The Honorable Kathryn C. Loring   EMAIL ONLY   May 27, 2022
San Juan County Superior Court
350 Court St., 2nd Floor
Friday Harbor, WA 98250
Emailed to: janes@sanjuanco.com

Re: Local rules

Dear Judge Loring,

In response to your request for input on the court's local rules, I offer these two comments:

<u>LCR 9</u>

In some counties, a party must obtain an order shortening time prior to the hearing on the underlying motion. In our county, the practice has been to note the motion shortening time for the same time as the underlying hearing.

I am sure you are aware of the arguments for both of these procedures. While I do not wish to add to the work that you and attorneys already have, I often find myself deciding whether to contest an underlying motion made on shortened time or whether to confine myself to contesting the motion to shorten time itself. I fear that my decision to not contest the underlying motion often leaves the court with no choice but to deny the motion to shorten time.

In any case, the practice in this county has invited somewhat lazy lawyering. While I am confident you can sort through the issues involved in deciding whether to hear an untimely motion or consider an untimely pleading, the practice is very frustrating for practitioners and, more importantly, for parties, who feel that they have been put at a disadvantage by the other side's noncompliance with the rules.

I do not have a specific language suggestion. However, I suggest that the bar for contested motions to shortened time be raised to discourage the practice except for those situations where they are truly needed. At least for the motions themselves, a requirement of a prior order shortening time will act as backpressure for the practice and would clarify what the opposing party must do before the hearing. Maybe a prior order is not necessary for late filing of other pleadings, but insisting on stricter compliance with the local motion schedule rule will also act as backpressure.

In any case, the second sentence in LCR 9(m) seems to imply that the practice in San Juan County should be to obtain a prior order and to give as much notice as possible before the application for the order. Clarification here would be helpful, particularly for out-of-county attorneys unfamiliar with local customs. Even if motions to shortened time are heard at the underlying hearing, a rule requiring as much notice of that motion would be helpful. Again, the wording should be clarified.

Randall Gaylord's Memorandum

I found Mr. Gaylord's memorandum regarding visiting judges to be enlightening. As you and I have discussed on prior occasions, I find the practice before visiting judges to be frustrating. The judges from some counties are more frustrating than others. The new video technology seems to be helping to ease that frustration.

I mostly write to point out that the proposed language for LCR 77(o)(1) in Mr. Gaylord's letter at the bottom of page 2 is ambiguous. The second sentence seems to state that the visiting judge shall hold sessions physically in San Juan County (using "the physical quarters . . . for the San Juan County Superior Court") AND use the appropriate video equipment. My guess is that Mr. Gaylord intended this paragraph to give a judge the option of physically appearing in San Juan County or appearing by Teams. However, the word "or" may be clearer than "and."

If it is Mr. Gaylord's intent to require the judge to be present physically in San Juan County for all hearings, I disagree that the law requires this. Also, this suggestion is not practical. If you would like further comment on this, please let me know.

The practice in Skagit County has been to require the parties to use their commissioners for motions that the commissioners hear. Mr. Gaylord's analysis seems to suggest that this practice is not legal.

I hope you find these comments useful.

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Sincerely,

Stephen A. Brandli

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