

LINCOLN COUNTY

OFFICE OF

COUNTY CLERK

AND EX-OFFICIO CLERK OF THE SUPERIOR COURT

TRACI A. GANTS
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P.O. Box 68
DAVENPORT, WASHINGTON
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April 26, 2024

Washington State Supreme Court Clerk
PO Box 40929
Olympia, WA 98504-0929
supreme@courts.wa.gov

Re: Proposed Changes to Rules of Appellate Procedure 9.6

Dear Clerk of the Supreme Court,

I am the elected county clerk for Lincoln County, and this is our office's response to the proposed rule changes to Rules of Appellate Procedure 9.6 (Designation of Clerk's Papers). Please take this response into consideration before your decision so you can have an understanding on how this proposed rule change would affect our particular office here in Lincoln County.

A few concerns arise regarding the proposed rule changes. The proposed amendment states:

"...the trial court clerk shall provide...copies of all documents in the court file and *all exhibits*..."

The term "all exhibits" is very vague. A case usually has many pre-marked exhibits at the start of a trial, but not all of them are addressed during trial and either admitted or rejected by the Court. So, what does "all exhibits" mean? This needs clarification.

"...the clerk may provide photographs of cumbersome exhibits that cannot feasibly be copied..."

This would cause issues in our office. We are a very small county in population, and our budget is small. We do not have a county-issued camera to use in our office and this would require our office to purchase one. Also, there would be questions that arise regarding providing photographs of cumbersome exhibits that cannot be copied. Should photographs be taken at all angles? Are close-up photographs needed of the particular item(s)? The clerk would not know what exactly the attorney needs to see on these cumbersome exhibits. This is requiring the clerk to make decisions on how to photograph these items which is outside the clerk's role and duties.

"The clerk may charge appropriate fees for copies *in accordance with applicable law*..."

The Clerk is mandated by RCW 36.18.016 to collect fees for copies of documents and fees for copies of recorded proceedings, but there is nothing written regarding fees for copies of exhibits. How do we charge for a copy of a USB drive, for example, if statute doesn't indicate the amount the clerk is mandated to charge? This creates an issue.

There are also potential issues with copying digital exhibits. Our Court does not have exhibit management software. In our court, typically the attorneys play the evidence (such as videos) directly from their own laptop during trial, and they give a thumb drive or DVD (which is supposed to contain that same evidence) to the Clerk to mark as the exhibit. The Clerk does not check to make sure the thumb drive/DVD contains the same digital files they are supposed to contain, and the Clerk does not check to make sure the thumb drive/DVD is not corrupt. This poses a problem if the Clerk is to copy this thumb drive/DVD to the parties.

In closing, I hope this response has helped further illustrate some of the challenges and problems that adopting this proposed rule would create. Waiting until an exhibit management system is implemented would be ideal before making amendments to RAP 9.6. However, if you are still considering adopting these proposed changes that the Office of Public Defense is requesting, please schedule a public hearing so the amendment can be clarified to prevent some of these potential problems for county clerks across the entire state. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Traci A. Gants", with a stylized flourish at the end.

Traci A. Gants, Lincoln County Clerk
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From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Lincoln Co.'s Response to Proposed Amendments to RAP 9.6
Date: Monday, April 29, 2024 11:02:48 AM
Attachments: [Response to WA State Supreme Court Clerk.pdf](#)

From: Traci A. Gants <tgants@co.lincoln.wa.us>
Sent: Monday, April 29, 2024 9:43 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Lincoln Co.'s Response to Proposed Amendments to RAP 9.6

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Good morning,

Attached please find a letter from the Lincoln County Clerk in response to the Office of Public Defense's request for proposed changes to RAP 9.6 (Designation of Clerk's Papers). This is being submitted before the April 30, 2024 deadline.

Thank you for your consideration,

Traci Gants
Lincoln County Clerk

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