



Martin D. Young
Chelan County Clerk
350 Orondo Avenue Suite 501, Wenatchee WA 98801-2885

4/24/2024

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

Dear Clerk of the Supreme Court,

The Superior Court Clerk of Chelan county respectfully submits this extended comment regarding proposed changes to RAP 9.6 Designation of Clerk's Papers. I request no changes to this court rule and laws until an exhibit management system is in place. Work on this system is endorsed as a priority #1 action by the Administrative Office of the Courts (AOC). ITG 1372 aims to improve ease of use and convenience for all parties by making exhibits readily accessible from any device between the different court levels for appeals.

OPD has Access to Court Records

The State Office of Public Defense (OPD) desires Clerks to be required to send copies of all documents and all exhibits. OPD's proposed rule would force the Clerks to undertake a huge workload to copy and scan binders of paper exhibits plus produce color electronic files of physical exhibits. The Clerk's Office of Chelan county does not have the equipment, staff or funding to accomplish this.

Chelan county already allows OPD and other customers remote access to court documents via a paid portal subscription or by use of our established records request process to obtain copies of documents.

Copying All Exhibits

Approximately 50% of all exhibits are not digitized and Chelan county does not have an exhibit management system to share digital exhibits. Our local court rule, LCR 5 (8) Service and Filing of Pleadings and Other Papers, states "Evidence submitted to the court on a CD, DVD, thumb-drive or other external storage device is disfavored. However, when necessary, it shall be presented as a working copy or brought to the hearing or trial and presented as an exhibit. Evidence submitted in any form referenced in this rule shall not be filed with the Superior Court Clerk unless it is presented with an Order Converting Device to an Exhibit." Clerks do not audit all the exhibits that have been marked in order to verify they contain the intended digital files; we also do not check to ensure that the USB or CDs are not corrupt.

OPD requests that Clerks send copies of all exhibits to them. Clerks receive a large number of exhibits for pre-marking and most are not mentioned or used by any party during the trial. Copying all exhibits would be an enormous waste of precious resources.

Color Copy and Photograph Costs and Liabilities

Scanning all paper exhibits in color and producing color copies (photographs) of physical exhibits is not possible without additional expensive equipment, IT resources and staff. Files of color copies and photographs can be 10 times larger than scanned files and consume valuable disk space for years. These funds are not in our local budget and would be difficult to justify to County Commissioners for such a limited purpose. Statutory copy fees will not cover these costs. Exhibits are not charged as copies per statutory authority, only court documents. If exhibits could be charged as copies, the funds would still fall far short of covering the costs.

Chelan County Clerk's office does not have a camera to photograph large or physical exhibits. We don't know what kind of record a photograph of a court exhibit would be. Sensitive information or personal identifiers may be captured. We don't know if this protected information should be redacted from exhibit photographs as GR31 (e) only addresses redaction in documents filed with the court. Some types of exhibits actually require court orders for disclosure and protective orders restricting their use – see RCW 26.44.187 and 26.44.186 regarding child forensic interviews and RCW 9.68A.170 and 18 U.S.C. § 3509 regarding copying of child pornography. Also, GR 31(d)(1) provides that access to exhibits may be restricted by federal or state statutes, court rule, court order or case law. Automatically providing copies of all exhibits without thoughtful, legal and time-consuming review seems risky.

Closing Remarks

The Superior Court Clerk of Chelan county respectfully requests no changes to this court rule and laws until an exhibit management system is in place. This system will provide a solution for all judicial partners to access exhibits efficiently and consider all party's needs. I would participate in a public hearing of OPD's proposed changes to RAP 9.6 if the Supreme Court is considering its adoption.

Respectfully,

A handwritten signature in black ink, appearing to read "Marty D. Young", written in a cursive style.

Marty Young
Chelan County Clerk

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350 Orondo Ave, Ste 501
Wenatchee WA 98801



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