

**KITSAP COUNTY DISTRICT COURT
GR 7 COVER SHEET**

**Proposed Amended Local Rule
LGR 30.1 – Electronic Filing And Service
Submitted By Kitsap County District Court**

- (A) **Name Of Proponent** – Kitsap County District Court.
- (B) **Spokesperson** – Claire A. Bradley, Presiding Judge.
- (C) **Submitted For Comment** – Kitsap County District Court is seeking comment pursuant to GR 7(b) on proposed amended LGR 30.1. All comments shall be submitted in writing to the Court **no later than noon on Friday, June 9, 2023**. All comments received will be posted on the Court website at www.kitsap.gov/dc.

GR 7(b) reads as follows –

(b) Review and Comment

- (1) No court may adopt an amended or new local rule without first distributing the proposal and allowing at least 30 days for comment. The court shall distribute the proposal by posting it on the court’s website and sending the proposal to the county prosecutor, the county clerk, a representative of the county public defender, and the local bar association (with a request that the association notify its members). The court may also take other actions to distribute the proposal.
- (2) The court shall direct that all comments on the proposal be submitted in writing to the court by a deadline the court sets. The court shall post on its website all comments it receives.
- (3) After the comment period closes and the court considers any comments, the court may adopt, amend, or reject the proposal or take such other action as the court deems appropriate.

(D) **How To Submit A Comment** – All comments should be submitted to the Court Administrator Robyn Dunham by either email or U.S. mail. Comments may be sent by email to RDunham@kitsap.gov or by mail to Kitsap County District Court, 614 Division Street, MS-25, Port Orchard, WA 98366.

(E) **Effective Date** – If implemented, the effective date of proposed amended LGR 30.1 will be Friday, September 1, 2023. GR 7(a).

(F) Purpose Of Proposed Amendment To Rule –

(1) SharePoint Software Is Failing. The Court began its electronic court file process on April 13, 2010. The Court chose SharePoint software because it was economical. SharePoint software was not built for generating and storing electronic court records, but was intended at that time to be a “temporary” solution until a new anticipated statewide case management and document generation system became available in a year or two. Thirteen years later, an updated statewide system remains unavailable.

For years, the county Information Services Department has reminded the Court that the “temporary” SharePoint system was going to fail. The software simply is unable to handle the volume of activity required for electronic document generation and file storage. At some point, SharePoint will collapse.

(2) Journal Software. While court files are now all electronic, the SharePoint system still remains essentially a paper-based system wherein documents are filed in paper and scanned by staff into a SharePoint electronic case folder. This is a very labor-intensive process which increases the possibility of error. Even when documents are filed electronically via email, court personnel must manually transfer the electronic document from email into its proper SharePoint electronic folder and thereafter manually notify the filer that the document has been received and filed.

Recognizing SharePoint will fail and the Court could no longer wait for the statewide system, on October 18, 2019 after completion of the bidding process the Board of County Commissioners entered into a professional services agreement with Journal Technologies, Inc. for the purchase of Journal’s state-of-the-art document generation and case management system.

Unfortunately, the 2020 pandemic stopped the Journal software implementation process for over a year.

(3) Journal Software Go Live August 14, 2023. Journal software includes four separate programs – eCourt (case management and document generation), eCourt Portal for electronically filing documents with the Court, eProbation, and eProbation Portal for electronically filing documents with Probation.

Despite Journal software implementation being significantly impacted by COVID, the Court will be going fully live with Journal software on Monday, August 14, 2023.

After Thursday, August 10, 2023, the SharePoint electronic file system and all electronic court templates, including electronic pattern forms provided by the Court through SharePoint, will no longer be available to court personnel, attorneys or the public.

(4) History Of District Court Pattern Forms. The Court has a long history of providing pattern forms to litigants in both civil and criminal cases.

Prior to implementation of the SharePoint electronic court file system in 2010, the Court provided many paper pattern forms to litigants stored in folders mounted on walls located in courtrooms and clerk's office. These paper pattern forms, however, were only available to litigants who were inside the Courthouse.

With SharePoint, the Court created and programmed electronic Microsoft Word template pattern forms. While some paper forms still existed, most forms were in electronic format. The majority of these electronic pattern forms were for criminal cases. These electronic pattern forms were only available to litigants who had access to SharePoint through county computers within the Courthouse. Litigants with access to county Courthouse computers were and are able to complete these pattern forms and file them directly into the SharePoint electronic court file.

In June 2020 during the initial outbreak of COVID, the Court recognized that litigants needed to be able to access pattern forms outside the Courthouse because of limitations placed on entering the Courthouse. The Court created and programmed several electronic Microsoft Word criminal pattern eTemplate forms. These eTemplates were disseminated electronically to attorneys through the Kitsap County Bar Association. For the first time, attorneys in criminal cases were able to complete District Court pattern eTemplate forms without having to be within the Courthouse and were also able to electronically file these eTemplates with the court via email.

As COVID continued, Washington courts recognized that they needed to provide increased access to the courts through their websites so litigants did not have to appear in a courthouse to receive judicial branch services. This was especially true for unrepresented civil litigants seeking protection orders, name changes and small claims actions who often were unable to travel to the Courthouse to obtain the paper forms necessary to commence their cases.

In response, the Court began the process of creating and programming electronic pattern forms and uploading them to the Court website. Many of these new electronic pattern civil forms currently on the website¹ are in fillable PDF so that unrepresented litigants can easily complete and email the electronic pattern forms to the Court for filing.

Criminal litigants continue to use Courthouse computers to access SharePoint pattern forms directly and/or complete and file eTemplates by email.

(5) Journal Software Data Security. Use of SharePoint for electronic court files and templates is only available on county computers loaded with SharePoint software. Unlike SharePoint, Journal software products are cloud-based. This means members of the public including litigants and attorneys will be able through the District Court website to view all

¹ See the "Forms" link at the top of the Court website homepage, www.kitsap.gov/dc.

District Court court records including filed documents from anywhere² the person has access to the internet.³

While public access to case information will be available through the Court website, as with SharePoint, only county computers will be able to be used to enter data into Journal software. This data will be stored on county servers to make sure Journal software court data will be protected by the county internet firewall. This is important so that court electronic data can be protected from hacking and other nefarious activity by outsiders.

To protect electronic data integrity and security, consistent with county policy the Court has decided to only allow court personnel to access Journal software except for court information available through the Portal on the court website.

As with SharePoint, there will be hundreds of programmed document templates within Journal software which will be relatively easy for judges and court staff to generate. But when the Court goes live with Journal software, only court personnel will be able to access Journal software and the documents programmed into the software.

The question becomes how will attorneys and litigants continue to access electronic Court pattern forms previously only available in SharePoint when SharePoint is shut down and Journal software goes live on August 14, 2023?

(6) Criminal Pattern Forms After Journal Software Go Live. Since attorneys will no longer have access to SharePoint pattern forms, a method needed to be developed so Court pattern forms will continue to be available to attorneys and litigants.

For months, the Court has been working with the Office of Public Defense and the Prosecutor's Office to determine which forms should be uploaded to the Court website. Since many of these SharePoint pattern forms have not been reviewed for quite sometime, the team has been working on reviewing the forms and redrafting them where necessary. Additional pattern forms have also been drafted based upon suggestions by the team and changes in the law.

Similar to pattern civil forms that have been uploaded to the Court website, previous SharePoint criminal pattern forms will be uploaded to the Court website and available through the website "Forms" link so attorneys and criminal litigants will have easy access to these pattern forms. There are 35 anticipated criminal pattern forms⁴ which have been selected and will be uploaded to the Court website before August 14, 2023. More will be added as needed.

² Currently, filed court documents are only available through SharePoint on county computers.

³ Court records which are sealed and/or determined to be confidential will not be viewable by the public or attorneys absent a court order authorizing disclosure.

⁴ Anticipated website criminal pattern forms include – Attachment-DUI; Attachment-Offender Registration; Declaration To Not Operate Any Motor Vehicle Without Ignition Interlock Device; Deferred Prosecution Petition; Felony Diversion Packet; I Can't Afford To Pay Motion; Notice Of Appeal; Notice Of Appearance; Pretrial Diversion Agreement; Statement Of Defendant On Plea Of Guilty; Stipulation Or Submittal Of Facts; Waiver Of Counsel; Waiver Of Jury Trial; and Waiver Of Time For Trial.

(7) **Mandatory Usage Of Website Pattern Forms.** New LGR 30.1(k) requires anyone filing documents through the website Portal to use the Court’s website pattern forms. If no pattern form is on the website, the new rule strongly encourages Portal users to use Washington Court website pattern forms.

The Court, OPD and the Prosecutor’s Office have spent significant time developing and in some cases rewriting these new website pattern forms. Judges, court staff, attorneys and litigants will become used to these updated forms over time as they have with SharePoint pattern forms which were available on a limited basis.

Whenever a litigant uses a non-pattern form, additional time becomes necessary to review the non-pattern form for compliance with the law and Court, defense and prosecutor policies. This extra time to review non-pattern forms often occurs during a hearing where the Court has crowded calendars to complete.

Additionally, use of website pattern forms will assure the most current and accurate version of that form will always be available for use. Laws frequently change resulting in the need to review and update pattern forms. Use of outdated forms should be significantly reduced where the most current version of the form will always be available on the Court website.

For these reasons, implementation of new LGR 30.1(k) will assist the Court, attorneys and litigants.

(8) **Other Proposed Amendments Of LGR 30.1.** LGR 30.1(a)(1) is amended to make November 13, 2023 the effective date of LGR 30.1, 90 days after the Journal software go live date of August 14, 2023. This will allow sufficient time for Portal users to become familiar with the Portal before Portal electronic filing becomes mandatory for attorneys.

LGR 30.1(a)(4) is deleted because the effective date of LGR 30.1 will be November 13, 2023.

(9) **Proposed Amendments Of LGR 30.1 Highlighted.** Proposed amendments to LGR 30.1 are highlighted in yellow including ~~strike through~~ and underlining.

LGR 30.1
ELECTRONIC FILING AND SERVICE

(a) **Electronic Filing.**

(1) Effective ~~June 1, 2022~~ **November 13, 2023**, attorneys shall electronically file (eFile) all documents using the Court’s designated eFiling application unless this rule provides otherwise.

(2) Non-attorneys and unrepresented litigants are not required to eFile but are encouraged to do so.

(3) Electronically filing documents through the Court’s designated eFiling application will be free for all users. Any statutorily-imposed filing fee or surcharge, however, will still need to be paid unless the Court waives the filing fee or surcharge pursuant to GR 34.

~~(4) The effective date of this rule may be delayed by administrative order of the Presiding Judge if more time is necessary to fully implement the Court’s eFiling application and complete training.~~

[Effective September 1, 2023]

(b) **Documents That Need Not Be eFiled.** The following documents may be filed in paper form rather than eFiled –

(1) Documents submitted for *in camera review*, or documents supporting motions to seal, including documents submitted pursuant to GR 15; and/or

(2) Documents incapable of legible conversion to an electronic format by scanning, imaging, or any other means.

[Effective June 1, 2022]

(c) **Waiver Of The Requirement To eFile For Attorneys.**

(1) If an attorney is unable to eFile documents, the attorney may request a waiver from the Court. The attorney must make a showing of good cause and explain why paper document(s) must be filed in that particular case. The Court will make waiver request forms available on the Court website. The Court will consider each application and provide a written approval or denial to the attorney. Attorneys who receive a waiver shall file a copy of the waiver in each case in which they file documents. Attorneys who receive a waiver shall place the words “Exempt from e-Filing per waiver filed on (date)” in the caption of all paper documents filed for the duration of the waiver.

(2) Upon a showing of good cause the Court may waive the requirement as to a specific document or documents on a case by case basis.

[Effective June 1, 2022]

(d) **Compliance With This Rule.**

- (1) The Court will reasonably work with an individual to correct any non-compliance with eFiling requirements. This will be especially true when the eFiling application initially “goes live” because everyone will need time to learn how to use the new eFiling application.
- (2) The Court may assess a fee of \$20.00 dollars per electronic document to a person whose signature is on an electronic document eFiled with the Court that requires special handling because of – (a) errors; (b) failure to follow court rules or statutes; and/or (c) lack of completeness.
- (3) The Court may assess a fee of \$50.00 dollars for each paper document filed with the Court if an attorney and/or an attorney’s firm files a document in paper form and does not have an approved LGR 30.1(c) waiver from eFiling.

[Effective June 1, 2022]

(e) **Force And Effect.** Electronically filed court records have the same force and effect and are subject to the same right of public access as are documents that are not eFiled.

[Effective June 1, 2022]

(f) **Electronic Service.** If a party serves another party electronically or via email, that party must likewise accept service from the other parties electronically or via email.

[Effective June 1, 2022]

(g) **Time Of Filing, Confirmation, And Rejection.**

- (1) A party whose eFiling is untimely as the result of a technical failure of the Court’s eFiling application may seek appropriate relief from the Court.
- (2) Problems on the eFiler’s end (such as phone line problems, problems with the eFiler’s Internet Service Provider, or hardware or software problems) will not constitute a technical failure under this rule nor excuse an untimely eFiling. An eFiler who cannot file a document electronically because of a problem on the eFiler’s end should explore other eFiling options. The eFiler’s login and password will work on any computer that has internet access, e.g., at the library, home computer, or in commercial business service centers.
- (3) Filing a document electronically does not alter filing deadlines.
- (4) In the absence of the Court’s confirmation of receipt and eFiling, there is no presumption that the Court received and filed the document. The eFiler is responsible to verify that the Court received and filed any document that was submitted to the Court electronically using the Court’s eFiling application.

[Effective June 1, 2022]

(h) **Password Security.** eFilers agree to protect the security of their passwords and immediately notify the Court if they learn that their password has been compromised. eFilers may be subject to sanctions for failure to comply with this provision.

[Effective June 1, 2022]

(i) **Binding Effect On Signer.** An electronic document filed in accordance with this rule and electronically signed means the signer intends to sign electronically and agrees the electronic signature binds the signer the same as a handwritten signature for the purpose of validity, enforceability, and admissibility including CRLJ 11.

[Effective June 1, 2022]

(j) **Official Record.** When a document has been filed electronically, the official record is the electronic record of the document as stored by the Court. A party is bound by the document as eFiled.

[Effective June 1, 2022]

(k) Mandatory Usage Of District Court Website Pattern Forms. The Court has uploaded many online pattern forms to its website to assist the public and attorneys. See the “Forms” link in the top navigation menu at www.kitsap.gov/dc.

(1) A Court website pattern form shall be used when that document is filed electronically. Failure of an eFiler to comply will result in the document being rejected for eFiling. The Court may also consider LGR 30.1(d).

(2) If no Court website pattern form exists, eFilers are strongly encouraged to use pattern forms located at the Washington Courts website. See the “Forms” link in the top navigation menu at www.courts.wa.gov/.

[Effective September 1, 2023]