
ASOTIN COUNTY CLERK'S OFFICE

POST OFFICE BOX 159 ♦ 135 SECOND STREET ♦ ASOTIN, WA 99402
PHONE 509.243.2081 ♦ FAX 509.243.4978

MCKENZIE CAMPBELL
COUNTY CLERK

NICOLE FARRIS
CHIEF DEPUTY CLERK

April 30, 2024

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

RE: RAP 9.6

Dear Clerk of the Supreme Court,

The Asotin County Clerk's Office respectfully submits this extended comment regarding proposed changes to RAP 9.6 DESIGNATION OF CLERK'S PAPERS AND EXHIBITS.

The amendments to RAP 9.6 have been recommended by one agency, the Office of Public Defense. The reason that they believe the rule needs amended is for better access to trial court exhibits for the attorneys contracted through OPD. As we are all aware there is a shortage of attorneys throughout the State. The attorneys at OPD believe they shouldn't have to travel all over the state to review exhibits. I don't disagree, but, I don't believe that makes it a requirement that the Clerk's Office should have to supply the copies of exhibits Pursuant to RAP 15, trial counsel responsibility to provide their files to appellate counsel which should include exhibits. While I can understand, and appreciate, allowing better access for the interest of justice, there are many reasons that these proposed changes only benefit them and will cause consequences for the Asotin County Clerk's Office. I will discuss the main ones further.

If the rule requires the Clerk's Office to make copies of original, trial exhibits, it increases the risk of the exhibit being altered, damaged, lost, or potentially deleted. If that was to happen when we were making a copy for appellant counsel, and then they designate it, that exhibit would not be available to be designated to the Court of Appeals and would raise a myriad of appeal issues.

Since a lot of the exhibits the attorneys want to designate are digital, this would require the Clerk's Office to have to potentially expose our county network and hardware to potentially

infected files. When trial counsel presents exhibits in trial, the Court requires them to use their own devices to show the exhibit through the courtroom tv system. I am not aware what else is on those exhibits and do not feel like I should have to open my office and my county infrastructure to potential risks.

The other barrier to the Asotin County Clerk's Office is the lack of resources to make a copy of these exhibits. We are a very small county with very minimal IT resources and extra equipment available. I currently only have one computer that allows me to burn any kind of media and that is the same computer my staff uses to record hearings during open court. If for some reason that computer became corrupt from an exhibit, I would not be able to run the FTR to record hearings for Superior Court. I know OPD has said they would cover the cost for CD's, jump drives, and copies, and that it a cd burner isn't that expensive, and we should be able to afford it. That is inaccurate. My county is already strapped financially each year and can't afford the potential cost of another computer, equipment, hardware and software to be able to make copies of all the potential exhibits.

I already have a very small office and I am unable to adequately express the extra burden this would put on my employees. I only have one Chief Deputy Clerk designated to the management of appeals and she already is busy trying to keep up with the already required duties of Clerk's Papers and hearings for the Verbatim Reports. This would cause a whole other level of tasks my office would have to take on before all that other work has even started.

I fully support all of the comments that were made by the Washington State Association of County Clerks. While I have only touched on a few of the issues that is because I feel like those will be the biggest burdens to my office but every single issue they addressed from the association as a whole are important and need to be taken into consideration.

I feel like a statewide exhibit management system is the way that this issue can be resolved but this is something that will take time, meetings, and comments from all stake holders involved. Just trying to change the RAP to shift the burden completely on the Clerk's Office to only benefit OPD is not acceptable, and I hope you take all the comments and concerns into consideration.

Sincerely,

A handwritten signature in black ink that reads "McKenzie Campbell". The signature is written in a cursive, flowing style.

McKenzie Campbell
Asotin County Clerk