, 2011; December 9, 2014.]

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Linford, Tera](#)
Cc: [Tracy, Mary](#)
Subject: FW: Comments to GR 30
Date: Wednesday, September 30, 2020 3:32:17 PM
Attachments: [GR30Comment_RecRevisions092920.pdf](#)

From: Miner, Barbara [mailto:Barbara.Miner@kingcounty.gov]
Sent: Wednesday, September 30, 2020 3:21 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comments to GR 30

Attached please find a letter and comments regarding the proposed changed to GR 30. Thank you for your consideration. Please feel free to contact me should you have questions or want more information.

Barbara Miner
King County Clerk
206-477-0777