WASHINGTON
COURTS

DISTRICT AND MUNICIPAL COURT JUDGES' ASSOCIATION

BOARD MEETING

FRIDAY, April 10, 2015

AOC SEATAC OFFICE
SEATAC, WASHINGTON

DISTRICT AND MUNICIPAL COURT JUDGES' ASSOCIATION
SCHEDULE OF BOARD MEETINGS

2014-2015

DATE	TIME	MEETING LOCATION
Friday, July 11, 2014	12:30 – 3:30 p.m.	AOC SeaTac Office Center
Friday, Aug. 8, 2014	12:30 – 3:30 p.m.	AOC SeaTac Office Center
Sunday, Sept 21, 2014	9:00 – 12:00 noon	2014 Annual Judicial Conference, Spokane, WA
Friday, Nov. 14, 2014	12:30 – 3:30 p.m.	AOC SeaTac Office Center
Friday, Dec. 12, 2014	12:30 – 3:30 p.m.	AOC SeaTac Office Center
Friday, Jan. 9, 2015	12:30 – 3:30 p.m.	AOC SeaTac Office Center
Friday, Feb. 13, 2015	12:30 – 3:30 p.m.	AOC SeaTac Office Center
Friday, March 13, 2015	12:30 – 3:30 p.m.	AOC SeaTac Office Center
Friday, April 10, 2015	12:30 – 3:30 p.m.	AOC SeaTac Office Center
May 8 & 9, 2015	May 8 12:00-5:00 p.m. May 9 9:00-1:00 p.m.	Enzian Inn, Leavenworth
June 7-10, 2015	TBD	Skamania Lodge, Stevenson, WA

AOC Staff: Sharon Harvey

(AOC Conference Room Reserved)

Updated: December 16, 2014

WASHINGTON COURTS

DMCJA BOARD MEETING
FRIDAY, APRIL 10, 2015
12:30 P.M. – 3:30 P.M.
AOC SEATAC OFFICE
SEATAC, WA

PRESIDENT JUDGE DAVID STEINER

AGENDA	TAB
Call to Order	
General Business A. Minutes - March 13, 2015 B. Treasurer's Report – *Judge Ahlf* (p. 7) C. Special Fund Report – *Judge Marinella* (p. 15) D. Standing Committee Reports 1. Legislative Committee – *Judge Meyer* 2. Rules Committee a. Proposed Amendments to CRLJ 26 and CRLJ 56 (p. 17) 3. Bylaws Committee a. Proposed Amendment to DMCJA Bylaws Art. VIII, Section 2 (p. 31) E. Trial Court Advocacy Board (TCAB) Update – *Judge Steiner* F. JIS Report – *Ms. Cullinane*	1
Liaison Reports DMCMA MCA SCJA WSBA WSAJ AOC BJA	
Action A. DMCJA Comments for WSBA Escalating Cost of Civil Litigation Task Force Draft Report (p. 33)	2
Discussion A. DMCJA Position regarding Implementation of General Rule 31.1 (p. 69) B. Selection of Two DMCJA Representatives for WA State Minority and Justice Commission (p. 71) C. Washington Pattern Jury Instruction Committee 2015 Juror Guide for Review (p. 79) D. DMCJA National Leadership Grant Requests (p. 85) E. Judge Heidi Smith Resignation from DMCJA Board of Governors (p. 93) F. DMCJA/SCJA/WA Supreme Court Joint Meeting – Reception at Justice Fairhurst's Home (p. 95) G. DMCJA Support Request – AOC Application for Adult Drug Court Discretionary Grant Program (p. 103) H. Request for Judge John E. Conery to Speak for Two Minutes during Welcome Ceremony at the 2015 DMCJA Spring Conference Regarding Fall Joint Conference in Seattle, WA, October 2015 (p. 107)	3

Information A. TCAB Draft Two-Year Work Plan B. Thank You Letter from Judicial Institute C. Letter of Support for IRLJ 6.2 Fee Increase for JIS CLJ-CMS Project Funding D. DMCJA Board of Governors Voted Unanimously Not to Fund Outlook Webinar Presentation	4
Other Business A. Next Meeting: May 8, 2015, 12:00 p.m. – 5:00 p.m., Enzian Inn, Leavenworth WA May 9, 2015, 9:00 a.m. – 1:00 p.m., Enzian Inn, Leavenworth WA	
Adjourn	

WASHINGTON COURTS

DMCJA Board of Governors Meeting
Friday, March 13, 2015, 12:30 p.m. – 3:30 p.m.
AOC SeaTac Office

MEETING MINUTES

Members Present:
Chair, Judge David Steiner
Judge Ahlf
Judge Burrowes
Judge Gehlsen
Judge Jahns
Judge Marinella
Judge Meyer
Commissioner Noonan
Judge Olwell
Judge Ringus (non-voting)
Judge Robertson
Judge Smith
Judge Staab
Judge Svaren

Members Absent:
Judge Garrow (non-voting)
Judge Jasprica (non-voting)
Judge Lambo (non-voting)

Guests
Judge Marcine Anderson
Shirley L. Bluhm, Esq., WSAJ
Judge Harold Clarke III, SCJA
Ann Danieli, Esq., WSBA
Ms. Suzanne Elsner
Ms. Deena Kaelin, MCA
Judge T.W. "Chip" Small

AOC Staff:
Ms. Vicky Cullinane
Ms. Callie Dietz
Ms. Sharon R. Harvey
Mr. Dirk Marler
Mr. Ramsey Radwan

Judge David Steiner, District and Municipal Court Judges' Association (DMCJA) President, noted a quorum was present and called the DMCJA Board of Governors (Board) meeting to order at 12:30 PM. All attendees were asked to introduce themselves.

GENERAL BUSINESS

A. Minutes

The Board motioned, seconded, and passed a vote (M/S/P) to approve the February 13, 2015 Board Meeting Minutes.

B. Treasurer's Report

M/S/P to approve the Treasurer's Report. Judge Ahlf informed that he included the list of DMCJA members in good standing in the March Board packet.

C. Special Fund Report

M/S/P to approve the Special Fund Report. Judge Marinella informed that the Special Fund earned three dollars and sixty five cents ($3.65) in interest. He also requested an agenda item regarding whether to pay a small sum annually for the Special Fund dues in order to fund activities relating to judges' retirement plans. The Special Fund dues is typically discussed at the November Board meeting before the request for dues is sent to the entire DMCJA membership.

D. Judicial Information System Committee (JISC) Update

Mr. Ramsey Radwan, Administrative Office of the Courts (AOC) Management Services Division Director, discussed the March 6, 2015 JISC meeting in which a request for an increase in assessments and base penalty fees was discussed. Mr. Radwan stated that the Judicial Information System (JIS) Account needs funding in order to support the new Case Management System (CMS) Projects underway. According to Mr. Radwan, the Legislature has taken approximately twenty-two million dollars from the JIS Account in recent years. Thus, in order to fund the Account to the levels necessary for the next biennium, Mr. Radwan recommends an increase in infraction assessments from seventeen dollars ($17) to twenty-three ($23) and a base penalty fee amount from forty-two dollars ($42) to forty-eight dollars ($48). Mr. Radwan provided the Board with an electronic copy of the report presented to the JISC on March 6, 2015.

E. Standing Committee Reports

1. Legislative Committee

Judge Meyer reported that Friday, March 13, 2015, was the sixty first day in the one hundred five day 2015 Legislative Session. Judge Meyer then informed of DMCJA bills of interest, which include (a) Senate Bill (SB) 5125 and House Bill (HB) 1248, which are bills relating to an increase in the district court jurisdiction limit from seventy-five thousand dollars ($75,000) to one hundred thousand dollars ($100,000), (b) SB 5174, which establishes an additional judge for Skagit County District Court, (c) SB 5107, which encourages the establishment of Therapeutic courts, (d) HB 1390, which relates to legal financial obligations, (e) HB 1276, which relates to driving under the influence, (f) HB 1282, which relates to driving while license is suspended for a failure to pay child support, (g) HB 1943, a bill regarding electronic home monitoring, (h) HB 1397, a bill regarding public disclosure commission (PDC) requirements relating to judges' addresses, and (h) SB 5980 and SB 5982, bills regarding retirement plans. The bills listed above have passed their original chambers and are now being heard in the opposite chambers. For instance, House Bills are now being heard in the Senate and vise-versa. Judge Finkle has testified for the Therapeutic courts bill. Judge Buckley will testify on HB 1397 regarding the PDC request for judges to report their home addresses.

2. Rules Committee

Judge Robertson reported that she has drafted a letter for Judge Steiner to sign regarding Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) 2.1, which relates to Citizens Complaints. The letter is located in the March Board packet.

Trial Court Advocacy Board (TCAB)

Judge Steiner reported that the TCAB two-year draft work plan will be added to the Information section of the April 2015 Board packet. He further reported that the TCAB discussed the issue of courtroom interpreters, which was initiated by Supreme Court Justice Steven Gonzalez, Court Interpreter Commission Chair, and Mr. Robert "Bob" Lichtenberg, AOC Staff for the Commission. Interpreter issues arise in rural courts where interpreter costs are extremely expensive. The issue is ongoing in the Legislature. There will be a meeting to encourage trial court judges to contact their legislators. Further, TCAB will adopt its Trial Court Security Rule when it is approved by the DMCJA. The TCAB also discussed issues regarding future staffing and a possible Charter amendment. It was recommended that TCAB champion issues relating to the legislative budget.

JIS Report

Ms. Cullinane reported that the CLJ Case Management System (CLJ-CMS) project is going well and is on schedule. The Court User Work Group is working on the future state: how court business

should look in the future. She said the success of the project will depend on getting the $7.2 million legislative funding for the 2015-17 biennium. It is very important for everyone to reach out to their legislators. She reported that two important developments could affect the successful completion of the project. The first is the JIS assessment increase. The second is a request from legislators that AOC work with King County on a plan and budget for speeding up work on the information networking hub (INH) project. The INH is a necessary part of the planning for transition from the current case management systems to new ones, including the CLJ-CMS. As we transition from the old systems to the new ones, it will allow the two machines to talk to each other, so judges and others can view data from multiple systems. Ms. Callie Dietz, Washington State Court Administrator, reported that House Representatives Zack Hudgins and Ross Hunter asked AOC to work with King County to come up with a plan to accelerate the INH work to meet King County District Court's (KCDC's) implementation deadline of August 2016, and a cost estimate for funding required to meet the deadline. Ms. Dietz reported that Ms. Veronica "Vonnie" Diseth, AOC Information System Division Director, and a team of AOC technical staff met with KCDC multiple times in recent weeks and developed an agreement. AOC estimates it will cost $7.1 million to meet KCDC's implementation date, and AOC has asked that the funding come from the State General Fund, so it does not affect projects already underway, like the CLJ-CMS. Ms. Dietz further reported that she met with Representatives Zack Hudgins and Ross Hunter regarding the agreement with King County. Ms. Dietz said Representatives Hudgins and Hunter were supportive of using general fund monies to finance the plan. If general fund monies are used, speeding up the INH project timeline for KCDC should not delay the CLJ-CMS project, which depends on the JIS Fund.

LIAISON REPORTS

DMCMA – Ms. Suzanne Elsner, District and Municipal Court Management Association (DMCMA) President, reported that Mr. Maury Baker was appointed as the DMCMA liaison to the Washington State Center for Court Research (WSSCR). The DMCMA had its Board meeting on March 10, 2015. In April, the DMCMA will have regional trainings in which General Rule 31.1, Access to Administrative Records, will be discussed. The DMCMA is in favor of delaying implementation of this rule until funding is available. The DMCMA Spring Conference will be in Vancouver, WA, May 19-21, 2015.

SCJA – Judge Harold Clarke, Superior Court Judges' Association (SCJA) Representative, reported that the SCJA discussed some of the same issues addressed by the DMCJA Board, such as the Court Security Rule amendment, the Washington State Bar Association (WSBA) Task Force draft report regarding the cost of civil litigation, and judicial performance evaluations, which the SCJA is not endorsing in its current form. The SCJA also discussed juror evaluations in which they endorsed as an action item. The SCJA Board further discussed the courthouse guardianship facilitators issue, how to handle pro se litigants, and the joint meeting with the Supreme Court. The 2015 SCJA Spring Conference will be held at the end of April. Further, Judge Marinella informed that the SCJA voted to pay one thousand dollars ($1000) toward an Outlook Webinar presented by Ms. Laura Stack that was requested by Superior Court Judge Small. The cost of the presentation is twenty-five hundred dollars ($2500).

AOC – Mr. Dirk Marler, Administrative Office of the Courts Representative, reported that AOC staffers are preparing for association conferences. He further informed of a Department of Licensing (DOL) issue regarding issuing infractions to businesses versus individuals. At present, there is no consistency regarding the identifier system between businesses and individuals, which results in poor records. Ms. Cullinane added that the CLJ-CMS Court User Work Group is working on the future state of the CLJ-CMS Project. She further informed that the link to contact when the Judicial Access Browser (JABS) is down was sent to the entire DMCJA membership as was requested at the last Board meeting.

BJA – Judge Kevin Ringus, Board for Judicial Administration (BJA) Representative, reported that the BJA will meet on Friday, March 20, 2015, from 9 a.m. to 2 p.m. The BJA will discuss perceptions of justice, rules changes to General Rule 31.1, Administrative Records, proposed General Rule 35, which relates to judicial evaluations, and the Washington State Bar Association (WSBA) Task Force on Escalating Civil Litigation Costs. Judge Ringus requested that a May 2013 Bylaws change regarding DMCJA Representatives to the BJA start their terms July 1 be sent to the DMCJA Bylaws Committee for review.

WSAJ – Shirley Bluhm, Esquire represented the Washington State Association for Justice (WSAJ) at the meeting.

WSBA – Ann Danieli, Esquire, Washington State Bar Association Representative, reported that the WSBA will have its next meeting on March 19, 2015.

MCA – Ms. Deena Kaelin, Misdemeanant Corrections Association Representative, informed that an extra component will be added at the MCA annual training.

ACTION

Court Security Rule Amendment
M/S/P to approve revisions to the Court Security Rule. The revisions to the Court Security Rule were provided in the March 2015 Board packet.

DISCUSSION

A. WSBA Escalating Cost of Civil Litigation Task Force Seeking Comments
Judge Marcine Anderson informed that the WSBA Task Force on the Escalating Cost of Civil Litigation, which commenced in 2011, drafted a report to be reviewed by the DMCJA and other associations. The Task Force proposed four recommendations for managing civil litigation costs, namely, (1) issue a case schedule when a civil case is filed, (2) assign a judge to a filed case unless impractical, (3) adopt a two-tier or multitrack system in superior courts, which would determine the case schedule and discovery limits, and (4) create a mandatory early discovery conference with a list of topics to be discussed in both superior court and district court cases. The DMCJA will provide comments regarding the draft report at the April Board meeting and a letter with DMCJA Board comments will be sent directly to the Task Force at ECCL@wsba.org.

B. CLJ-CMS Court User Work Group DMCJA Representative Replacement
Judge Steiner nominated Judge Tam Bui to replace Judge R.W. Buzzard on the CLJ-CMS Court User Work Group (CUWG) after discussing the requirements for the position with the Board and CLJ-CMS Project Steering Committee Representatives, Judges Kimberly Walden and Glenn Phillips. The replacement Judge is required to come from a court that intends to use the new courts of limited jurisdiction case management system, according to the CLJ-CMS CUWG Charter. Judge Buzzard resigned from the CUWG for personal reasons in January 2015.

C. SCJA/DMCJA Meeting with the Washington Supreme Court
Judge Steiner informed that the SCJA, DMCJA, and Supreme Court leaders had discussed having a joint meeting on Thursday, September 3, 2015. The Board discussed the date and determined not only to attend the joint meeting but also to have a Board meeting on September 3, 2015. The Board meeting will be held prior to the joint meeting.

D. Outlook Webinar
Superior Court Judge Small requested one thousand dollars ($1000) from the DMCJA for a webinar on effectively managing Outlook email that would be presented by Ms. Laura Stack, MBA, CSP. The

SCJA Board agreed to pay $1000 and the Superior Court Administrator Association indicated that they would contribute five hundred dollars ($500) toward the Outlook Webinar. Judge Small will provide more information regarding the terms of the contract and the Board will vote via email whether to contribute $1000 to the Outlook Webinar.

E. Recall Petitions Against CLJ Judges

Judge Jahns informed that the Petition for Recall of a Kitsap County Judge was denied. The case involves a demand presented to a Kitsap County Auditor for the recall election of a Kitsap County Judge. Judge Jahns addressed issues relating to the case, such as, whether a 1912 constitutional law is effective in light of the 1980 constitutional enactment of the Commission on Judicial Conduct (CJC).

F. Bylaws Changes

M/S/P to approve the proposed Bylaw amendment regarding a designated Commissioner position on the DMCJA Board to be placed as an action item at the 2015 DMCJA Spring Conference Business meeting.

M/S/P to send to the DMCJA Bylaws Committee the proposed Bylaw amendment regarding the term dates of DMCJA Representatives on the Board for Judicial Administration (BJA). The BJA would like for the DMCJA Representatives to the BJA to begin their terms on July 1.

INFORMATION

A. Nominating Slate

Judge Svaren, Chair of the DMCJA Nominating Committee, reported that after soliciting suggestions of nominees and securing the consent of the nominees to serve, the Committee submitted its nominating slate report in the March Board packet. Judge Svaren asked whether there were any questions or concerns regarding the nominees.

B. Washington State Minority and Justice Request

Judge Steiner informed that the Washington State Minority and Justice Commission is seeking a DMCJA liaison. Judge Veronica Alicea-Galvan, former DMCJA President, served on the Commission until she was appointed to the Superior Court. The term length for the DMCJA Commission Liaison is four years.

C. Legal Financial Obligations

Judge Jahns addressed the issue of legal financial obligations in light of the recent Washington State Supreme Court decision of *State v. Blazina*, No. 89028-5 (consol. w/No. 89109-5) (2015). Judge Steiner recommended that Judge Jahns pose any questions he may have regarding the decision to the DMCJA listserv.

ADJOURNED at 2:53 PM.

District and Municipal Court Judges' Association

President
JUDGE VERONICA ALICEA-GALVAN
Des Moines Municipal Court
21630 11th Ave S. Ste C
Des Moines, WA 98198
(206) 878-4597

President-Elect
JUDGE DAVID STEINER
King County District Court
585 112th Ave. S.E.
Bellevue, WA 98004
(206) 477-2102

Vice-President
JUDGE G. SCOTT MARINELLA
Columbia County District Court
535 Cameron St
Dayton, WA 99328-1279
(509) 382-4812

Secretary/Treasurer
JUDGE SCOTT K. AHLF
Olympia Municipal Court
900 Plum St SE
PO Box 1967
Olympia, WA 98507-1967
(360) 753-8312

Past President
JUDGE DAVID A. SVAREN
Skagit County District Court
600 S 3rd Street
PO Box 340
Mount Vernon, WA 98273-0340
(360) 336-9319

Board of Governors

JUDGE JOSEPH M. BURROWES
Benton County District Court
(509) 735-8476

JUDGE MICHELLE K. GEHLSEN
Bothell Municipal Court
(425) 487-5587

JUDGE JEFFREY J. JAHNS
Kitsap County District Court
(360) 337-4972

JUDGE SAMUEL MEYER
Thurston County District Court
(360) 786-5562

COMMISSIONER SUSAN J. NOONAN
King County District Court
(206) 477-1720

JUDGE KELLEY C. OLWELL
Yakima Municipal Court
(509) 575-3050

JUDGE REBECCA C. ROBERTSON
Federal Way Municipal Court
(253) 835-3000

JUDGE HEIDI SMITH
Okanogan County District Court
(509) 422-7170

JUDGE TRACY A. STAAB
Spokane Municipal Court
(509) 625-4400

April 1, 2015

To: President Steiner; DMCJA Officers; DMCJA Board of Governors
From: Scott Ahlf, DMCJA Treasurer
Subject: Monthly Treasurer's Report for September/October 2014

Dear President Steiner, Officers and Members of the DMCJA Board of Governors:

The following is a summary of the total DMCJA accounts, expenditures and deposits, as well as an update regarding the finances of our association.

ACCOUNTS

US Bank Platinum Business Money Market Account
Fund Balance - $100,520.01, as of January 31, 2015

Bank of America Accounts:
Investment Account - $119,573.74, as of April 1, 2015
Checking Account - $68,526.30, as of April 1, 2015

EXPENDITURES

Total 2014/2015 adopted budget:	$246,900.00
Total expenditures to date (01-06-15):	$114,245.82
Total remaining budget as of Jan. 6, 2015:	$130,154.18

DEPOSITS

Total deposits 2014/2015:	$125,671.00

DMCJA 2014-2015 Budget

ITEM COMMITTEE	Beginning Balance	Total Costs	Ending Balance
Access to Justice Liaison	$500.00	$0.00	$500.00
Audit	$2,000.00	$0.00	$2,000.00
Bar Association Liaison	$5,000.00	$0.00	$5,000.00
Board Meeting Expense	$30,000.00	$15,362.91	$14,637.09
Bookeeping Expense	$3,000.00	$1,825.00	$1,175.00
Bylaws Committee	$250.00	$0.00	$250.00
Conference Committee	$3,500.00	$0.00	$3,500.00
Conference Incidental Fees For Members Spring Conference 2014	$40,000.00	$36,285.00	$3,715.00
Diversity Committee	$2,000.00	$1,027.09	$972.91
DMCMA Education	$0.00	$0.00	$0.00
DMCMA Liaison	$500.00	$0.00	$500.00
DOL Liaison Committee	$500.00	$70.43	$429.57
Education Committee**	$21,000.00	$13,203.98	$7,796.02
Educational Grants	$5,000.00	$2,500.00	$2,500.00
Judicial Assistance Committee*	$10,000.00	$6,383.45	$3,616.55
Legislative Committee	$6,000.00	$1,449.17	$4,550.83
Legislative Pro-Tem	$2,500.00	$618.09	$1,881.91
Lobbyist Expenses	$1,000.00	$224.00	$776.00
Lobbyist Contract	$55,000.00	$18,000.00	$37,000.00
Long-Range Planning Committee	$1,500.00	$0.00	$1,500.00
MCA Liaison	$1,500.00	$764.33	$735.67
National Leadership Grants	$5,000.00	$4,000.00	$1,000.00
Nominating Committee	$400.00	$0.00	$400.00
President Expense	$7,500.00	$1,528.39	$5,971.61
Reserves Committee	$250.00	$0.00	$250.00
Rules Committee	$1,000.00	$22.49	$977.51
Salary and Benefits Committee	$2,500.00	$0.00	$2,500.00
SCJA Board Liaison	$1,000.00	$0.00	$1,000.00
Technology/CMS Committee	$7,500.00	$0.00	$7,500.00
Therapeutic Courts	$2,500.00	$0.00	$2,500.00
Treasurer Expense and Bonds	$1,000.00	$10.00	$990.00
Trial Court Advocacy Board	$5,000.00	$0.00	$5,000.00
Judicial Community Outreach	$4,000.00	$3,100.00	$900.00
Uniform Infraction Committee	$1,000.00	$0.00	$1,000.00
Professional Services	$15,000.00	$7,871.49	$7,128.51
DMCJA/SCJA Sentencing Alternatives	$2,500.00	$2,500.00	$0.00
TOTAL	**$246,900.00**	**$114,245.82**	**$130,154.18**
TOTAL DEPOSITS MADE	**$125,671.00**		
CREDIT CARD (balance owing)	**$0.00**		

*includes $5,000 from the SCJA

**includes $12,500 committed to the Presiding Judges Conference as a one time expense

District & Municipal Court Judges/Comms/Magis
2015 Members in Good Standing
5/1/2015 deadline

red=payment received after May 1

	LastFirstMiddle	Pos.	Gen. Dues Paid Amount	Gen. Dues Pd Good Stand	Spec Fund N/A for 2015	
1	Ahlf, Scott K.	Judge	$750.00	1	1	2
2	Allen, Sandra L.	Judge	$187.00	1	1	2
3	Andersen, Bradley	Judge	$187.00	1	1	2
4	Anderson, Marcine S.	Judge	$750.00	1	1	2
5	Andrew, Stewart R.	Judge	$750.00	1	1	2
6	Arb, Susan C.	Judge	$187.00	1	1	2
7	Baker, Jeff	Judge	$375.00	1	1	2
8	Ball, Dennis	Comm	$600.00	1	1	2
9	Barlow, Brian D.	Comm	$600.00	1	1	2
10	Bates, Christopher	Judge	$187.00	1	1	2
11	Bathum, Richard	Judge	$750.00	1	1	2
12	Beall, Andrea L.	Judge	$750.00	1	1	2
13	Bejarano, Elizabeth M.	Judge	$375.00	1	1	2
14	Bender, Johanna	Judge	$750.00	1	1	2
15	Bennett, Roger A.	Judge	$187.00	1	1	2
16	Bisagna, Donald J.	Comm	$300.00	1	1	2
17	Blauvelt, Arthur A. III	Judge	$187.00	1	1	2
18	Blinn, Grant	Judge	$750.00	1	1	2
19	Bobbink, Michael	Judge			1	1
20	Bradley, Clair	Judge	$750.00	1	1	2
21	Brown, Thomas D.	Judge	$375.00	1	1	2
22	Brueher, Gary J.	Judge	$375.00	1	1	2
23	Buckley, Brett	Judge	$750.00	1	1	2
24	Bui, Tam T.	Judge	$750.00	1	1	2
25	Burrowes, Joseph M.	Judge	$750.00	1	1	2
26	Butler, Katharine A.	Judge	$750.00	1	1	2
27	Buttorff, Karla E.	Judge	$750.00	1	1	2
28	Buzzard, James M.B.	Judge	$187.00	1	1	2
29	Buzzard, R.W.	Judge	$750.00	1	1	2
30	Buzzard, Steven R.	Judge	$187.00	1	1	2
31	Caniglia, Gerald	Comm	$600.00	1	1	2
32	Castelda, Anthony	Judge			1	1
33	Chapman, Arthur R.	Judge	$750.00	1	1	2
34	Chow, Mark C.	Judge	$750.00	1	1	2
35	Christie, David M.	Judge	$750.00	1	1	2
36	Chung, Robert E.	Magis	$600.00	1	1	2
37	Clough, Steve M.	Judge	$750.00	1	1	2
38	Coburn, Linda W.Y.	Judge	$750.00	1	1	2
39	Connolly Walker, Patricia	Judge	$750.00	1	1	2
40	Cooper, Terri K.	Comm			1	1
41	Copland, Thomas A.	Judge	$750.00	1	1	2
42	Crowell, Chancey C.	Judge	$375.00	1	1	2
43	Curry, John F.	Judge	$187.00	1	1	2
44	Dacca, Franklin L.	Judge	$750.00	1	1	2
45	Dane, Melanie	Judge	$187.00	1	1	2
46	Decker, Tarrell	Judge	$375.00	1	1	2
47	Delaurenti, II, Charles J.	Judge	$750.00	1	1	2
48	Delaney, Howard F.	Comm	$150.00	1	1	2
49	Derr, Sara B.	Judge	$750.00	1	1	2
50	Devilla, Francis	Magis	$600.00	1	1	2

	LastFirstMiddle		Gen. Dues	Gen. Dues Pd	Spec Fund	
		Pos.	Paid Amount	Good Stand	N/A for 2015	
51	Dixon, Martin M.	Comm	$300.00	1	1	2
52	Docter, James N.	Judge	$750.00	1	1	2
53	Doherty, John H.	Judge	$375.00	1	1	2
54	Donohue, Karen	Judge	$750.00	1	1	2
55	Druffel, Bill	Judge	$187.00	1	1	2
56	Dunn, Michael A.	Judge	$375.00	1	1	2
57	Ebenger, David	Judge	$187.00	1	1	2
58	Eide, D. Mark	Judge	$750.00	1	1	2
59	Eilmes, Kevin G.	Comm	$600.00	1	1	2
60	Eisenberg, Adam	Magis	$300.00	1	1	2
61	Elich, Matthew S.	Judge	$750.00	1	1	2
62	Ellington, Thomas M.	Judge	$187.00	1	1	2
63	Ellis, Darrel R.	Judge	$375.00	1	1	2
64	Eng, Park	Magis	$600.00	1	1	2
65	Engel, Donald	Judge	$750.00	1	1	2
66	Fair, Douglas J.	Judge	$750.00	1	1	2
67	Fassbender, Jennifer	Judge	$187.00	1	1	2
68	Faubion, William J.	Judge	$375.00	1	1	2
69	Faul, Bronson	Judge	$375.00	1	1	2
70	Finkle, Michael J.	Judge	$750.00	1	1	2
71	Fitterer, Richard C.	Judge	$750.00	1	1	2
72	Fore, Roy S.	Judge	$750.00	1	1	2
73	Fraser, Beth	Judge	$750.00	1	1	2
74	Freedman, Larry	Comm	$150.00	1	1	2
75	Garrison, Douglas K.	Judge	$187.00	1	1	2
76	Garrow, Janet E.	Judge	$750.00	1	1	2
77	Gehlsen, Michelle K.	Judge	$375.00	1	1	2
78	Gilbert, Warren M.	Judge	$750.00	1	1	2
79	Gillings, Fred L.	Judge	$750.00	1	1	2
80	Goddard, Dianne E.	Comm	$600.00	1	1	2
81	Goelz, Douglas E.	Judge	$375.00	1	1	2
82	Goodwin, Jeffrey D.	Judge	$750.00	1	1	2
83	Grant, David	Judge	$750.00	1	1	2
84	Grant, Joshua F.	Judge	$750.00	1	1	2
85	Green, Nathaniel	Judge	$750.00	1	1	2
86	Gregory, Willie J.	Judge	$750.00	1	1	2
87	Hagensen, John P.	Judge	$750.00	1	1	2
88	Hamilton, Robert W.	Judge			1	1
89	Hansen, Randall L.	Comm	$300.00	1	1	2
90	Hansen, Rick L.	Judge	$375.00	1	1	2
91	Harmon, Nancy A.	Judge	$750.00	1	1	2
92	Harn, Corinna D.	Judge	$750.00	1	1	2
93	Harper, Anne C.	Judge	$750.00	1	1	2
94	Hart, John H.	Judge	$187.00	1	1	2
95	Hatch, David S.	Judge	$187.00	1	1	2
96	Hawkins, W. H.	Judge	$750.00	1	1	2
97	Hayes, Debra R.	Judge	$750.00	1	1	2
98	Hedine, Kristian E.	Judge	$750.00	1	1	2
99	Heller, James R.	Judge	$750.00	1	1	2
100	Henke, Drew Ann	Judge	$750.00	1	1	2
101	Henry, John R.	Judge	$375.00	1	1	2
102	Heslop, Ronald D.	Judge	$750.00	1	1	2
103	Hightower, Judith	Judge	$750.00	1	1	2
104	Hill, Tyson R.	Judge	$750.00	1	1	2
105	Hillie, Adalia A.	Judge	$375.00	1	1	2
106	Hitchcock, Kathleen E.	Judge	$187.00	1	1	2
107	Holman, Stephen J.	Judge	$750.00	1	1	2

	LastFirstMiddle	Pos.	Gen. Dues Paid Amount	Gen. Dues Pd Good Stand	Spec Fund N/A for 2015	
108	Howard, Anthony E.	Judge	$750.00	1	1	2
109	Hurson, James E.	Judge	$750.00	1	1	2
110	Hyde, Stephen J.	Judge	$187.00	1	1	2
111	Imler, Kyle L.	Judge	$187.00	1	1	2
112	Ingvalson, Robert J.	Judge	$750.00	1	1	2
113	Jahns, Jeff	Judge	$750.00	1	1	2
114	Jasprica, Judy Rae	Judge	$750.00	1	1	2
115	Jenkins, Timothy A.	Judge	$375.00	1	1	2
116	Jorgensen, Karli K.	Judge	$750.00	1	1	2
117	Jurado, Terry L.	Judge	$750.00	1	1	2
118	Kathren, Daniel F.	Judge	$750.00	1	1	2
119	Kato, Eileen A.	Judge	$750.00	1	1	2
120	Kaino, Kristopher	Judge	$187.00	1	1	2
121	Kayne, Richard	Judge	$187.00	1	1	2
122	Kipling, Linda B.	Comm	$600.00	1	1	2
123	Knowlton, John O.	Judge	$375.00	1	1	2
124	Kondo, C. Kimi	Judge	$750.00	1	1	2
125	Koss, David	Judge	$750.00	1	1	2
126	Ladenburg, David B.	Judge	$750.00	1	1	2
127	Lambo, Michael J.	Judge	$750.00	1	1	2
128	Landes, Jill	Judge	$750.00	1	1	2
129	Langsdorf, Sonya L.	Judge	$750.00	1	1	2
130	Larson, David A.	Judge	$750.00	1	1	2
131	Leland, Richard M.	Judge	$750.00	1	1	2
132	Leo, Rick	Comm	$600.00	1	1	2
133	Leone, Lisa	Magis	$600.00	1	1	2
134	Lev, Debra A.	Judge	$750.00	1	1	2
135	Lewis, Terrance G.	Judge	$187.00	1	1	2
136	Lineberry, Jeanette A.	Judge	$750.00	1	1	2
137	Logan, Mary C.	Judge	$750.00	1	1	2
138	Luken, Terri	Magis	$600.00	1	1	2
139	Lutes, Ray D.	Judge	$750.00	1	1	2
140	Lyon, Patricia L.	Judge	$750.00	1	1	2
141	Maher, Dennis P.	Judge			1	1
142	Mahoney, Susan L	Judge	$750.00	1	1	2
143	Mano, Jr., Joseph M.	Judge	$187.00	1	1	2
144	Marinella, G. Scott	Judge	$375.00	1	1	2
145	Markley, Marlynn	Comm			1	1
146	Marshall, Ronald S.	Judge	$750.00	1	1	2
147	Maurer, Aimee	Judge	$750.00	1	1	2
148	Maxwell, John E.	Judge	$187.00	1	1	2
149	McBeth, Dale A.	Judge	$375.00	1	1	2
150	McCann, Kevin A.	Judge	$750.00	1	1	2
151	McCauley, Judith L.	Judge	$750.00	1	1	2
152	McCulloch, Sara L.	Judge	$375.00	1	1	2
153	McKenna, Edward	Judge	$750.00	1	1	2
154	Meadows, Victoria C.	Judge	$750.00	1	1	2
155	Mendoza, Debbie	Judge	$187.00	1	1	2
156	Meyer, David	Judge	$750.00	1	1	2
157	Meyer, Samuel G.	Judge	$750.00	1	1	2
158	Meyer, Thomas L.	Judge	$187.00	1	1	2
159	Michels, Steven L.	Judge	$375.00	1	1	2
160	Miller, John A.	Judge	$187.00	1	1	2
161	Moore, Stephen E.	Judge	$750.00	1	1	2
162	Nault, Peter L.	Judge	$750.00	1	1	2
163	Noonan, Susan	Comm	$750.00	1	1	2
164	Odell, Timothy B.	Judge	$750.00	1	1	2

	LastFirstMiddle	Pos.	Gen. Dues Paid Amount	Gen. Dues Pd Good Stand	Spec Fund N/A for 2015	
165	Olbrechts, Kristen	Judge	$750.00	1	1	2
166	Olson, John R.	Comm	$150.00	1	1	2
167	Olwell, Kelley C.	Judge	$750.00	1	1	2
168	O'Toole, Lisa	Judge	$750.00	1	1	2
169	Osler, Kelli E.	Judge	$750.00	1	1	2
170	Paja, Marilyn G.	Judge	$750.00	1	1	2
171	Parcher, Kristen L.	Comm	$300.00	1	1	2
172	Parise, Anthony	Comm	$600.00	1	1	2
173	Penoyar, Elizabeth	Judge	$375.00	1	1	2
174	Petersen, David L.	Judge	$375.00	1	1	2
175	Peterson, Vance W.	Judge	$750.00	1	1	2
176	Phillips, Glenn M.	Judge	$750.00	1	1	2
177	Porter, Rick L.	Judge	$750.00	1	1	2
178	Portnoy, Linda S.	Judge	$375.00	1	1	2
179	Putka, Edward J.	Judge	$750.00	1	1	2
180	Reynier, Jr., Ronald	Judge	$375.00	1	1	2
181	Ringus, Kevin G.	Judge	$750.00	1	1	2
182	Roach, Jerry	Judge	$750.00	1	1	2
183	Robertson, Rebecca C.	Judge	$750.00	1	1	2
184	Robinson, Douglas B.	Judge	$750.00	1	1	2
185	Rochon, L. Stephen	Judge	$187.00	1	1	2
186	Roewe, Michael P.	Comm	$150.00	1	1	2
187	Rosen, Steven	Judge	$750.00	1	1	2
188	Ross, Margaret Vail	Judge	$750.00	1	1	2
189	Roy, Kevin M.	Judge	$750.00	1	1	2
190	Rozzano, Mara	Judge	$187.00	1	1	2
191	Sage, C Scott	Judge	$187.00	1	1	2
192	Samuelson, Wade S.	Judge	$750.00	1	1	2
193	Sanderson, Brian K.	Judge	$750.00	1	1	2
194	Schreiber, Vernon L.	Judge	$750.00	1	1	2
195	Schweppe, Alfred G.	Judge	$750.00	1	1	2
196	Seaman, Shane	Comm	$150.00	1	1	2
197	Seitz, Vicki M.	Judge	$750.00	1	1	2
198	Shadid, Damon G.	Judge	$750.00	1	1	2
199	Shah, Ketu	Judge	$750.00	1	1	2
200	Short, Charles D.	Judge	$750.00	1	1	2
201	Smiley, Pete	Comm	$600.00	1	1	2
202	Smith, Douglas J.	Judge	$750.00	1	1	2
203	Smith, Heidi E.	Judge	$750.00	1	1	2
204	Solan, Susan	Judge	$375.00	1	1	2
205	Staab, Tracy	Judge	$750.00	1	1	2
206	Steele, George A.	Judge	$375.00	1	1	2
207	Steiner, David A.	Judge	$750.00	1	1	2
208	Stephenson, Elizabeth D.	Judge	$750.00	1	1	2
209	Stewart, Kevin D.	Comm	$600.00	1	1	2
210	Stewart, N. Scott	Judge	$375.00	1	1	2
211	Stewart, Wayne	Judge	$375.00	1	1	2
212	Stewart, William J.	Judge	$187.00	1	1	2
213	Stiles, Brian L.	Judge	$187.00	1	1	2
214	Sussman, Claire	Judge	$750.00	1	1	2
215	Svaren, David A.	Judge	$750.00	1	1	2
216	Swanger, James P.	Judge	$750.00	1	1	2
217	Szambelan, Michelle	Judge	$750.00	1	1	2
218	Tanner, Terry M.	Judge	$750.00	1	1	2
219	Tedrick, Marjorie	Judge	$187.00	1	1	2
220	Tolman, Jeff	Judge	$375.00	1	1	2
221	Towers, Lorrie C.	Judge	$750.00	1	1	2

	LastFirstMiddle	Pos.	Gen. Dues Paid Amount	Gen. Dues Pd Good Stand	Spec Fund N/A for 2015	
222	Tripp, Gregory J.	Judge	$750.00	1	1	2
223	Tripp, Wendy	Comm	$150.00	1	1	2
224	Tucker, Donna K.	Judge	$750.00	1	1	2
225	Turner, Michael S.	Judge	$187.00	1	1	2
226	Tveit, Gina	Judge	$750.00	1	1	2
227	Van De Veer, Philip J.	Judge	$375.00	1	1	2
228	Van Slyck, Laura	Judge	$750.00	1	1	2
229	Verhey, Elizabeth	Judge	$750.00	1	1	2
230	Walden, Kimberly A.	Judge	$375.00	1	1	2
231	Whitener-Moberg, Janis	Judge	$750.00	1	1	2
232	Wilcox, Kalo	Judge	$750.00	1	1	2
233	Williams, Matthew	Judge	$750.00	1	1	2
234	Wilson, Donna	Judge	$750.00	1	1	2
235	Witteman, Jeffrey M.	Comm	$600.00	1	1	2
236	Wohl, Paul	Comm	$600.00	1	1	2
237	Woodard, Susan J.	Judge	$750.00	1	1	2
238	Wyninger, Karen S.	Comm	$300.00	1	1	2
239	Zimmerman, Darvin J.	Judge	$750.00	1	1	2
			$133,820.00	233	239	

% who have NOT paid regular dues 2.51%

% in good standing in 2015 97.49% Note: special fund dues not assessed in 2014

% in good standing in 2014	97.47%	Note: special fund dues not assessed in 2014
% in good standing in 2013	97.93%	Note: special fund dues not assessed in 2013
% in good standing in 2012	96.64%	Note: special fund dues not assessed in 2012
% in good standing in 2011	98.32%	Note: special fund dues not assessed in 2011
% in good standing in 2010	85.19%	
% in good standing in 2009	84.81%	
% in good standing in 2008	72.03%	
% in good standing in 2007	71.06%	
% in good standing in 2006	87.77%	
% in good standing in 2005	78.30%	
% in good standing in 2004	69.87%	

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ACCT# [redacted] WA STAT D N HISTORY INQUIRY 04/01/15 16:56 2 OF 2 SIDP

	Date	TCD	Amount	Balance	Teller	STAT	MOD	DESCRIPTION
01	02/28/15	INT	3.65	47,566.90	080	-	0080	
02	03/31/15	INT	4.04	47,570.94	080	-	0080	
		ENDING BAL		47,570.94				

KING COUNTY DISTRICT COURT
East Division – Redmond Courthouse

Judge Janet E. Garrow
206-477-2103

8601 160th Ave NE
Redmond, WA 98052-3548

Kathy Orozco
Court Manager

TO: Judge David Steiner, Acting President, DMCJA Board

FROM: Judge Janet Garrow, Chair, DMCJA Rules Committee

SUBJECT: Proposed Amendments to CRLJ 26 and CRLJ 56

DATE: April 3, 2015

Last year, the DMCJA Rules Committee formed a subcommittee to review the Civil Rules for Courts of Limited Jurisdiction and make recommendations regarding possible amendments. This "CRLJ Subcommittee" subsequently recommended amendments to CLRJ 26 and CRLJ 56. The DMCJA Rules Committee discussed the proposed amendments and forwarded them to the WSBA Court Rules Committee for comment. Subcommittee X of the WSBA Rules Committee approved the proposed amendment to CRLJ 26 and provided input regarding CRLJ 56, which was considered in the final recommendation. The DMCJA Rules Committee recommends that the attached rule amendment proposals be forwarded to the Supreme Court for consideration.

To sum the reasons stated in the GR 9 Cover Sheet, the Committee recommends that CRLJ 26(g), pertaining to time for discovery, be amended to remove the time restrictions that are currently contained therein. This deletion will make the rule more consistent with current practice in courts of limited jurisdiction and with the other discovery rules that provide more expansive time frames. It will also make the rule more consistent with CR 26.

With regard to CRLJ 56, the Committee recommends that subsection (c), which addresses motions and proceedings for summary judgment, be amended to expand the time frames currently provided for initial and responsive pleadings. This will allow the parties more time to review and craft motions, which is appropriate for the complex cases that have become more common in courts of limited jurisdiction. The Committee also recommends the addition of a subsection (h), similar to that for superior courts, which requires the court to designate the

documents and other evidence relied upon when ruling on a summary judgment motion.

Thank you for consideration of these recommendations. Additional detail is found in the attached cover sheets. The Committee is grateful to Judge Dacca for drafting the proposed amendments and coordinating with the WSBA. If you have any questions, please contact me or J Benway.

Attachments: GR 9 Cover Sheet for Proposed Amendments to CRLJ 26
GR 9 Cover Sheet for Proposed Amendments to CRLJ 56

CC: DMCJA Rules Committee
J Benway, AOC Staff

GR 9 COVER SHEET

Suggested Amendment to
WASHINGTON STATE COURT RULES:
CIVIL RULES FOR COURTS OF LIMITED JURISDICTION

Amend CRLJ 26(g): Time for Discovery

Submitted by the District & Municipal Courts Judges Association

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A. **Name of Proponent:** District & Municipal Courts Judges Association

B. **Spokesperson:** Judge David Steiner, Acting President DMCJA

C. **Purpose:** CRLJ 26 governs civil discovery in courts of limited jurisdiction. Subsection (g), pertaining to time for discovery, provides:

> Time for Discovery. Twenty-one days after the service of the summons and complaint, or counterclaim, or cross complaint, the served party may demand the discovery set forth in sections (a) - (d) of this rule, or request additional discovery pursuant to section (e) of this rule. Unless agreed by the parties and with the permission of the court, all discovery shall be completed within 60 days of the demand, or 90 days of service of the summons and complaint, or counterclaim, or cross complaint, whichever is longer.

Courts of limited jurisdiction typically allow for more limited civil discovery than superior courts, as indicated by a comparison between the current CR 26 and CRLJ 26. However, CRLJ 26(g) limits the discovery time frame to a 60 or 90 day period that is inconsistent with the type of cases that are now filed in district courts. The current rule was implemented during a time when the monetary civil jurisdictional limits of district court were much lower. With the increase in district court jurisdiction to $75,000 (and perhaps more in the future), the Committee recommends that the time limits for civil discovery be removed. The revised subsection would read:

> (g) Time for Discovery. Twenty-one days after the service of the summons and complaint, or counterclaim, or cross complaint, the served party may demand the discovery set forth in sections (a) - (d) of this rule, or request additional discovery pursuant to section (e) of this rule. ~~Unless~~

~~agreed by the parties and with the permission of the court, all discovery shall be completed within 60 days of the demand, or 90 days of service of the summons and complaint, or counterclaim, or cross-complaint, whichever is longer.~~

This revision is advisable for several reasons. First, the 60 or 90 day time limit is inconsistent with the discovery processes that are currently allowed under CRLJ 26. CRLJ 26 provides for discovery to commence 21 days after service of the summons and complaint. Generally, paper discovery (interrogatories, requests for production) is served initially. The responding party then has 30 days to respond. After review, the serving party may then take depositions, and/or serve requests for admission. When the jurisdictional limits were lower, depositions were rare, but now it is standard practice to take depositions in district court civil cases. The current rule makes scheduling depositions very problematic as it is unlikely that the authorized three depositions per party can occur within the time frame the rule imposes. As a result, the parties must seek a joint order from the court in almost every case.

With the increased complexity of district court cases, adverse parties (many of whom are unrepresented), should properly have additional time to seek counsel. Both parties need more time to respond to and evaluate discovery. Both parties need more time to evaluate their settlement posture and to focus any discovery motions. Removal of the time limitations will improve court efficiency by requiring motions only where the parties are seeking to expand the discovery limitations (three depositions, 15 interrogatories, etc.), rather than the time constraints. Finally, removal of the 60/90 day limitation is more consistent with the myriad of court calendaring processes that are found throughout the different district courts in Washington.

Removal of the discovery time limitations will allow parties to file mainline civil cases in district court, and to take advantage of the limited discovery processes, six person juries, and final results that the district court process offers. Because of these reasons, the DMCJA recommends that CRLJ 26(g) be amended to remove the 60 and 90 day limitations on discovery. The amended rule retains the other limits on discovery within courts of limited jurisdiction, and allows for improved efficiency and flexibility in the handling of civil matters within those courts.

D. **Hearing:** A hearing is not requested.

E. **Expedited Consideration:** Expedited consideration is not requested.

Proposed Amendment

CRLJ 26

DISCOVERY

Discovery in courts of limited jurisdiction shall be permitted as follows:

(a) Specification of Damages. A party may demand a specification of damages under RCW 4.28.360.

(b) Interrogatories and Requests for Production.

(1) The following interrogatories may be submitted by any party:

(A) State the amount of general damages being claimed.

(B) State each item of special damages being claimed and the amount thereof.

(C) List the name, address and telephone number of each person having any knowledge of facts regarding liability.

(D) List the name, address and telephone number of each person having any knowledge of facts regarding the damages claimed.

(E) List the name, address and telephone number of each expert you intend to call as a witness at trial. For each expert, state the subject matter on which the expert is expected to testify. State the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(2) In addition to section (b)(1), any party may serve upon any other party not more than two sets of written interrogatories containing not more than 20 questions per set without prior permission of the court. Separate sections, paragraphs or categories contained within one interrogatory shall be considered separate questions for the purpose of this rule. The interrogatories shall conform to the provisions of CR 33.

(3) The following requests for production may be submitted by any party:

(A) Produce a copy of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of any judgment which may be entered in this action, or to indemnify or reimburse the payments made to satisfy the judgment.

(B) Produce a copy of any agreement, contract or other document upon which this claim is being made.

(C) Produce a copy of any bill or estimate for items for which special damage is being claimed.

(4) In addition to section (b)(3), any party may submit to any other party a request for production of up to five separate sets of groups of documents or things without prior permission of the court. The requests for production shall conform to the provisions of CR 34.

(c) Depositions.

(1) A party may take the deposition of any other party, unless the court orders otherwise.

(2) Each party may take the deposition of two additional persons without prior permission of the court. The deposition shall conform to the provisions of CR 30.

(d) Requests for Admission.

(1) A party may serve upon any other party up to 15 written requests for admission without prior permission of the court. Separate sections, paragraphs or categories contained within one request for admission shall be considered separate requests for purposes of this rule.

(2) The requests for admission shall conform to the provisions of CR 36.

(e) Other Discovery at Discretion of Court. No additional discovery shall be allowed, except as the court may order. The court shall have discretion to decide whether to permit any additional discovery. In exercising such discretion the court shall consider (1) whether all parties are represented by counsel, (2) whether undue expense or delay in bringing the case to trial will result and (3) whether the interests of justice will be promoted.

(f) How Discovery to Be Conducted. Any discovery authorized pursuant to this rule shall be conducted in accordance with Superior Court Civil Rules 26 through 37, as governed by CRLJ 26.

(g) Time for Discovery. Twenty-one days after the service of the summons and complaint, or counterclaim, or cross complaint, the served party may demand the discovery set forth in sections (a) - (d) of this rule, or request additional discovery pursuant to section (e) of this rule. ~~Unless agreed by the parties and with the permission of the court, all discovery shall be completed within 60 days of the demand, or 90 days of service of the summons and complaint, or counterclaim, or cross complaint, whichever is longer.~~

[Amended effective September 1, 1994; amended effective September 1, 1999; amended effective September 1, 2005.]

GR 9 COVER SHEET

Suggested Amendment to
WASHINGTON STATE COURT RULES:
CIVIL RULES FOR COURTS OF LIMITED JURISDICTION

Amend CRLJ 56: Summary Judgment

Submitted by the District & Municipal Courts Judges Association

---

A. **Name of Proponent:** District & Municipal Courts Judges Association

B. **Spokesperson:** Judge David Steiner, Acting President
DMCJA

C. **Purpose:** CRLJ 56 governs summary judgments in courts of limited jurisdiction. Subsection (c), pertaining to motion and proceedings, provides:

> The motion shall be served at least 10 days before the time fixed for the hearing. The adverse party, prior to the day of hearing, may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

CR 56 similarly governs the procedures and time deadlines for the filing and consideration of motions for summary judgment in superior court. A comparison of CR 56 and CRLJ 56 indicates that the respective rules are identical except for the language in subsection (c) and the omission of subsection (h) from the existing CRLJ 56.

Subsection (c) of both rules sets forth the time requirements for filing motions for summary judgment and the legal standard for granting or denying these motions. Under CR 56(c), a motion for summary judgment must be filed at least 28 days before the motion hearing, with the adverse party allowed to file a responsive pleading at least 11 days before the hearing. By contrast, the moving party under the existing CRLJ 56(c) must file the motion and supporting pleadings at least 10 days before the motion

hearing and the adverse party may file responsive pleadings prior to the day of the hearing.

The DMCJA recommends that CRLJ 56(c) be amended to expand the initial filing period from 10 to 15 days prior to the hearing, with the adverse party being required to file and serve any responsive pleadings no later than three days before the hearing date. The amended CRLJ 56(c) also provides that the moving party may file rebuttal pleadings the day prior to the motion hearing.

The abbreviated time limits created by CRLJ 56 seem to stem from the time when the jurisdictional limits of district courts resulted in more limited proceedings. With the increase in the civil jurisdiction limit in district court to $75,000 (and perhaps more in the future), it makes sense to increase the time periods. Under the current rule, a high percentage of responsive pleadings are filed at or near the end of the court day prior to the hearing and are not seen by the judge or the litigants until the day of the hearing. With the increased complexity of the motions, the adverse parties (many of whom are unrepresented), should have additional time to respond to the allegations. Requiring the adverse party to file a responsive pleading within three days provides the moving party with an opportunity to review the response and consider whether it is advisable to cancel or continue the motion hearing. The three-day filing requirement promotes court efficiency and calendaring as it affords litigants the opportunity to assess their legal posture (and any possible settlement), and provides additional time for the judge to review in advance the pleadings filed by the respective parties.

The revised subsection (c) would read:

(c) Motion and Proceedings. The motion and any supporting affidavits, memoranda of law, or other documentation shall be filed and served ~~at least 10~~ not later than 15 days before ~~the time fixed for~~ the hearing. The adverse party~~, prior to the day of hearing,~~ may file and serve opposing affidavits, memoranda of law and other documentation not later than 3 days before the hearing. The moving party may file and serve any rebuttal documents not later than the day prior to the hearing. Summary judgment motions shall be heard more than 14 days before the date set for trial unless leave of the court is granted to allow otherwise. The judgment sought shall be rendered forthwith if the pleadings, answers to interrogatories, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

The final proposed revision to existing CRLJ 56 is to include a similar paragraph to CR 56(h), which governs the form of the order signed by the court, but which allows for more judicial discretion. The new subsection would read:

> (h) Rulings by Court. In granting or denying the motion for summary judgment, the court shall designate the documents and other evidence considered in its rulings.

This addition would improve the clarity of the judicial record in the limited jurisdiction court.

For the reasons set forth herein, the DMCJA recommends that CRLJ 56 be amended as submitted.

D. **Hearing:** A hearing is not requested.

E. **Expedited Consideration:** Expedited consideration is not requested.

Proposed Amendment

CRLJ 56

SUMMARY JUDGMENT

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross claim, or to obtain a declaratory judgment may, at any time after the expiration of the period within which the defendant is required to appear, or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof.

(b) For Defending Party. A party against whom a claim, counterclaim, or cross claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.

(c) Motion and Proceedings. The motion and any supporting affidavits, memoranda of law, or other documentation shall be filed and served ~~at least 10~~ not later than 15 days before ~~the time fixed for~~ the hearing. The adverse party~~, prior to the day of hearing,~~ may file and serve opposing affidavits, memoranda of law and other documentation not later than 3 days before the hearing. The moving party may file and serve any rebuttal documents not later than the day prior to the hearing. Summary judgment motions shall be heard more than 14 days before the date set for trial unless leave of the court is granted to allow otherwise. The judgment sought shall be rendered forthwith if the pleadings, answers to interrogatories, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

(d) Case Not Fully Adjudicated on Motion. If on motion under the rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before

it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action, the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

(e) Form of Affidavits; Further Testimony; Defense Required. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

(f) When Affidavits Are Unavailable. Should it appear from the affidavits of a party opposing the motion that he cannot, for reasons stated, present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(g) Affidavits Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which

the filing of the affidavits caused him to incur, including reasonable attorney fees, and any offending party or attorney may be adjudged guilty of contempt.

(h) Rulings by Court. In granting or denying the motion for summary judgment, the court shall designate the documents and other evidence considered in its rulings.

WASHINGTON COURTS

DMCJA Bylaws Committee Report

March 2015

Committee Members:
Commissioner Kipling, Chair
Judge Gregory
Judge Phillips
Judge Smith

AOC Staff:
Ms. J Benway

The DMCJA Board requested that the Bylaws Committee propose a Bylaws amendment to change the date that the term of office begins for DMCJA representatives to the Board for Judicial Administration. The Bylaws Committee discussed the issue and recommends the following amendment:

Proposed Amendment to DMCJA Bylaws Art. VIII, Section 2:

Current language:

Section 2. Election of Representatives:

Election of all representatives shall be held at the Spring Conference. Terms of office shall commence on June 1, of the year in which elected, or at the conclusion of the Annual Meeting, whichever last occurs.

Proposed language:

Section 2. Election of Representatives:

Election of all representatives shall be held at the Spring Conference. Terms of office shall commence on July 1, of the year in which elected, or at the conclusion of the Annual Meeting, whichever last occurs.

Redline:

Section 2. Election of Representatives:

Election of all representatives shall be held at the Spring Conference. Terms of office shall commence on ~~June 1~~ July 1, of the year in which elected, or at the conclusion of the Annual Meeting, whichever last occurs.

WSBA

Task Force *on the* Escalating Costs of Civil Litigation

Final Report ***to the*** **Board of Governors**

February 11, 2015

Send comments to: ECCL@wsba.org

Per Section IX(B)(3)(d) of the Bylaws of the Washington State Bar Association, this draft report does not represent a view or action of the Bar unless approved by a vote of the Board of Governors.

Recommendations

Many of the Task Force's recommendations will involve changes to the Civil Rules. Should the Board of Governors approve these recommendations, the Task Force contemplates the Court Rules and Procedures Committee would then review them for drafting and finalization. If approved by the Board of Governors, the proposed rules will be forwarded to the Supreme Court for consideration and public comment.

1. Initial case schedules

a. Current practice

The superior courts of King County, Pierce County, and Spokane County issue schedules in all civil cases; courts in some other counties do not.

b. Recommendation

The Task Force recommends a case schedule be issued upon filing a civil case in either superior court or district court. All superior court cases will initially be set on a 12-month schedule, but may seek to move to an 18-month schedule as described below in the recommendation regarding litigation tiers. Cases filed in district court will receive a 6-month schedule at filing.

Case schedules will include deadlines for initial disclosures, joinder of parties, fact witness disclosure, expert witness disclosure, mandatory mediation, discovery cutoff, pretrial disclosures, and a trial date. A deadline for moving the court to change the assigned tier or to make other adjustments to discovery limitations will also be stated in the case schedule.

Beyond the total time allowed, the courts of individual counties will have discretion to craft their own case schedules. Counties may also exempt certain categories of civil actions from schedules entirely, for example:

- Change of name;
- Adoption;
- Domestic violence protection order under Chapter 26.50 RCW;
- Anti-harassment protection order under Chapter 10.14 RCW;
- Unlawful detainer;
- Appeal from courts of limited jurisdiction;
- Foreign judgment;
- Abstract of transcript of judgment;
- Writ petition;
- Civil commitment;

- Proceedings under Title 11 RCW (probate and trust law);
- Proceedings under Title 13 RCW (juvenile courts and juvenile offenders);
- Proceedings under Chapter 10.77 RCW (criminally insane); and
- Proceedings under Chapter 70.96A RCW (chemical dependency).

c. Reasons

Case schedules are necessary to organize cases and keep parties moving toward resolution. A schedule is the backbone of case management, and is necessary to organize cases, impose a time frame on case resolution, impose deadlines to keep cases moving toward resolution, and implement cost-reduction methods.[5] Deadlines—including a certain trial date—prompt parties to efficiently evaluate and prepare cases, leading to resolution at trial or through negotiation.[6] There is empirical evidence that supports the use of early case management as a method of reducing litigation costs, especially when combined with setting a trial schedule early.[7] The automatic case schedule implements both of these methods.[8]

[5] IAALS & ACTL Task Force on Discovery, 21st Century Civil Justice System: A Roadmap for Reform: Pilot Project Rules 8 (2009) ("Early and ongoing control of case progress has been identified as one of the core features common to those courts that successfully manage the pace of litigation. Active court control, which includes scheduling, setting and adhering to deadlines, and imposing sanctions for failure to comply with deadlines, can ensure that each scheduled event causes the next scheduled event to occur, thereby ensuring that every case has no unreasonable interruption in its procedural progress."); Rebecca L. Kourlis & Brittany K.T. Kauffman, *The American Civil Justice System: From Recommendations to Reform in the 21st Century*, 61 U. Kan. L. Rev. 877, 891 (2013) ("[F]irm trial dates, enforced timelines, streamlined motions practice, and judicial availability are other tools that are being used to move the process along and reduce the time and cost burden on litigants.").

[6] *See* IAALS & ACTL Task Force on Discovery, Final Report on the Joint Project of the American College of Trial Lawyers Task Force on Discovery and the Institute for the Advancement of the American Legal System 20 (2009) ("There can be significant benefits to setting a trial date early in the case. For example, the sooner a case gets to trial, the more the claims tend to narrow, the more the evidence is streamlined and the more efficient the process becomes. Without a firm trial date, cases tend to drift and discovery takes on a life of its own. In addition, we believe that setting realistic but firm trial dates facilitates the settlement of cases that should be settled, so long as the court is vigilant to ensure that the parties are behaving responsibly. In addition, it will facilitate the trials of cases that should be tried.").

[7] James S. Kakalik, *Analyzing Discovery Management Policies: Rand Sheds New Light on the Civil Justice Reform Act Evaluation Data*, 37 No. 2 Judge's J. 22, 25 (1998) ("In the main evaluation report, we found that early case management predicted significantly reduced time to disposition;

In the Task Force's survey, respondents who practice in multiple jurisdictions found that jurisdictions issuing schedules in all cases, such as the federal courts, were less costly litigation forums. The Pleadings and Motions Practice Subcommittee also found support for universal case schedules from interviewing members of the state judiciary. Judges that the subcommittee interviewed viewed case schedules as an easy-to-implement and effective tool for controlling litigation cost.

The Task Force recommends allowing counties leeway to exempt certain cases from schedules because many civil actions fall outside the heartland of civil litigation to which the schedule recommendation is addressed. King, Pierce, and Spokane County, which issue civil case schedules, each make categorical exemptions for certain types of civil actions. The exemptions carved out by these counties represent practical experience that the Task Force believes should be preserved.

2. Judicial assignment

a. Current practice

In some counties, cases are assigned to a single judge at the outset of the case. In many counties, they are not.

b. Recommendation

The Task Force recommends adding the following language to the civil rules on judicial assignment:

A judge shall be assigned to each a case upon filing. The assigned judge shall conduct all proceedings in the case unless the court determines it is impracticable to do so.

coupling early management with setting a trial schedule early predicted significant further time reductions."); IAALS, Civil Case Processing in the Federal District Courts 84 (2009) ("[F]aster disposition times tend to be strongly correlated with setting a trial date early in the litigation, filing motion for leave to conduct additional discovery as soon as possible after the Rule 16 conference ..., and filing motion on disputed discovery, motions to dismiss and motions for summary judgment as soon as practicable in the life of the litigation.").

[8] Implementation of mandatory discovery planning is necessary to get the full benefit of early case schedules and trial setting, and vice versa. Kakalik, *Analyzing Discovery Management Policies*, *supra* note 7, at 25 ("We estimate that early management with a mandatory discovery management planning policy is associated with a 104-day reduction when a trial schedule is set early, and with about an 85 day reduction for early management with a mandatory planning policy but without setting a trial schedule early. The estimated effect for early management with neither mandatory planning nor setting a trial schedule early is much smaller-only about twenty-nine days.").

c. Reasons

Court involvement in management during key stages of the case, including during the discovery phase, is necessary for any of the recommended cost reduction methods to be implemented (proportionality, litigation tiers, court conferences to determine variation from discovery limits).[9] Many respondents to the Task Force's survey complained that judges' failure to enforce existing rules contributed significantly to driving up those costs. A judge responsible for overseeing a case from start to finish would be more familiar with the parties and issues, more able to efficiently resolve discovery disputes, and more willing to curb discovery abuse. This method has been endorsed and adopted by other states after studies or pilot projects.[10]

The Task Force ultimately decided against requiring judicial assignment. Many counties have only a few judges handling civil cases; denying those counties the flexibility to share the work associated with those cases as needed would be an administrative burden. The proposed language preserves this flexibility while making clear that assignment to a single judge for the life of a case is the strongly preferred option.

3. Two-tier litigation

a. Current Practice

Statewide, Washington makes few categorical distinctions between cases based on size or complexity. Mandatory arbitration, applicable to claims under $50,000, is one such distinction. Another is the district court system, open only to claims under $75,000. Pierce County assigns different case schedules based on a case's subject matter or likely complexity.

b. Recommendation

The Task Force recommends adopting a two-tier litigation system (sometimes referred to as multi-track litigation) in superior court cases, which would determine a case's

[9] Kourlis & Kauffman, *From Recommendations to Reform in the 21st Century, supra* note 5, at 891 ("Judicial caseflow management has been recognized as another essential element in moving a case fairly, efficiently, and economically through the process. Early judicial involvement in every case, by a single judge assigned to the case from start to finish, is more efficient."); IAALS & ACTL, *Final Report, supra* note 6, at 18 ("A single judicial officer should be assigned to each case at the beginning of a lawsuit and should stay with the case through its termination.").

[10] *E.g.* Reforming the Iowa Civil Justice System, Report of the Iowa Civil Justice Reform Task Force 30 (2012) ("One judge assigned to each case for the life of the matter will enhance judicial management, promote consistency and adherence to deadlines, and reduce discovery excesses.").

presumptive case schedule and discovery limits based on the tier to which a case is assigned.

Initial assignment to Tier 1

All cases default to Tier 1 on filing, and the Task Force anticipates most cases will remain in that tier. Cases involving large monetary claims, important non-monetary stakes, or complex factual or legal issues may be reassigned to Tier 2.

Reassignment to Tier 2

A court may reassign a Tier 1 case to Tier 2 for good cause, either on its own motion or at the request of one or more parties. The court will determine whether the case presents complex or important issues such that Tier 2's more expansive schedule, discovery, and trial procedures are warranted, looking to the following factors:

- Monetary claims by any party exceeding $300,000;
- Evidence of likely factual complexity, such as more than 12 likely witnesses, or the need to conduct substantial investigation outside the State of Washington;
- Complex or novel legal issues;
- Claims involving important rights, or issues of widespread significance;
- Commonly complex case types such as medical or professional malpractice, product liability, or class action cases; and
- Other indicia of likely complexity as determined by the court.

The case schedule will set out a deadline to seek reassignment, shortly after the early discovery conference.[11] After this deadline, a party may only move for tier reassignment if there is good cause for the delay.

The following model case schedule sets out example deadlines for a Tier 1 case:

Event/deadline	*Date (weeks from trial)*
Filing	52
Early discovery conference	48
Initial disclosures	46
Application for reassignment to Tier 2	46
Joinder of parties	30

[11] Another Task Force recommendation, discussed below.

Fact witness disclosures	22
Expert witness disclosures	13
Rebuttal expert witness disclosures	9
Mandatory mediation	8
Discovery cutoff	7
Pretrial disclosures	4
Trial	0

Any change to the case schedule in either tier must be approved by the court.

Tier assignment does not limit award

If monetary value is the basis for assigning a case to Tier 1 or Tier 2, it does not limit a party's potential recovery. Even in a Tier 1 case a jury could award more than $300,000.

Arbitration and district court

Parties with claims of $50,000 or less are still subject to mandatory arbitration; those with claims of $75,000 or less can continue to file in district court.

c. Reasons

Proportionality is an important tool in litigation costs. Many jurisdictions, including the federal courts, have or are adopting proportionality as an explicit limit on discovery. Ninety-five percent of the respondents to the Task Force's survey strive to keep discovery costs proportionate to litigation stakes. Litigating low-stakes cases, however valued, should cost less than litigating high-stakes cases.

Multi-tier litigation applies a measure of proportionality from a case's outset. The IAALS recommends moving away from "one size fits all" litigation rules. Courts in the Southern District of New York,[12] Minnesota,[13] Oregon,[14] Utah,[15] and Washington's Pierce County[16]

[12] Standing Order, In re Pilot Project Regarding Case Management Techniques for Complex Civil Cases in the Southern District of New York, No. M10-468 (S.D.N.Y. Nov. 1, 2011).

[13] Order Relating to the Civil Justice Reform Task Force, Authorizing Expedited Civil Litigation Track Pilot Project, and Adopting Amendments to the Rules of Civil Procedure and the General Rules of Practice, Nos. ADM10-8051, ADM09-8009, ADM04-8001 (Minn. May 8, 2013).

[14] Order Establishing the Oregon Complex Litigation Court and Adopting New UTCR 23.010, 23.020, 23.030, 23.050, and 23.060 Out-of-Cycle, No. 10-066 (Or. Dec. 2, 2010).

[15] Utah R. Civ. Pro. URCP 26(c)(5).

[16] Pierce Cnty. Local R. PCLR 3(h).

have experimented with, or adopted, multi-tier litigation. Respondents to the Task Force's survey generally supported the idea, with 53.8 percent agreeing or strongly agreeing that a multi-track litigation system would be effective in lowering litigation costs without substantially limiting the ability to justly resolve disputes.

The general format of the tier system is closely modeled on the amended Utah Rules of Civil Procedure Rule 26(c)(5). The specific discovery limits in each tier were decided by the Task Force based on the available evidence, study, and the Task Force members' own professional experience.

The Task Force considered basing tier assignment on pleadings. Instead, it decided to have Tier 1 be the initial default for all cases to ensure parties would not simply claim the stakes qualified for the more expansive Tier 2 in most cases. The lesson of Oregon's expedited civil trial system, an underused option that allows parties to opt into a shortened litigation track by agreement, suggests at least one party will favor a longer case track in almost all cases.[17]

The Task Force considered basing tier assignment on information supplied during initial disclosures, with no tier assignment until those disclosures had been made. It decided on presumptive Tier 1 assignment both because this establishes a default preference for the shorter (and therefore presumably less expensive) litigation track, and also because it would avoid the necessity of requiring a case-assignment hearing for parties comfortable with remaining in Tier 1. This will result in less administrative burden on the courts.

4. Mandatory discovery conference

a. Current practice

Under the current CR 26(f), one party may seek to frame a discovery plan with the other party, and if that party refuses to cooperate, the party seeking to frame the plan can make a motion to the court to hold a discovery conference.

[17] *See* Paula L. Hannaford-Agor, NCSC, Short, Summary & Expedited: The Evolution of Civil Jury Trials 60–61 (2012) ("The major disappointment expressed by the Multnomah County trial bench concerning the ECJT program was the unexpectedly slow start for an expedited designation. ... Several of the attorneys mentioned that they had asked the opposing counsel in a number of cases about filing an expedited designation motion before they found one willing to go forward.").

b. Recommendation

The Task Force recommends requiring a mandatory early discovery conference with a list of topics to be discussed in both superior court and district court cases. The parties to meet as soon as practicable to discuss the following subjects:

- Whether (if in superior court) the case should be assigned to Tier 2 instead of the default Tier 1;
- Whether the case is suitable for mediation or arbitration, and when early mediation might occur;
- What changes should be made in the timing, form, or requirement for initial disclosures, including when they will be made;
- Subjects on which discovery may be needed, when completed, and whether conducted in phases or focused on particular issues;
- Any issues about disclosure or discovery of electronically stored information, including the form of production;
- Any issues about claims of privilege or work product, whether there is any agreement for the procedure for raising these issues, and whether the court should enter an order under ER 502;
- What changes should be made in the limitation on discovery, and what other limitations should be imposed. For cases seeking reassignment to Tier 2, the parties are encouraged to submit an agreed discovery plan setting out discovery limits appropriate for the case, or submit proposals for the court to decide if no agreement is reached;
- Whether time limits are appropriate for the conduct of trial, including potential time limits on voir dire, opening and closing statements, and each party's presentation of its case, including rebuttal evidence but excluding pretrial motions; and
- Any other order that the court should issue under CR 26(c) or other rule, including whether a special master should be appointed to deal with any aspects of discovery, including electronic discovery.

Following the conference, the parties will submit a joint status report to the court regarding those topics discussed.

c. Reasons

Rule 26(f) conferences have been successful in federal court in avoiding later discovery disputes and thereby lowering the cost of litigation.[18] The mandatory early conference benefits the parties by making them think about discovery issues early in the litigation and attempt to reach agreement about those issues. If the parties cannot agree, they at least flag them for the court in the early stages of the case. Other states are endorsing and adopting these conferences.[19]

The Task Force also believed requiring the parties to consider how trial might be conducted at the early stages would be valuable. Limits on the conduct of trial would make trials less expensive and therefore more available. If the parties can agree on a trial time schedule from the outset, it would keep attorneys and litigants focused on getting their evidence before the court, avoided repetition, and limiting the number of witnesses with repetitive testimony. This not only decreases the length and expense of trial itself, but should also streamline trial preparation. And even if the parties fail to reach an agreement, confronting the potential time and costs of trial early on may produce earlier resolutions in cases that would eventually settle anyway.

The Task Force considered requiring a judicial conference after submission of the parties' joint status report, similar to the scheduling conference required under Federal Rule of Civil Procedure 16(b). The Task Force decided against this practice because it would impose an additional burden on the courts and parties, and because the automatically issued case schedule would obviate the need for a scheduling conference in many Tier 1 cases.

[18] Kakalik, *Analyzing Discovery Management Policies*, *supra* note 7, at 25 ("We estimate that early management with a mandatory discovery management planning policy is associated with a 104-day reduction when a trial schedule is set early, and with about an 85 day reduction for early management with a mandatory planning policy but without setting a trial schedule early Emery G. Lee & Kenneth J. Withers, *Survey of United States Magistrate Judges on the Effectiveness of the 2006 Amendments to the Federal Rules of Civil Procedure*, 11 Sedona Conf. J. 201, 202 (2010) ("It is safe to say that the amendments to Rules 26(f) and 16(b), which prompt the parties and the court to pay 'early attention' to potential e-discovery issues, are rated as the most effective amendments by the judges answering the survey."); IAALS & ACTL, *Final Report, supra* note 6, at 21 ("Parties should be required to confer early and often about discovery and, especially in complex cases, to make periodic reports of those conferences to the court.").

[19] NCSC, Civil Justice Initiative, New Hampshire: Impact of the Proportional Discovery/Automatic Disclosure (PAD) Pilot Rules 3 (2013) ("The requirement to meet and confer regarding case structuring[] is expected to reduce the number of in-court case structuring conferences.").

5. Mandatory disclosures

a. Current practice

There is currently no statewide provision for mandatory initial disclosures, expert-witness disclosures, or pretrial disclosures. Some county local rules provide for deadlines for certain fact witness disclosures.

b. Recommendation

The Task Force recommends requiring initial disclosures, expert-witness disclosures, and pretrial disclosures in both superior court and district court cases. These disclosures are patterned on those found in Federal Rule of Civil Procedure 26(a). The timing and subject matter of disclosures may be varied by party stipulation or court order.

Those categories of civil actions a county exempts from receiving an initial case schedule, as discussed above,[20] are also exempt from initial disclosure requirements.

Initial disclosures

Initial disclosures, or "laydown" discovery, will be required in advance of formal discovery. Parties will be required to make these disclosures as soon as practicable, in advance of receiving any discovery requests, but in any case no later the deadline set out in the case schedule. The following information must be disclosed:

- The name and contact information for each individual likely to have discoverable information, and the subjects of that information, that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment;
- A copy, or a description by category, of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment;
- A computation of each category of damages claimed by the disclosing party, who must also make available for inspection and copying as under CR 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based;
- For inspection and copying as under CR 34 or CRLJ 26(b)(3)(A), any insurance agreement under which an insurance business may be liable to satisfy all or part

[20] *See supra* page 18.

of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Initial disclosures must be based on information reasonably available to a party. Delay based on the need to fully investigate, or another party's failure to disclose, is not excused. The rule should explicitly provide for sanctions for failing to make timely initial disclosures.

Later-appearing parties must make initial disclosures within 30 days of being served or joined.

Expert witness disclosures

Expert disclosures consistent with the federal rules should be required. The timing of the disclosures will be staggered. The party bearing the burden of proof on an issue discloses their expert and expert material first, by the deadline set out in the case schedule. The party or parties without the burden must disclose experts and expert material within 30 days of the first party's disclosure.

A party would disclose the following information (whether in a report or otherwise) if an expert witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony:

- A complete statement of all opinions the witness will express and the basis and reasons for them;
- The facts or data considered by the witness in forming them;
- Any exhibits that will be used to summarize or support them;
- The witness's qualifications, including a list of all publications authored in the previous 10 years;
- A list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and
- A statement of the compensation to be paid for the study and testimony in the case.

Pretrial disclosures

Pretrial disclosures should be required, by the deadline set out in the case schedule. Disclosures must include:

- The name and, if not previously provided, contact information of each witness, separately identifying those the party expects to present and those it may call if the need arises;
- The designation of those witnesses whose testimony the party expect to present by deposition and a transcript of the pertinent parts of the deposition; and

- An identification of each document or other exhibit, including summaries of other evidence, separately identifying those items the party expects to offer and those it may offer if the need arises.

c. Reasons

Mandatory disclosures make available categories of information required to prepare almost every case without resort to discovery. This will allow parties to focus discovery on case-specific facts, and reduce discovery and trial preparation costs. Respondents to the Task Force's survey supported a standard list of questions that parties must answer in every case, with 34.0 percent agreeing and 25.8 percent strongly agreeing this approach would lower litigation cost without impairing just resolutions.

Initial disclosures

Requiring parties to automatically provide certain basic information will mean less discovery has to be conducted and therefore lower costs. Mandatory disclosures are combined with limitations on other methods of discovery to lower costs. The Task Force believes that the requirement of mandatory disclosures will offset the limitation on interrogatories and requests for production that are proposed.[21] It should be noted that there is mixed evidence and opinion regarding the efficacy of mandatory disclosures as a means of lowering litigation costs.[22] But it should be further noted that disclosures are

[21] Douglas C. Rennie, *The End of Interrogatories: Why* Twombly *and* Iqbal *Should Finally Stop Rule 33 Abuse*, 15 Lewis & Clark L. Rev. 191, 259 (2011) ("Mandatory disclosures have already taken over many of the functions of interrogatories."); Phillip J. Favro & Derek P. Pullan, *New Utah Rule 26: A Blueprint for Proportionality Under the Federal Rules of Civil Procedure*, 2012 Mich. St. L. Rev. 933, 972 (2012) (discussing Utah's expansion of initial disclosure obligations, stating "[t]his change was especially important to achieve proportionality, [as] [d]iscovery tends to be more focused and thus more cost effective when parties know more about the case earlier."); Amy Luria & John E. Clabby, *An Expense Out of Control: Rule 33 Interrogatories After the Advent of Initial Disclosures and Two Proposals for Change*, 9 Chap. L. Rev. 29, 44 (2005) ("[I]n contrast to interrogatories, mandatory initial disclosures increase the efficiency of litigation.").

[22] *Compare* Kakalik, *Analyzing Discovery Management Policies*, *supra* note 7, at 26 ("Our data and analyses do not strongly support the policy of mandatory early disclosure as a means of significantly reducing lawyer work hours, and thereby reducing the costs of litigation, or as a means of reducing time to disposition Special Comm. of the ABA Section of Litigation, Civil Procedure in the 21st Century: Some Proposals 9–10 (2010) (proposing eliminating "the current requirement that the parties' disclosures include documents" stating that only 33 percent of ABA Section of Litigation members surveyed believed that initial disclosures reduce discovery and only 26 believe that they save client money, and that "[t]he Committee members, like the ABA Survey respondents, believe that most initial disclosure is not useful"); Report of the Special Committee

criticized for doing too little as well as too much, and while there are critics that propose eliminating disclosure, there are also critics that propose expanding disclosure (for example by making document production mandatory rather than just document identification).[23] Ultimately, the Federal Advisory Committee on Civil Rules heard all of the evidence, criticism, and proposals regarding modifications to the initial disclosure rules but left initial disclosures unchanged in its fairly significant recent changes to the Federal Rules of Civil Procedure,[24] and the federal, or similar, approach to initial disclosure has been endorsed and adopted by state task forces and pilot projects.[25]

on Discovery and Case Management in Federal Litigation of the New York State Bar Association 73 (June 23, 2012) (collecting evidence that initial disclosures do not increase efficiency and recommending that the federal rules be amended to remove the document disclosure provisions); *with* Thomas E. Willging, Donna Stienstra, John Shapard & Deab Miletich, *An Empirical Study of Discovery and Disclosure Practice Under the 1993 Federal Rule Amendments*, 39 B.C. L. Rev. 525, 527 (1998) ("In general, initial disclosure appears to be having its intended effects ... [w]e found a statistically significant difference in the disposition time of cases with disclosure compared to cases without disclosure [and] [h]olding all variables constant, those with disclosure terminated more quickly."). *See also* Emily C. Gainor, Note, *Initial Disclosures and Discovery Reform in the Wake of Plausible Pleading Standards*, 52 B.C. L. Rev. 1441, 1464–68 (2011) (contrasting proponents' arguments that initial disclosures "foster exchange of discoverable information early," "serve as tools to compel information sharing," "advances litigation efficiency objectives," in contrast to critics arguments that they do "not foster efficient discovery," "foster over discovery," and "do not fit comfortably in an adversarial system.").

[23] IAALS & ACTL, *Final Report*, *supra* note 6, at 7 (proposing automatic production in initial disclosure, not just identification of documents that the party will use).

[24] Report of the Advisory Committee on Civil Rules (May 8, 2013).

[25] Iowa Civil Justice Reform Task Force, *Reforming the Iowa Civil Justice System*, *supra* note 10, at 31 ("Many recommendations for case management and discovery limitations presume discovery reforms requiring basic information disclosure in all cases at the outset of litigation without the necessity of discovery requests from a party."); Recommendations of the Minnesota Supreme Court Civil Justice Reform Task Force, Final Report 18 (2011) ("Rule 26(a) of the Federal Rules of Civil Procedure provides for three categories of automatic disclosure: initial disclosures[], expert disclosures[], and trial disclosures[and] [t]he task force reviewed all three categories of changes, and believes there is now enough experience with the operation of automatic disclosure in the federal courts to warrant the adoption of these federal court automatic disclosure requirements in Minnesota."); NCSC, *New Hampshire Pilot Rules*, *supra* note 41, at 3 ("[A]utomatic disclosures[] are expected to [(1)] reduce the time from filing to disposition ... through a reduction in the amount of time expended on ... discovery" and (2) "reduce the number of discovery disputes ... by making most of the previously discoverable information ... routinely available to the parties without need for court intervention.").

The Task Force considered the broader initial disclosures provided for in the 1993 amendments to the federal Rule 26. However, concerns were raised over interpreting the scope of disclosure under this earlier version. The Task Force decided in favor of the initial disclosures in the current federal Rule 26 so Washington courts could take advantage of federal case law interpreting it.

Expert disclosures

Requiring the party offering the expert testimony to disclose certain basic information reduces the amount of discovery the responding party has to conduct, lowering costs.[26] Based on the Task Force member's experience, specifying which party needs to disclose expert material first should also head off discovery disputes over that issue.

Pretrial disclosures

Mandatory pretrial disclosures allow attorneys to focus on the issues and evidence that will actually feature at trial, reducing discovery and trial preparation costs.

6. Proportionality and cooperation

a. Current practice

CR 26(b)(1) provides for discovery of "any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party ...." Proportionality between the burden or expense of discovery and a case's needs, amount in controversy, the importance of the issues, and the parties' resources is listed in CR 26(b)(1)(C) as a potential limit on discovery. There is no provision expressly requiring the cooperation of parties in the Civil Rules.

b. Recommendation

The Task Force recommends amending the rules to narrow the scope of discovery, specifically incorporating proportionality as a limit, and to require cooperation among the parties as a guiding principle in employing the Civil Rules.

Proportionality

- The scope of discovery will be amended to read that parties may obtain discovery "regarding any nonprivileged matter that is relevant to any party's claim or defense ...."

[26] Willging, *et al.*, *An Empirical Study of Discovery and Disclosure Practice*, *supra* note 22, at 527 ("Like initial disclosure, expert disclosure appears to be having its intended effect, albeit with an increase in litigation expenses for 27% of the attorneys who used expert disclosure ... [but] slightly more attorneys (31%) reported decreased litigation expenses.").

- The scope of discovery will also be amended to include proportionality as a limit: "... and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit."

Cooperation

- The scope of the Civil Rules will be amended to specify that the courts and all parties jointly share the responsibility of using the rules to achieve the aspirational ends of the civil justice system: "They [the Civil Rules] shall be construed, administered and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action."
- Discovery sanctions will be amended to include a failure to cooperate during the discovery process: "If the court finds that any party or counsel for any party has willfully impeded the just, speedy, and inexpensive determination of the case during the discovery process, the court may, after opportunity for hearing, require such party or his attorney to pay to any other party the reasonable expenses, including attorney fees, caused by the impediment.

c. Reasons

Narrowing the very broad scope of discovery and explicitly requiring the court to impose proportionality and cooperation should reduce the amount of discovery, or at least tie it closely to the amounts and issues at stake in each case, thereby lowering costs overall.[27] It should also reduce the number and severity of discovery disputes, which will lower costs. Proportionality has been effective in federal court,[28] and is a central proposal of

[27] Paul W. Grimm & David S. Yellin, *A Pragmatic Approach to Discovery Reform: How Small Changes can Make a Big Difference in Civil Discovery*, 64 S.C. L. Rev. 495 (2013) ("[N]arrowing the scope of discovery to focus on information that is neither privileged nor protected work product and that is relevant to the actual claims and defenses raised by the pleadings could greatly improve things, at least as long as there is a consensus that the purpose of the discovery rules is to prepare for trial," and "institutionalizing the concept of cooperation during discovery into the rules of procedure—would work hand in glove with the other two recommendation to help trim unnecessary costs and burdens and focus on what facts truly are needed to resolve a particular dispute.").

[28] Lee & Withers, *Survey of United States Magistrate Judges, supra* note 18, at 202 ("[M]ore than 6 in 10 of the judges who responded to the survey reported that the proportionality provisions in Rules 26(2)(C) and 26(c) were being invoked and that, when invoked, were effective in limiting the cost and burden of e-discovery.").

most academic studies and state and federal pilot projects.[29] Several states have also endorsed and implemented an explicit proportionality requirement.[30] The Task Force's recommended language is based on similar language recommended by the Judicial Conference Committee on Rules of Practice and Procedure.[31] Like other rule changes, however, an explicit proportionality provision in the rules will only be effective if courts enforce them in a thoughtful way.[32]

[29] Final Report on the Joint Project of the IAALS & ACTL Task Force on Discovery, *supra* note 6, at 7 ("Proportionality should be the most important principle applied to all discovery."); Seventh Cir. Elec. Discovery Pilot Program, Final Report on Phase Two 73–74 (2012) (finding that "Principle 1.03 [proportionality] continues to be well received" and "should be subject to continued testing" based on positive Phase Two survey responses (including 63 percent of judge respondents who "reported that the proportionality standards ... played a significant role in the development of discovery plans for their Pilot Program cases" while 48 percent of judge respondents "reported that the application of the Principles had decreased or greatly decreased the number of discovery disputes brought before the court")); Kourlis & Kauffman, *From Recommendations to Reform in the 21st Century*, *supra* note 5, at 883–34 ("[P]ilot projects have adopted proportionality as a guiding star throughout the case so that litigation remains just, speedy, and inexpensive.").

[30] Favro & Pullan, *New Utah Rule 26*, *supra* note 21, at 970 ("To remedy this problem, Utah redefined the scope of permissible discovery. Today, Utah litigants "may discover any matter, not privileged, which is relevant to the claim or defense of any party if the discovery satisfies the standards of proportionality." This simple yet profound change has effectively brought proportionality to the forefront of discovery practice."); Iowa Civil Justice Reform Task Force, *Reforming the Iowa Civil Justice System*, *supra* note 10, at 30 ("Discovery should be proportional to the size and nature of the case. Overly broad and irrelevant discovery requests should not be countenanced."); Minnesota Supreme Court Civil Justice Reform Task Force, *Recommendations*, *supra* note 25, at 17 (the task force recommended adopting proportionality rule which "would create a presumption of narrower discovery and require consideration of proportionality in all discovery matters, limiting discovery to the reasonable needs of the case," noting "[t]his recommendation is probably one of the most important recommendations the task force advances.").

[31] Report of the Judicial Conference Committee on Rules of Practice and Procedure to the Chief Justice of the United States and Members of the Judicial Conference of the United States (Sept. 2014), at 30–31. "After considering [2,300] public comments carefully, the Committee remains convinced that transferring the Rule 26(b)(2)(C)(iii) factors to the scope of discovery, with some modifications as described below, will improve the rules governing discovery." *Id.* at 5–6. The Report goes on to discuss the reasons supporting the proposed proportionality language. *Id.* at 6–8.

[32] Scott A. Moss, *Litigation Discovery Cannot Be Optimal but Could Be Better: The Economics of Improving Discovery Timing in a Digital Age*, 58 Duke L.J. 889, 908 (2009) ("[P]roportionality

Similarly, an express cooperation requirement has been tested in federal and state pilot programs (and found to be effective) and implemented by some states.[33] The Task Force's cooperation recommendations both make cooperation an underlying principle of the civil rules, and make cooperation an enforceable requirement during discovery. The Task Force noted that the most recent proposed federal amendments declined to adopt an enforceable cooperation duty, citing to the potential for collateral litigation of conflict with a duty of effective representation. However, Washington's Rules of Professional Conduct require *diligent* rather than *zealous* representation,[34] and in fact explicitly prohibit abuse of legal process[35] or tactical delays.[36] The Task Force considers these requirements entirely consistent with a duty of cooperation.

7. Discovery limits

a. Current practice

Most counties do not limit discovery requests by category.

rules can be criticized equally for allowing opposite errors, both false negatives (failing to detect and halt discovery abuse) and false positives (finding disproportionate some costly discovery that actually is justified by high evidentiary value and case merit). Erroneous pro-plaintiff rulings unjustifiably increase litigation costs and pressure defendants to settle unmeritorious cases; conversely, erroneous pro-defendant rulings deny plaintiffs the ability to press meritorious claims successfully.").

[33] Seventh Cir. Elec. Discovery Pilot Program, *Final Report*, *supra* note 29, at 71–72 (finding that "Principle 1.02 [cooperation] continues to be well received" and "should be subject to continued testing" based on positive Phase Two survey responses); Kourlis & Kauffman, *From Recommendations to Reform in the 21st Century*, *supra* note 5, at 883–84 ("The pilot projects are also a proving ground for the notion of cooperation among and between the parties. Attorneys who have put aside gamesmanship and embraced the concept of cooperation report that it has not undermined the zealous representation of their clients. In fact, it is becoming an essential component of appropriate representation—particularly in the area of electronic discovery—in order to achieve a just, speedy, and inexpensive determination for clients."); *see also* The Sedona Cooperation Proclamation, 10 Sedona Conf. J. 331 (2009 Supp.).

[34] "A lawyer must also act with commitment and dedication to the interests of the client and with diligence in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client." Wash. R. Prof'l Conduct RPC 1.3 cmt. 1.

[35] "The advocate has a duty to use legal procedure for the fullest benefit of the client's cause, but also a duty not to abuse legal procedure." Wash. R. Prof'l Conduct RPC 3.1 cmt. 1.

[36] "Dilatory practices bring the administration of justice into disrepute. ... Nor will a failure to expedite be reasonable if done for the purpose of frustrating an opposing party's attempt to obtain rightful redress or repose." Wash. R. Prof'l Conduct RPC 3.2 cmt. 1.

b. Recommendation

The Task Force recommends presumptively limiting discovery, with superior court case limits depending on whether a case is assigned to Tier 1 or Tier 2:

Discovery	*Tier 1 limit*	*Tier 2 limit*
Interrogatories, including all discrete subparts	15	25
Requests for production	20	40
Requests for admission	15	25
Total fact deposition hours	20	40
Expert deposition hours per expert	4	4

Parties could vary these limits by stipulation or on a showing of good cause. Agreed changes to discovery limits do not require court approval unless they would affect deadlines in the case schedule. However, courts should not automatically give the presumptive limits greater weight than case-specific party proposals. In Tier 2 cases, the parties are encouraged to submit agreed discovery plans (or individual proposals for the court to decide if there is disagreement) following the Rule 26(f) conference.

In district courts, the number of interrogatories permitted without prior court permission of the court will be the same as in Tier 1—15, including all discrete subparts. District court discovery limits will remain otherwise unchanged.

c. Reasons

Discovery limits tied to case size are a direct, if inexact, means of imposing proportionality. Limits will force parties to be efficient with their use of the available discovery. Less discovery also means fewer discovery disputes and fewer opportunities for discovery abuse. On the Task Force's survey, respondents to practicing in other jurisdictions also noted that those with discovery limits generally involve less litigation cost.

Because limiting discovery may mean constricting litigants' access to information, the Task Force considers mandatory disclosures, discussed below, as a necessary accompaniment to this recommendation.

Interrogatories

"Restrictions on the number of interrogatories with option to obtain more by court leave" were supported by a majority of respondents to the Task Force's survey. Limiting the number of interrogatories should mean less discovery activity. Additionally, there should

be no prejudice to parties' ability to conduct discovery since interrogatories are generally of limited value in discovery,[37] and mandatory initial disclosures will allow parties to be more targeted in their use of interrogatories.[38] There is general support for the proposition that limits on interrogatories will reduce discovery costs and abuse, and empirical evidence that reduction in interrogatories reduces attorney work hours.[39] There are those who argue that interrogatories, or certain types of interrogatories, should be eliminated entirely.[40]

The specific numerical limits on interrogatories in each tier were derived from the federal rules. The current limit under Federal Rule of Civil Procedure 33 is 25 interrogatories, including discrete subparts, and other states are also implementing limitations.[41]

Requests for production

In general, less discovery activity should mean lower costs. Limiting the number of requests for production should mean less discovery activity, and will force parties to be more efficient with the production requests they have available. There should be no prejudice to parties' ability to conduct discovery because mandatory initial disclosures will allow parties to be more targeted in their use of requests for production.

[37] Respondents to the Task Force's survey rated interrogatories, along with requests for admission, as sometimes ineffective and susceptible to abuse.

[38] As discussed in the Advisory Committee Notes to the 1993 amendments to FRCP 33(a) ("Revision of this subdivision limits interrogatory practice. Because Rule 26(a)(1)–(3) requires disclosure of much of the information previously obtained by this form of discovery, there should be less occasion to use it. Experience in over half of the district courts has confirmed that limitations on the number of interrogatories are useful and manageable.").

[39] Kakalik, *Analyzing Discovery Management Policies*, *supra* note 7, at 27 ("Our analysis lends support to the policy of limiting interrogatories as a way to reduce lawyer work hours and thereby reduce litigation costs.").

[40] Special Comm. of the ABA Section of Litigation, *Civil Procedure in the 21st Century*, *supra* note 22, at 13 ("No party may propound any contention interrogatory unless all parties agree or by court order."); Rennie, *The End of Interrogatories* , *supra* note 21, at 263 ("Interrogatory practice does nothing to advance the goals of the Federal Rules of Civil Procedure, and instead, contributes to the popular dissatisfaction with the American justice system both in the legal community and the public at large").

[41] NCSC, *New Hampshire Pilot Rules*, *supra* note 19, at 2 (limitation of interrogatories to 25 "were put in place in light of the amount for information that parties are now entitled to under [rule changes including initial disclosures], which are expected to greatly reduce the amount of discovery needed to prepare for trial.").

Requests for admission

In general, less discovery activity should mean lower costs. Limiting the number of requests for admission should mean less discovery activity, and will force parties to be more efficient with the admission requests they have available.[42] As noted, respondents to the Task Force's survey considered requests for admission (along with interrogatories) one of the least effective forms of discovery, as well as one susceptible to abuse.

Depositions of fact witnesses

"Restrictions on the number of or length of depositions with option to obtain more by court leave" were supported by a majority of respondents to the Task Force's survey. The Task Force also noted that while respondents overwhelmingly considered depositions *extremely effective* or *very effective* tools for justly resolving disputes, depositions are also the most expensive method of discovery.[43] In general, less discovery activity should mean lower costs. Limiting the number of hours of depositions should mean less discovery activity, and will force parties to be more efficient with the deposition hours they have available.[44] An hour-based limitation (instead of limiting the number of depositions) will provide parties with greater flexibility to take more, shorter depositions or fewer, longer depositions depending on the needs of the case.[45] The number of hours allowed at each tier should be sufficient for most cases. The goal is for parties to be thoughtful and efficient in how they conduct discovery.

[42] Special Comm. of the ABA Section of Litigation, *Civil Procedure in the 21st Century, supra* note 22, at 13 ("A party may serve no more than 35 requests for admission, including subparts, under Rule 36 unless all parties agree or by court order.").

[43] Willging, *et al., An Empirical Study of Discovery and Disclosure Practice, supra* note 22, at 576 (finding that "depositions accounted for about twice as much expense as any other discovery activity").

[44] IAALS & ACTL, *Final Report, supra* note 6, at 10 (suggesting numerical limits such as "only 50 hours of deposition time"); NCSC, *New Hampshire Pilot Rules, supra* note 19, at 2 ("PR 4 restricts ... the number of hours of depositions to 20 hours).

[45] The hours limitation is modeled after the Utah Rules of Civil Procedure. The comments to Utah Rule 26(c) state "[d]eposition hours are charged to a side for the time spent asking questions of the witness. In a particular deposition, one side may use two hours while the other side uses only 30 minutes"; *see also* R. of Superior Ct. of N.H. Applicable in Civ. Actions, Rule 26, Depositions ("[A] party may take as many depositions as necessary to adequately prepare a case for trial so long as the combined total of deposition hours does not exceed 20 unless otherwise stipulated by counselor ordered by the court for good cause shown.").

Depositions of experts

In general, less discovery activity should mean lower costs. Limiting the number of depositions for experts, and their length, should mean less discovery activity, and force parties to be more efficient with the expert deposition hours they have available. Given the breadth of the expert disclosures, this number of hours for a deposition of the expert was thought to be sufficient.

8. E-discovery

a. Current practice

The current Washington Court Rules have incorporated federal e-discovery rules in CR 34, and parts of CR 26.

b. Recommendation

Rule changes

The federal rule amendments should be incorporated into the Washington Court Rules: amendments to CR 26 (discussing discovery of inaccessible data) and amendments to CR 37 (regarding sanctions for the deletion of electronically stored information (using the form of the new proposed amendments to the federal rules). Because the Task Force decided against requiring an early judicial conference as in Federal Rule of Civil Procedure 16(b), language in that rule relating to electronically stored information will not be added to CR 16. CRLJ 26 will be amended to follow the changes made to CR 26.

Protocol

The courts will promulgate a protocol and proposed order on electronically stored information, consistent with the Model Agreement re: Discovery of Electronically Stored Information used by the federal courts of the Western District of Washington.

c. Reasons

The federal amendments have been relatively successful in lowering litigation costs associated with electronic discovery in federal court.[46] Other jurisdictions (federal and state) implementing protocols similar to the one recommended by the Task Force have reported beneficial results.[47] Other recommendations of the Task Force—case schedules;

[46] Lee & Withers, *Survey of United States Magistrate Judges, supra* note 18, at 202 ("The responses [to a survey of magistrate judges] indicate that, by and large, the [e-discovery] rules are working to achieve the 'just, speedy, and inexpensive determination of every action' as dictated by Rule 1 of the Federal [Civil Rules]").

increased judicial management; the Rule 26(f) conference; proportionality—should also improve the course of e-discovery.[48]

9. Motions practice

a. Current practice

In most counties, even the simplest of motions require counsel to appear for oral argument. In King County Superior Court, most non-dispositive motions are decided without oral argument.

b. Recommendation

The Task Force recommends that non-dispositive motions in superior or district court be decided without oral argument. Oral argument will only be permitted in the following instances:

- Motions in superior court for revision of a commissioner's rulings, other than rulings regarding involuntary commitment and Title 13 proceedings (juvenile offenders);
- Motions for temporary restraining orders and preliminary injunctions;
- Family law motions;
- Ex parte and probate motions;
- Motions where court grants a party's request for oral argument.

[47] Iowa Civil Justice Reform Task Force, *Reforming the Iowa Civil Justice System*, *supra* note 10, at 46 ("The Task Force recommends that the bar, through the Iowa State Bar Association, develop a best practices manual for electronic discovery in civil litigation. This could address the issues of identification, scope, and preservation of electronically stored information likely to be involved in specific types of civil cases."); Thomas Y. Allman, *Local Rules, Standing Orders, and Model Protocols: Where the Rubber Meets the (E-Discovery) Road,* 19 Rich. J.L. & Tech. 8, 38 (2013) ("At least thirty-two districts, however, have acknowledged the discovery of electronically stored information in civil litigation. Of these districts, seven merely make passing reference to e-Discovery in their local rules. Another twelve districts emphasize e-Discovery topics deemed most worthy of attention at Rule 26(f) conferences. Nine districts, as well as others using model orders, have adopted pragmatic solutions that address gaps in the Amendments more aggressively. At least five additional districts have released non-binding guidance for parties on the topic of e-Discovery.").

[48] *See* The Sedona Conference Cooperation Proclamation: Resources for the Judiciary 9 (2014) (Public Comment Version) (making similar recommendations).

c. Reasons

Even brief oral arguments require an attorney to prepare, travel, wait in the court, present argument, and then return back to their office. Oral arguments also consume limited court time that could be dedicated to trial work. These costs can be avoided by allowing some motions to be decided on the pleadings alone. King County Superior Court and the U.S. District Courts of both of Washington's federal districts resolve most non-dispositive motions without requiring oral argument for non-dispositive motions.[49] Not requiring oral argument for all motions will also help make district court a more attractive forum for civil cases.

The Task Force's recommendation is based on King County Superior Court's Local Rule LCR 7(b)(3).

10. Pretrial conference

a. Current practice

The current civil rules do not provide statewide standards for trial management. CR 16 provides that a superior court may, in its discretion, hold a hearing on the conduct of trial. Trial management tends to be on a case-by-case basis, either based on the general practices of the trial court judge, or prompted by party objection.

b. Recommendation

The Task Force recommends the parties in superior court civil cases be required to prepare a joint Trial Management Report, except in cases where a domestic violence protection order or a criminal no-contact order has been entered between parties. The report will include:

- The nature and a brief, non-argumentative summary of the case;
- A list of issues which are not in dispute;
- A list of issues that are in dispute;
- Suggestion by either party for shortening the trial, including time limits for presenting each party's case at trial, and limits on the number of expert witnesses per part or per issue;
- An index of exhibits (excluding rebuttal or impeachment exhibits);
- A list of jury instructions requested by each party; and

[49] *See* King County LCR 7(b)(3); Local Rules W.D. Wash. LCR 7(b)(4); Local Rules E.D. Wash. LCR 7(h)(3)(C).

- A list of names of all lay and expert witnesses excluding rebuttal witnesses.

The discretionary hearing currently available under CR 16 will remain available if the parties cannot reach an agreed report, if one of the parties refuses to cooperate, or if there is a domestic violence protection order or a criminal no-contact order entered between parties. After receiving a trial management report or holding a hearing, the court will enter a Pretrial Order as provided in CR 16.

c. Reasons

Trial may be the single most expensive and time consuming aspect of litigation.[50] Perhaps for this reason, the number of civil jury trials is decreasing.[51] But because having a jury of your peers make a determination of the facts of a case has long been the backbone of the American civil justice system,[52] there will be a loss to our society if this method of resolving disputes between people is lost due to the sheer expense to the parties.[53] It is also an access-to-justice issue—if the common man or woman cannot afford entry to the courtroom, they are denied access to the core of our justice system.

[50] *See* Paula Hannaford-Agor & Nicole L. Waters, NCSC, Estimating the Cost of Civil Litigation 7 (2013) ("For all case types, a trial is the single most time-intensive stage of litigation, encompassing between one-third and one-half of total litigation time in cases that progress all the way through trial.").

[51] "According to state court disposition data collected by NCSC from 2000 to 2009, the percentage of civil jury trials dropped 47.5% across the period to a low 0.5% in 2009." IAALS & ACTL, A Return to Trials: Implementing Effective Short, Summary, and Expedited Civil Action Programs 1 n.1. (2012); *see also* Marc Galanter & Angela Frozena, Pound Civil Justice Inst.: 2011 Forum for State Appellate Court Judges, The Continuing Decline of Civil Trials in American Courts 2 (2011) ("The recent data on civil trials can be summed up in two stories: no news and big news. The no news story is that the trend lines regarding the decline of trials are unchanged. The big news story is that the civil trial seems to be approaching extinction.").

[52] The federal constitution directs that the right to a jury trial shall be preserved, U.S. Const. amend. VII, and our state constitution declares that right "inviolate," Const. art. 1, § 21. *See also Parsons v. Bedford*, 28 U.S. 433, 466 (1830) ("The trial by jury is justly dear to the American people. It has always been an object of deep interest and solicitude, and every encroachment upon it has been watched with great jealousy. The right to such a trial is, it is believed, incorporated into, and secured in every state constitution in the union .... As soon as the [U.S. C]onstitution was adopted, this right was secured by the seventh amendment of the constitution proposed by congress; and which received an assent of the people so general, as to establish its importance as a fundamental guarantee of the rights and liberties of the people.").

[53] "The decline in jury trials has meant fewer cases that have the benefit of citizen input, fewer case precedents, fewer jurors who understand the system, fewer judges and lawyers who can try

Requiring parties to consider limiting the length of trial, the number of witnesses, and focus on the issues actually in dispute, will encourage shorter, less costly, and therefore more available trials. Reducing the number of expert witnesses in particular should decrease costs, both in trial and preparation time. In the Task Force's survey, nearly half of the respondents considered expert witness expenses as a driving force of rising litigation costs, and limiting experts was one of the respondents' most-volunteered solutions.

The Task Force considered imposing presumptive limits on time available to the parties to present their case at trial and on the number of expert witnesses available to each party. However, the Task Force ultimately decided this would take too much away from the court's discretion. Presumptive limits would also not take into account a case's particular facts and needs. Instead, the Task Force decided to require the parties to consider adopting limits voluntarily, subject to the court's approval. This will engage the parties in the task of containing trial cost while preserving judicial discretion and authority to manage the courtroom.

11. District court

a. Current practice

District courts' civil jurisdiction includes damages for injury to individuals or personal property and contract disputes in amounts up to $75,000. CrRLJ 3.3(a)(2) gives precedence to scheduling criminal trials over civil trials, and many district courts also hear criminal motions before civil motions. Aside from criminal cases, many of the cases filed in district court are infractions, collection actions, or domestic violence or anti-harassment protection orders.

b. Recommendation

Many recommendations already discussed affect district court:

- Initial case schedule issued on filing, with a 6-month period from filing to trial, except in categories of cases as determined by individual county[54];
- Mandatory early discovery conference[55];
- Mandatory initial, expert witness, and pretrial disclosures except for categories of cases exempt from initial case schedules[56];

jury cases—and overall, a smudge on the Constitutional promise of access to civil, as well as criminal, jury trials." IAALS & ACTLA, *A Return To Trials*, *supra* note 51, at 1.

[54] *See supra* pages 16–18.

[55] *See supra* pages 22–25.

- Principles of proportionality and cooperation incorporated into discovery rules[57];
- Number of interrogatories allowed without prior court permission of the changed to 15, including discrete subparts[58];
- Remainder of federal e-discovery rules incorporated into state rules[59]; and
- Non-dispositive motions decided on the pleadings, unless the court permits oral argument.[60]

The Task Force additionally recommends extending the district court's jurisdiction to include claims up to $100,000. District court jurisdiction should also expand to include unlawful detainer proceedings under Chapter 59.12 RCW and anti-harassment protection orders involving real property, so long as the disputes remain within the proposed $100,000 jurisdictional limit.

c. Reasons

District court is sometimes perceived as inhospitable to civil litigation and is an underused civil litigation forum. According to responses to the Task Force's survey, though over half of respondents reported that over 20 percent of their civil litigation cases involved amounts under $50,000—within the district court jurisdictional limit—the overwhelming majority, 85 percent, conducted less than a fifth of their civil litigation in district court.

The Task Force believes district courts can offer an expedited and less costly alternative to superior courts for some cases. Its recommendations will make district court a more viable and affordable forum for civil litigation: case schedules will keep litigation moving and focus attorney efforts; early discovery conferences, mandatory disclosures, and discovery limits will streamline discovery and reduce discovery abuse; eliminating the need for oral argument will greatly reduce the costs of motions practice. Raising the jurisdictional limit will also make district court more attractive to categories of cases such as landlord–tenant disputes, or where defendants carry insurance policies of $100,000.

[56] *See supra* pages 25–29.

[57] *See supra* pages 29–32.

[58] *See supra* page 33.

[59] *See supra* pages 36–36.

[60] *See supra* pages 37–38.

12. Alternative dispute resolution

a. Current practice

Mediation

Litigants who engage in mediation mostly (but not invariably) do so in the form of a "summit conference"—late in the case, after discovery has been completed, sometimes on the eve of trial. To make mediation sessions more productive, mediators regularly engage in pre-session contact with attorneys or parties. District courts in Clallam, King, Pierce, Thurston, and Skagit County require pretrial settlement or mediation conferences.

Private arbitration

Private arbitration is entered into by contract between the parties. Arbitration has increasingly come to resemble full-scale litigation in terms of time and expense. As with civil litigation, much of the cost increase comes from expanding discovery practices.

Mandatory arbitration

The Mandatory Arbitration Act, Chapter 7.06 RCW, and the Mandatory Arbitration Rules make civil cases involving claims of $50,000 or less subject to arbitration.

b. Recommendation

Mediation

The Task Force recommends requiring mediation in superior court cases before completing discovery unless the parties stipulate that mediation would be inappropriate, or one or more parties show good cause. Parties seeking to avoid mediation, or delay mediation until after discovery, will need to file their stipulation or reasons for good cause after holding the Rule 26(f) discovery conference. Unless the court then waives the requirement, the parties will be required to mediate no later than 60 days of completing depositions of the respective parties, or 60 days before the start of trial, whichever is sooner.[61] Unless excused by the court, all parties attending mediation must have in attendance a person with full settlement authority.

The recommended mediation deadline falls earlier than eve-of-trial summit mediation, but even earlier mediation may be possible and beneficial in many cases. The Task Force supports approaching the various WSBA sections about developing standards for the timing of early mediation within their respective practice areas.

The Task Force also recommends promulgating a set of suggested mediation practices:

- Parties should consider engaging in mediation at an earlier stage than required by the rules. Certain types of cases typically require little discovery. Very early mediation can be fruitful in such cases.
- Parties should consider engaging in limited-scope mediation focused on specific issues:
    - Even when there is little possibility of settling all issues in a dispute, or of settling issues before conducting discovery, the parties should consider mediating particular issues that might be resolved.
    - In cases where discovery is likely to be extensive or contentious, the parties should consider mediating the scope and conduct of discovery.
- Parties and mediators should consider varying the format of mediation, depending on the needs of the case and disposition of the parties:
    - Conducting mediation as a series of sessions rather than a one-day event; or

[61] Settlement conferences will continue to be available in all cases, including after the deadline for mandatory mediation has passed.

- Using shuttle-style mediation, in which the mediator meets with the parties individually, to identify areas of potential settlement before the parties' positions are entrenched.

- Mediators should consider pre-session meetings, in person or by phone:
  - With counsel; or
  - With counsel and client.

Private arbitration

The Task Force recommends promulgating a set of suggested arbitration practices:

- The arbitrator should identify the scope of arbitration with input from the parties.
- Parties should consider limiting or eliminating the length and number of depositions and the extent of expert discovery.
- Parties should consider voluntarily narrowing the scope of arbitration at outset. For example, selecting a single arbitrator; conducting focused single-issue arbitration; establishing specific limitations on relief.
- If not already contractually agreed among the parties, arbitrators should consider scheduling planning and coordinating meetings upon selection to set the terms and conditions of the arbitration process.
- The following topics should be addressed in the arbitration contract. If they are not, the arbitrator or panel should address them in early rulings:
  - Whether there is a challenge to arbitration;
  - Whether arbitration should be global, addressing and resolving all issues, or whether its scope should be limited to one or more specific issues;
  - What procedural rules will govern conduct and location of proceedings (for example, AAA, JAMS, JDR, or some other protocol);
  - What limits will be placed on discovery, for example, lay-down discovery or e-discovery rules. Without some discovery limits, there is little difference between arbitration and full-scale litigation;
  - What jurisdiction's substantive law will govern resolution of the dispute;
  - Whether mediation is required either before arbitration or early in arbitration, and if so on what schedule;
  - What interim relief, if any, will be available, whether injunctive or otherwise;
  - Whether to allow expedited electronic exchange of briefs, submittals, and other documents;

- Whether to allow pre-hearing motions for summary judgment or partial summary judgment;
- What timing should be required for the arbitration process: (1) mandate either to conduct or consider early mediation; (2) date(s) to commence and complete discovery; (3) date for final coordinating conference prior to hearing on the merits; (4) date to commence hearing on the merits; (5) duration of the hearing day, and possible imposition of time limits on presentation of evidence and argument; and
- Final award: (1) time limit on the arbitrator or panel between completion of hearing and issuance of award; (2) form of award (basic, reasoned, or detailed findings and conclusions), including a specific statement if the parties do not want a compromise or "split the baby" award; (3) what permanent relief may be granted (legal or equitable); (4) whether to allow award of costs and fees; and (5) whether to allow judicial review.

Mandatory arbitration

The Task Force makes no recommendation as to mandatory arbitration. Mandatory arbitration will continue to be available to parties in superior court civil cases involving claims of $50,000 or less.

c. Reasons

Mediation

Early mediation offers benefits both over litigation and late-stage mediation.[62] When the ADR Subcommittee surveyed Washington State mediators, it found that parties who

[62] Judicial Council of Calif., Admin. Office of the Courts, Evaluation of the Early Mediation Pilot Programs (2004) (finding that, in a 30-month study of five early mediation programs, each program decreased the trial rate, the time to disposition, the litigants' costs, and the courts' workload; while increasing the litigants' satisfaction with the dispute resolution process); Donna Stienstra, Molly Johnson & Patricia Lombard, Fed. Judicial Ctr., Report to the Judicial Conference Committee on Court Administration and Case Management: A Study of the Five Demonstration Programs Established Under the Civil Justice Reform Act of 1990 at 235–36 (1997) (finding that cases in a mandatory early assessment and mediation program reduced the average disposition time by two months and estimated litigation costs by $15,000 per party over cases participating in optional mediation); John Lande, *The Movement Toward Early Case Handling in Courts and Private Dispute Resolutions*, 24 Ohio St. J. on Disp. Resol. 81, 101 (2008) ("Time and cost savings are presumably related to the time in the process when parties begin mediation because cases that start mediation late in litigation have less time and money to "save" compared to the normal litigation process.").

engaged in early mediation realized significant savings: costs associated with discovery, trial preparation, and expert witnesses could be largely avoided. Those parties also avoided other negative effects of undergoing litigation—often a stressful and disruptive process—by shortening the time between the emergence of a problem and finding a solution.

Respondents to the Task Force's survey rated depositions as the most effective form of discovery for resolving disputes: 22.1 percent rated it *extremely effective*, and the combined total for *effective*, *very effective*, and *extremely effective* was 92.1 percent. After party depositions, both sides should have enough information to mediate effectively.[63]

The Task Force recommends mediation after party depositions because such depositions can occur before the bulk of other discovery costs have accrued, yet are highly effective at clarifying and resolving factual issues. This should not be viewed as an authoritative definition of early mediation, but rather as a date on which some of the benefits of truly early mediation may still be realized. Because the time at which early mediation will be most fruitful will vary depending on the type of case, the individual WSBA sections will be best positioned to develop guidelines about what early mediation means to their respective members.

Pre-session contact is a growing trend among mediators. More than half the mediators interviewed by the ADR Subcommittee reported that they regularly engaged in such contact, which helps familiarize the mediator with the facts and disputes, focus the attorneys on key issues, and lower barriers to resolution. As a result, the pre-session contact made actual mediation likelier to bring resolution. Breaking mediation into a series of short meetings can likewise increase the effectiveness of mediation by allowing more time for both sides to consider the issues, instead of concentrating the mediation process into a single high-stakes event.

Private arbitration

Arbitration's traditional advantage over civil litigation, reduced time and expense, has been eroded by the expanding scope of discovery in arbitration. Streamlining the typical arbitration would make the practice more efficient and attractive. However, private arbitration is a contractual affair between the parties, into which the Bar has little

[63] Mediation need not wait until the parties have complete information. A vast majority (from 76–89 percent, depending on the jurisdiction) of attorneys in cases within federal ADR demonstration programs reported that the first ADR contact (mostly mediation) occurred "at about the right time"—despite the fact that the cases were referred to ADR at very different stages. Stienstra, *et al., Study of the Five Demonstration Programs*, *supra* note 62, at 20.

authority to intrude. For that reason, the Task Force recommends creating a series of best practices to which arbitrators and arbitrating parties can refer. These practices are based on the professional experience of the members of the ADR Subcommittee, as well as input from experienced arbitrators and lawyers who frequently participate in arbitration.

Mandatory arbitration

The mandatory arbitration rules were intended to give parties in low-stakes cases access to a trial-like procedure. However, the Task Force's recommendations will increase parties' access to relatively quick and affordable trials, by making the district courts more attractive to litigants and by introducing Tier 1 in superior court. Parties may choose to forgo mandatory arbitration once these other options become available. Further, currently courts and parties incur significant expenses because of de novo appeals from mandatory arbitration. At this point the Task Force cannot predict to what extent parties will continue to access mandatory arbitration. The Task Force therefore makes no recommendation at this time.

Conclusion

Courts, litigants, and lawyers across the country are faced with escalating litigation costs. Litigants may lose access to the civil justice system if they cannot afford to vindicate or defend their rights in court.

Washington is not the first state to recognize the problem, nor the first jurisdiction that has decided to address it. The Task Force has benefited from the lessons learned, and the choices made, by similar task forces from outside Washington. Equally important, the Task Force has drawn on the experience and opinions of the judges, lawyers, and other knowledgeable parties whom it interviewed, surveyed, and met with—and of those who have agreed to serve as members. This report, and the recommendations it contains, rests on this broad base of practical knowledge.

The Task Force's recommendations aim to make our courts affordable and accessible while preserving the paramount goal of justly resolving disputes. Some of the recommendations are bold, some minor; none are made lightly. They are the result of four years of study and deliberation.

The ultimate success of these recommendations, should the Board of Governors approve, will depend on buy-in by the bench and bar. The Task Force urges the Board not only to adopt these recommendations, but to help educate the judges and lawyers who will be responsible for making the recommendations a reality. One of the recommendations relates to the principles of proportionality and cooperation, and these two principles infuse the entirety of the Task Force's work. Controlling litigation costs means making those costs proportional to the issues from which litigation arises. Achieving proportionality, or taking steps towards that goal, will take the cooperation of all of us who work in and use our state's courts. Only together can we ensure that justice is available for all.

WASHINGTON COURTS

Superior Court Judges' Association

Jeffrey M. Ramsdell, *President*
King County Superior Court
516 3rd Ave, Rm C-203
Seattle, WA 98104-2361
(206) 477-1379

Harold D. Clarke, III, *President Elect*
Spokane County Superior Court
1116 W Broadway Ave
Spokane, WA 99260-0350
(509) 477-5717

Charles R. Snyder
Immediate Past President
Whatcom County Superior Court
311 Grand Ave, Ste. 301
Bellingham, WA 98225-4048
(360) 738-2457

Michael T. Downes, *Secretary*
Snohomish County Superior Court
3000 Rockefeller Ave, MS 502
Everett, WA 98201-4046
(425) 388-3075

Marilyn K. Haan, *Treasurer*
Cowlitz County Superior Court
312 SW 1st Ave, Fl. 2
Kelso WA 98626-1739
(360) 577-3085

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401 Washington St, Fl. 5
PO Box 880
Wenatchee, WA 98807-0880
(509) 667-6210

Barbara Linde
King County Superior Court
516 3rd Ave, Rm C-203
Seattle, WA 98104-2361
(206) 477-1361

John W. Lohrmann
Walla Walla County Superior Court
315 W Main St, Fl. 3
PO Box 836
Walla Walla, WA 99362-0259
(509) 524-2790

Dean S. Lum
King County Superior Court
516 3rd Ave, Rm C-203
Seattle, WA 98104-2361
(206) 296-9295

James E. Rulli
Clark County Superior Court
1200 Franklin St
PO Box 5000
Vancouver, WA 98660-5000
(360) 397-6133

Susan K. Serko
Pierce County Superior Court
930 Tacoma Ave S, Rm 334
Tacoma, WA 98402-2108
(253) 798-3646

Bruce I. Weiss
Snohomish County Superior Court
3000 Rockefeller Ave, MS 502
Everett, WA 98201-4046
(425) 388-7335

January 6, 2015

Ms. Callie Dietz
State Court Administrator
Administrative Office of the Courts
P. O. Box 41170
Olympia, WA 98504-1170

Dear Ms. Dietz:

RE: Public Records Requests and GR 31.1

The Superior Court Judges' Association (SCJA) seeks your assistance in formulating a plan and policies to appropriately and timely respond to public records requests after GR 31.1 is implemented. Just recently the SCJA received multiple record requests from a single individual and more are anticipated. At this point, we have taken the position that we are not subject to the Public Records Act, and GR 31.1 has not yet been implemented, so we have denied these requests. Once GR 31.1 becomes effective, however, such a response will be inadequate. As the SCJA has no infrastructure or staffing to adequately address public records requests, your guidance is appreciated.

Not knowing when the Supreme Court may implement the rule, we consider time to be of the essence. To adequately prepare, the SCJA requests a meeting to begin the groundwork as soon as possible. Please coordinate the logistics with SCJA's staff person, Ms. Janet Skreen. I look forward to the start of our discussions.

Very truly yours,

Jeffrey M. Ramsdell
President-Judge, SCJA

cc: SCJA Board of Trustees
Ms. Janet Skreen

Harvey, Sharon

From: Harvey, Sharon
Sent: Friday, March 27, 2015 10:23 AM
To: 'DMCJA@LISTSERV.COURTS.WA.GOV'
Subject: DMCJA Representative Position - Washington State Minority and Justice Commission

The following message is sent on behalf of Judge David A. Steiner, DMCJA President:

Greetings DMCJA Members:

The Washington State Minority and Justice Commission (Commission) is seeking two courts of limited jurisdiction (CLJ) judges to serve as liaisons to the Commission. The purpose of the Minority and Justice Commission is to determine whether racial and ethnic bias exists in the courts of Washington State. To the extent that it exists, the Commission is charged with taking creative steps to overcome it. To the extent that such bias does not exist, the Commission is charged with taking creative steps to prevent it. In order to participate, a CLJ judge has to be nominated by the DMCJA President and the nomination must be accepted by the Commission. This position requires a four year commitment.

If you are interested in becoming a DMCJA Representative for the Washington State Minority and Justice Commission please apply by sending a statement of interest to Sharon Harvey at Sharon.Harvey@courts.wa.gov by Monday, April 6, 2015. Thank you .

Sincerely,

David A. Steiner
DMCJA President

Minority and Justice Commission
Meeting Schedule
2015

Conference Number: 1-888-757-2790, Participant Code 285042#

Date	Time	Location
Friday, February 13, 2015	8:45 a.m. – 12:30 p.m.	AOC SeaTac
Friday, April 10, 2015	8:45 a.m. – 12:30 p.m.	Seattle University School of Law
Friday, June 12, 2015	10:00 a.m. – 2:00 p.m.	Wenatchee Conference Center (in conjunction with the ATJ Conference)
Friday, August 14, 2015	8:45 a.m. – 12:30 p.m.	*AOC SeaTac—Tentative*
Friday, October 9, 2015	8:45 a.m. – 12:30 p.m.	*AOC SeaTac—Tentative*
Friday, December 4, 2015	8:45 a.m. – 12:30 p.m.	*TBD*

Please contact Cynthia Delostrinos at Cynthia.Delostrinos@courts.wa.gov or 360-705-5327 if you have any questions.

The following Courts of Limited Jurisdiction (CLJ) Judges have applied for the DMCJA Representative to the Washington State Minority and Justice Commission position:

1. *Judge Linda Coburn,* Edmonds Municipal Court
2. *Judge William Hawkins*, Island County District Court
3. *Judge Drew Henke*, Tacoma Municipal Court
4. *Judge Mary Logan*, Spokane Municipal Court
5. *Judge Aimee Maurer,* Spokane District Court
6. *Judge Tracy Staab*, Spokane Municipal Court
7. *Judge Kimberly Walden*, Tukwila Municipal Court

The following are Letters of Interest from the above-listed CLJ Judges:

1. Judge Linda Coburn

Hi Sharon,

I am interested in becoming a DMCJA Representative for the Washington State Minority and Justice Commission. Not sure how formal my statement of interest needs to be or when/how often the commission meets. As a person of color I have had the issue of my race come up more than once in my career. As previous public defender, I have seen first-hand the challenges people of color face in the criminal justice system. I have been involved in diversity issues in my previous career as a journalist as well. If you need more information, I would be happy to provide it.

2. Judge William "Bill" Hawkins

Judge Steiner,

I would like to serve on the Minority and Justice Commission, and volunteer to do so. Island County is a Third Class County, so comparatively small. Portions of the County (Camano Island, South Whidbey) have fairly homogenous populations, while North Whidbey (Oak Harbor and environs) have fairly large minority populations.

I grew up living overseas, the son of Foreign Service officer. As a result, I lived in and around foreign countries and cultures, languages and religions. Born in Egypt, I spent between 2 and 3 years each in Columbia, Syria, Thailand, Germany, Fiji, and Denmark. In addition, my mother is French (now a naturalized US citizen). I have spent a total of 5 years living in France, and am fluent in french. I know what it is to be a stranger in a strange land, and have probably as a direct result developed a strong interest in making all participants in court feel welcome and able to participate.
I would be glad to glad any questions you might have or provide additional information

3. Judge Drew Ann Henke

Hello Ms. Harvey –
I have attached a letter of interest to serve as a DMCJA Representative for the Minority and Justice Commission. I am very excited about the possibility of serving as a liaison to the Commission.

Please let me know if you need any further information from me.
Thank you for your consideration,

4. Judge Mary Logan

Thank you – I would like to be considered for the following reasons:

We Eastsiders often complain about not having an active voice in the decisions being made which affect our daily lives – in a City where Afro-Americans represent about 1.7% of the population yet make up about 7% of our jail population; where sex-trafficking is rampant on E. Sprague with some efforts taken to drive the John's away, but little support given to help as these same women attempt to effectuate change in their lives – lasting change; in a City with a high immigrant/refugee population, are we successfully embracing their cultures and their needs – educating them to successfully navigate their way through our complex legal/social system without taking for granted that every person has their own unique story? These are reasons I would like to be involved.

Thank you for the consideration,

Hello,
I would like to be considered for one of the liaison positions – I realize I have a number of such positions between Education Committee for both the CLJ as well as the Fall conference, Diversity, Sentencing and Supervision Committees – I am willing to be considered. Just let me know what you would like me to submit.

Best Regards,

5. Judge Aimee Maurer

Dear Ms. Harvey: I am a Spokane County District Court Judge and I just learned about the opening for a DMCJA Rep to the Washington State Minority & Justice Commission.

If you can please forward me some additional information regarding the position I would really appreciate it. Judge Michelle Szamblen from Spokane Municipal Court told me she thought I would really enjoy the opportunity.

Best Regards,

Aimee Maurer

6. Judge Tracy Staab

Hi Sharon: I would like to be considered as a rep for the DMCJA on this Board. Will you please let Judge Steiner know.
Please let me know if I should submit more information. Thank you.

7. Judge Kimberly Walden

Sharon, I am interested in the Minority and Justice position. I don't believe it will conflict with my current responsibilities for CLJ CMS but I would understand if the Board would think otherwise and would rather me focus on that project.

Regards,

April 2, 2015

Sharon Harvey
District and Municipal Court Judges' Association

Re: DMCJA Representative for the Washington State Minority and Justice Commission

Dear Ms. Harvey:

I am writing to you to express my interest in serving as a DMCJA Representative for the Washington State Minority and Justice Commission. I am very interested in the issues of racial and ethnic bias in the justice system of Washington State. I would be honored to serve as a representative on the Commission.

The issues of racial and ethnic bias in the justice system has been a concern of mine previously while working as a deputy prosecuting attorney and an administrative law judge, as well as now as a municipal court judge. Access to justice is a cornerstone of our judicial system and must be available to all in society in order for the courts to be able to administer justice.

It would be a great privilege for me to be a participant in the Commission's very important mission of determining if racial and ethnic bias exists and developing creative steps to overcome biases if they do in fact exist.

Thank you for your consideration.

Sincerely,

Drew Henke
Tacoma Municipal Court Judge, Department 2
DHenke@ci.tacoma.wa.us
253.573.2319

WASHINGTON
COURTS

March 26, 2015

Honorable David A. Steiner, Acting President-Judge
District and Municipal Court Judges' Association
King County District Court
585 112th Ave SE
Bellevue, WA 98004

Re: 2015 Juror Information Guide (Draft) for Review

Dear Judge Steiner,

The Washington Pattern Jury Instruction (WPI) Committee is pleased to be sending you a new version of the Juror Information Guide for review by the Superior Court Judges' Association.

In 2014, Judge Helen Halpert, the WPI Committee co-chair, wrote to both Judge Charles Snyder, the former President of your Association, and Judge David Svaaren, the former President of the DMCJA, about the Juror Information Guide to let them know that the WPI Committee wanted to update this brochure with the goals of including new information cautioning jurors about the use of electronic media and removing outdated information from the brochure. CrR 6.2 and CrRLJ 6.2 provide that the SJCA and the DMCJA prepare the juror handbook; however, the prior update of this brochure was drafted by the WPI Committee and then approved by the trial court judges' associations. Both Judge Snyder and Judge Svaaren said that they thought this update would be a good project for the WPI Committee and asked only that the revised Guide be sent to their associations for review before implementation.

The new Guide emphasizes the dangers of outside information and cautions jurors about using electronic media while serving on jury duty. The Guide also provides basic introductory information about the courts and jury service and helps jurors locate the website of their local court for more information.

For purposes of comparison, the current juror guide can be found at http://www.courts.wa.gov/newsinfo/resources/?fa=newsinfo_jury.jury_guide. Court administrators download and print copies of the brochure, as needed, to distribute in their courtrooms. For that purpose, the Guide is drafted to fit on a single piece of double-sided 8 ½" by 11" paper.

For more information about the new Guide, you may wish to contact one of us or one of the members of the DMJCA who serve on the WPI Committee. Judge Marilyn G. Paja and Judge Anne C. Harper are the DMCJA representatives on the WPI Committee.

Please let one of us or our staff person, Lynne Alfasso (Lynne.Alfasso@courts.wa.gov) know when your Association has finished its review of the brochure or if you have any questions.

Thank you for your assistance in this matter.

Very truly yours,

Helen L Halpert (by LRA)

Helen L. Halpert, King County Superior Court
WPI Committee Co-Chair

William L Downing (by LRA)

William L. Downing, King County Superior Court
WPI Committee Co-Chair

Enclosure

cc: Judge Anne C. Harper, King County District Court
Judge Marilyn G. Paja, Kitsap County District Court
Lynne Alfasso, AOC
Sharon Harvey, AOC

FREQUENTLY ASKED QUESTIONS

How was I chosen?

Your name was selected randomly from voter registration, driver's license and "identicard" records, and your juror questionnaire answers were reviewed to ensure you were eligible for jury service. In short, you were chosen because you are eligible and able to serve. You are now part of the "jury pool" -- a group of citizens from which trial juries are chosen.

What's next?

The judge will tell you about the case and introduce the lawyers and others involved. You will take an oath promising to answer all questions truthfully. After you're sworn in, the judge and lawyers will ask questions to find out if you have any knowledge about the case, personal interest in it, or feelings that might make it hard for you to be impartial.

How long will I serve?

It depends. Court rules vary as to how many days you may be required to appear for jury selection. If you are placed on a jury, you will serve until the trial is done. Trials can vary from one day to several weeks. The judge will inform you as to the expected length of the trial. There will be times you are required to wait both before and after being placed on a jury while the judge and lawyers address issues not heard by the jury. You may wish to bring something to occupy your time when this happens. We appreciate your patience.

What should I wear?

Dress comfortably. Suits, ties, or other formal wear are not necessary. But don't get *too* informal -- beach wear, shorts, halter or tank tops are *not* appropriate in court. Hats are not allowed unless worn for religious reasons.

If I have a disability...

We are committed to making jury service accessible. For disability accommodation, contact the jury administrator or a member of the court staff.

What about my job?

Employers must provide a sufficient leave of absence from employment when an employee is summoned for jury duty. Employers may not deprive an employee of employment or threaten, coerce, or harass an employee or deny an employee promotional opportunities for serving as a juror. The law does *not* require your employer to pay you while you serve.

What if I have an emergency?

Because your absence could delay the trial, you must be present for each trial day. If a real emergency occurs -- a sudden illness, accident or death in the family – call or email the judge's bailiff immediately.

What types of cases may I hear?

Civil cases

Civil cases are disputes between private citizens, corporations, governments, government agencies or other organizations. Usually, the party that brings the suit is asking for money damages for an alleged wrong. For example, a person who has been injured may sue the person or company believed responsible for the injury. The party who brings suit is the *plaintiff*; the party being sued is the *defendant*.

Criminal Cases

A criminal case is brought by the state or a city or county against one or more persons accused of committing a crime. In these cases, the state, city or county is the *plaintiff*; the accused person is the *defendant*.

A JUROR'S GUIDE TO WASHINGTON'S COURTS

Welcome to jury service. We appreciate your willingness to serve!

Your job as a juror is to listen to all the evidence presented at trial, then decide the facts. The judge's job is to decide the law, or make decisions on legal issues that come up during the trial. Everyone has to do their job well if our system is to work.

You don't need special knowledge or ability to do your job – and there is no homework. It is enough that you keep an open mind, use common sense, concentrate on the evidence presented, and be fair and honest in your deliberations.

You must base your decision solely on the evidence and not on sympathy or prejudice. It is critical that you begin your service unbiased toward any party, lawyer, or witness and that you keep an open mind until you have heard all the evidence and begin jury deliberations.

If you need additional information, the contact information for local courts can be found at
http://www.courts.wa.gov/court_dir/

Prepared by the Washington Pattern Jury Instruction Committee
in conjunction with the
Washington State Superior Court Judges' Association and the
District and Municipal Court Judges' Association

THE DANGERS OF OUTSIDE INFORMATION

A trial can only be fair if your decisions are based entirely on the information you receive in the courtroom, not on outside information. We therefore ask that you take the following rules seriously.

- **Do Not Talk To Anyone Or Let Anyone Talk To You About The Case**

  Do not discuss any aspect of the case with **anyone** until the trial is concluded. This includes your family and friends. Also, do not discuss the case with the other jurors until your deliberations begin. **This helps you to keep an open mind until the end of the case.**

- **Do Not Receive Or Send Electronic Communications About The Case**

  This includes texting, emailing, blogging, tweeting, posting information on social network websites, or using any other electronic communications to discuss, or even mention, this case.

- **Do Not Conduct Internet Research**

  Do not use the internet to seek information about any aspect of the case.

- **Avoid News Reports About The Case**

  If you are accidentally exposed to information about the case or its subject matter, please report it to court staff without sharing the information with your fellow jurors.

- **Do Not Try To Uncover Evidence On Your Own**

  Never, for example, go to locations that were part of the case you are hearing. Do not do research about any issue related to the case. For example, even checking a dictionary for the meaning of a word, using the internet to look at a map location, or reading an online encyclopedia for background information is not allowed.

Violation Of These Rules Is Serious!

It could result in a mistrial (starting the trial all over again) and you being found in of contempt of court.

SOME OTHER DO'S AND DON'TS

Do arrive on time and **do** return promptly after breaks and lunch. The trial cannot proceed until all jurors are present.

Do pay close attention. If you cannot hear what is being said, raise your hand and let the judge know.

Do keep an open mind all through the trial.

Do listen carefully to the instructions read by the judge. Remember, it is your duty to accept what the judge says about the law to be applied to the case.

Don't try to guess what the judge thinks about the case. Remember that rulings from the bench do not reflect the judge's personal views.

Don't talk to the lawyers, parties, or witnesses about *anything*. This will avoid the impression that something unfair is going on.

DURING DELIBERATIONS

Do work out differences between yourself and other jurors through complete and fair discussions of the evidence and the judge's instructions.

Don't lose your temper, try to bully, or refuse to listen to opinions of the other jurors.

Don't mark or write on exhibits or otherwise change them.

Don't draw straws, flip coins, or otherwise arrive at your verdict by chance, or the decision will be illegal.

Don't talk to anyone about the case until you are **discharged.** After discharge, you may discuss the verdict, but **don't** feel obligated to do so.

Don't use electronic devices during deliberations.

DMCJA NATIONAL LEADERSHIP GRANT GUIDELINES

It shall be the policy of the Washington State District and Municipal Court Judges' Association (DMCJA) to acknowledge the benefit to the Association and its members of having its members in attendance at national judges' groups and conferences that impact the judiciary in the State of Washington. These benefits include national education, leadership training, one-on-one information exchange, and recognition for the programs and leadership of the DMCJA.

The DMCJA shall annually budget for attendees at such national judges' groups and conferences. The DMCJA Board of Governors shall select the attendees. To be eligible for consideration, the applicant must (1) be, or agree to become, a member of the applicable national organization; and (2) be in either a leadership position with the DMCJA or the applicable national organization; and (3) be a member of the DMCJA in good standing as defined in DMCJA Bylaws. Leadership position includes, but is not limited to, officer, board member, or committee chair.

In determining the selection of the attendees to such national meetings or conferences, the DMCJA Board of Governors shall consider the following non-exclusive criteria of the applicant:

1. The applicant shall engage in judicial education at the national level;
2. The applicant shall take educational opportunities and program developed at the national level and bring them back to the State of Washington;
3. The applicant shall take educational opportunities and programs developed on the state level and take them to the national level; and
4. The applicant shall demonstrate his or her ability to exchange and share innovative ideas to improve the function and operation of the courts in the State of Washington.
5. The applicant shall be a member in good standing of the DMCJA at the time of application as provided by DMCJA Bylaws.

The amount of expense reimbursement shall be in the discretion of the DMCJA Board of Governors, to be set as part of the annual budget.

2015 DMCJA Leadership Grant Applications

Judge Marilyn Paja

Sharon, I would like to apply for the DMCJA Leadership Grant for 2015. I will be attending the National Association of Women Judges Annual Conference in October in Salt Lake City UT. I serve on the national Board of the NAWJ as the District Director #13 (WA, OR, ID, AK, HA and Guam), and I also serve as the co-chair of the membership committee. In my Board capacity, I am required to attend the Annual meeting and also the mid-year meeting.

I would greatly appreciate the assistance of the DMCJA Leadership Grant to attend the NAWJ Annual Conference. It has been an honor to be helped in this way in the past. I have done my best to bring back information and educational programming to our state from this wonderful conference. In previous years this grant has been considered by the DMCJA Board at the Spring Long Range Planning Board meeting, so I hope this email will be considered my application. If you need more, please let me know.

My direct out-of-pocket expenses for the meeting will be about $2,000 ($450 registration, $600 airfare, 4 nights hotel ($1,000) plus some meals and incidental travel to and from airport.

The NAWJ is hosting its annual conference in Seattle in 2016, and I am involved in that planning. (Justice Owens is the Conference planning chair.) I am involved in assisting with all of the NAWJ Washington state activities and other activities in our neighboring states, as well as improving membership nationally. I attend all of the educational activities at the conference and report back to the Board in writing. I have assisted in bring back educational opportunities to our state including recent programs on "Internet Privacy or Revenge Porn", and introduced for the first time last year the Success Inside & Out – an NAWJ program to assist women in prison nearing release.

Judge Richard Kayne

Dear Ms. Harvey,

Please accept my application to the Board of the DMCJA for a National Leadership Grant to attend the 2015 Mid-year Education Conference of the American Judges Association. The Conference will take place April 22-26, 2015, in Ft. Myers, Florida.

(1) I am, and have been, a member of the AJA since 1996. I am currently the Representative of District XIII (northwestern U.S., southwest, Canada) on the AJA Board of Governors.
(2) I am a member of the Executive Committee of the AJA, and Chair of the Resolutions and Awards Committees. I am currently Co-Chair of the AJA Education Committee, as well as a member of the DMCJA Education Committee, and the Joint Education/Planning Committees for the 2015 AJA/WA State Judges/NASJE Conference in Seattle. *
(3) I am a member in good standing of the DMCJA.

I anticipate conference expenses to exceed **$1,700 (exclusive of meals), and am asking for $1,500 to help defray costs. I have attached the Conference schedule of events.

Thank you for your consideration of this application.

* All of these committees, including the Board of Governors, will be meeting in Ft. Myers, and the primary, if not exclusive, planning topic will be our joint conference in Seattle.

** Estimation of expenses:

Airfare:	$ 675
Registration:	$ 195
Lodging:	$ 680
Airport shuttles/parking:	$ 155
Total:	$1,705

AMERICAN JUDGES ASSOCIATION/AMERICAN JUDGES FOUNDATION

2015 Midyear Meeting

Crowne Plaza April 23-25, 2015 Ft. Myers, Florida

SCHEDULE

Thursday, April 23

Registration
9:00 AM – 5:00 PM

Budget Committee Meeting
11:00 AM - Noon

Executive Committee Meeting
2:00 – 5:00 PM

Friday, April 24

Registration
7:00 AM – 5:00 PM

Continental Breakfast
7:30 – 8:30 AM

Committee Meetings
(see schedule in your packet and attend any in which you are interested)
7:30 – 9:00 AM

AJF Trustees Meeting
7:30 – 8:30 AM

Education Session I
8:45-9:45 AM
Topic: *Retirement Financial Planning for Judges*
Faculty: Allen A. Cohen, CPA, CFP, Chief Executive Officer, B&C Financial, Ponte Vedra Beach, Florida
John C. Murphy, CFP, Investment Advisor Representative, B&C Financial, Ponte Vedra Beach, Florida
Description: Useful tips from financial planners on getting ready for retirement.

Break
9:45 – 10:00 AM

Education Session II
10:00 AM – Noon
Topic: *Safety and Security for Judges*
Faculty: Timm Fautsko, Court Consultant
Hon. Lee Sinclair, Court of Common Pleas (retired), Canton, Ohio
Hon. Gene Lucci, Lake County Common Pleas Court, Painesville, Ohio
Description: Practical ideas for improving your security, on and off the bench.

AJA/AJF Luncheon
12:15 – 1:15 PM

Education Session IV
1:30 – 3:00 PM
Topic: *Managing Judicial Stress*
Faculty: Hon. Hugh E. Starnes, Senor Judge, 20th Judicial Circuit, Florida
Deborah Coe Silver, Ph.D., ABPP, Silver Psychology Center, Ft. Myers, FL
Description: Practical tips for judges pertaining to stress management

Break
3:00 – 3:15 PM

Education Session V
3:15 – 4:30 PM
Topic: *The Stages of a Judicial Career, Including Life After the Bench*
Faculty: Hon. William Palmer, 5th District Court of Appeal, Dayton Beach, Florida
Hon. Kevin Burke, Hennepin County District Court, Minneapolis, Minnesota
Description: A highly interactive discussion by and for current and retired judicial officers on the stages of judicial development over a career, including the post-bench career, and the role of judicial leadership in addressing these stages

Reception
6:00 – 7:00 PM
Resort casual attire

Saturday, April 25

AJA Office
7:30 AM – Noon

Committee Meetings
8:00 – 9:00 AM

Board of Governors Meeting
9:00 AM – Noon

Meeting adjourns
Noon

American Judges Association Officers
Brian MacKenzie, *President*
John Conery, *President-elect*
Russell Otter, *Vice President*
Catherine Shaffer, *Secretary*
Kevin Burke, *Treasurer*
Elliott Zide, *Immediate Past President*

American Judges Foundation Officers
Michele Zide, *President*
John Finley, *President-elect*
Catherine Shaffer, *Vice President*
Pete Sferrazza, *Secretary*
Vince Lilley, *Treasurer*

Message to the DMCJA Board of Governors from Judge David Steiner, DMCJA President:

I'm sorry to announce that Judge Heidi Smith has decided to resign from the Board. Judge Smith is leaving her judicial position at the end of June and returning to private practice. She will serve as general counsel to her local PUD part-time, which will allow her to use her legal background in construction, muni law and land use. As a result she will be able to spend more time with her 4 and 8 year old kids. She also hopes to serve as a pro tem as time permits.

I know you will all join me in thanking Judge Smith for her service to the DMCJA and wish her well in her new role as general counsel!

Judge Smith doesn't think she'll have time to attend either of the next two meetings. I think it better, however, that she not resign until June so that we can add her position (Position Number 3) to our list of open positions. Let me know if anyone disagrees.

We will need to ask our nominating committee to add this seat to the list of open positions and will hope that they can nominate another judge or judges.

Message regarding Joint Meeting and Reception on September 3, 2015:

Afternoon Judge Clarke, Judge Steiner, Janet, Sharon, and Susan. Thank you for confirming the joint meeting of your associations with the justices on Thursday, September 3.

Additionally, we are reissuing Justice Fairhurst's invitation to a reception at her home following the joint meeting, at approximately 4:30 p.m.

The chief will touch base with you in a few of months to determine any topics you and the court may want to discuss at your meeting and I will also be in contact at that time to determine your attendees at the joint meeting and at the reception.

Please let me know if you've any questions between now and September—we look forward to greeting you then.

Julie Keown
Admin. Assistant to Chief Justice Barbara A. Madsen
Washington State Supreme Court
Temple of Justice, P. O. Box 40929
Olympia, WA 98504-0929
360/357-2038
julie.keown@courts.wa.gov

Message Regarding Joint Meeting:

Dear Judge Ramsdell, Judge Alicea-Galvan, and Judge Steiner:

Following up on our earlier invitation to meet with your associations, the court proposes we have a joint meeting with both associations on Thursday, September 3 at 2:00 here at the court, with a reception following at Justice Fairhurst's home.

Alternatively, we could also meet on September 2 or on November 5, with September 3 being the courts' first choice. We are leaving it to you whether to invite the executive committees or the full association boards.

Barbara Madsen

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

OMB No. 1121-0329
Approval Expires 07/31/2016

The U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA) is seeking applications to establish or enhance drug court services, coordination, offender management, and recovery support services. This program furthers the Department's mission by providing resources to state, local, and tribal governments and state, local, and tribal courts to enhance drug court programs and systems for nonviolent substance-abusing offenders.

****Please see highlighted revised language on pages 1, 6-7, and 28****

Adult Drug Court Discretionary Grant Program FY 2015 Competitive Grant Announcement

Eligibility

Eligible applicants are those that meet the following:

For **Category 1: Implementation** and **Category 2: Enhancement**, applications will be accepted to support states, state and local courts, counties, units of local government, and Indian tribal governments (as determined by the Secretary of the Interior) on behalf of a single jurisdiction drug court.

For **Category 3: Statewide,** applicants are limited to state agencies. State agencies include the state court administrative offices, state criminal justice agencies, and other state agencies involved with the provision of substance abuse, mental health or related services to criminal offenders such as the State Administering Agency (SAA), the Administrative Office of the Courts, and the State Alcohol and Substance Abuse Agency.

Note: Applicants must demonstrate that eligible drug court participants promptly enter the drug court program following a determination of their eligibility. BJA will not make awards to applicants whose drug courts require an initial period of incarceration unless the period of incarceration is mandated by statute for the offense in question. In such instances, the applicant must demonstrate the offender is receiving treatment services, if available, while incarcerated and begins drug court treatment services immediately upon release.

Applicants must also demonstrate that the drug court for which funds are being sought will not deny any eligible client for the treatment drug court access to the program because of their use of FDA-approved medications for the treatment of substance use disorders. Please see page 6 for additional information.

Note: BJA will prioritize making awards to those jurisdictions who do not have an active BJA drug court award. BJA may also elect to make awards for applications submitted under this solicitation in future fiscal years, dependent on the merit of the applications and on the availability of appropriations.

For additional eligibility information, see Section C. Eligibility Information.

Deadline

Applicants must register with Grants.gov prior to submitting an application. All applications are due to be submitted and in receipt of a successful validation message in Grants.gov by 11:59 p.m. eastern time on April 16, 2015.

All applicants are encouraged to read this **Important Notice: Applying for Grants in Grants.gov**.

For additional information, see How To Apply in Section D. Application and Submission Information.

Contact Information

For technical assistance with submitting an application, contact the Grants.gov Customer Support Hotline at 800-518-4726 or 606-545-5035, or via e-mail to support@grants.gov. The Grants.gov Support Hotline hours of operation are 24 hours a day, 7 days a week, except federal holidays.

Applicants that experience unforeseen Grants.gov technical issues beyond their control that prevent them from submitting their application by the deadline must e-mail the BJA contact identified below **within 24 hours after the application deadline** and request approval to submit their application. Additional information on reporting technical issues is found under "Experiencing Unforeseen Grants.gov Technical Issues" in the How To Apply section.

For assistance with any other requirement of this solicitation, contact the National Criminal Justice Reference Service (NCJRS) Response Center: toll-free at 1-800-851-3420; via TTY at 301-240-6310 (hearing impaired only); email responsecenter@ncjrs.gov; fax to 301-240-5830; or web chat at https://webcontact.ncjrs.gov/ncjchat/chat.jsp. The NCJRS Response Center hours of operation are 10:00 a.m. to 6:00 p.m. eastern time, Monday through Friday, and 10:00 a.m. to 8:00 p.m. eastern time on the solicitation close date.

Grants.gov number assigned to this announcement: BJA-2015-4087

Release date: February 19, 2015

April 10, 2015

VIA EMAIL

Bureau of Justice Assistance
Office of Justice Programs
810 Seventh St. NW
Washington, DC 20531

RE: BJA-2015-4087
BJA FY 15 Adult Drug Court Discretionary Grant Program

To Whom It May Concern:

As President of the District and Municipal Court Judges' Association, I am pleased to submit this letter in support of the Administrative Office of the Courts' (AOC) application under BJA-2015-4087, in collaboration with Washington State University (WSU), Department of Social and Health Services' Division of Behavioral Health and Recovery (DBHR), and NPC Research (NPC). Good quality data is crucial to accurately assess the efficiency and effectiveness of drug courts. This grant will substantially advance Washington's efforts to enrich data quality and local courts' understanding of how data can be used to improve therapeutic court operations. The grant will also allow for a self-assessment and peer review project, where teams from courts with good implementation of the therapeutic court model will visit, review, and offer training to other courts seeking operational and outcomes improvement.

The District and Municipal Court Judges' Association has a strong interest in therapeutic courts and has established a standing committee to help effect the best results these courts can achieve. This grant will greatly aid courts statewide live up to their potential.

If you have any questions regarding this letter of support, please contact me at david.steiner@kingcounty.gov or 206-477-2102.

Very truly yours,

David A. Steiner

cc: DMCJA Board of Governors
Dr. Carl McCurley
Ms. Sharon Harvey

Message from Judge Richard Kayne regarding Judge Conery's Comments during Welcome Ceremony:

Judge John Conery, President Elect of the American Judges Association, will be attending the opening 2 days at Skamania Lodge, as my guest. He was at the last Fall conference in Spokane, and was Introduced by Justice Owens, and spoke for a few minutes about the upcoming Joint Conference, next Fall, with Wash Judges, the AJA and NASDJE. As a member of the Joint education planning committee, I have endeavored to include topics of significance for DMCJA Judges. J Conery has asked for an Introduction and a few minutes to address the DMCJA about the Joint Conference. In addition, both he and I will be arriving Saturday afternoon, and hope you can join us for dinner. Thank You.

TRIAL COURT FUNDING STRATEGIC INITIATIVE

Draft Work Plan

2015-2017 Year One

Deadline	Deliverable
March 13, 2015	TCAB review (1) Trial Court Funding strategic work plan (2 year) (2) Develop communication strategy
April 10, 2015	Revise and edit work plan and communication strategy Add new TCAB members – onboarding (don't you love that word)
May 8, 2015	Revise and edit work plan and communication strategy Add new TCAB members
June 12, 2015	Invite lobbyists to TCAB meeting to discuss initial engagement strategy with legislators
July, 2015	Send early invitation to legislators (Save the Date) for October or November kickoff meeting
September, 2015	By September meeting, compile history of trial court funding: • National Comparison • Branch Structure – Strength in Trial Court communication • Fines and Fees • Justice in Jeopardy • History of Funding packages
October or November, 2015	Kickoff meeting: • Roster • Meeting schedule • Deliverables • Overview of timeline

December, 2015	• Annual TCAB Legislative committee meeting – invite legislative committees of associations • Develop strategy for funding packages for 2016 session • Review and Edit Preliminary Report
January, 2016	Preliminary Report due: overview of mission, process, done to date, and short term goals for the upcoming year and long term vision. Aside from the board mission-oriented initiative, the report will include topic areas of advocacy: criminal justice (including probation practices), court infrastructure (staff, security, and facility), best practices for efficient and service-oriented service to public (public trust and confidence), etc.
March, 2016	TCAB prepare for April meeting
April, 2016	Invite full committee to a Spring Conference (either DMCJA or SCJA): roster, meeting schedule, new annual timeline

2015-2017 Year Two

Deadline	Deliverable
May, 2016	
June, 2016	
July, 2016	
September, 2016	
October or November, 2016	

December, 2016	• Annual TCAB Legislative committee meeting – invite legislative committees of associations • Develop strategy for funding packages for 2016 session • Review and Edit 2nd Year Report
January and March, 2017	Legislative session activity: individual or group meetings with legislators, work sessions/education, broad communication using the contact list, etc.
April, 2017	Invite full committee to a Spring Conference (either DMCJA or SCJA): roster, meeting schedule, new annual timeline

Project Ideas ~ Policy and/or Funding

GR 31.1 Implementation and Support

Examine impacts of RG 31.1 once implemented and consider creating a funding initiative to supplement the local cost of providing access as defined.

Sentencing and Supervision Reform

Expand judges' association role in statewide policy and funding forum (policy)
Promote use of RNR principles in adult corrections (policy)
Advance probation practices in misdemeanant corrections (policy and funding)
Establish or expand performance measurement for probation supervision using court data (policy and funding)
Request research to identify menu of services for adult offenders

Trial Court Security

- Submit court rule to Supreme Court
- Gather incident data and provide to committee at each meeting (monthly)
- Fulfill additional tasks identified by judges' associations, including:
  1. Investigate and recommend minimum security standards that should be adopted as mandatory for every trial court.
  2. Investigate and recommend best security practices that should be recommended for consideration by trial courts.
  3. Determine whether mandatory security standards should be implemented through Court Rule or Legislation
  4. Recommend strategies for implementation of mandatory security standards.
  5. Recommend language for incorporation into Court Rule or Legislation.
  6. Report findings to the member associations for review and potential action.

State and County Split

- Fees and Fines (example Discovery Pass/studded tire fine)

Family and Juvenile

Expand use of Court House Facilitator model

- Guardianships (superior)
- CLJ areas?

Statewide development and implementation of technology systems

Provide secondary support and legislative advocacy for messaging to legislators from judges and administrators.

March 23, 2015

Judge Veronica Alicea-Galvan
President
Washington District and Municipal Court Judges' Association
Post Office Box 41170
Olympia, WA 98504

Dear Judge Alicea-Galvan:

On behalf of the Judicial Institute Planning Committee, thank you for your generous sponsorship of $500 at the ADVOCATE LEVEL for our 2015 Judicial Institute held on Saturday, March 7, 2015.

Thanks to your generous contribution, we helped to encourage, energize, and educate 18 judicial candidates who are now one step closer to seeking office, many in counties where diversity on the bench is sorely lacking. Also, thanks to your willingness to spread the word about the Judicial Institute, it significantly helped to make the 2015 class the most geographically diverse. We had fellows from Asotin, King, Lincoln, Pierce, Skagit, Whatcom and Yakima, and included 9 ethnic/racial minorities; 15 women and 3 men; 3 who self-identified as being LGBT; and 1 who self-identified as living with a disability.

We have 9 fellows who have successfully become judges in King, Pierce, Clark, and Kitsap counties since starting the Judicial Institute in 2012. Given these successes we are committed to continuing to offer the Judicial Institute, and we sincerely hope that your organization will continue to be part of this exciting collaboration project in future years.

The Washington Initiative for Diversity is a 501(c)(3) non-profit organization. Donations are tax deductible to the extent allowed by law. Our Federal Tax-Exempt number is 26-3378690, and our WA State Unified Business Identifier (UBI) is 602-774-103.

Thank you again for your sponsorship and your continued support of the Judicial Institute. If you have any questions, please feel free to contact Erica Chung at director@initiativefordiversitywa.org or 206-720-4996 or Becca Glasgow at becca_glasgow@hotmail.com or 360-359-2454.

Sincerely,
Judicial Institute Fundraising Members

Becca Glasgow
WA Women Lawyers

Erica Chung
WA Initiative for Diversity

cc: Judge Willie Gregory, Washington District and Municipal Court Judges' Association

WASHINGTON COURTS

District and Municipal Court Judges' Association

March 27, 2015

Honorable Mary E. Fairhurst
Washington State Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

Dear Justice Fairhurst:

RE: DISTRICT AND MUNICIPAL COURT JUDGES' ASSOCIATION (DMCJA) SUPPORT FOR JUDICIAL INFORMATION SYSTEM (JIS) ASSESSMENT AND BASE PENALTY FEE INCREASE

The DMCJA supports the Judicial Information System Committee recommendation that the Supreme Court approve an inflationary adjustment to the Judicial Information System assessment on traffic infractions from seventeen dollars ($17) to twenty-three dollars ($23) and the corresponding six dollar increase to the base penalty on such infractions.

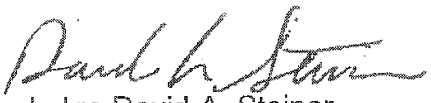
While the DMCJA has historically resisted increasing penalties due to the impacts on those least able to afford them, the amounts have not been adjusted for inflation since 2007. In RCW 2.68.040 (3) and RCW 46.63.110 (3), the Legislature specifically requested that the Court regularly adjust these amounts for inflation. The proposed increase is substantially less than the increases in the state's fiscal growth factor over the past eight years. Furthermore, we are acutely aware of the limited jurisdiction courts' desperate need for a new case management system to replace the aging DISCIS/JIS system. Limited jurisdiction courts need a system that can handle changing caseloads and the increased complexity involved in managing those cases. Courts are increasingly struggling without the tools they need to work efficiently and effectively.

The DMCJA understands that without an increase in the Judicial Information System (JIS) assessment, there will be insufficient funds to complete the limited jurisdiction case management system project any time in the near future. The DMCJA also recognizes that the JIS fund was specifically created to fund the statewide system that serves

Washington courts. Therefore, the DMCJA believes it is important for the Supreme Court to increase the fee to finance this very important case management system replacement so sorely needed by courts of limited jurisdiction.

Please do not hesitate to contact me with any questions and/or concerns regarding DMCJA support for an assessment and base penalty fee increase to fund the JIS Account. Thank you.

Sincerely,



Judge David A. Steiner
President, DMCJA

cc: Ms. Callie Dietz
Mr. Ramsey Radwan
Ms. Sharon Harvey
Ms. Vicky Cullinane