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To: [Martinez, Jacquelynn](#)
Subject: FW: RAP 9.6 Proposed Rule change comment
Date: Tuesday, April 30, 2024 4:25:09 PM

From: Catherine Sloan <catherines@co.adams.wa.us>
Sent: Tuesday, April 30, 2024 3:31 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: RAP 9.6 Proposed Rule change comment

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April 30, 2024

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

Dear Clerk of the Supreme Court,

The Adams County Superior Court Clerk's Office respectfully submits these comments regarding the proposed changes to RAP 9.6 DESIGNATION OF CLERK'S PAPERS.

This proposed rule change would have a significant impact on my office. I do not have a large staff. Making electronic copies of all exhibits would consume a significant amount of staff time and office resources. We don't have an electronic exhibit management system, nor do I have the resources to create one and I do not have the budget to buy a program. My office does not have a color copier, or a camera and we do not have the funds to purchase either of those. As a small county, with a very tight budget, I would be unable to comply with this proposed rule.

Many of our exhibits are still physical objects and the idea that Clerks could simply take pictures of the exhibits is too simplistic of an approach to such a complicated and nuanced proposal. I don't have a camera in my office as nothing I do requires me to have one. And what would be the best way to capture that object? Should the Clerk's offices then also have yard sticks and rulers to accurately gauge an item's size? Would pictures need to be taken from multiple angles? What about when an item may have biological material on it, or be dangerous to handle, or simply be traumatizing for staff to handle? What, then, becomes of that picture? Would it then be considered part of the official record? To be scanned into the court file, outside of trial counsel's control? Marked as an exhibit? There are too many variables and unknowns with the idea that a Clerk's Office could simply take pictures.

OPD asserts that most experienced appellate attorneys are in Western Washington and that many courthouses are hard to reach. Trial attorneys are already tasked with helping appellate attorneys and trial attorneys practice in those remote, hard-to reach destinations. Trial attorneys are perfectly poised to help Appellate attorneys manage their caseloads when travel is deemed too burdensome. In many cases, our trial attorneys would be the experts for getting an exhibit to review. Many times, an exhibit will have the whole police interview on it, for example, but only certain segments were admitted and published during a trial. Since trial attorneys oversee publishing their own exhibits during trial, only they know what segments were published. Copies of exhibits coming from the Clerk's office would include the whole video. The whole video may be confusing or slow down the appeal process.

An electronic exhibit management system needs to be implemented by consensus of the stakeholders and justice partners. It is understandable that times and technologies change. But it shouldn't be done through a proposed rule change because one party thinks the change isn't happening fast enough. OPD has access to the court records just like every party. Trial attorneys could assist with pictures of exhibits, or actual copies of exhibits, until the Appellant attorney determines what is of value to the appeal. The burden of work should not shift from Office of Public of Defense whose work it is to provide defense, to the Clerk's Office whose statutory obligation is to keep the record of the court for public access.

If the Supreme Court is still considering adopting the proposed change, I would respectfully request a public hearing be scheduled.

Thank you for your consideration in this matter.

Sincerely,

Catherine Sloan
Adams Couty Clerk