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August 11, 2020

VIA Email supreme@courts.wa.gov

Clerk of the Supreme Court
PO Box 40929
Olympia, WA 98504-0929

Re: July 2020 Proposed Rule Changes to GR 30

Dear Clerk:

I submit this letter on behalf of myself as well as the Stritmatter Kessler Koehler Moore attorneys. We wholeheartedly support the Committees' efforts to eliminate references to defunct statutes – especially GR 30's reference to the now-repealed definition of "digital signature" (RCW 19.34.020). We believe this is a golden opportunity not simply to port that decades-old definition into the text of GR 30, but to bring our state courts' electronic filing and service rule into the 21st century.

The definition of "digital signature" was enacted in 1997 as part of Washington's "Electronic Authorization Act." Although pioneering at the time, this definition is extremely narrow, recognizing only a small subset of e-signatures – the kind that require digital certificates to prove the signer's identity.

As technology has progressed, the laws of our nation have progressed with it. For instance, earlier this year Washington State became the 48th state to enact its version of the Uniform Electronic Transactions Act (UETA). *See* S.B. 6028 (effective June 11, 2020). The UETA takes great strides away from the more restrictive concept of "digital signatures" towards the broader national concept of "electronic signatures," which is defined as:

> …an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

The UETA does not include a definition of "digital signature" – for undoubtedly it would qualify as a form of "electronic signature."

We recommend amending GR 30 to eliminate the term "digital signature" and instead use the term "electronic signature" as it is defined in the UETA. This would serve multiple beneficial purposes. It would formally grant recognition of the various forms of e-signatures used not just around the state and the country, but specifically by members of the Washington State Bar. It would also promote uniformity between our Court Rules and our e-signature statutes.

Such a change is particularly prescient given the Supreme Court's recent General Orders enacted due to COVID-19 – specifically the Court's pronouncement that:

> Notwithstanding any provision of GR 30 to the contrary, an electronic signature shall be deemed a reliable means for authentication of documents and shall have the same force and effect as an original signature to a paper copy of the document so signed. For purposes of this Order, "electronic signature" means a digital signature as described in Supreme Court Order No. 25700-B-596 (July 16, 2019) and RCW 9A.72.085(5) (repealed); ***an electronic image of the handwritten signature of an individual; or other 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 the record***, including but not limited to "/s/ [name of signatory]".

See, e.g., General Order No. 25700-B-626. The Supreme Court has expressed a desire to review the various emergency COVID-19 orders to determine which provisions should be enacted permanently. We submit that this is one such provision.

Thank you for considering our comments and suggestions.

Very truly yours,

Lisa Benedetti

From: OFFICE RECEPTIONIST, CLERK
To: Tracy, Mary; Linford, Tera
Subject: FW: July 2020 Proposed Rule Changes to GR 30
Date: Tuesday, August 11, 2020 11:11:36 AM
Attachments: 200811 SKKM Ltr re Proposed Rule Changes to GR 30.pdf

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From: Lisa Benedetti [mailto:Lisa@stritmatter.com]
Sent: Tuesday, August 11, 2020 11:12 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: All SKKM Attorneys <AllSKKMAttorneys2@stritmatter.com>
Subject: July 2020 Proposed Rule Changes to GR 30

Dear Clerk:

Attached please find our firm's comments to the July 2020 Proposed Rule Changes to GR 30.

Thank you,

Lisa V. Benedetti
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