

Office of the Grays Harbor County
Superior Court Clerk
KYM R. FOSTER, County Clerk
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GRAYS HARBOR COUNTY

STATE OF WASHINGTON

Dear Clerk of the Supreme Court,

The Grays Harbor County Superior Court Clerk's Office respectfully offers extended commentary on the proposed amendments to RAP 9.6 DESIGNATION OF CLERK'S PAPERS and RAP 9.7 PREPARING CLERK'S PAPERS AND EXHIBITS FOR APPELLATE COURT.

Regarding RAP 9.6:

The Grays Harbor County Superior Clerk's Office endorses the submissions made by the Washington State Association of County Clerks (WSACC) concerning these proposed modifications. We were active participants in the working group referenced in the GR 9 cover sheet alongside WSACC. This group was established in response to issues arising from the State Office of Public Defense's (OPD) practice of assigning attorneys across regions, which has particularly affected attorneys from western Washington handling cases in smaller, more remote jurisdictions. These lawyers face significant hurdles in accessing trial records and exhibits in such counties. Despite the collaborative efforts, no viable solution emerged from the working group. The amendments suggested under RAP 9.6, as detailed in the GR 9 cover sheet, fail to address the complexities of these challenges adequately, nor do they capture the unsuccessful outcome of the multi-stakeholder efforts.

Our office is keen on contributing to a feasible solution. However, the current proposal—which imposes the responsibility for managing and accessing exhibits on clerk's offices statewide without additional support for staff or technology—falls short of an effective remedy. As pointed out by WSACC, the fundamental issue lies with the outdated exhibit management processes which have not evolved in line with technological advancements, particularly in smaller courts. In Grays Harbor County, we do not have the

funding to establish an electronic way of providing copies of digital exhibits upon request.

The proposed regulations would significantly strain our resources as they would require us to supply copies beyond our current capacity. Moreover, the GR 9 cover sheet erroneously claims that the proposed rules would not financially burden clerk's offices because of statutory copy fees. However, document and exhibit reproduction necessitate staffing and involve costs that these fees do not fully offset.

Our concerns extend to the mandate for clerks to photograph physical exhibits. Such an obligation raises critical questions about whether these photographs then constitute official court records and what responsibilities clerks would bear in maintaining these new records. Furthermore, this task risks positioning clerks as investigative agents rather than neutral record keepers.

The directive to provide copies of "all exhibits" needs clarification. Does this include every exhibit presented at trial, whether admitted or not? For a court like ours, handling the largest volume of hearings and trials in the state, this requirement is unmanageable.

Currently, our offices provide access to court records and exhibits, allowing attorneys and the public to view, photograph, and copy these during normal business hours. We believe a better interim solution might involve requiring trial attorneys to perform these tasks as part of their responsibilities in preparing for appeals, thereby alleviating the burden on clerk's offices.

Ultimately, a more sustainable and equitable solution would be to establish a statewide electronic exhibit management system. This system would level the playing field across all clerk's offices, obviate the need for additional staff, and prevent the need for clerks to handle or modify exhibits. We fully support the creation of such a system and are prepared to contribute our insights from our own experiences.

Given the significant operational challenges these proposed rules would impose on our office, we respectfully urge the Supreme Court to reconsider

their adoption. Should further discussion be warranted, we support WSACC's call for a public hearing.

For the proposed changes to RAP 9.7:

An added requirement for the courts clerk's offices to provide copies of Clerk's Paper to parties as well as the Court of Appeals is as follows:

Within 14 days of receiving payment, the clerk shall forward the clerk's paper to the appellate court and to each party that has paid for copies.

The Grays Harbor Superior Court Clerk's Office has a process in place for parties to obtain copies of Clerk's Papers. After the request for Clerk's Papers is processed and provided to the Court of Appeals, the Clerk's Papers are available for parties to order online from our KC Script Portal. Customers may also come to our offices during regular business hours to view the Clerk's Papers from the file at the counter.

As such, we recommend adjusting the language as follows:

Within 14 days of receiving payment, the clerk shall forward the clerk's papers to the appellate court and to each party that has paid for copies. If the clerk's office has a system for online digital record ordering, copies of clerk's papers shall be ordered by the party via the online system.

Sincerely,

Kym Foster
Grays Harbor County Superior Court Clerk

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Hello.

Please find attached the DJA Letter in reference to RAP 9.6 and 9.7 from the perspective of the Clerk of the Court.

Thank you for your time.

Kym Foster

Grays Harbor County Superior Court Clerk
And Ex-Officio Clerk of Superior Court

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