From: Eugene G. Doherty
To: RulesCommittee
Cc: Cynthia Grant; Bertina Lampkin; Mary Rochford; Jacque Rogers
Subject: Rules Committee Hearing - April 23, 2025
Date: Friday, March 28, 2025 11:10:07 AM

Please accept the following as my comment in support of three proposals on the Rules Committee's agenda for its April 23, 2025, meeting: Proposal 25-01 (appearances and request to prepare notice of appeal); Proposal 25-02 (copies of Rule 23 orders); and Proposal 25-03 (local rules affecting rejection of electronically filed documents). Although I sit on the groups that generated these proposals, these comments are my own.

Proposal 25-01: amendments to Rules 13 and 606.

This proposal was submitted by the Appellate Court Administrative Committee, of which I am a member.

I will first address the proposed change to Rule 606(a), which currently requires the clerk to issue a notice of appeal on behalf of a criminal defendant upon that defendant's request. This provision has long been a part of our rules, and our investigation into its origins was unable to uncover the reasons for its original adoption. We know that circuit clerks have expressed concerns about completing any legal documentation on behalf of a litigant; in such a circumstance, the clerk would have to decide how to complete substantive elements of the notice of appeal, such as specification of the specific orders being appealed. This serves neither the clerk nor the defendant well, and it seems completely ill advised in those instances where the defendant is represented by counsel (whether appointed or privately retained). Consequently, the proposal is to limit the scope of the existing rule to only unrepresented litigants, as it should be the role of counsel—not the clerk—to prepare a notice of appeal. Our proposal would leave the rule unchanged insofar as self-represented defendants are concerned.

In conjunction with the proposed amendment to Rule 606, ACAC also proposed that Rule 13 be amended to specify that an attorney's appearance continues through the immediate post-judgment period (i.e., the period in which post-judgment or post-trial motions are filed, and during which the trial court's jurisdiction continues until all such matters are resolved). In my experience, most attorneys fully understand that they remain counsel of record during this period. Most would not, for example, presume that the obligation to respond to the opposing party's post-judgment motion would fall on their client. Still, I am also aware that a minority attorneys feel that their obligations come to a hard stop at the entry of judgment and that the litigation of any initial post judgment motions is not their responsibility. The proposed amendment to Rule 13 would make clear that the attorney's appearance in either a civil or criminal case continues through the time for filing of a notice of appeal (absent an order of withdrawal or an appropriate limited scope appearance). This would not extend, of course, to proceedings after the judgment becomes final, such as by expiration of the 30 days to appeal or the resolution of any timely post-judgment motion. It would also not extend to, for example,

Section 2-1401 petitions.

The final part of this proposal is just a clarification to Rule 606(d). In our review of the existing language of the rule, we realized that it turns in on itself. It currently reads that in detention appeals, the appellant should use the form of notice of appeal set forth in the appendix, but in all other cases—the appellant should still use the form notice of appeal set forth in the appendix. Our proposed simplification of the language eliminates this redundancy.

Proposal 25-02: providing copies of Rule 23 orders when cited.

Rule 23(e)(1) currently provides that when a party cites a Rule 23 order, the party must provide a copy to the court and opposing counsel. That provision made sense in the days when copies of Rule 23 orders were not easy for anyone beyond the parties involved to obtain. However, all Rule 23 orders have been provided on the Supreme Court's website for more than a decade, and most are available on the commercial legal research providers as well. This ACAC proposal suggests that it is time to retire the language requiring that a copy be provided whenever a Rule 23 order is cited.

Proposal 25-03: Local rules conflicting with the Supreme Court's limited list of reasons to reject electronic filings.

This proposal come from the Illinois Supreme Court's e-Business Policy Advisory Board, and it is a follow-up to a previous amendment to Rule 9. Last year, the Illinois Supreme Court amended Rule 9 to add a new subsection (f): "Documents filed electronically may be rejected by the clerk as authorized by the Electronic Filing Rejection Standards for circuit courts and courts of review, as published on the illinoiscourts.gov website." The purpose of this change was to severely restrict the reasons that a clerk could reject a document submitted for electronic filing.

The e-Business Policy Board, however, has identified that there are local circuit rules that sometimes provide for additional reasons for their circuit clerks to reject electronic filings. Because these local rules dilute the purpose of the restrictions contains in Rule 9(f), the e-Business Policy Board suggests the amendment contained in Proposal 25-03 to remedy the situation.

Thank you for considering my comments.

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