



**DISTRICT AND MUNICIPAL
COURT JUDGES' ASSOCIATION**

BOARD MEETING

August 10, 2018

**AOC SEATAC OFFICE
SEATAC, WASHINGTON**

DISTRICT AND MUNICIPAL COURT JUDGES' ASSOCIATION SCHEDULE OF BOARD MEETINGS

2018-2019

<i>DATE</i>	<i>TIME</i>	<i>MEETING LOCATION</i>
<i>Friday, July 13, 2018</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, Aug. 10, 2018</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Sunday, Sept. 23, 2018</i>	9:00 a.m. – 12:00 p.m.	2018 Annual Judicial Conference, Yakima, WA
<i>Friday, Oct. 12, 2018</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, Nov. 9, 2018</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, Dec. 14, 2018</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, Jan. 11, 2019</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, Feb. 8, 2019</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, March 8, 2019</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, April 12, 2019</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, May 10, 2019 & Saturday, May 11, 2019</i>	May 10: 12:00-5:00 p.m. May 11: 9:00-1:00 p.m.	2019 DMCJA Board Retreat, Location: TBD
<i>June 2019</i>	9:00 a.m. – 12:00 p.m.	2019 DMCJA Spring Conference, Location: Skamania Lodge, Stevenson, WA

AOC Staff: Sharon Harvey

Updated: August 1, 2018

Persons with a disability, who require accommodation, should notify Susan Peterson at 360-705-5278 or susan.peterson@courts.wa.gov to request or discuss accommodations. While notice five days prior to the event is preferred, every effort will be made to provide accommodations, when requested.



DMCJA BOARD MEETING
FRIDAY, AUGUST 10, 2018
12:30 PM – 3:30 PM
AOC SEATAC OFFICE
SEATAC, WA

PRESIDENT REBECCA C. ROBERTSON

AGENDA

PAGE

Call to Order

General Business

- A. Minutes – July 13, 2018
- B. Treasurer’s Report
- C. Special Fund Report
- D. Standing Committee Reports
 - 1. Legislative Committee – *Judge Samuel Meyer*
 - 2. Rules Committee Minutes for June 5, 2018
 - 3. Therapeutic Courts Committee Minutes for June 4, 2018
- E. Trial Court Advocacy Board (TCAB)
- F. Judicial Information Systems (JIS) Report – *Ms. Vicky Cullinane*

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Liaison Reports

- A. Administrative Office of the Courts (**AOC**) – *Ms. Callie Dietz*
- B. Board for Judicial Administration (**BJA**) – *Judges Ringus, Jasprica, Logan, and Johnson*
- C. District and Municipal Court Management Association (**DMCMA**) – *Ms. Margaret Yetter*
- D. Misdemeanant Probation Association (**MPA**) – *Ms. Stacie Scarpaci*
- E. Superior Court Judges’ Association (**SCJA**) – *Judge Kitty-Ann van Doorninck*
- F. Washington State Association for Justice (**WSAJ**) – *Loyd James Willaford, Esq.*
- G. Washington State Bar Association (**WSBA**) – *Kim E. Hunter, Esq.*

Discussion

- A. Council on Independent Courts (CIC) Final Report
 - 1. CIC Policy and Procedure Manual
 - 2. General Rule 29 Amendment
- B. Need for Reimbursement Grants Calculation for House Bill 1783, Legal Financial Obligations – *Mr. Ramsey Radwan, Judge Donna Tucker*
- C. Request for feedback regarding Limited License Legal Technician’s (LLLTs) desire to add a new license practice area
 - 1. Consumer, Money, and Debt Law Course Proposal
 - 2. Proposed Family Law Enhancements

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12-18
19-76

<p>Information</p> <p>A. Board members are encouraged to apply for DMCJA representative positions. Available positions include:</p> <ol style="list-style-type: none">1. Commission on Judicial Conduct (CJC)2. JIS CLJ “CLUG” User Group3. Misdemeanant Probation Association (MPA) Liaison4. Presiding Judge & Administrator Education Committee5. Washington State Access to Justice Board (Liaison Position)6. WSBA Court Rules and Procedures Committee7. Crime Victim Certification Steering Committee (SHB 1022) <p>B. Policy Analyst Project Ideas for 2018 are as follows:</p> <ol style="list-style-type: none">1. Survey on Committees that have DMCJA Representatives (July 2018)2. Courthouse Security Survey (September 2018)3. Judicial Independence Matters (Municipal Court Contracts)	
<p>Other Business</p> <p>A. The next DMCJA Board Meeting is September 23, 2018, 9:00 a.m. to 12:00 p.m., at the 60th Annual Washington Judicial Conference, in Yakima, WA.</p>	
<p>Adjourn</p>	



DMCJA Board of Governors Meeting
Friday, July 13, 2018, 12:30 p.m. – 3:30 p.m.
AOC SeaTac Office
SeaTac, WA

MEETING MINUTES

Members Present:

Chair, Judge Rebecca Robertson
Judge Scott Ahlf
Judge Linda Coburn
Judge Jennifer Fassbender
Judge Michael Finkle
Judge Michelle Gehlsen
Judge Robert W. Grim
Judge Drew Ann Henke
Commissioner Rick Leo
Judge Mary Logan (non-voting)
Judge Aimee Maurer (by phone)
Judge Samuel Meyer
Judge Kevin Ringus (non-voting)
Judge Damon Shadid
Judge Charles Short
Judge Jeffrey R. Smith

Members Absent:

Judge Judy Jasprica (non-voting)
Judge Dan B. Johnson (non-voting)

Guests:

Ms. Sonja Hallum, Governor's Office
Kim E. Hunter, Esquire, WSBA
Ms. Paulette Revoir, DMCMA
Ms. Stacie Scarpaci, MPA
Mr. Taylor "Tip" Wonhoff, Governor's Office

AOC Staff:

Ms. J Benway
Ms. Vicky Cullinane (by phone)
Ms. Sharon R. Harvey
Mr. Brady Horenstein
Ms. Susan Peterson

CALL TO ORDER

Judge Robertson, 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 p.m. Judge Robertson asked attendees to introduce themselves, and she welcomed the new Board members.

GENERAL BUSINESS

A. Minutes

The Board moved, seconded, and passed a vote (M/S/P) to approve the Board Meeting Minutes for June 3, 2018, with one clerical correction to page 2, B. Treasurer's Report. The second sentence should state: Judge Gehlsen reported that "almost all" DMCJA members paid their dues in 2018, instead of "all" DMCJA members.

B. Treasurer's Report

M/S/P to accept the Treasurer's Report. Judge Gehlsen encouraged Board members to carefully peruse the Treasurer's Report each month to ensure there are no mistakes.

C. Special Fund Report

M/S/P to accept the Special Fund Report. Board members reviewed the Special Fund bank statement provided by Judge Gehlsen.

D. Standing Committee Reports

1. Diversity Committee

a. August 2018 Pro Tem Training

An informational brochure and agenda for the August 2018 Attorney Training for Service as Pro Tem Judge in District and Municipal Court was provided in the materials. Judge Coburn reported the training is available online and in person, and there are a lot of speakers presenting. She informed that many who have attended

past pro tem trainings have become pro tem judges, as well as judges. In addition, there are now scholarships offered. Judge Short expressed his gratitude to the Washington State Bar Association (WSBA) for their generosity in providing scholarships and for their continued support.

2. Education Committee

Judge Short provided the 2018 DMCJA Spring Conference Evaluation Summary Report for the Board's review. There was Board discussion about the comments. Board members should contact Judge Short or Judge Robertson with any additional feedback.

3. Rules Committee

The Rules Committee Minutes for May 9, 2018 were provided for the Board's review. Further, Judge Robertson reported that she is a former member of a WSBA Task Force that is reviewing the civil litigation rules in light of the recent Report on the Rising Costs of Civil Litigation. A Subcommittee of that Task Force is proposing amendments to the Superior Court Civil Rules and has suggested that the courts of limited jurisdiction adopt similar rules, specifically with regard to an initial case schedule. The Rules Committee does not think that is a good idea and is in the process of conveying that to the Task Force.

4. Therapeutic Courts Committee

The Therapeutic Courts Committee Meeting Minutes for May 9, 2018 were provided for the Board's review. Judge Finkle reported that, in an effort to harness the talent and passion of its members, the Committee is dividing its work this year into three subcommittees: (1) Education, chaired by Judge Laura Van Slyck; (2) Outreach and Judicial Resource Development, chaired by Judge Fred Gillings; and (3) Legislative Liaison, chaired by Judge Finkle.

5. Legislative Committee

Judge Meyer reported the next Legislative Committee meeting is August 10, 2018. The Committee will review legislative ideas for the upcoming year, and then present to the Board. He further reported there are a lot of hold over bills from last year.

E. Trial Court Advocacy Board (TCAB) Update

Judge Ahlf reported that TCAB did not meet today. Judge Sean O'Donnell, SCJA Immediate Past President, is the new TCAB Chair. A discussion ensued about the need for TCAB in light of recent support of trial courts from the Supreme Court.

F. Judicial Information Systems (JIS) Report

Ms. Cullinane provided a Courts of Limited Jurisdiction Case Management System (CLJ-CMS) Project update. She reported that, since the CLJ-CMS Project was unable to move forward with either of the two vendors from the original RFP, the CLJ-CMS Project Steering Committee is currently looking at alternative options and investigating costs and risks of each. Options being considered include: (1) A best-of-breed solution, where individual components such as case management and document management are linked through data exchange, or (2) Recoding JIS and adding missing functions. The Project Steering Committee plans to bring a consultant on board to help them analyze the alternatives. They expect the consultant to be on board by mid to late September 2018. In addition, Ms. Cullinane provided a Department of Licensing (DOL) DRIVES project update. She reported the DOL is on track to replace their existing legacy systems with a new system, which will be implemented on September 4, 2018. In addition, the first release notice went out a couple days ago, and more information will be forthcoming in August 2018 before the changes are in place.

LIAISON REPORTS

A. Administrative Office of the Courts (AOC)

Mr. Horenstein reported that the request for application for a new State Court Administrator went out this week for Ms. Callie Dietz's position. Board members are encouraged to contact the AOC if they know anyone who

may be interested in the position. Judge Robertson informed there will be representatives from all court levels involved in the interview process.

B. Board for Judicial Administration (BJA)

Judge Mary Logan circulated information about the 2019-2021 BJA branch budget priorities. Judge Logan also summarized the Budget and Funding Committee presentations on June 8, 2018, and shared that the courts of limited jurisdiction voices were heard throughout the process.

Judge Kevin Ringus reported that the BJA's last meeting was on June 15, 2018. In addition, Judge Ringus informed he will be the BJA Legislative Committee Chair for the next two years. The BJA discussed the upcoming Salary Commission presentation and salary setting schedule. The next BJA meeting is September 21, 2018.

C. District and Municipal Court Management Association (DMCMA)

Ms. Paulette Revoir reported that Ms. Margaret Yetter was sworn in as DMCMA President. In addition, she reported the DMCMA Staff Conference is in October 2018 at the Great Wolf Lodge, and registration notices will go out soon. She encouraged judges to watch for the notices and to send their staff to the Conference. DMCMA is revitalizing their Courts Helping Courts program with the addition of a Mentoring Program. Program details have been emailed to court managers and interest in the program has been overwhelmingly positive. Judges are encourage to support their managers in program participation.

D. Misdemeanant Probation Association (MPA)

Ms. Scarpaci reported the MPA had its spring conference from April 30 to May 2, 2018. In addition, the MPA is planning the next spring conference, which is scheduled for May 6-9, 2018, in Walla Walla. She also reported the MPA Academy is scheduled for September 12-21, 2018, and encouraged members to let her know of any topics they would like presented at the Academy.

E. Washington State Bar Association (WSBA)

Ms. Hunter reported on the following topics of interest for the Board:

- The 2018 APEX Awards will be presented at a ceremony and dinner on September 27, 2018 at the Sheraton Hotel in downtown Seattle (for more information, to register and/or to donate to the foundation, please go to: <https://www.wsba.org/about-wsba/apex-awards>).
- Mr. Rajeev Majumdar, District 2 Governor, was appointed by the BOG and sworn in as President-Elect at the May 17, 2018 BOG meeting.
- The BOG approved the charter of a workgroup proposed as part of the March bylaw amendment to study if it is reasonable to continue intentionally excluding otherwise eligible candidates in the name of geographic diversity, and to consider how to attract and be more inclusive of a broader cross-section of more candidates for President-Elect every year.
- The BOG added three new positions to its ranks, which include two at-large positions for members of the public who have never been licensed as legal professionals and one at-large seat for members who are limited license legal technicians ("LLLTs") or limited practice officers ("LPOs"). Rollback amendments could eliminate the public seats and the LLLT/LPO seat, but would allow LLLTs and LPOs to run for election as district governors on the same basis as active lawyer members as opposed to being appointed.
- FY2019 Budget Planning: The Budget and Audit Committee is preparing a proposed FY2019 budget that will be on for first public reading at the July BOG meeting and on for action at the September BOG meeting.
- Proponents of the salary increase for select staff repeatedly cited Amazon's impact on the cost of housing in Seattle during public session at September, November, January, and March BOG meetings and discounted questions about why this proposed budget increase had not been included in the

FY2018 budget so the governors could have considered the entire FY2018 budget during its normal year-long process.

- Ms. Hunter is working on getting judicial representation on the WSBA. The BOG thinks it is appropriate, so they are looking at it.
- The work group established by the former President to study possible rollback of member referendum rights is likely to issue its final report this summer for BOG action. Member referendum rights provide a chance to undo BOG action, subject to the Supreme Court's plenary authority to overrule.
- The WSBA celebrated the 50th anniversary of its diversity and inclusion plan. New Governors-Elect will be repeatedly reminded in orientation of WSBA's mission to serve the members and the public, ensure the integrity of the profession, and to champion justice.
- Ms. Hunter informed the September and October WSBA BOG meetings are very important and that Chief Justice Mary Fairhurst will attend the September meeting. Ms. Hunter will provide a written report to the DMCJA Board with the important details of those meetings.

For more information regarding WSBA BOG meetings, please visit: <https://www.wsba.org/about-wsba/who-we-are/board-of-governors>.

ACTION

1. Proposed Amendment to CrRLJ 3.2(o)

M/S/P to approve the Rules Committee recommendation to forward the proposed amendment to CrRLJ 3.2(o) to the Supreme Court Rules Committee.

DISCUSSION

A. Governor's Office Pardoning Defendants with Marijuana Possession Violations

Ms. Sonja Hallum, Policy Advisor in Governor Jay Inslee's Office, and Mr. Taylor "Tip" Wonhoff, Deputy General Counsel with Governor Inslee's Office, discussed an initiative regarding the Governor's Office pardoning defendants with marijuana possession violations. They want to hear what the pros and cons of this initiative would be from those who know the legal system and understand the limitations. There was discussion regarding the following:

- What class/charges could be pardoned
- What the best process would be to facilitate and track the pardons, if they decide to go forward with it
- What the process would be to submit the petition, and what the petition would include
- Who would be notified of the pardon
- What the burden would be on the clerk's office
- That courts need to know how to answer any questions that will come in
- That sometimes it is very hard to get information out to the smaller towns, etc.
- Whether a code should be made specifically for the pardons
- Whether the initiative would affect immigration, and
- That there is a number of municipal codes that will be different from state codes, so those would need to be found.

Ms. Hallum and Mr. Wonhoff encouraged Board members to continue thinking realistically about this and to contact them with any additional feedback.

B. Brief DMCJA Board of Governors (Board) Orientation

The (1) Operational Rules, (2) Rules for Conduct at Board Meetings, and (3) Motion Precedence and Conduct for DMCJA Board Meetings were provided for Board members' review. Members should contact Judge Robertson or Ms. Harvey with any questions.

C. Development of Curriculum for Judicial Independence

The Board discussed ongoing judicial independence issues that municipal court judges are experiencing throughout Washington State. Following the discussion, the Board went into Executive Session. M/S/P to go into Executive Session.

D. The new Domestic Violence Washington Administrative Code Procedures (Chapter 388-60A WAC)

Judge Robertson reported on the new Domestic Violence (DV) Washington Administrative Code (WAC) Procedures (Chapter 388-60A WAC). She informed that changes per the new WACs include that there are now four levels of treatment, people will have to attend treatment that is more rigorous, and the cost of treatment will likely increase—thus making it much more difficult for people to obtain DV treatment. She further informed Ms. Aime Roberts, DV Perpetrator Program Manager from the Department of Social and Health Services (DSHS), was hired to revise and recommend/educate on the new WAC changes, and Ms. Roberts presented to Judge Robertson and Judge Coburn. The Board discussed the WAC changes and some concerns Judge Robertson and Judge Coburn have. It was suggested Judge Coburn could send a memo she wrote about CLJs authority under statute to the DMCJA membership.

E. Pursuit of Legislation Exempting Judges from Disclosing their Addresses with the PDC (See RCW 4.24.680, RCW 4.24.690, and RCW 4.24.700)

Judge Meyer reported there may be a proposal again next session to allow judges not to provide their addresses to the Public Disclosure Commission (PDC). The DMCJA has supported this type of legislation in the past. It would be preferable if the PDC proposes the amendment, but the DMCJA could also consider proposing legislation to that effect. The Legislative Committee will look at this issue.

F. Proposed Amendment to CrRLJ 3.2(o)

Ms. J Benway reported the DMCJA Rules Committee recommends the DMCJA Board propose an amendment to CrRLJ 3.2, pertaining to Conditions of Release. She explained recent legislative changes to RCW 10.31.100 have modified the circumstances under which a police officer is required to hold a person arrested for a DUI or Physical Control offense until released by a judicial officer on bail, personal recognizance, or order, and CrRLJ 3.2(o) references this statutory requirement but has not been amended to address recent changes to the statutory language. Therefore, it is now recommended that CrRLJ 3.2(o)(3) be amended to reflect the statutory changes. M/S/P to move this topic to an action item.

INFORMATION

Judge Roberson brought the following informational items to the Board's attention:

- A. 2018-2019 DMCJA Priorities are located in the meeting packet.
- B. Board members are encouraged to apply for DMCJA representative positions. Available positions include:
 - 1. Commission on Judicial Conduct (CJC)
 - 2. JIS CLJ "CLUG" User Group

3. Misdemeanant Probation Association (MPA) Liaison
4. Presiding Judge and Administrator Education Committee
5. Washington State Access to Justice Board (Liaison Position)
6. WSBA Court Rules and Procedures Committee

C. Policy Analyst Project Ideas for 2018 are as follows:

1. Survey on Committees with DMCJA Representatives (July 2018)
2. Courthouse Security Survey (September 2018)
3. Judicial Independence Matters (Municipal Court Contracts)

D. Ignition Interlock Report by National Center for State Courts (See Ignition Interlock Report by the National Center for State Court)

E. Reports of Engrossed Second Substitute House Bill (E2SHB) 1163 Domestic Violence Workgroups (See attachment on July Board meeting notice; Cover Letter in agenda packet)

OTHER BUSINESS

Judge Robertson reminded meeting attendees to validate their parking passes, which is a new parking requirement at the AOC SeaTac Office Center.

The next DMCJA Board Meeting is scheduled for August 10, 2018, from 12:30 a.m. to 3:30 p.m., at the AOC Office in SeaTac, WA.

The meeting was adjourned at 2:45 p.m.



DMCJA Rules Committee
Tuesday, June 5, 2018 (7:30 - 8:25 a.m.)
Campbell's Resort, Chelan, Washington

MEETING MINUTES

Members:

Chair, Judge Dacca
Judge Buttorff
Judge Goodwin
~~Commissioner Hanlon~~
Judge Oaks
Judge Samuelson
~~Judge Steiner~~
Judge Turner
~~Ms. Linda Hagert, DMCMA Liaison~~
~~Ms. Patti Kohler, DMCMA Liaison (Alternate)~~

AOC Staff:

Ms. J Benway

Guest:

Judge Eisenberg

Judge Dacca called the meeting to order at 7:33 a.m.

The Committee discussed the following items:

1. Welcome & Introductions

Judge Dacca welcomed the Committee members in attendance. He stated that he will be retiring from judicial office at the end of the year. He has advised incoming DMCJA Chair Judge Robertson that he would like to stay on the Committee until the end of the year but requested that a new Committee Chair be appointed. He encouraged any interested Committee members to express to Judge Robertson their willingness to serve as Chair.

2. Approve Minutes from the May 9, 2018 Rules Committee meeting

It was motioned, seconded and passed to approve the minutes from the May 9, 2018 Rules Committee meeting as presented.

3. Discuss Proposal to Amend CrRLJ 3.2(o) to Comport with Changes to DUI Statute

Ms. Benway stated that in 2014, the legislature amended RCW 10.31.100 to add a new subsection addressing when a police officer must detain a person for a DUI offense pending judicial review. The DMCJA Rules Committee was concerned that the legislation potentially conflicted with CrRLJ 3.2(o)(2) regarding the class of offenses for which a person can be detained awaiting judicial review, so the DMCJA Board recommended that a subsection (3) be added to CrRLJ 3.2(o) to reflect the statutory language. The Supreme Court did so through Order No. 25700-A-1118, dated November 4, 2015.

The Legislature has subsequently modified RCW 10.31.100 to add another circumstance under which an officer must hold someone pending judicial review, and to provide that an officer is not required to keep a person in custody who requires immediate medical attention and is admitted to a hospital. Neither of these changes is reflected in the current rule. To fulfill the intent of having the rule conform to the statute, the rule must be amended to reflect the statutory changes. Ms. Benway prepared a sample memo, GR 9 Cover Sheet and draft rule language for the Committee's review. The Committee motioned, seconded, and passed to forward the GR 9 Cover Sheet to the DMCJA Board with a recommendation to request that the Supreme Court amend the rule. Ms. Benway will work with Judge Dacca to prepare a memo for the Board.

4. Discuss Differences Between CrR 3.2 and CrRLJ 3.2

Ms. Benway stated that Judge Portnoy had brought to the Committee's attention discrepancies between the trial court rules pertaining to conditions of release in a criminal matter, CrR 3.2 and CrRLJ 3.2. Ms. Benway compared the two rules and provided a memo for the Committee regarding where the rules diverge. CrR 3.2(j), Review of Conditions, is absent from CrRLJ 3.2. The Committee discussed whether it would be helpful to have a comparable provision in the CrRLJ. The Committee decided not to proceed with an amendment proposal at this time but may seek to work with the SCJA Criminal Rules Committee in the future regarding making the rules more congruent. Judge Dacca stated that in general he would like to see greater cooperation between the DMCJA and SCJA Rules Committees.

5. Discuss Case Scheduling Requirement for CLJs

The WSBA Court Rules Committee is considering proposing or amending court rules to create an initial case scheduling requirement for courts of limited jurisdiction. The proposal is in response to recommendations from the WSBA Board of Governors regarding the 2015 Final Report to the WSBA Board of Governors from the Task Force on the Escalating Costs of Litigation. After considering and discussing the proposals, the Committee had concerns about implementing the proposals, including: many courts have developed their own case schedules in response to their own court needs, so issues can be addressed by local rule; many CLJ cases do not go to trial; the timelines would not work for many CLJs and would actually take more time than current procedures, which would undermine the purpose of the amendments. Judge Dacca agreed to convey these concerns to the proposal's proponents.

6. Judge Eisenberg Proposal

Judge Eisenberg attended the meeting to present two proposals to the Committee: (1) amend GR 22 to protect certain records in therapeutic courts; and (2) amend the rules (and statutes) pertaining to affidavits of prejudice in courts of limited jurisdiction. After presenting the proposals, Judge Eisenberg stated that he would provide written materials for the Committee to consider at the next meeting.

7. Rules Committee 2018 Annual Report

Ms. Benway presented the Rules Committee's 2018 Annual Report. Committee members thanked Ms. Benway for her service.

8. Discuss Upcoming Goals and Projects

Judge Goodwin stated that he is interested in looking into the ethics rules that apply when judges review probation reports.

9. Other Business and Next Meeting Date: Draft Meeting Schedule

The Committee reviewed the proposed meeting schedule, which plans for meetings on alternating fourth Wednesdays and Thursdays. The Committee adopted the schedule, which can be reviewed later in the year if necessary.

The next meeting is scheduled for Wednesday, July 25 at noon via teleconference.

There being no further business, the meeting was adjourned at 8:25 a.m.



DMCJA Therapeutic Courts Committee

June 4, 2018, 7:15AM – 7:55AM

Chelan, Washington

Committee Meeting Minutes

Participating

Judge Fred Gillings
Judge Laura Van Slyck
Judge Susan Adams
Judge Scott Ahlf
Judge Michael Finkle
Judge Robert Grim

Commissioner Jenifer Howson
Judge Nancy McAllister
Judge Damon Shadid
Judge Ketu Shah
Judge Jeffrey Smith
Judge Claire Sussman
Judge Michael Turner

AOC Staff

Susan Peterson

The Therapeutic Courts Committee (Committee) meeting was called to order at 7:16 a.m., and a quorum was present. Co-Chairs Judge Gillings and Judge Van Slyck welcomed attendees and asked them to introduce themselves and to share what they hope to get out of the Committee in 2018-2019.

The Committee moved, seconded, and voted unanimously (M/S/P) to approve the May 9, 2018 Meeting Minutes.

Judge Van Slyck reported the Committee budget for 2018-2019 was funded as requested and is \$2,500.00. Judge Gillings expressed his appreciation for the DMCJA Board providing the funding.

Judge Van Slyck provided an update on the Fall Conference session. She informed the Co-Chairs will have another meeting with Judge N. Scott Stewart and Judith Anderson before Fall Conference. The session will be 90 minutes long. They will likely draw from pre-requested questions and have people ready to answer them, and they are planning faculty will sit in the audience during the session. They want free-flowing questions back and forth between faculty and participants, and they want participants to feel they got their needs and questions met. Judge Scott Ahlf will be a faculty member for the session, and he will talk about his experiences in starting up a community court 2-1/2 years ago, with a passion for change and no money, and what his court did. Commissioner Howson and Judge Adams will also be session faculty members and will discuss their courts' experiences in starting up their courts. There was discussion about the session and possible handouts. Putting an all-inclusive single guide online was suggested. In addition, Judge Shadid shared that the Arnold Foundation (www.arnoldfoundation.org), the MacArthur Foundation (www.macfound.org), and the Center for Court Innovation (www.courtinnovation.org) are great resources.

Members were reminded to reapply to continue on the Committee, if they have not done so already. In addition, this year in an effort to harness the talent and passion of its members, the Committee will divide its work into three subcommittees: (1) Education, (2) Outreach and Judicial Resource Development, and (3) Legislative Liaison. Members were asked to think about the subcommittee work they want to do, and to let Ms. Peterson know so she can relay it to the Co-Chairs

Next steps: (1) Ms. Peterson will create a listserv for the Fall Conference faculty group. (2) Judge Shadid will send Ms. Peterson website information on the resources he mentioned, and she will include it in these meeting minutes. (3) Committee members will let Ms. Peterson know which subcommittee (1-Education, 2-Outreach and Judicial Resource Development, or 3-Legislative Liaison) they want to be participate in.

The next meeting is Wednesday, August 1, 2018, from 12:15 p.m. to 1:00 p.m., via Conference Call.

The meeting was adjourned at 7:57 a.m.

From: "Renata Garcia" <renatag@wsba.org>
To: "Hahn, Sondra" <Sondra.Hahn@courts.wa.gov>
Cc: "Jean McElroy" <jeanm@wsba.org>, "'steve@crosslandlaw.net'" <steve@crosslandlaw.net>
Subject: The LLLT Board is Seeking Feedback

Hi Sondra –

My name is Renata Garcia and I am the staff liaison to the Limited License Legal Technician (LLLT) Board. I am writing to let you know that the LLLT Board is working on developing a new LLLT license practice area – Consumer, Money, and Debt Law – and would like to seek feedback from District and Municipal Court Judges. A draft outline of the proposed practice area is attached. The LLLT Board is seeking comments through July 16. Please submit comments, questions, or concerns to lll@wsba.org. The LLLT Board is also willing to send a representative to one of your meetings to answer questions related to the potential new practice area or the LLLT license in general. Please let us know if this is of interest.

In addition, earlier this year, the LLLT Board submitted suggested amendments to APR 28, the LLLT RPC and the lawyer RPC for consideration by the Supreme Court. These amendments would enhance the scope of the current family law practice area. The Court is seeking comments through September 14. Please see attached order for more information on how to submit comments.

Thank you,

Renata



**Renata de Carvalho Garcia | Innovative Licensing
Programs Manager Washington State Bar Association**

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www.wsba.org

The WSBA is committed to full access and participation by persons with disabilities. If you have questions about accessibility or require accommodation please contact barbarao@wsba.org.

Draft for Discussion and Comment:

Consumer, Money, and Debt Law
Proposed New Practice Area for Limited License Legal Technicians

Summary

The Limited License Legal Technician (LLLT) Board invites comment on a proposed new practice area: Consumer, Money, and Debt Law. This new practice area is designed to provide economic protection for the public and to provide legal assistance for certain financial matters, with a focus on consumer debt issues and other problems which contribute to consumer credit problems. For example, LLLTs licensed in this practice area would be able to assist clients with issues related to legal financial obligations, debt collection and garnishment defense, identity theft, preparing for small claims court, and filing protection orders.

Introduction

The practice area was developed by a New Practice Area Committee of the LLLT Board in a workgroup chaired by LLLT Board member Nancy Ivarinen. The workgroup is requesting input from other interested parties prior to formalizing the request to the Supreme Court.

While researching new practice areas for LLLTs, the workgroup considered:

- whether the new practice area would increase access to justice for potential clients with moderate or low incomes;
- whether there is a demonstrable unmet legal need in that area;
- whether it's possible to include consumer/client protection for those who use LLLTs;
- whether the new area would provide a viable practice so LLLTs can afford to maintain a business;
- whether the substantive practice area classes can be developed and taught by the law schools in a three-class series, one per quarter, for five credits each; and
- whether there are experts available to help develop the curriculum and teach the classes.

In order to appropriately vet the potential new practice areas, the workgroup considered:

- statistics and reports discussing the legal need;
- comments by invited subject matter experts who explained what the practice areas entail;
- comments by these experts on what the LLLT could potentially do;
- committee discussion about the LLLT being properly trained in a limited scope within the practice area; and
- whether the practice area could be regulated appropriately so that the needs of the clients would be met, while also assuring that the clients would be protected.

The Better Business Bureau (BBB), the Attorney General’s Consumer Protection Division, the Federal Trade Commission, and some organizations funded by United Way offer services related to consumer debt, such as debt management, debt renegotiation; and changing the behavior of businesses that prey upon low and moderate income consumers.

These services have been in existence for decades, and yet the demonstrated need in the Civil Legal Needs Study clearly shows that consumers with debt related legal issues are unaware of these services, do not believe these organizations can or will help them, have not been helped when using these services, or have needs that exceed the scope of the services these organizations can provide.

The proposed practice area is intended to help meet these significant unmet legal needs while giving LLLTs additional practice area options for expanding their businesses.

Evidence of Unmet Need

The starting point of the workgroup’s analysis was identifying the unmet need that could be addressed by LLLTs licensed in a consumer law practice area. The workgroup found convincing evidence supporting the existing legal need for consumer law assistance in studies conducted at both the state and national levels. The workgroup also looked at statistics received from county-based volunteer legal services providers and the statewide Moderate Means Program, which demonstrated a consistent legal need in the consumer law area among low and moderate income people.

Statistics from State and Federal Studies

- The 2003 (Statewide 0-400% of Federal Poverty Level) and 2015 (Statewide, 0-200% of Federal Poverty Level) Civil Legal Needs Studies identified Consumer, Financial Services, and Credit among the three most prevalent problems that people experience and seek legal help to address. There was an increase in legal need in this area from 27% to 37.6% between 2003 and 2014.
- The Legal Services Corporation June 2017 Report: The Justice Gap (National, 0-125% of Federal Poverty Level) identified consumer issues as the second highest problem area for people at this income level.

Moderate Means Program Data

- The WSBA Moderate Means Program (Statewide, 200-400% of Federal Poverty Level) identified consumer issues as the second highest problem area. In addition, data provided by the program showed that consumer law represented 10% of the 2,321 requests for service from October 26, 2016 to October 27, 2017. Of the 233 consumer law requests, 74 related to bankruptcy or debtor relief and 71 were in collections, repossession, and garnishment.
- Data from the Moderate Means Program on requests for service from January 1, 2015 through May 1, 2017, show 523 of 3,062 requests for service in consumer law matters, about 17% of the total requests over that 28 month period.

Statistics from Volunteer Legal Service Providers

- The King County Bar Association's Neighborhood Legal Clinics 2016 data showed that 15% (1,298 of 8,259) of legal issues addressed at the clinic were consumer law related.
- From 2012-2017 the King County based Northwest Consumer Law Center received 2,499 requests for service, all directly related to consumer law needs.
- Over the last three years, the Tacoma-Pierce County Bar Association Volunteer Legal Services had an average of 160 clients per year visit their Bankruptcy Clinic and an average of about 43 clients per year attend the Foreclosure – Home Justice Clinic.

How LLLTs Can Meet the Legal Need

When reviewing the Civil Legal Needs Studies, the workgroup noted that it was unclear whether or not legal assistance would materially address the consumer law problems the subjects were reporting, and if so, whether that assistance could be provided through some method other than direct representation exclusively by a lawyer.

The workgroup discussed many examples of consumer legal problems that may not have a legal remedy, such as a debt collection lawsuit where the money is owed. While discussing each example, the workgroup saw advantages to providing the consumer with legal advice, even if there did not appear to be a legal resolution to the issue. For example, in a debt collection lawsuit, the statute of limitations on collection of the debt may have passed, so the debtor may not be obligated to pay even though the debt is owed. For those debtors who do have defenses or where collection agencies are attempting to collect a legitimate debt in an unfair or illegal manner, a LLLT could be a valuable consumer protection tool. Even for consumers who have no defense to a lawfully pursued debt collection lawsuit, having the assistance of a LLLT throughout the process of responding to a lawsuit would speed judicial efficiency, as the defendant would understand the procedures and be able to respond in an appropriate and strategic way.

The extensive collection of self-help resources offered on washingtonlawhelp.org regarding consumer debt confirms that many consumers already face this issue pro se, and would undoubtedly benefit from consulting with an affordable provider of legal services in this area.

The workgroup enlisted the advice of practitioners and other experts in the various areas of law to identify the legal work which could be effectively performed by LLLTs and provide an economically sustainable practice area. The workgroup identified that Consumer, Money and Debt Law LLLTs should be able to:

- offer advice regarding all identified topics
- fill out certain forms
- engage in limited negotiation in regard to particular issues
- attend specific hearings to advise the client and assist in answering procedural questions

- attend depositions
- prepare paperwork for mediation, and
- attend any administrative proceeding related to the practice area.

The workgroup carefully weighed the pros and cons of each of the above actions and determined that allowing this range of actions would greatly increase the quality of service that LLLTs could provide to their clients.

Target Clients and Scope

The target clients of this practice area are moderate and low income people with consumer debt or credit problems, or those to whom a small amount of debt is owed. The workgroup narrowly prescribed the focus of the recommended scope in order to provide a maximum benefit to these clients. The workgroup also identified limitations designed to ensure that LLLTs will provide service to consumers who currently do not have resources in this area.

The *2015 Civil Legal Needs Study* noted that the average number of legal problems per household has increased from 3.3 in 2003 to 9.3 in 2014. In addition, the legal problems that low-income people experience are interconnected in complex ways. Consumer debt, for example, can be exacerbated by landlord/tenant issues, divorce, identity theft, lack of access to benefits, problems with an employer, lack of exposure to options such as bankruptcy, and domestic violence and other protection orders.

The workgroup thought holistically about this range of issues which often go hand in hand with consumer debt and credit problems and identified a range of actions which could appropriately be performed by a LLLT in the areas of protection orders, bankruptcy education, wage theft, and identity theft. Including these areas as part of the consumer law relief a LLLT will be able to provide will allow LLLTs to proactively help their clients to break the cycle of debt creation.

Proposed Consumer, Money, and Debt Law LLLT Practice Area

Scope	Proposed Permitted Actions & Proposed Limitations
Legal Financial Obligations (LFOs)	<p><i>Proposed Permitted Actions:</i> Assistance filling out forms (e.g., Motion for Order Waiving or Reducing Interest on LFO, Order to Waive or Reduce Interest on LFO)</p>
Small Claims	<p><i>Proposed Permitted Actions:</i> Assistance preparing the Notice of Small Claim, Certificate of Service, Response to Small Claim, Small Claims Orders, Small Claims Judgment, and counterclaims Preparation for mediation and trial Obtaining and organizing exhibits</p>

Student Loans	<p>Proposed Permitted Actions: Negotiation of debt or payment plans Modifications, loan forgiveness and debt relief Discharge</p>
Debt Collection Defense and Assistance	<p>Proposed Permitted Actions: Negotiation of debt Assistance filling out Complaints, Answers and Counterclaims Affirmative Defenses including Statute of Limitations defenses Reporting Fair Debt Collection Act violations, including statute of limitations and state collection agency statute violations Reporting to Regulatory Agencies</p> <p>Proposed Limitations: LLTs can assist only with debts valued at less than the jurisdictional limits set by the District Court (\$100,000)</p>
Garnishment	<p>Proposed Permitted Actions: Negotiation Voluntary Wage Assignments Assistance filling out forms (Application for Writ of Garnishment, Continuing Lien on Earnings, Return of Service, Notice Exemption Claim, Release of Writ of Garnishment, Motion and Cert. for Default Answer to Writ of Garnishment, Application for Judgment, Motion/Order Discharging Garnishee, Satisfaction of Judgment) Exemption Claims, including assistance at court hearings</p> <p>Proposed Limitations: LLTs can assist only with debts valued at less than the jurisdictional limits set by the District Court (usually \$100,000) LLTs may render legal services for debt collection only when there is a direct relationship with the original creditor and may not act as or render legal services for collection agencies or debt buyers as defined under RCW 19.16. No prejudgment attachments No executions on judgments</p>

Identity Theft	<p>Proposed Permitted Actions: Advise regarding identity theft Best practices for protecting information Contacting credit bureaus Reporting to law enforcement and other agencies such as Federal Trade Commission</p>
Wage complaints and Defenses	<p>Proposed Permitted Actions: Representation in negotiations or hearings with Labor and Industries Accompany and assist in court Advice and reporting regarding Minimum Wage Act Advice and reporting regarding Fair Labor Standards Act Actions permitted under RCW 49.48 (Wages-Payment-Collection) Actions permitted under RCW 49.52 (Wages-Deductions-Contributions-Rebates)</p> <p>Proposed Limitations: LLLTs may not represent clients in wage claims which exceed the jurisdictional limit set by the District Court (\$100,000)</p>
Loan Modification & Foreclosure Defense and Assistance	<p>Proposed Permitted Actions: Accompany and advise in mandatory mediation process Assist with non-judicial foreclosure actions and defenses under RCW 61.24.040 Advise regarding power of sale clauses and the Notice of Sale Right of Redemption</p> <p>Proposed Limitations: LLLTs would be prohibited from assisting with non-judicial foreclosures if the LLLT does not meet the requirements of RCW 61.24.010. No judicial foreclosures</p>
Protection Orders	<p>Proposed Actions: Selecting and completing pleadings for Protection Orders for domestic violence, stalking, sexual assault, extreme risk, adult protection, harassment, and no contact orders in criminal cases</p>
Bankruptcy Awareness and Advice	<p>Proposed Actions: Explain the options, alternatives, and procedures as well as advantages and disadvantages Refer to budget & counseling agency Refer to bankruptcy attorney</p> <p>Proposed Limitation: No assistance with bankruptcy filing in court</p>

The LLLT Board will coordinate with the Washington law schools in the development of the practice area curriculum and ensure that appropriate faculty is available to teach the curriculum. The LLLT Board may modify the proposed practice area based on:

1. consideration of public comments;
2. issues discovered during the drafting of new practice area regulations; and
3. issues that arise during the law schools' development of the practice area curriculum.

Please provide comments to the LLLT Board via email to LLL@wsba.org by July 16, 2018.

DRAFT FOR DISCUSSION AND COMMENT

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF SUGGESTED)
AMENDMENTS TO APR 28—LIMITED)
PRACTICE RULE FOR LIMITED LICENSE)
LEGAL TECHNICIANS; APR 28 APPENDIX—)
REGULATION 2 PRACTICE AREAS—SCOPE OF)
PRACTICE AUTHORIZED BY LIMITED LICENSE)
LEGAL TECHNICIAN RULE; APR 28 APPENDIX)
REGULATION 3—EDUCATION REQUIREMENTS)
FOR LLLT APPLICANTS AND APPROVAL OF)
EDUCATION PROGRAMS; OF THE APR 28)
LIMITED LICENSE LEGAL TECHNICIAN)
BOARD; RULES OF PROFESSIONAL CONDUCT)
(RPC) 1.0B—ADDITIONAL WASHINGTON)
TERMINOLOGY; RPC 1.17—SALE OF LAW)
PRACTICE; RPC 4.3—DEALING WITH A)
PERSON NOT REPRESENTED BY A LAWYER;)
RPC 5.8—MISCONDUCT INVOLVING LAWYERS)
AND LLLTs NOT ACTIVELY LICENSED TO)
PRACTICE LAW; RPC 8.1—BAR ADMISSION)
AND DISCIPLINARY MATTERS; AND LLLT)
RULES OF PROFESSIONAL CONDUCT (LLT)
RPC) LLLT RPC 1.0B—ADDITIONAL)
TERMINOLOGY; LLLT RPC 1.2—SCOPE OF)
REPRESENTATION AND ALLOCATION OF)
AUTHORITY BETWEEN CLIENT AND LLLT;)
LLLT RPC 1.5—FEES; LLLT RPC 1.8 CONFLICT)
OF INTEREST: CURRENT CLIENTS: SPECIFIC)
RULES; LLLT RPC 1.15A—SAFEGUARDING)
POLICY; LLLT RPC 1.16—DECLINING OR)
TERMINATING REPRESENTATION; LLLT RPC)
1.7 SALE OF A LAW PRACTICE; LLLT RPC 2.3)
[RESERVED]; LLLT RPC 3.1—ADVISING AND)
ASSISTING CLIENTS IN PROCEEDINGS BEFORE)
A TRIBUNAL; LLLT RPC 3.6-3.9 [RESERVED];)
LLLT RPC 4.1—TRUTHFULNESS IN)
STATEMENTS TO OTHERS; LLLT RPC 4.2—)
COMMUNICATION WITH PERSON)
REPRESENTED BY LAWYER; LLLT RPC 4.3—)
DEALING WITH PERSON NOT REPRESENTED)
BY LAWYER; LLLT RPC 5.4—PROFESSIONAL)
INDEPENDENCE OF A LLLT; LLLT RPC 5.5)
UNAUTHORIZED PRACTICE OF LAW; LLLT)
RPC 8.1—LICENSING, ADMISSION, AND)
DISCIPLINARY MATTERS; LLLT RPC 8.4—)
MISCONDUCT)

ORDER

NO. 25700-A- 1231



ORDER

IN THE MATTER OF SUGGESTED AMENDMENTS TO APR 28—LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS, et al.

The Washington State Bar Association Limited License Legal Technician Board, having recommended the suggested amendments to Limited License Legal Technician (LLLT) Board Suggested Amendments to APR 28—Limited Practice Rule for Limited License Legal Technicians; APR 28 Appendix; Rules of Professional Conduct (RPC); and LLLT Rules of Professional Conduct (LLLT RPC), and the Court having considered the amendments and comments submitted thereto;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than September 14, 2018. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 7th day of June, 2018.

For the Court

Fairhurst, C.J.
CHIEF JUSTICE

GR 9 COVER SHEET

**Suggested Amendments
ADMISSION AND PRACTICE RULES (APR) 28
Limited Practice Rule for Limited License Legal Technicians
Submitted by the Limited License Legal Technician Board**

A. Name of Proponent:

Limited License Legal Technician (LLLT) Board

Staff Liaison/Contact:

Jean McElroy, Chief Regulatory Counsel
Washington State Bar Association (WSBA)
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539 (Phone: 206-727-8277)

B. Spokesperson:

Stephen R. Crossland
Chair of LLLT Board
P.O. Box 566
Cashmere, WA 98815 (Phone: 509-782-4418)

C. Purpose:

The primary purpose of the suggested amendments is to enhance the scope of the Limited License Legal Technician (LLLT) domestic relations practice area in order to improve the LLLT's ability to render efficient and effective legal services to pro se clients.

These suggested amendments will enable LLLTs to better serve their clients by allowing LLLTs to provide a wider range of services and more support in the courtroom. This more cohesive set of services will help LLLTs provide much needed access to legal services, guidance, and advice, to low and moderate income pro se clients. The suggested amendments have been discussed and reviewed at length and are designed

to enhance the existing domestic relations practice area consistent with client needs and the intended role of LLLTs as legal practitioners.

The LLLT Board began discussing possible enhancements to the domestic relations practice area in late 2014 in response to questions and concerns from law school professors who were teaching the LLLT practice area classes. Students in the LLLT classes, practicing LLLTs, and lawyers who work with LLLTs also raised several issues and offered ideas for ways in which the domestic relations scope could be improved to allow LLLTs to provide a more cohesive set of services to their clients.

The Family Law Advisory Workgroup of the LLLT Board was charged with discussing these questions and offering recommendations to the LLLT Board regarding the possible ways in which the scope of practice could be adjusted. The Family Law Advisory Workgroup includes members of the Board (including family law lawyers), other family law practitioners, lawyers who practice in other legal areas, and a practicing LLLT. The Family Law Advisory Workgroup worked collaboratively with several of the law professors teaching the family law practice area classes as well as solicited further information from practicing LLLTs. Throughout 2016 and the beginning of 2017, the workgroup studied the issues and provided recommendations to the LLLT Board. The LLLT Board approved the suggested amendments in early 2017 and presented information generally describing the intended enhancements to the domestic relations scope of practice to the Supreme Court on March 8, 2017, and to the Board of Governors on May 19, 2017.

The LLLT Board posted the suggested amendments on the WSBA website and solicited comments between May and July 2017. Over 30 comments were received

from lawyers, LLLTs, at least one client of a LLLT, a firm employing a LLLT, a member of the Board of Bar Examiners, the King County Bar Association Family Law Section, a member of the WSBA Family Law Section Executive Committee, the Northwest Justice Project, and members of the public. On August 16, 2017, the Family Law Advisory Workgroup reviewed the comments submitted, discussed all comments that posed specific drafting questions or suggestions in detail, and modified and refined the suggested amendments where it deemed necessary. The modifications were also responsive to the informal feedback received from the Access to Justice Board's Rules Committee. At its August 17, 2017, meeting, the LLLT Board approved the suggested amendments as modified by the Family Law Advisory Workgroup.

The following describes each suggested amendment and the amendment's purpose and intended effect:

APR 28(B)

The Board suggests an administrative amendment to APR 28(B)(1) to correct the reference to the "Admission to Practice Rules" to the "Admission and Practice Rules." The Board's suggested amendment to APR 28(B)(4) strikes a phrase relating to the current prohibition on LLLTs attending court proceedings, which would be modified by these suggested amendments. The nature of a LLLT's client being "pro se" is preserved in APR 28(F), Scope of Practice Authorized by Limited Practice Rule, rather than including it in the definition of a LLLT.

APR 28(F)

The Board has suggested several administrative amendments to the first paragraph of APR 28(F). The amendments are designed to unify the terminology used

in the introduction to APR 28, repeating phrases such as “render legal assistance” and reinforcing that the LLLT is providing limited legal assistance to a pro se client. The amendments would also clarify that LLLTs have an affirmative duty to inform clients to seek the services of a lawyer when an issue outside of their scope of practice has been identified. In APR 28(F)(3), a further clarification of the LLLT’s duties to clients with respect to filing and service of documents was added, stating specifically that the LLLT may both advise and assist clients in correctly filing and serving documents.

The suggested amendments would delete the words “from the opposing side” from APR 28(F)(5) in order to delineate that LLLTs may review documents or exhibits provided to the client from any source, not only from the opposing side. The suggested amendment to what will be APR 28(F)(10) is grammatical, changing “a client” to “the client” in order to create consistency with the other paragraphs in the subsection. The suggested change to what will be APR 28(F)(11) is semantic, changing “documents” to “records” in order to better describe the list of records that follows.

APR 28(F)(12) and (13) are new suggested subsections that relate to the enhancements to the LLLT scope of practice. New APR 28(F)(12) suggests that LLLTs be permitted to communicate or negotiate with the opposing party or the party’s representative regarding procedural matters. New APR 28(F)(13) suggests that LLLTs be permitted to negotiate the client’s legal rights or responsibilities provided that the client has given written consent defining the parameters of the negotiation. LLLTs and lawyers for the opposing party have reported that significant barriers to efficient case administration are imposed by the current restriction that LLLTs must not communicate with anyone other than the client regarding the subject matter of the representation.

LLLTs have encountered difficulties instructing their clients about how to independently accomplish various ministerial activities such as rescheduling hearing dates, confirming service addresses, and informing opposing parties when an issue with their pleadings has been identified. The LLLT Board believes that communication regarding procedural matters should be allowed in order to increase efficiency of the services LLLTs provide to their clients.

The new subsection APR 28F(14) would provide that additional types of legal assistance not otherwise prohibited generally by APR 28 could be authorized by regulations relating to the scope of practice permitted within a specific practice area. This would allow LLLTs to provide certain legal assistance necessary for a particular approved practice area but that may not be needed, justified, or wise to include within the scope of all approved practice areas.

APR 28(G)

Three amendments to APR 28(G) have been suggested. The first would delete the words "appear or" from APR 28(G)(2)(a) in order to coordinate this section with suggested amendments to the domestic relations scope of practice in Regulation 2(B). The second suggested amendment in the same paragraph would reinforce that LLLTs must look to the specific regulation regarding their practice area to fully comprehend their scope of practice.

The third suggested amendment in APR 28(G)(4) would preserve the LLLT's obligation to sign documents and pleadings they prepare while allowing an exception for LLLTs assisting a client or a third party in preparing a declaration or sworn statement. Requiring LLLTs to sign the sworn statement of another person deviates from common

practice among lawyers when preparing declarations for signature by a client or third party.

APR 28(H)

The suggested amendments to APR 28(H) would unify the amendments to the domestic relations scope in Regulation 2 with the permitted actions under the LLLT license. The suggested amendment to APR 28(H)(5) would reinforce that to understand the entirety of the scope of practice for a licensed LLLT, one must look to the specific practice area regulation.

The suggested amendments to APR 28H(6) would allow LLLTs to negotiate with the opposing party or their representative when the client has defined the scope of the negotiation prior to its onset. The current prohibition against LLLTs negotiating for their clients has frequently resulted in situations where the LLLT must schedule hearings regarding issues that could likely be negotiated, thereby using substantially more of the parties' and the court's time and unnecessarily increasing the cost of the representation. Additionally, LLLT clients who are in the midst of a difficult dissolution, custody battle, or domestic violence dispute may find themselves in the position of being contacted by their spouse or abuser when it would be in their best interest to have a third party act as the mediator or contact person. Also significantly, a number of lawyers for opposing parties have reported that they would prefer to negotiate with a legal professional rather than a pro se layperson who is emotionally involved in the outcome of the issue. For LLLTs who are multilingual, being able to negotiate with opposing parties would also allow them to maximize essential services to clients who may not speak English but do speak the same language(s) as the LLLT.

The suggested additions of what would be APR 28(H)(8) and (9) would move prohibitions that previously existed in the LLLT domestic relations scope regulation to this subsection because these restrictions should apply to all LLLTs, regardless of approved practice area.

APR 28 Regulation 2(A)

In APR 28 Regulation 2(A), the suggested amendments are purely administrative and would align the style with other portions of APR 28.

APR 28 Regulation 2(B)

APR 28 Regulation 2(B) provides a detailed treatment of the scope of the LLLT domestic relations practice. The suggested amendments to APR 28 Regulation 2(B)(1) would modify the permitted scope of practice by including all parenting plan modifications and nonparental custody actions. For protection orders, the LLLT family law scope of practice is currently limited to domestic violence actions only. The suggested amendments would add other protection or restraining orders arising from a domestic relations case in addition to the current domestic violence protection orders. Additionally, the suggested amendments reorganized the listing of the permitted actions to be roughly sequential from primary actions through modifications and other related actions.

Currently, LLLTs are permitted to help clients with uncontested parenting plan modifications but may not advise or assist clients regarding contested major parenting plan modifications unless the terms have been agreed to by the parties before the onset of the representation. Because of the existing prohibition in APR 28 Regulation 2(B), clients have not been able to obtain advice from the LLLT on the relevant issues that

will be before the court for determination at an adequate cause hearing. Under the current provisions, therefore, the client must attempt to negotiate the terms of major parenting plan modifications without receiving advice from the LLLT as the client prepares to argue the issues. The LLLT Board recommends that LLLTs be permitted to assist with all major modification cases up to the point of the adequate cause hearing, and thus, suggests removing the phrase “when the terms are agreed to by the parties.”

The LLLT Board also suggests that LLLTs be permitted to assist with nonparental custody cases up to the point of the adequate cause hearing. Tens of thousands of children in Washington live with a guardian other than a parent. Very few of these guardians have legal custody, which causes complex problems with access to medical, educational, and housing services. Child in Need of Services cases and dependencies are commonly resolved through nonparental custody with relatives and family friends, who often cannot afford to hire an attorney. Additionally, nonparental custody matters are accomplished through the use of pattern forms which LLLTs can be trained to use competently. Permitting LLLTs to assist with these matters would promote judicial efficiency by helping pro se parties navigate this aspect of the legal system.

The first paragraph of APR 28 Regulation 2(B)(2) contains suggested stylistic amendments. It also would clarify that a domestic relations LLLT may provide legal services specified by the Regulation. The suggested amendments to APR 28 Regulation 2(B)(2)(a) are grammatical.

In APR 28 Regulation 2(B)(2)(b), the suggested substantive amendments would permit a LLLT to provide services related to the division of real property. In the current

text of APR 28, there is an absolute prohibition in Regulation 2(B)(3)(i) against dividing real property. This restriction was originally called into question by the professors and students participating in the LLLT family law practice area classes. Practicing LLLTs reported that clients experienced significant barriers because of the LLLTs' inability to divide the family home as part of the legal process.

In response to these issues, the LLLT Board suggests that LLLTs be allowed to assist with gathering information on the value and potential encumbrances on a home, as clients are often unable to independently find the information necessary for the court to evaluate the value of their real property assets. The LLLT Board also suggests that LLLTs be allowed to advise and assist with division of single family residential real property in which the parties have equity of up to twice the homestead exemption (currently \$125,000; see RCW 6.13.030). This would allow two parties who own a home together to potentially divide the equity in the home and preserve their maximum exemption if either party files for bankruptcy at a later date. The homestead exemption is set by the legislature and adjusted periodically according to economic factors.

Real property division was prohibited by the LLLT Board when initially contemplated because there were concerns about being able to adequately address the topic in the practice area curriculum. The family law professors and the Family Law Advisory Workgroup of the LLLT Board worked together to address this issue. The professors and Workgroup believe that it would be possible to teach LLLTs how to divide single family residential real property using the current family law forms because the mandatory forms were designed, in large part, to be able to be completed by pro se litigants. The LLLT Board has developed a checklist for LLLTs to use when dividing

property; a sample is enclosed. The checklist collects important information about the disposition of the property, liens, encumbrances, and remedies in the case of default. The family law professors plan to revise the existing LLLT family law education curriculum to allow LLLTs to capably perform this limited scope of real estate division.

APR 28 Regulation 2(B)(3)(c)(i) currently prohibits LLLTs from advising clients about or dividing retirement assets using a supplemental order, including all defined benefit plans and defined contribution plans. The family law professors and the Family Law Advisory Workgroup believe this prohibition is too restrictive. Under suggested APR 28 Regulation B(2)(c) and (d), LLLTs would be permitted to advise as to retirement asset allocation for specified retirement plans and include language in a decree describing how QDROs or supplemental orders are to be prepared. LLLTs would continue to be prohibited from preparing the actual QDRO or supplemental order dividing retirement assets.

Suggested APR 28 Regulation 2(B)(2)(e) addresses LLLT participation in alternative dispute resolution proceedings and suggested section 2(B)(2)(f) would specifically allow LLLTs to accompany, assist, and confer with their pro se clients at depositions. Alternative dispute resolution (such as mediation, arbitration, or settlement conferences) is mandated in contested family law cases in Washington State; it would be a significant help to clients and to the court system to permit LLLTs to assist with mediations in family law cases. Professors and practitioners on the Family Law Advisory Workgroup noted that sending a client into the mediation without support - when that person may or may not understand the nature of the process or the finer details of the case - would likely set up the client for failure. The current prohibition was initially

designed to align with the prohibition on negotiation. If the suggested amendment removing the prohibition against negotiation in APR 28(H)(6) is adopted, the Board believes there would be no reason to restrict LLLT participation in alternative dispute resolution proceedings.

Similarly, suggested section 2(B)(2)(f) would allow a LLLT to accompany the pro se client at a deposition. The LLLT would not take or defend the deposition and would not make objections. The LLLT could provide advice and explain questions and their impact to the client during breaks.

Suggested section 2(B)(2)(g) would allow LLLTs to present agreed orders, uncontested orders, default orders and accompanying documents. Today, paralegals and legal assistants without a license to practice law are permitted to appear at ex parte calendars to present orders for entry in most counties in Washington. When a court denies entry of ex parte orders there is no record (transcript, clerk's notes, or recording) for a LLLT to rely upon to determine why the orders were not entered if the client does not understand or cannot properly convey a court's reasoning. The LLLT risks sending a client back to court without fully resolving the issue(s) that caused the initial denial. Permitting a LLLT to present orders for ex parte entry on behalf of the client would ensure that the client's case will be properly finalized and provides assurance for the LLLT that documents bearing their signature have been properly handled.

Suggested section 2(B)(2)(h) would allow LLLTs to accompany and assist their pro se clients at certain hearings and respond to direct questions from the court or tribunal regarding factual and procedural issues only. The LLLT could not represent the client like a lawyer would. The permitted hearings would be primarily motion hearings,

as well as administrative child support hearings. Section (h)(i) would allow LLLTs to accompany and assist clients at hearings related to domestic violence protection orders and other protection or restraining orders arising from a domestic relations case. The current prohibition against participating in court proceedings has presented significant barriers to the LLLTs' ability to provide efficient services to clients. LLLTs report that mistakes made by clients at hearings, such as incorrectly answering questions from the judge due to a lack of understanding of legal terminology, handing the court the wrong suggested order, and not understanding orders from the court or court procedures, are negatively impacting the cases by causing unnecessary confusion, repetition, and delays.

The amendments to the main paragraph of APR 28 Regulation 2(B)(3) and sections (a) and (b)(i) and (b)(ii) are grammatical. Substantive amendments regarding the division of real estate and retirement assets can be found in (b)(iii). This amendment would clarify that division or conveyance of formal business entities, commercial property, or residential property would be prohibited except as permitted in Regulation 2(B)(2)(b).

Regulation 2(B)(3)(b)(iv) is a new section containing the current prohibition on LLLTs preparing QDROs and supplemental orders dividing retirement assets.

The LLLT Board suggests removing what is currently Regulation 2(B)(3)(b)(iv) because criminal no contact orders are entered by prosecutors and therefore LLLTs would not be able to enter them even if permitted to do so. Other protection orders currently prohibited in Regulation 2(B)(3)(b)(iv) would also be removed by this amendment because other amendments would permit LLLTs to render these forms of

legal assistance if they arise from a domestic relations case.

The new suggested section (ix) would permit LLLTs to render legal assistance with nonparental custody matters and major parenting plan modifications through the adequate cause hearing, unless the terms are agreed to by the parties or one party defaults, in which case there is no prohibition.

The new suggested section (b)(xi) would prohibit LLLTs from providing legal assistance with objections or responses in contested relocation actions.

The suggested deletions of sections (d) and (e) relating to the taking of a deposition and responding to or initiating an appeal have been moved to general prohibitions under APR 28H.

APR 28 Regulation 3(C)

If the suggested amendments are adopted, changes to the domestic relations scope of practice will require currently licensed LLLTs receive additional training about the enhancements outlined in the suggested amendments. The LLLT Board intends to create and offer mandatory continuing legal education to accomplish this. The LLLT Board will provide notice of the supplemental education requirement and the deadline for completion of the requirement to LLLT candidates and currently licensed LLLTs.

Conclusion

The Court adopted the LLLT license in order to provide greater public access to trained and licensed legal professionals within an approved area of law and proscribed scope of practice. This new and innovative model has drawn notice throughout the country and the world. Educators, Board members, and newly practicing LLLTs have had the opportunity to critically examine the LLLT service model and to observe how the

initial formulation of the domestic relations scope of practice impacted clients. Based on those observations and an examination of the license to date, the LLLT Board believes these suggested amendments will serve to enhance public access to the legal system in Washington and will allow LLLTs to provide more comprehensive services to pro se clients in need of legal assistance in family law. These suggested amendments are presented along with corresponding suggested amendments to the LLLT Rules of Professional Conduct and the Rules of Professional Conduct for lawyers that are necessary to implement the suggested amendments to APR 28. The LLLT Board requests the Court adopt all the suggested amendments together.

D. Hearing: Because of the outreach conducted and input previously received by the LLLT Board, a hearing is not requested.

E. Expedited Consideration: Expedited consideration is requested in order to promote the effective practice of licensed LLLTs and align the curriculum of the next cohort of LLLT students.

F. Supporting Material: In addition to the submission of the suggested amendments to APR 28, a copy of the suggested amendments to the LLLT RPC and the Lawyer RPC are included. The LLLT Board is also providing a sample of a Real Property Disposition Form and the April 3, 2017 letter from the Court to the LLLT Board, which stated, "A majority of the Court voted yes to expanding the family law area."

SUGGESTED AMENDMENTS TO APR 28

1 **TITLE**

2 ADMISSION AND PRACTICE RULES (APR)

3 **RULE 28. LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL**
4 **TECHNICIANS**

5 **A. Purpose.**

6 [NO CHANGES]

7 **B. Definitions.** For purposes of this rule, the following definitions will apply:

8 (1)-(3) [NO CHANGES]

9 (4) "Limited License Legal Technician" (LLLT) means a person qualified by education, training
10 and work experience who is authorized to engage in the limited practice of law in approved
11 practice areas of law as specified by this rule and related regulations.

12 (5)-(10) [NO CHANGES]

13 **C. Limited License Legal Technician Board**

14 [NO CHANGES]

15 **D. [Reserved.]**

16 **E. [Reserved.]**

17 **F. Scope of Practice Authorized by Limited Practice Rule.** The Limited License Legal
18 Technician shall ascertain whether the issue is within the defined practice area for which the
19 LLLT is licensed. If it is not, the LLLT shall not render any legal assistance on this issue and
20 shall advise the client to seek the services of a lawyer. If the issue is within the defined practice
21 area, the LLLT may render the following limited legal assistance to a pro se client:

22 (1)-(2) [NO CHANGES]

23 (3) Inform the client of and assist with applicable procedures for proper service of process and
24 filing of legal documents;

25 (4) [NO CHANGES]

26 (5) Review documents or exhibits that the client has received ~~from the opposing side,~~ and

SUGGESTED AMENDMENTS TO APR 28

1 explain them to the client;

2 (6)-(7) [NO CHANGES]

3 (8) Draft letters setting forth legal opinions that are intended to be read by persons other than the
4 client; ~~and~~

5 (9) Draft documents beyond what is permitted in paragraph (6), if the work is reviewed and
6 approved by a Washington lawyer;

7 (10) Advise the client as to other documents that may be necessary to the client's case, and
8 explain how such additional documents or pleadings may affect the client's case;

9 (11) Assist the client in obtaining necessary records documents, such as birth, death, or marriage
10 certificates.

11 (12) Communicate and negotiate with the opposing party or the party's representative regarding
12 procedural matters, such as setting court hearings or other ministerial or civil procedure matters;

13 (13) Negotiate the client's legal rights or responsibilities provided that the client has given
14 written consent defining the parameters of the negotiation prior to the onset of the negotiation;

15 and

16 (14) Render other types of legal assistance when specifically authorized by the scope of practice
17 regulations for the approved practice area in which the LLLT is licensed.

18 **G. Conditions Under Which A Limited License Legal Technician May Provide Services**

19 (1)-(2) [NO CHANGES]

20 (a) An explanation of the services to be performed, including a conspicuous statement that the
21 Limited License Legal Technician may not appear or represent the client in court, formal
22 administrative adjudicative proceedings, or other formal dispute resolution process or negotiate
23 the client's legal rights or responsibilities, unless permitted under GR 24(b) or specifically
24 authorized by the scope of practice regulations for the approved practice area in which the LLLT
25 is licensed;

26 (b)-(g) [NO CHANGES]

SUGGESTED AMENDMENTS TO APR 28

1 (4) A document prepared by an LLLT shall include the LLLT's name, signature, and license
2 number beneath the signature of the client. LLLTs do not need to sign sworn statements or
3 declarations of the client or a third party, and do not need to sign documents that do not require a
4 signature by the client, such as information sheets.

5 **H. Prohibited Acts.** In the course of dealing with clients or prospective clients, a Limited
6 License Legal Technician shall not:

7 (1)-(4) [NO CHANGES]

8 (5) Represent a client in court proceedings, formal administrative adjudicative proceedings, or
9 other formal dispute resolution process, unless permitted by GR 24 or specifically authorized by
10 the scope of practice regulations for the approved practice area in which the LLLT is licensed;

11 ~~(6) Negotiate the client's legal rights or responsibilities, or communicate with another person the~~
12 ~~client's position or convey to the client the position of another party, unless permitted by GR~~
13 ~~24(b);~~

14 ~~(67) Provide services to a client in connection with a legal matter in another state, unless~~
15 ~~permitted by the laws of that state to perform such services for the client;~~

16 ~~(78) Represent or otherwise provide legal or law related services to a client, except as permitted~~
17 ~~by law, this rule or associated rules and regulations;~~

18 ~~(8) Conduct or defend a deposition;~~

19 ~~(9) Initiate or respond to an appeal to an appellate court; and~~

20 ~~(109) Otherwise violate the Limited License Legal Technicians' Rules of Professional Conduct.~~

21 **I. – O.**

22 [NO CHANGES]

23
24 **APPENDIX APR 28. REGULATIONS OF THE APR 28 LIMITED LICENSE LEGAL**
25 **TECHNICIAN BOARD**

26 **REGULATION 1: [RESERVED.]**

SUGGESTED AMENDMENTS TO APR 28

1 **REGULATION 2: APPROVED PRACTICE AREAS--SCOPE OF PRACTICE**

2 **AUTHORIZED BY LIMITED LICENSE LEGAL TECHNICIAN RULE**

3 In each practice area in which an LLLT is licensed, the LLLT shall comply with the provisions
4 defining the scope of practice as found in APR 28 and as described herein.

5 **A. Issues Beyond the Scope of Authorized Practice.**

6 (1)-(4) [NO CHANGES]

7 After an issue beyond the LLLT's scope of practice has been identified, if the client engages a
8 lawyer with respect to the issue, then an LLLT may prepare a document related to the issue only
9 if a lawyer acting on behalf of the client has provided appropriate documents and written
10 instructions for the LLLT as to whether and how to proceed with respect to the issue. If the client
11 does not engage a lawyer with respect to the issue, then the LLLT may prepare documents that
12 relate to the issue if:

13 ~~(1). t~~The client informs the LLLT how the issue is to be determined and instructs the LLLT how
14 to complete the relevant portions of the document, and

15 ~~(2). a~~Above the LLLT's signature at the end of the document, the LLLT inserts a statement to
16 the effect that the LLLT did not advise the client with respect to any issue outside of the LLLT's
17 scope of practice and completed any portions of the document with respect to any such issues at
18 the direction of the client.

19 ~~The LLLT may proceed in the manner described above only if no other defined prohibitions~~
20 ~~apply.~~

21 **B. Domestic Relations.**

22 1. *Domestic Relations, Defined.* For the purposes of these Regulations, domestic relations shall
23 include only the following actions: (a) divorce and dissolution~~child support modification actions~~,
24 (b) parenting and support~~dissolution actions~~, (c) parentage or paternity~~domestic violence actions~~,
25 ~~except as prohibited by Regulation 2B(3)~~, (d) child support modification~~committed intimate~~
26 ~~relationship actions only as they pertain to parenting and support issues~~, (e) parenting plan

SUGGESTED AMENDMENTS TO APR 28

1 ~~modification~~legal separation actions, (f) domestic violence protection orders~~major parenting plan~~
2 ~~modifications when the terms are agreed to by the parties before the onset of the representation~~
3 ~~by the LLLT, (g) committed intimate relationships only as they pertain to parenting and support~~
4 ~~issues~~ minor parenting plan modifications, (h) legal separation~~parenting and support actions, (i)~~
5 nonparental and third party custody~~paternity actions, and (j) other protection or restraining orders~~
6 arising from a domestic relations case, and (k) relocation actions, except as prohibited by
7 Regulation 2B(3).

8 *2. Scope of Practice for Limited License Legal Technicians -- Domestic Relations.* LLLTs
9 licensed in domestic relations may ~~render~~provide legal services to clients as provided in APR
10 28F and this regulation, except as prohibited by APR 28H and Regulation 2B(3).

11 (a) Unless an issue beyond the scope arises or a prohibited act would be required, LLLTs may
12 advise and assist clients with (1) to initiating and responding to actions and related(2) regarding
13 motions, discovery, trial preparation, temporary and final orders, and modifications of orders.

14 (b) LLLT legal services regarding the division of real property shall be limited to matters where
15 the real property is a single family residential dwelling with owner equity less than or equal to
16 twice the homestead exemption (see RCW 6.13.030). LLLTs shall use the form for real property
17 division as approved by the LLLT Board.

18 (c) LLLTs may advise as to the allocation of retirement assets for defined contribution plans with
19 a value less than the homestead exemption, and as provided in U.S. Internal Revenue Code (IRC)
20 Sections 401 a; 401 k; 403 b; 457; and Individual Retirement Accounts as set forth in IRC
21 section 408.

22 (d) LLLTs may include language in a decree of dissolution awarding retirement assets as
23 described in APR 28 Regulation 2 B (2) (c) when the respondent defaults, when the parties agree
24 upon the award or when the court awards the assets following trial. The award language in the
25 decree shall identify (1) the party responsible for having the QDRO or supplemental order
26 prepared and by whom, (2) how the cost of the QDRO or supplemental order preparation is to be

SUGGESTED AMENDMENTS TO APR 28

1 paid, (3) by what date the QDRO or supplemental order must be prepared, and (4) the remedy for
2 failure to follow through with preparation of the QDRO or supplemental order.

3 (e) LLLTs may prepare paperwork and accompany and assist clients in dispute resolution
4 proceedings including mediation, arbitration, and settlement conferences where not prohibited by
5 the rules and procedures of the forum.

6 (f) LLLTs, when accompanying their client, may assist and confer with their pro se clients at
7 depositions.

8 (g) LLLTs may present to a court agreed orders, uncontested orders, default orders and
9 accompanying documents;

10 (h) LLLTs, when accompanying their client, may assist and confer with their pro se clients and
11 respond to direct questions from the court or tribunal regarding factual and procedural issues at
12 the hearings listed below:

13 i. domestic violence protection orders and other protection or restraining orders arising from a
14 domestic relations case;

15 ii. motions for temporary orders, including but not limited to temporary parenting plans, child
16 support, maintenance, and orders to show cause;

17 iii. enforcement of domestic relations orders;

18 iv. administrative child support;

19 v. modification of child support;

20 vi. adequate cause hearings for nonparental custody or parenting plan modifications;

21 vii. reconsiderations or revisions;

22 viii. trial setting calendar proceedings with or without the client when the LLLT has confirmed
23 the available dates of the client in writing in advance of the proceeding.

24 3. *Prohibited Acts.* In addition to the prohibitions set forth in APR 28HFF, in the course of
25 rendering legal services to dealing with clients or prospective clients, LLLTs licensed to practice
26 in domestic relations:

SUGGESTED AMENDMENTS TO APR 28

- 1 a. shall not ~~render legal services to~~ represent more than one party in any domestic relations
2 matter;
- 3 b. shall not ~~render~~ provide legal services in:
- 4 i. ~~in-defacto parentage or nonparental custody actions; and~~
- 5 ii. actions that involve ~~if~~ 25 U.S.C. Chapter 21, the Indian Child Welfare Act, or RCW 13.38, the
6 Washington State Indian Child Welfare Act, ~~applies to the matter;~~
- 7 ~~e. shall not advise or assist clients regarding:~~
- 8 iii. division or conveyance of owned real estate, formal business entities, commercial property,
9 or residential real property except as permitted by Regulation 2B ~~or retirement assets that require~~
10 ~~a supplemental order to divide and award, which includes division of all defined benefit plans~~
11 ~~and defined contribution plans;~~
- 12 iv. preparation of QDROs and supplemental orders dividing retirement assets beyond what is
13 prescribed in Regulation 2(B)(2)(d);
- 14 v. any retirement assets whereby the decree effectuates the division or the implementation of the
15 division of the asset;
- 16 viii. bankruptcy, including obtaining a stay from bankruptcy;
- 17 viiii. disposition of debts and assets, if one party is in bankruptcy or files a bankruptcy during the
18 pendency of the proceeding, unless: (a) the LLLT's client has retained a lawyer to represent
19 him/her in the bankruptcy, (b) the client has consulted with a lawyer and the lawyer has provided
20 written instructions for the LLLT as to whether and how to proceed regarding the division of
21 debts and assets in the domestic relations proceeding, or (c) the bankruptcy has been discharged;
- 22 ~~iv. anti harassment orders, criminal no contact orders, anti stalking orders, and sexual assault~~
23 ~~protection orders in domestic violence actions;~~
- 24 viii. jointly acquired committed intimate relationship property issues in committed intimate
25 relationship actions;
- 26 vix. major parenting plan modifications and nonparental custody actions beyond the adequate

SUGGESTED AMENDMENTS TO APR 28

1 ~~cause hearing unless the terms are were agreed to by the parties or one party defaults before the~~
2 ~~onset of the representation by the LLLT;~~

3 ~~xvii. the determination of Uniform Child Custody Jurisdiction and Enforcement Act issues under~~
4 ~~RCW 26.27 or Uniform Interstate Family Support Act issues under RCW 26.21A unless and~~
5 ~~until jurisdiction has been resolved;~~

6 ~~viii. objections or responses in contested relocation actions ~~objections to relocation petitions,~~~~
7 ~~responses to objections to relocation petitions, or temporary orders in relocation actions; and~~

8 ~~ix. final revised parenting plans in relocation actions except in the event of default or where the~~
9 ~~terms have been agreed to by the parties.~~

10 ~~d. shall not appear or participate at the taking of a deposition; and~~

11 ~~e. shall not initiate or respond to an appeal to an appellate court.~~

12 **REGULATION 3: EDUCATION REQUIREMENTS FOR LLLT APPLICANTS AND** 13 **APPROVAL OF EDUCATIONAL PROGRAMS**

14 An applicant for admission as an LLLT shall satisfy the following education requirements:

15 **A. Core Curriculum.**

16 [NO CHANGES]

17 **B. Practice Area Curriculum**

18 [NO CHANGES]

19 **C. Required Supplemental Education.** The LLLT Board has discretion to require all LLLTs to

20 complete supplemental education in order to maintain their licenses due to changes in the

21 permitted scope of practice for LLLTs. The LLLT Board shall provide notice to LLLTs of the

22 supplemental education requirement and the deadline for completion of the requirement,

23 allowing at least 12 months to complete the required supplemental education. LLLTs may be

24 administratively suspended pursuant to the procedures set forth in APR 17 if they fail to comply

25 with the supplemental education requirements by the stated deadline.

26 *1. Domestic Relations.*

SUGGESTED AMENDMENTS TO APR 28

1 [NO CHANGES]

2 **REGULATION 4- 20**

3 [NO CHANGES]

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GR 9 COVER SHEET

Suggested Amendments to RULES OF PROFESSIONAL CONDUCT (RPC)

Submitted by the Limited License Legal Technician Board

A. Name of Proponent:

Limited License Legal Technician (LLLT) Board

Staff Liaison/Contact:

Jean McElroy, Chief Regulatory Counsel
Washington State Bar Association (WSBA)
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539 (Phone: 206-727-8277)

B. Spokesperson:

Stephen R. Crossland
Chair of LLLT Board
P.O. Box 566
Cashmere, WA 98815 (Phone: 509-782-4418)

C. Purpose:

These suggested amendments are presented in conjunction with suggested amendments to Admission and Practice Rule (APR) 28 and related Regulations and the LLLT Rules of Professional Conduct (LLLT RPC). The suggested amendments to APR 28 enhance the scope of the LLLT Family Law Practice Area. The LLLT Board began discussing possible enhancements to the domestic relations practice area in late 2014 in response to questions and concerns from law school professors who were teaching the LLLT practice area classes. Students in the LLLT classes, practicing LLLTs, and lawyers who work with LLLTs also raised several issues and offered ideas for ways in which the domestic relations scope could be improved to allow LLLTs to provide a more

cohesive set of services to their clients. The suggested amendments to the LLLT RPC make necessary changes to align with the suggested amendments to APR 28.

Therefore, the primary purpose of these suggested amendments to the Rules of Professional Conduct (Lawyer RPC) is to align the Lawyer RPC with the suggested amendments to APR 28 and the corresponding suggested amendments to the LLLT RPC to ensure consistency and accuracy across all three sets of rules.

As with the suggested amendments to the LLLT RPC, the LLLT Board requested that WSBA staff draft and recommend necessary amendments to the Lawyer RPC in order to align the Lawyer RPC with the suggested amendments to the LLLT RPC. In addition, WSBA staff presented the suggested amendments to the WSBA's Committee on Professional Ethics (CPE) in December 2017. The CPE approved of the suggested amendments and the LLLT Board subsequently approved these suggested amendments at its January 2018 meeting. The LLLT Board also presented these changes to the Board of Governors in January 2018. The following describes the LLLT Board's suggested amendments to the Lawyer RPC.

Lawyer RPC 1.0B

In 1.0B(b), definition of Legal Practitioner, the suggested amendments would remove "licensed under APR 28" to be consistent with the definition in the suggested amendments to APR 28 and the LLLT RPC:

In 1.0B(c), definition of Limited License Legal Technician, the suggested amendments would remove the final sentence because it is no longer accurate under the suggested amendments to APR 28. The removed sentence relates to the LLLT scope of practice (found in APR 28(F)) rather than a definition of a LLLT.

Lawyer RPC 1.17

The suggested amendments to Comment 19 would remove the description of when a LLLT cannot purchase a law practice because the current language is not correct in all circumstances. The substance of that sentence would be rewritten and included in the suggested amendments to the LLLT RPC as a new Comment 2 to LLLT RPC 1.17. A new reference to that comment would be added to this Comment 19.

Lawyer RPC 4.3

The suggested amendments to Comment 6 would remove language saying that LLLTs shall not negotiate because it will be permitted under certain conditions if the suggested amendments to APR 28 are adopted.

Lawyer RPC 5.8

The suggested amendments to Comment 2, would correct the reference to the Rules for Enforcement of Limited License Legal Technician Conduct (ELLLTC).

Lawyer RPC 8.1

The suggested amendments to RPC 8.1 would better reflect the unified admissions, licensing and disciplinary processes for all license types in Washington now that LLLTs and LPOs are members of the WSBA.

Throughout

References to specific subparts of APR 28 would be removed and replaced with a general reference to APR 28 or a reference to APR 28 and related Regulations. This allows the Lawyer RPC to remain accurate even if specific provisions of APR 28 change.

Conclusion

The LLLT Board believes it is important that these suggested amendments to the Lawyer RPC be adopted and effective together with the suggested amendments to APR 28 and the LLLT RPC as soon as possible. If adopted, the suggested amendments to the Lawyer RPC, LLLT RPC, and APR 28 will be incorporated into the LLLT Family Law Practice Area Curriculum and will be tested on the LLLT Family Law Practice Area and Professional Responsibility Exams. A mandatory continuing legal education program will be developed to educate LLLT candidates and currently licensed LLLTs about these changes and the impact on their practices. The first LLLT Family Law Practice Area and Professional Responsibility Exams to test on these amendments could be held in July 2019.

D. Hearing: Because of the outreach conducted and input previously received by the LLLT Board, a hearing is not requested.

E. Expedited Consideration: Expedited consideration is requested in order to prevent delaying implementation of the necessary changes to LLLT education, continuing legal education, and examinations. The goal of the LLLT license is to provide much needed access to justice. Therefore, delay of these amendments also causes continued delay in providing relief to those in need of LLLT services.

F. Supporting Materials: In addition to the submission of the suggested amendments to the Lawyer RPC, a copy of the suggested amendments to APR 28 and the LLLT RPC are also included. The LLLT Board is also providing a sample of a Real Property Disposition Form and the April 3, 2017 letter from the Court to the LLLT Board, which stated, "A majority of the Court voted yes to expanding the family law area."

**SUGGESTED AMENDMENTS TO
RULES OF PROFESSIONAL CONDUCT**

1 **TITLE**

2 **RULES OF PROFESSIONAL CONDUCT (RPC)**

3 **RULE 1.0B ADDITIONAL WASHINGTON TERMINOLOGY**

4 (a) [NO CHANGES]

5 (b) "Legal practitioner" denotes a lawyer or a limited license legal technician ~~licensed under~~
6 ~~APR 28.~~

7 (c) "Limited License Legal Technician" or "LLLT" denotes a person qualified by education,
8 training, and work experience who is authorized to engage in the limited practice of law in
9 approved practice areas of law as specified by APR 28 and related regulations. ~~The LLLT does~~
10 ~~not represent the client in court proceedings or negotiations, but provides limited legal~~
11 ~~assistance as set forth in APR 28 to a pro se client.~~

12 (d)-(e) [NO CHANGES]

13 Washington Comments

14 [1]-[2] [NO CHANGES]

15 [3] LLLTs are authorized to engage in the limited practice of law in explicitly defined areas.

16 Unlike a lawyer, an LLLT may perform only limited services for a client. ~~See APR 28(F), (H).~~

17 A lawyer who interacts with an LLLT about the subject matter of that LLLT's representation or
18 who interacts with an otherwise pro se client represented by an LLLT should be aware of the
19 scope of the LLLT's license and the ethical obligations imposed on an LLLT by the LLLT RPC.

20 ~~See APR 28 28(F) (H); Appendix APR 28 Regulation 2 and related Regulations; LLLT RPC 1.2,~~
21 ~~1.5, 4.2, 4.3. See also, RPC 5.10.~~

22 **RULE 1.17 SALE OF LAW PRACTICE**

23 (a)-(d) [NO CHANGES]

24 Comment

25 [1]-[18] [No Changes]

26 [19] ~~An LLLT is not authorized to purchase a law practice that requires provision of legal~~

**SUGGESTED AMENDMENTS TO
RULES OF PROFESSIONAL CONDUCT**

1 ~~services outside the scope of the LLLT's practice. See APR 28F-H; Appendix APR 28~~
2 ~~Regulation 2. Consequently, There are some restrictions on a lawyer's ability to sell a law~~
3 ~~practice to an LLLT when the legal services provided are outside the scope of the LLLT's~~
4 ~~practice. As such, a lawyer may not participate in or facilitate such a sale that is in violation of~~
5 ~~LLLT RPC 1.17. See LLLT RPC 1.17 cmt [2]; RPC 8.4(f)(2).~~

RULE 4.3 DEALING WITH PERSON NOT REPRESENTED BY A LAWYER

[NO CHANGES]

Comment

[1]-[4] [NO CHANGES]

[5] For purposes of this Rule, a person who is assisted by an LLLT is not represented by a lawyer and is an unrepresented person. See APR 28B(4).

[6] When a lawyer communicates with an LLLT who represents an opposing party about the subject of the representation, the lawyer should be guided by an understanding of the limitations imposed on the LLLT by APR 28 and related RegulationsH(6) ~~(an LLLT shall not "negotiate the client's legal rights or responsibilities, or communicate with another person the client's position or convey to the client the position of another party")~~ and the LLLT RPC. The lawyer should further take care not to overreach or intrude into privileged information. APR 28K(3) ("The Washington law of attorney-client privilege and law of a lawyer's fiduciary responsibility to the client shall apply to the Limited License Legal Technician-client relationship to the same extent as it would apply to an attorney-client relationship").

**RULE 5.8 MISCONDUCT INVOLVING LAWYERS AND LLLTS NOT ACTIVELY
LICENSED TO PRACTICE LAW**

[NO CHANGES]

Washington Comment

[1] [NO CHANGES]

**SUGGESTED AMENDMENTS TO
RULES OF PROFESSIONAL CONDUCT**

1 [2] The prohibitions in paragraph (b) of this Rule apply to suspensions, revocations and
2 voluntary cancellations in lieu of discipline under the disciplinary procedural rules applicable to
3 LLLTs. See Rules for Enforcement of Limited License Legal Technician LLLT Rules for
4 Enforcement of Conduct (RECELLLTC).

5 **RULE 8.1 BAR ADMISSION AND DISCIPLINARY MATTERS**

6 An applicant for admission to the Bar, or a lawyer in connection with an application for
7 reinstatement or admission to the Bar or a disciplinary matter involving a legal practitioner-bar
8 admission, reinstatement application, or LLLT limited licensure, or in connection with a lawyer
9 or LLLT disciplinary matter, shall not:

10 (a)-(b) [NO CHANGES]

11 Comment

12 [NO CHANGES]

GR 9 COVER SHEET

Suggested Amendments to LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT (LLLT RPC)

Submitted by the Limited License Legal Technician Board

A. Name of Proponent:

Limited License Legal Technician (LLLT) Board

Staff Liaison/Contact:

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Washington State Bar Association (WSBA)

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B. Spokesperson:

Stephen R. Crossland

Chair of LLLT Board

P.O. Box 566

Cashmere, WA 98815 (Phone: 509-782-4418)

C. Purpose: These suggested amendments to the LLLT RPC are presented in conjunction with suggested amendments to Admission and Practice Rule (APR) 28 and related Regulations and the Rules of Professional Conduct (Lawyer RPC). The suggested amendments to APR 28 and related regulations enhance the scope of the LLLT Family Law Practice Area. The LLLT Board began discussing possible enhancements to the domestic relations practice area in late 2014 in response to questions and concerns from law school professors who were teaching the LLLT practice area classes. Students in the LLLT classes, practicing LLLTs, and lawyers who work with LLLTs also raised several issues and offered ideas for ways in which the domestic relations scope could be improved to allow LLLTs to provide a more cohesive

set of services to their clients. Therefore, the primary purpose of these suggested amendments to the LLLT RPC is to make changes necessary to implement the suggested amendments to APR 28 and related regulations.

Drafting Process

The LLLT Board is composed of lawyers in private practice, practicing LLLTs, law school and paralegal educators, legal services providers, members of the public, and paralegal advocates. After developing the suggested amendments to APR 28 to enhance the family law practice area, the LLLT Board requested WSBA staff take the lead in drafting and recommending necessary amendments to the LLLT RPC in order to align the LLLT RPC with suggested amendments to APR 28 and related regulations.

WSBA staff involved were Douglas Ende (Chief Disciplinary Counsel), Jean McElroy (Chief Regulatory Counsel), Jeanne Marie Clavere (Professional Responsibility Counsel), Robert Henry (Associate Director for Regulatory Services), Renata de Carvalho Garcia (Innovative Licensing Programs Manager), and Joe Terrenzio (Limited License Legal Technician Program Lead). The issues that caused the most discussion were the following:

- The scope of a LLLT's enhanced role as an advocate and as a negotiator;
- The interactions between a LLLT's role in advising a *pro se* client and the rules governing communications with represented and unrepresented parties; and
- The limitations on a LLLT's communications with a tribunal under the enhanced scope of practice.

As in the original drafting of the LLLT RPC, the LLLT RPC mirror the Lawyer

RPC with only slight modification. When a Lawyer RPC does not apply in the LLLT context, the rule is reserved. The LLLT Board reviewed successive drafts of the suggested amendments to the LLLT RPC and offered critiques and feedback throughout the process before approving the final suggested amendments to the LLLT RPC at the December 14, 2017, LLLT Board meeting. The LLLT Board also presented these changes to the Board of Governors in January 2018. The following describes the LLLT Board's suggested amendments to the LLLT RPC.

Throughout

In order to prevent ongoing or future changes to the LLLT RPCs, the suggested amendments would remove large blocks of text copied from APR 28 and replace them with specific or general references to APR 28 and related regulations.

Preamble and Scope

In paragraph 2, the suggested amendments would remove language stating that a LLLT is not authorized to act as advocate or negotiator. A new clause would be added, stating that to the extent a LLLT is allowed to act as an advocate or as a negotiator under APR 28, a LLLT acts in the best interest of the client.

LLLT RPC 1.0B Additional Terminology

In (c), the suggested amendments clarify the definition of a lawyer. The former definition stated only that a lawyer was a person who held a license to practice law in any United States jurisdiction. In Washington, LLLTs, Limited Practice Officers, and lawyers hold licenses to practice law, therefore requiring further clarification in the definition of the term "lawyer" in the Washington LLLT RPC. The amended definition matches the definition of lawyer in the suggested amendments to APR 28.

The suggested amendments to subsection (e), would remove the phrase “licensed under APR 28” from the definition of legal practitioner because the reference to APR 28 already exists in the definition of LLLT.

The suggested amendments to subsection (f), would remove the final sentence stating that a LLLT does not represent a client in court proceedings or negotiations to match the definition in the suggested amendments to APR 28. The sentence that would be removed relates to scope rather than a definition of a LLLT.

The suggested amendments to subsection (g) would correct the name and acronym for the Rules for Enforcement of Limited License Legal Technician Conduct.

LLLT RPC 1.2 Scope of Representation and Allocation of Authority Between Client and LLLT

The suggested amendments to 1.2(a) would add an additional sentence stating that a LLLT shall abide by a client’s decision whether to settle a matter. This addition helps clarify that the client, not the LLLT, has decision making authority in a settlement negotiation.

In Comment 2, the suggested amendments would remove the first sentence stating that negotiation is prohibited. The second sentence would be rephrased to align with the suggested amendments to APR 28.

In Comment 4, the suggested amendments would clarify a LLLT’s obligations when an issue is outside of the authorized scope of practice. In Comment 5, a reference to APR 28(G)(2) would be corrected to APR 28(G)(1).

In Comment 6, a reference to APR 28(G)(5) would be corrected to APR 28(G)(3).

The suggested amendments to Comment 7 would remove and reserve it

because the comment is inaccurate and duplicative of the APR 28(G)(4) signature requirement without discussing any professional responsibility matters.

LLLT RPC 1.5 Fees

In Comment 4, a reference to APR 28(G)(3) would be corrected to APR28(G)(2). The final sentence referencing Comment 2 to Rule 1.2 would be removed because it is unnecessary.

In Comment 5, a reference to APR 28(G)(3) would be corrected to APR28(G)(2).

LLLT RPC 1.8 Conflict of Interest: Current Clients: Specific Rules

The suggested amendments to Comment 3 would remove the first sentence stating that LLLTs may not advocate for or appear in court on behalf of a client because LLLTs will be permitted to accompany and assist clients at certain hearings if the suggested amendments to APR 28 are adopted.

The suggested amendments to Comment 4 would clarify that a LLLT's scope of practice does not include aggregate settlements.

LLLT RPC 1.15A Safeguarding Property

Suggested amendments to subsection (i) would correct references to the ELLLTC or refer to the ELC when the referenced provision does not exist in the ELLLTC.

LLLT RPC 1.16 Declining or Termination Representation

Suggested amendments to Comment 1 would match the suggested amendments to APR 28 allowing LLLTs to accompany and assist clients before tribunals. It also would clarify that LLLTs represent pro se clients and accordingly, LLLTs would not file a notice of appearance.

LLLT RPC 1.17 Sale of a Law Practice

In subsection (d), the suggested amendments would change “legal and LLLT fees” to “fees.”

Suggested amendments to Comment 2 would explain that a firm of only LLLTs cannot purchase a law practice that would require they provide services beyond their authorized scope of practice.

LLLT RPC 2.3 [Reserved]

Suggested amendments to Comment 1 would match the suggested amendments to APR 28 allowing LLLTs to communicate a client’s position to a third party. They would also clarify that a LLLT should refer to the lawyer RPC for guidance if a third party evaluation comes up in the LLLT’s scope of practice.

LLLT RPC 3.1 Advising and Assisting Clients in Proceedings Before a Tribunal

The suggested amendments in subsection (a) would add the word “engage” to clarify that the rule applies to the LLLT’s own behavior before a tribunal because LLLTs will be permitted to accompany and assist clients at certain court hearings if the suggested amendments to APR 28 are adopted.

The suggested amendments to subsection (a)(6), would add the valid exception for disobeying an obligation under the rules of a tribunal to be consistent with the Lawyer RPC.

The suggested amendments to Comment 1 are meant to address a LLLT’s role as an advocate under the enhanced scope of practice in the suggested amendments to APR 28.

Comment 2 would be deleted because it will no longer apply under the enhanced

scope of practice if the suggested amendments to APR 28 are adopted.

Comment 3 would be renumbered as Comment 2 and the reference for Title 3 of the Lawyer RPC would be rephrased for clarity.

LLLT RPC 3.6-3.9 [Reserved]

The numbers in the Comments would reflect the changes to the suggested amendments to the Comments in LLLT RPC 3.1.

LLLT RPC 4.1 Truthfulness in Statements to Others

Comment 2 would be deleted because the comment repeating the signature requirement in APR 28(G) is unnecessary.

LLLT RPC 4.2 Communication with Person Represented by Lawyer

The suggested amendments to Comment 1 would delete sentences 6 and 7 and the final clause of sentence 5 because they would no longer be accurate under the enhanced scope of practice in the suggested amendments to APR 28.

LLLT RPC 4.3 Dealing with Person Not Represented by Lawyer

Provision (b) would be deleted because it would no longer be accurate under the enhanced scope of practice in the suggested amendments to APR 28.

Because (b) would be deleted, Comment 2 which had discussed (b) would be deleted and reserved.

In Comment 3, the final sentence would be deleted because it would no longer be accurate under the suggested amendments to APR 28.

In Comment 4, the first sentence would be deleted because it would no longer be accurate under the suggested amendments to APR 28.

LLLT RPC 5.4 Professional Independence of a LLLT

In several places, “non-LLLT” would be rewritten to eliminate use of the exclusionary and awkward term “non-LLLT”.

Comment 2 would be rephrased to make it more active language.

LLLT RPC 5.5 Unauthorized Practice of Law

In Comment 1, the reference to APR 28(H)(7) would be corrected to APR28(H)(6).

In Comment 2, the word “programs” would be deleted for consistency with other language referring to limited licenses. “[N]onlawyers” would be replaced with “limited license practitioners” to eliminate use of the exclusionary and awkward term “nonlawyers”.

LLLT RPC 8.1 Licensing, Admission, and Disciplinary Matters

The rule’s name would be changed from “Limited Licensure and Disciplinary Matters” to “Licensing, Admission, and Disciplinary Matters” to reflect the unified licensing, admissions, and disciplinary processes for all licenses to practice law in Washington.

The rule would be re-written because LLLTs are now members of the WSBA.

In Comment 1, the language highlighting that LLLTs are not admitted to the Bar would be removed because it is no longer accurate. LLLTs are admitted to the practice of law and are members of the WSBA. See APR 5(I) and WSBA Bylaws Art. III sec. (1)(b).

LLLT RPC 8.4 Misconduct

In (I), the references to the LLLT Rules for Enforcement of Conduct would be corrected to the ELLLTC.

Conclusion

The LLLT Board voted unanimously to approve the suggested amendments to the LLLT RPC for submission to the Washington Supreme Court at its December 14, 2017 meeting. The LLLT Board believes it is important that these suggested amendments to the LLLT RPC be adopted and effective together with the suggested amendments to APR 28 and the Lawyer RPC as soon as possible. If adopted, the suggested amendments to the LLLT RPC and suggested amendments to APR 28 will be incorporated into the LLLT Family Law Practice Area Curriculum and will be tested on the LLLT Family Law Practice Area and Professional Responsibility Exams. A mandatory continuing legal education program will be developed to educate LLLT candidates and currently licensed LLLTs about these changes and the impact on their practices. The first LLLT Practice Area and Professional Responsibility Exams to test on these amendments could be held in July 2019.

D. Hearing: Because of the outreach conducted and input previously received by the LLLT Board, a hearing is not requested.

E. Expedited Consideration: Expedited consideration is requested in order to prevent delaying implementation of the necessary changes to LLLT education, continuing legal education, and examinations. The LLLT program's goal is to provide much needed access to justice. Therefore, delay of this program also causes continued delay in providing relief to those in need of LLLT services.

F. Supporting Materials: In addition to the submission of the suggested amendments to the LLLT RPC, a copy of the suggested amendments to APR 28 and the Lawyer RPC are also included. The LLLT Board is also providing a sample of a Real

Property Disposition Form and the April 3, 2017 letter from the Court to the LLLT Board, which stated, "A majority of the Court voted yes to expanding the family law area."

**SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL
TECHNICIAN RULES OF PROFESSIONAL CONDUCT**

TITLE

LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT (LLLT
RPC)

PREAMBLE

[1] [NO CHANGES]

[2] As a representative of clients within a limited scope, an LLLT performs various functions.
As advisor, an LLLT provides a client with an informed understanding of the client's legal rights
and obligations and explains their practical implications. As an evaluator, an LLLT acts by
examining a client's legal affairs and reporting about them to the client or to others. ~~While an~~
~~LLLT is not authorized to act as advocate or negotiator, an LLLT~~To the extent an LLLT is
allowed to act as an advocate or as a negotiator under APR 28, an LLLT conscientiously acts in
the best interest of the client, and seeks a result that is advantageous to the client but consistent
with the requirements of honest dealings with others.

[3]-[13] [NO CHANGES]

RULE 1.0B ADDITIONAL TERMINOLOGY

(a) "APR" denotes the Washington Supreme Court's Admission ~~to~~and Practice Rules.

(b) [NO CHANGES]

(c) "Lawyer" denotes a person licensed as a lawyer and eligible to practice law in any
United States jurisdiction.

(d) [NO CHANGES]

(e) "Legal practitioner" denotes a lawyer or a limited license legal technician ~~licensed under~~
~~APR 28.~~

(f) "Limited License Legal Technician" or "LLLT" denotes a person qualified by education,
training, and work experience who is authorized to engage in the limited practice of law in
approved practice areas of law as specified by APR 28 and related regulations. ~~The LLLT does~~

**SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL
TECHNICIAN RULES OF PROFESSIONAL CONDUCT**

1 ~~not represent the client in court proceedings or negotiations, but provides limited legal~~
2 ~~assistance as set forth in APR 28 to a pro se client.~~

3 (g) "~~LLLT RECELLLTC~~" denotes the Washington Supreme Court's Rules for Enforcement
4 of Limited License Legal Technician Rules for Enforcement of Conduct.

5 (h) [NO CHANGES]

6 **Comment**

7 [NO CHANGES]

8 **RULE 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY**
9 **BETWEEN CLIENT AND LLLT**

10 (a) Subject to paragraphs (c), (d), and (g), an LLLT shall abide by a client's decisions
11 concerning the objectives of representation and, as required by Rule 1.4, shall consult with the
12 client as to the means by which they are to be pursued. An LLLT may take such action on
13 behalf of the client as is impliedly authorized to carry out the representation. An LLLT shall
14 abide by a client's decision whether to settle a matter.

15 (b) [NO CHANGES]

16 (c) An LLLT must limit the scope of the representation and provide disclosures informing a
17 potential client as required by these Rules and APR 28.

18 (d)-(g) [NO CHANGES]

19 **Comment**

20 [1] [NO CHANGES]

21 [2] ~~Negotiation on behalf of a client and representation in court are beyond the authorized~~
22 ~~scope of an LLLT's practice. See APR 28(H). Accordingly, pParagraph (a) was modified from~~
23 ~~the Lawyer RPC to exclude references to settlements and criminal cases, and paragraph (d) was~~
24 ~~modified from the Lawyer RPC to exclude (and therefore prohibit) an LLLT from discussing~~
25 ~~with a client the legal consequences of any proposed criminal or fraudulent conduct and~~
26 ~~assisting a client in determining the validity, scope, meaning, or application of the law with~~

SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 respect to any such conduct. In circumstances where a client has engaged or may engage in
2 conduct that the LLLT knows is criminal or fraudulent, the LLLT shall not provide services
3 related to such conduct and shall inform the client that the client should seek the services of a
4 lawyer.

5 [3] Unlike a lawyer, an LLLT may perform only limited services for a client. ~~Under APR~~
6 ~~28G(3), b~~Before performing any services for a fee, an LLLT must enter into a written contract
7 with the client as required by APR 28(G)(2), ~~signed by both the client and the LLLT~~, that
8 ~~includes the following: (a) an explanation of the services to be performed, including a~~
9 ~~conspicuous statement that the LLLT may not appear or represent the client in court, formal~~
10 ~~administrative adjudicative proceedings, or other formal dispute resolution process, or negotiate~~
11 ~~the client's legal rights or responsibilities, unless permitted under GR 24(b); (b) identification of~~
12 ~~all fees and costs to be charged to the client for the services to be performed; (c) a statement that~~
13 ~~upon the client's request, the LLLT shall provide to the client any documents submitted by the~~
14 ~~client to the LLLT; (d) a statement that the LLLT is not a lawyer and may only perform limited~~
15 ~~legal services (this statement shall be on the first page of the contract in minimum twelve-point~~
16 ~~bold type print); (e) a statement describing the LLLT's duty to protect the confidentiality of~~
17 ~~information provided by the client and the LLLT's work product associated with the services~~
18 ~~sought or provided by the LLLT; (f) a statement that the client has the right to rescind the~~
19 ~~contract at any time and receive a full refund of unearned fees (this statement shall be~~
20 ~~conspicuously set forth in the contract); and (g) any other conditions to the LLLT's services that~~
21 ~~are required by the rules and regulations of the Limited License Legal Technician Board.~~

22 [4] Additional requirements concerning the authorized scope of an LLLT's practice are
23 imposed by APR 28(F). An LLLT must ascertain whether the issue is within the defined
24 practice area for which the LLLT is licensed. If not, the LLLT shall not ~~provide the services~~
25 ~~required~~render any legal assistance on the issue and must inform ~~advise~~ the client ~~to that the client~~
26 ~~should~~ seek the services of a lawyer. If the issue does lie within the defined practice area for

SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 which the LLLT is licensed, then the LLLT is authorized to ~~undertake~~render the services that are
2 enumerated in APR 28(F). ~~Those services include only the following: (a) obtain relevant facts~~
3 ~~and explain the relevancy of such information to the client; (b) inform the client of applicable~~
4 ~~procedures, including deadlines, documents which must be filed, and the anticipated course of~~
5 ~~the legal proceeding; (c) inform the client of applicable procedures for proper service of process~~
6 ~~and filing of legal documents; (d) provide the client with self help materials prepared by a~~
7 ~~Washington lawyer or approved by the Limited License Legal Technician Board, which contain~~
8 ~~information about relevant legal requirements, case law basis for the client's claim, and venue~~
9 ~~and jurisdiction requirements; (e) review documents or exhibits that the client has received from~~
10 ~~the opposing side, and explain them to the client; (f) select, complete, file, and effect service of~~
11 ~~forms that have been approved by the State of Washington, either through a governmental~~
12 ~~agency or by the Administrative Office of the Courts or the content of which is specified by~~
13 ~~statute; federal forms; forms prepared by a Washington lawyer; or forms approved by the~~
14 ~~Limited License Legal Technician Board; and advise the client of the significance of the selected~~
15 ~~forms to the client's case; (g) perform legal research; (h) draft legal letters and documents~~
16 ~~beyond what is permitted in (f) if the work is reviewed and approved by a Washington lawyer;~~
17 ~~(i) advise a client as to other documents that may be necessary to the client's case, and explain~~
18 ~~how such additional documents or pleadings may affect the client's case; and (j) assist the client~~
19 ~~in obtaining necessary documents, such as birth, death, or marriage certificates.~~

20 [5] An LLLT must personally perform the authorized services for the client and may not
21 delegate those services to a person who is not either an LLLT or a lawyer. This prohibition,
22 however, does not prevent a person who is neither an LLLT nor a lawyer from performing
23 translation services. APR 28(G)(21).

24 [6] An LLLT may not provide services that exceed the scope of the LLLT's authority under
25 APR 28. If an issue arises for which the client needs services that exceed the scope of the
26

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1 LLLT's authority, the LLLT must inform that client that the client should seek the services of a
2 lawyer. APR 28(G)(53).

3 [7] ~~A document that is prepared by an LLLT for the client's signature shall include the~~
4 ~~LLLT's name, signature and license number beneath the signature of the client. APR~~
5 ~~28(G)(5). [Reserved]~~

6 [8] Certain conduct and services are specifically prohibited to an LLLT by APR 28(H). ~~In~~
7 ~~the course of dealing with clients or prospective clients, an LLLT shall not: (a) make any~~
8 ~~statement that the LLLT can or will obtain special favors from or has special influence with any~~
9 ~~court or governmental agency; (b) retain any fees or costs for services not performed; (c) refuse~~
10 ~~to return documents supplied by, prepared by, or paid for by the client, upon the request of the~~
11 ~~client (the documents must be returned upon request even if there is a fee dispute between the~~
12 ~~LLLT and the client); (d) represent or advertise, in connection with the provision of services,~~
13 ~~other legal titles or credentials that could cause a client to believe that the LLLT possesses~~
14 ~~professional legal skills beyond those authorized by the license held by the LLLT; (e) represent~~
15 ~~a client in court proceedings, formal administrative adjudicative proceedings, or other formal~~
16 ~~dispute resolution process, unless permitted by GR 24; (f) negotiate a client's legal rights or~~
17 ~~responsibilities, or communicate with another person the client's position or convey to the client~~
18 ~~the position of another party; unless permitted by GR 24(b); (g) provide services to a client in~~
19 ~~connection with a legal matter in another state, unless permitted by the laws of that state to~~
20 ~~perform such services for the client; (h) represent or otherwise provide legal or law related~~
21 ~~services to a client, except as permitted by law, APR 28, or associated rules and regulations; or~~
22 ~~(i) otherwise violate these Rules.~~

23 **RULE 1.5 FEES**

24 [NO CHANGES]

25 **Comment**

26 [1]-[3] [NO CHANGES]

SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 [4] Unlike a lawyer, an LLLT is required by APR 28(G)(32) to enter into a written contract
2 with the client before the LLLT begins to perform any services for a fee that includes, among
3 other things, identification of all fees and costs to be charged to the client for the services to be
4 performed. The provisions concerning a flat fee described in (f)(2) of this Rule, if applicable,
5 should be included in that contract. The contract must be signed by both the client and the
6 LLLT before the LLLT begins to perform any services for a fee. ~~See Comment [2] to Rule 1.2~~
7 ~~for other provisions that are to be included in the contract.~~

8 [5] [NO CHANGES]

9 **RULE 1.8 CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES**

10 [NO CHANGES]

11 **Comment**

12 [1]-[2] [NO CHANGES]

13 [3] ~~LLTs may not advocate for, or appear in court on behalf of, a client.~~ LLLTs will have
14 no role in class action litigation and Rule 1.8(e)(2) is accordingly reserved in this Rule.
15 LLLT RPC 1.8(e) does not authorize activities that are beyond the scope of the LLLT's
16 limited license. Nothing in Rule 1.8(e) is intended to prohibit lawyer members of a firm
17 with which an LLLT is associated from engaging in conduct permitted by Lawyer RPC
18 1.8(e)(2).

19 [4] Rule 1.8(g) is reserved. ~~LLTs are not permitted to do not~~ engage in the making of
20 aggregate settlements, or aggregated agreements as to guilty or nolo contendere pleas in
21 criminal cases. Nothing in Rule 1.8(g) is intended to prohibit lawyer members of a firm
22 with which an LLLT is associated from participating in such settlements if permitted by
23 the Lawyer RPC.

24 [5]-[9] [NO CHANGES]

25 **LLLT RPC 1.15A SAFEGUARDING PROPERTY**

26 (a)-(h) [NO CHANGES]

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TECHNICIAN RULES OF PROFESSIONAL CONDUCT**

1 (i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any
2 delay other than notice periods that are required by law or regulation and meet the requirements
3 of ~~LLLT RECEL~~C 15.7(d) and ~~LLLT REC 15.7~~(e). In the exercise of ordinary prudence, an
4 LLLT may select any financial institution authorized by the Legal Foundation of Washington
5 (Legal Foundation) under ~~LLLT RECEL~~C 15.7(c). In selecting the type of trust account for the
6 purpose of depositing and holding funds subject to this Rule, an LLLT shall apply the following
7 criteria:

8 (1) When client or third-person funds will not produce a positive net return to the
9 client or third person because the funds are nominal in amount or expected to be
10 held for a short period of time the funds must be placed in a pooled interest-
11 bearing trust account known as an Interest on Limited License Legal
12 Technician's Trust Account or IOLTA. The interest earned on IOLTA accounts
13 shall be paid to, and the IOLTA program shall be administered by, the Legal
14 Foundation of Washington in accordance with ~~LLLT RECEL~~LLTC 15.4 and
15 ~~LLLT RECEL~~C 15.7(e).

16 (2)-(3) [NO CHANGES]

17 (4) The provisions of paragraph (i) do not relieve an LLLT or law firm from any
18 obligation imposed by these Rules or the ~~LLLT RECEL~~LLTC.

19 **Comment**

20 [NO CHANGES]

21 **LLLT RPC 1.16 DECLINING OR TERMINATING REPRESENTATION**

22 [NO CHANGES]

23 **Comment**

24 [1] This Rule was adapted from Lawyer RPC 1.16 with no substantive changes except to
25 reflect the limited scope of representation that a LLLT provides to pro se clients and that a
26 LLLT does not enter a notice of appearance. ~~are not authorized to represent clients in court or to~~

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1 ~~advocate for clients. For this reason, paragraph (c) is reserved and references to litigation or~~
2 ~~proceedings before a tribunal that appear in Lawyer RPC 1.16 do not apply and have been~~
3 ~~omitted from this Rule. Otherwise, this Rule~~Lawyer RPC 1.16 applies to LLLTs analogously.

4 **RULE 1.17 SALE OF LAW PRACTICE**

5 (a)-(c) [NO CHANGES]

6 **(d)** ~~The legal fees and LLLT fees charged clients shall not be increased by reason of the~~
7 ~~sale.~~

8 **Comment**

9 [1] [NO CHANGES]

10 [2] A law firm consisting solely of LLLT owners is not authorized to purchase a law
11 practice that includes client matters requiring provision of legal services outside the authorized
12 LLLT scope of practice or defined practice area(s). See APR 28 and related Regulations.

13 **RULE 2.1 ADVISOR**

14 [NO CHANGES]

15 **Comment**

16 [1] [NO CHANGES]

17 [2] This Rule and its requirement regarding the exercise of independent professional
18 judgment do not expand the limitations on the authorized scope of an LLLT's practice under
19 APR 28(H) and related regulations.

20 **RULE 2.3 [Reserved]**

21 **Comment**

22 [1] Lawyer RPC 2.3 pertains to a lawyer providing an evaluation of a matter affecting a
23 client for the use of someone other than the client. ~~Unlike lawyers, LLLTs are not authorized to~~
24 ~~communicate the client's position to third parties. Drafting an opinion letter for the purposes of~~
25 ~~its use with a third party is the same as communicating the client's position to a third party and~~
26 is prohibited by APR 28(H)(6). If the need for an evaluation arises in a LLLT's authorized

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1 scope of practice under APR 28, a LLLT should look to lawyer RPC 2.3 for guidance.

2 ~~Accordingly, this Rule is reserved.~~

3 **RULE 3.1 ADVISING AND ASSISTING CLIENTS IN PROCEEDINGS BEFORE A**
4 **TRIBUNAL**

5 (a) In a matter reasonably related to a pending or potential proceeding before a tribunal, an
6 LLLT shall not engage, counsel a client to engage, or assist a client, in conduct involving:

7 (1)-(5) [NO CHANGES]

8 (6) knowingly disobeying an obligation under the rules of a tribunal except for an
9 open refusal based on an assertion that no valid obligation exists; or

10 (7) [NO CHANGES]

11 (b) [NO CHANGES]

12 **Comment**

13 [1] This Rule is substantially different from Lawyer RPC 3.1 because the role of the LLLTs
14 as an advocate is limited. ~~are not authorized to represent clients in the proceedings of a tribunal.~~
15 ~~Title 3 of the Lawyer RPC addresses a lawyer's duties as an advocate when representing a client~~
16 ~~in the proceedings of a tribunal. Because APR 28(H)(5) expressly prohibits an LLLT from~~
17 ~~representing a client in a court or administrative adjudicative proceeding (unless permitted by~~
18 ~~GR 24), the Title 3 Rules do not apply directly to the conduct of LLLTs. Nevertheless, a~~
19 ~~number of the ethical principles located in Title 3 address conduct in connection with a~~
20 ~~proceeding that would be improper and repugnant whether engaged in by a lawyer or a party.~~
21 In many instances, an LLLT will be providing assistance to a client who is a party to a court
22 proceeding. In providing such assistance, an LLLT may be authorized within the scope of a
23 specific practice area to accompany and assist a pro se client in certain proceedings. Assistance
24 may include responding to factual and procedural questions from a tribunal. ~~For this reason,~~
25 ~~as~~As a member of the legal profession, an LLLT is ethically bound to avoid advising ~~or~~
26 ~~assisting a client in~~ conduct that undermines the integrity of the adjudicative process or

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1 threatens the fair and orderly administration of justice. ~~As applied to the indirect conduct of~~
2 ~~LLLTs, the ethical proscriptions of Lawyer RPC 3.1, 3.2, 3.3, and 3.4 are less nuanced.~~
3 ~~Accordingly, they have been consolidated within Rule 3.1(a) as a prohibition on counseling or~~
4 ~~assisting the client in such activities. Conduct relating to the impartiality and decorum of a~~
5 ~~tribunal, Lawyer RPC 3.5, should be prohibited whether engaged in by an LLLT directly or~~
6 ~~indirectly, and is separately addressed in paragraph (b) of this Rule. Although less~~
7 ~~comprehensive than Title 3 of the Lawyer RPC, the core Title 3 principles incorporated into~~
8 ~~Rule 3.1 address the issues likely to be encountered by an LLLT, with supplemental guidance~~
9 ~~available in the corresponding Title 3 of the Lawyer RPC and commentary thereto.~~

10 ~~[2] An LLLT acting as a "lay representative authorized by administrative agencies or~~
11 ~~tribunals" under GR 24(b)(3) would not be acting pursuant to the authority of his or her LLLT~~
12 ~~license in that context, since such representation would be beyond the scope of LLLT practice~~
13 ~~authorized by APR 28(F). Should an LLLT engage in conduct as a lay advocate that would~~
14 ~~otherwise directly violate a Title 3 obligation for example, by knowingly making a false~~
15 ~~statement of fact to an administrative tribunal such conduct may violate the requirements of~~
16 ~~other rules. See, e.g., Rule 8.4(e) (prohibiting conduct involving dishonesty, fraud, deceit, and~~
17 ~~misrepresentation) and Rule 8.4(d) (prohibiting conduct prejudicial to the administration of~~
18 ~~justice).~~

19 ~~[32] Certain provisions of Title 3 of the Lawyer RPC provisions, such as Lawyer as Witness~~
20 ~~in Rule 3.7 and the Special Responsibilities of a Prosecutor in Rule 3.8, do not apply to LLLTs.~~
21 ~~In these instances, the corresponding LLLT RPC has been reserved. Rules 3.6 and 3.9 represent~~
22 ~~ethical issues that would rarely if ever arise in the context of an LLLT's limited-scope~~
23 ~~representation. Accordingly, these provisions have been reserved as well, though guidance is~~
24 ~~available in the corresponding Lawyer RPC in the event that such an ethical dilemma does arise~~
25 ~~in a LLLT representation.~~

26 **RULE 3.6**

**SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL
TECHNICIAN RULES OF PROFESSIONAL CONDUCT**

1 [Reserved]

2 **Comment**

3 [1] See Comment [32] to Rule 3.1.

4 **RULE 3.7**

5 [Reserved]

6 **Comment**

7 [1] See Comment [32] to Rule 3.1.

8 **LLLT RPC 3.8**

9 [Reserved]

10 **Comment**

11 [1] See Comment [32] to Rule 3.1.

12 **LLLT RPC 3.9**

13 [Reserved]

14 **Comment**

15 [1] See Comment [32] to Rule 3.1.

16 **RULE 4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS**

17 [NO CHANGES]

18 **Comment**

19 [1] [NO CHANGES]

20 ~~[2] LLLTs are required by APR 28(G)(5) to include the LLLT's name, signature, and~~
21 ~~license number beneath the signature of the client on all documents that the LLLT prepares.~~
22 ~~This will assure that judges and other court personnel, other parties to a matter, and lawyers~~
23 ~~representing those parties, are informed of the LLLT's role in the matter.~~

24 **RULE 4.2 COMMUNICATION WITH PERSON REPRESENTED BY LAWYER**

25 [NO CHANGES]

26 **Comment**

SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

[1] A person who has chosen to be represented by a lawyer should be protected against
possible overreaching by another lawyer. See Lawyer RPC 4.2 and Comments to that rule.
Rule 4.2 extends to LLLTs the prohibition on communicating with a person represented by a
lawyer. This Rule differs from Lawyer RPC 4.2 in that the prohibition is absolute. While a
lawyer may be permitted to communicate directly with a person who is represented by another
lawyer with the other lawyer's consent, or if authorized to do so by law or court order, there are
no exceptions to the prohibition as it applies to LLLTs, ~~because any such communication would
put an LLLT in a position of exceeding the authorized scope of the LLLT's practice under APR
28(H). Specifically, APR 28(H)(6) prohibits negotiating a client's legal rights or
responsibilities or communicating with another person the client's position, and APR 28(H)(5)
prohibits an LLLT from representing a client in court proceedings. In light of these limitations,
there is no circumstance in which an LLLT could communicate with a person represented by a
lawyer about the subject matter of the representation without transgressing the APR.~~

RULE 4.3 DEALING WITH PERSON NOT REPRESENTED BY LAWYER

(a) In dealing on behalf of a client with a person who is not represented by a lawyer, an
LLLT shall not state or imply that the LLLT is disinterested. When the LLLT knows or
reasonably should know that the unrepresented person misunderstands the LLLT's role in the
matter, the LLLT shall make reasonable efforts to correct the misunderstanding. The LLLT
shall not give legal advice to an unrepresented person, other than the advice to secure the
services of another legal practitioner, if the LLLT knows or reasonably should know that the
interests of such a person are or have a reasonable possibility of being in conflict with the
interests of the client.

~~**(b)** An LLLT shall not communicate about the subject of the representation with another
party in the matter.~~

Comment

SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 [1] ~~Paragraph (a) of this Rule was adapted from Lawyer RPC 4.3 with no substantive~~
2 ~~changes and applies to LLLTs analogously.~~

3 [2] ~~[Reserved] Paragraph (b) of this Rule does not appear in the Lawyer RPC. It derives from~~
4 ~~the limitations on the authorized scope of an LLLT's practice under APR 28(H)(6). See~~
5 ~~Comment [1] to Rule 4.2 for a discussion of the implications of APR 28(H)(6).~~

6 [3] The client of an LLLT is an unrepresented person for purposes of Lawyer RPC 4.2 and
7 4.3. ~~The definition of an LLLT in APR 28(B)(4) clarifies that an LLLT does not represent a~~
8 ~~client in court proceedings or negotiations, but provides limited legal assistance to a pro se~~
9 ~~client.~~

10 [4] ~~Although an LLLT is strictly prohibited by paragraph (b) from communicating with a~~
11 ~~party about the subject matter of the LLLT's representation, an~~ An LLLT may have occasion to
12 communicate directly with a nonparty who is assisted by another LLLT. A risk of unwarranted
13 intrusion into a privileged relationship may arise when an LLLT deals with a person who is
14 assisted by another LLLT. Client-LLLT communications, however, are privileged to the same
15 extent as client-lawyer communications. *See* APR 28(K)(3). An LLLT's ethical duty of
16 confidentiality further protects the LLLT client's right to confidentiality in that professional
17 relationship. *See* LLLT RPC 1.6(a). When dealing with a person who is assisted by another
18 LLLT, an LLLT must respect these legal rights that protect the client-LLLT relationship.

RULE 5.4 PROFESSIONAL INDEPENDENCE OF AN LLLT

19
20 (a) An LLLT or LLLT firm shall not share legal fees with anyone who is not a non-LLLT,
21 except that:

22 (1)-(2) [NO CHANGES]

23 (3) an LLLT or LLLT firm may include ~~non-LLLT~~ employees who are not LLLTs
24 in a compensation or retirement plan, even though the plan is based in whole or
25 in part on a profit-sharing arrangement; and

26 (4)-(5) [NO CHANGES]

SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 (b) An LLLT shall not form a partnership with ~~a non-LLLT~~anyone who is not a LLLT if
2 any of the activities of the partnership consist of the practice of law.

3 (c) [NO CHANGES]

4 (d) An LLLT shall not practice with or in the form of a professional corporation or
5 association authorized to practice law for a profit, if:

6 (1) ~~a non-LLLT~~person who is not a LLLT owns any interest therein, except that a
7 fiduciary representative of the estate of an LLLT may hold the stock or interest
8 of the LLLT for a reasonable time during administration;

9 (2) a person who is not a LLLT~~non-LLLT~~ is a corporate director or officer (other
10 than as secretary or treasurer) thereof or occupies the position of similar
11 responsibility in any form of association other than a corporation; or

12 (3) a person who is not a LLLT~~non-LLLT~~ has the right to direct or control the
13 professional judgment of an LLLT.

14 Comment

15 [1] This Rule was adapted from Lawyer RPC 5.4 with no substantive changes except to
16 change references to a “nonlawyer” to “person who is not a LLLT~~non-LLLT~~” to avoid
17 confusion. It applies to LLLTs analogously.

18 [2] ~~Notwithstanding Rule 5.4 does not prohibit,~~ lawyers and LLLTs may from sharing fees
19 and forming business structures to the extent permitted by Rule 5.9.

20 RULE 5.5 UNAUTHORIZED PRACTICE OF LAW

21 [NO CHANGES]

22 Comment

23 [1] Lawyer RPC 5.5(a) expresses the basic prohibition on a legal practitioner practicing law
24 in a jurisdiction where that individual is not specifically licensed or otherwise authorized to
25 practice law. It reflects the general notion (enforced through criminal-legal prohibitions and
26 other law) that legal services may only be provided by those licensed to do so. This limitation on

SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL TECHNICIAN RULES OF PROFESSIONAL CONDUCT

1 the ability to practice law is designed to protect the public against the rendition of legal services
2 by unqualified persons. *See* Comment [2] to Lawyer RPC 5.5.

3 As applied to LLLTs, this principle should apply with equal force. An actively licensed
4 LLLT should practice law as an LLLT only in a jurisdiction where he or she is licensed to do
5 so, i.e., Washington State. An LLLT must not practice law in a jurisdiction where he or she is
6 not authorized to do so. Unless and until other jurisdictions authorize Washington-licensed
7 LLLTs to practice law, it will be unethical under this Rule for the LLLT to provide or attempt to
8 provide legal services extraterritorially. Relatedly, it is unethical to assist anyone in activities
9 that constitute the unauthorized practice of law in any jurisdiction. *See also* APR 28(H)(76)
10 (prohibiting an LLLT from providing services to a client in connection with a legal matter in
11 another state unless permitted by the laws of that state to perform the services for the client).

12 [2] Lawyer RPC 5.5(b) through (d) define the circumstances in which lawyers can practice
13 in Washington despite being unlicensed here. For example, lawyers actively licensed elsewhere
14 may provide services on a temporary basis in Washington in association with a lawyer admitted
15 to practice here or when the lawyer's activities "arise out of or are reasonably related to the
16 lawyer's practice in his or her home jurisdiction." These provisions also recognize that certain
17 non-Washington-licensed lawyers may practice here on more than a temporary basis (e.g.,
18 lawyers providing services authorized by federal law), and otherwise prohibit non-Washington-
19 licensed lawyers from establishing a systematic and continuous presence in Washington for the
20 practice of law.

21 These provisions are, at this time, unnecessary in the LLLT RPC because there are no
22 limited licenses ~~programs~~ in other jurisdictions tantamount to Washington's LLLT rules and no
23 need to authorize ~~nonlawyers~~ limited license practitioners in other jurisdictions to practice law
24 in Washington, either temporarily or on an ongoing basis. For this reason, paragraphs (b)
25 through (d) are reserved.

**SUGGESTED AMENDMENTS TO LIMITED LICENSE LEGAL
TECHNICIAN RULES OF PROFESSIONAL CONDUCT**

**RULE 8.1 ~~LIMITED LICENSURE~~LICENSING, ADMISSION, AND DISCIPLINARY
MATTERS**

An applicant for an LLLT license~~limited licensure~~, or an LLLT in connection with an application for limited licensure or reinstatement application or , or admission to the Bar~~lawyer's bar admission~~, or a disciplinary matter involving a legal practitioner in connection with a lawyer or LLLT disciplinary matter, shall not:

(a)-(b) [NO CHANGES]

Comment

[1] This Rule was adapted from Lawyer RPC 8.1 with no substantive changes, ~~except to reflect the difference between admission to the Bar (for a lawyer) and limited licensure (for an LLLT).~~ This Rule applies to LLLTs analogously.

RULE 8.4 MISCONDUCT

It is professional misconduct for an LLLT to:

(a)-(k) [NO CHANGES]

(l) violate a duty or sanction imposed by or under the ~~LLLTC~~RECELLLTC in connection with a disciplinary matter; including, but not limited to, the duties catalogued at ~~LLLTC~~RECELLLTC 1.5;

(m)-(o) [NO CHANGES]

Comment

[NO CHANGES]



DMCJA BOARD MEETING
FRIDAY, AUGUST 10, 2018
12:30 PM – 3:30 PM
AOC SEATAC OFFICE
SEATAC, WA

PRESIDENT REBECCA C. ROBERTSON

SUPPLEMENTAL AGENDA

PAGE

Call to Order

General Business

- A. Minutes – July 13, 2018
- B. **Treasurer’s Report**
- C. **Special Fund Report**
- D. Standing Committee Reports
 - 1. Legislative Committee – *Judge Samuel Meyer*
 - 2. Rules Committee Minutes for June 5, 2018
 - 3. Therapeutic Courts Committee Minutes for June 4, 2018
 - 4. **Diversity Committee Attorney Training for Service as Pro Tem Judge in District and Municipal Court Agenda**
- E. Trial Court Advocacy Board (TCAB)
- F. Judicial Information Systems (JIS) Report – *Ms. Vicky Cullinane*

X1-X11
X12

X13-X15

Liaison Reports

- A. Administrative Office of the Courts (**AOC**) – *Ms. Callie Dietz*
- B. Board for Judicial Administration (**BJA**) – *Judges Ringus, Jasprica, Logan, and Johnson*
- C. District and Municipal Court Management Association (**DMCMA**) – *Ms. Margaret Yetter*
- D. Misdemeanant Probation Association (**MPA**) – *Ms. Stacie Scarpaci*
- E. Superior Court Judges’ Association (**SCJA**) – *Judge Kitty-Ann van Doorninck*
- F. Washington State Association for Justice (**WSAJ**) – *Loyd James Willaford, Esq.*
- G. **Washington State Bar Association (WSBA) – Kim E. Hunter, Esq.**

X16-X20

Discussion

- A. **Council on Independent Courts (CIC) Final Report**
 - 1. **CIC Policy and Procedure Manual**
 - 2. **General Rule 29 Amendment**
- B. Need for Reimbursement Grants Calculation for House Bill 1783, Legal Financial Obligations – *Mr. Ramsey Radwan, Judge Donna Tucker*
- C. Request for feedback regarding Limited License Legal Technician’s (LLLTs) desire to add a new license practice area

X21
(pp 1-9)

<ol style="list-style-type: none"> 1. Consumer, Money, and Debt Law Course Proposal 2. Proposed Family Law Enhancements 	
<p>Information</p> <p>A. Board members are encouraged to apply for DMCJA representative positions. Available positions include:</p> <ol style="list-style-type: none"> 1. Commission on Judicial Conduct (CJC) 2. JIS CLJ “CLUG” User Group 3. Misdemeanant Probation Association (MPA) Liaison 4. Presiding Judge & Administrator Education Committee 5. Washington State Access to Justice Board (Liaison Position) 6. WSBA Court Rules and Procedures Committee 7. Crime Victim Certification Steering Committee (SHB 1022) <p>B. Policy Analyst Project Ideas for 2018 are as follows:</p> <ol style="list-style-type: none"> 1. Survey on Committees that have DMCJA Representatives (July 2018) 2. Courthouse Security Survey (September 2018) 3. Judicial Independence Matters (Municipal Court Contracts) 	
<p>Other Business</p> <p>A. The next DMCJA Board Meeting is September 23, 2018, 9:00 a.m. to 12:00 p.m., at the 60th Annual Washington Judicial Conference, in Yakima, WA.</p>	
<p>Adjourn</p>	

Christina E Huwe
Pierce County Bookkeeping
1504 58th Way SE
Auburn, WA 98092
Phone (360) 710-5937
E-Mail: piercecountybookkeeping@comcast.net

SUMMARY OF REPORTS

**WASHINGTON STATE
DISTRICT AND MUNICIPAL COURT JUDGES' ASSOCIATION**

For the Period Ending July 31st, 2018

Please find attached the following reports for you to review:

- Statement of Financial Position
- Monthly Statement of Activities
- Bank Reconciliation Reports
- Transaction Detail Report (year-to-date)
- Current Budget Balance
- Prior Budget Balance
- Special Fund Bank Statement

Please contact me if you have any questions in regards to the attached.

PLEASE BE SURE TO KEEP FOR YOUR RECORDS

Washington State District And Municipal Court Judges Assoc.
Statement of Financial Position
As of July 31, 2018

	<u>Jul 31, 18</u>
ASSETS	
Current Assets	
Checking/Savings	
Bank of America - Checking	10,742
Bank of America - Savings	57,808
US Bank - Savings	70,766
Washington Federal	50,620
Total Checking/Savings	<u>189,937</u>
Total Current Assets	189,937
Fixed Assets	
Accumulated Depreciation	(693)
Computer Equipment	579
Total Fixed Assets	(115)
Other Assets	
Prepaid Expenses	42,167
Total Other Assets	<u>42,167</u>
TOTAL ASSETS	<u><u>231,989</u></u>
LIABILITIES & EQUITY	
Equity	231,989
TOTAL LIABILITIES & EQUITY	<u><u>231,989</u></u>

Washington State District And Municipal Court Judges Assoc.
Statement of Activities
For the Month Ending July 31st, 2018

	<u>TOTAL</u>
Ordinary Income/Expense	
Income	
Interest Income	5
Membership Revenue	500
Total Income	<u>505</u>
Gross Profit	505
Expense	
Prior Year Budget Expense	2,635
Board Meeting Expense	1,222
Bookkeeping Expense	312
Judicial Assistance Committee	19
Legislative Pro-Tem	195
Lobbyist Contract	5,833
Total Expense	<u>10,216</u>
Net Ordinary Income	<u>(9,711)</u>
Net Income	<u><u>(9,711)</u></u>

Washington State District And Municipal Court Judges Assoc.

08/07/18

Reconciliation Detail

Bank of America - Checking, Period Ending 07/31/2018

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						53,438.72
Cleared Transactions						
Checks and Payments - 25 items						
Check	06/27/2018		Judicial Conf. Regist...	X	-34,800.00	-34,800.00
Check	06/27/2018		Susanna Neil Kanth...	X	-900.00	-35,700.00
Check	06/27/2018		Susanna Neil Kanth...	X	-300.00	-36,000.00
Check	06/27/2018		Andrea Beall	X	-175.00	-36,175.00
Check	06/27/2018		Dan B Johnson	X	-139.42	-36,314.42
Check	06/27/2018		AOC	X	-125.79	-36,440.21
Check	06/27/2018		City of Olympia	X	-103.42	-36,543.63
Check	06/27/2018		Scott Ahlf	X	-36.00	-36,579.63
Check	06/27/2018		Susan Peterson	X	-10.27	-36,589.90
Check	06/29/2018		Drew Henke	X	-139.42	-36,729.32
Check	07/17/2018		Pierce County Book...	X	-312.00	-37,041.32
Check	07/26/2018		Melanie Stewart	X	-2,000.00	-39,041.32
Check	07/26/2018		Ingallina's Box Lunch	X	-383.13	-39,424.45
Check	07/26/2018		Robert Grim	X	-272.50	-39,696.95
Check	07/26/2018		Charles Short	X	-260.51	-39,957.46
Check	07/26/2018		City of Bothell	X	-195.00	-40,152.46
Check	07/26/2018		Samuel G. Meyer	X	-54.50	-40,206.96
Check	07/26/2018		Scott Ahlf	X	-54.50	-40,261.46
Check	07/26/2018		Drew Henke	X	-30.52	-40,291.98
Check	07/26/2018		Michelle Gehlsen	X	-30.52	-40,322.50
Check	07/26/2018		Rick Leo	X	-23.38	-40,345.88
Check	07/26/2018		Kevin Ringus	X	-21.80	-40,367.68
Check	07/27/2018		Michelle Gehlsen	X	-30.52	-40,398.20
Check	07/30/2018		Linda Coburn	X	-33.79	-40,431.99
Check	07/30/2018		Mary C. Logan	X	-18.72	-40,450.71
Total Checks and Payments					-40,450.71	-40,450.71
Deposits and Credits - 1 item						
Deposit	07/23/2018			X	500.00	500.00
Total Deposits and Credits					500.00	500.00
Total Cleared Transactions					-39,950.71	-39,950.71
Cleared Balance					-39,950.71	13,488.01
Uncleared Transactions						
Checks and Payments - 3 items						
Check	02/11/2014	7276	Douglas Goetz		-84.00	-84.00
Check	07/25/2018		Chelan County		-2,635.47	-2,719.47
Check	07/27/2018		Michael Finkle		-26.16	-2,745.63
Total Checks and Payments					-2,745.63	-2,745.63
Total Uncleared Transactions					-2,745.63	-2,745.63
Register Balance as of 07/31/2018					-42,696.34	10,742.38
Ending Balance					-42,696.34	10,742.38

Washington State District And Municipal Court Judges Assoc.

Reconciliation Detail

Bank of America - Savings, Period Ending 07/31/2018

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						57,807.46
Cleared Transactions						
Deposits and Credits - 1 item						
Deposit	07/31/2018			X	0.98	0.98
Total Deposits and Credits					0.98	0.98
Total Cleared Transactions					0.98	0.98
Cleared Balance					0.98	57,808.44
Register Balance as of 07/31/2018					0.98	57,808.44
Ending Balance					0.98	57,808.44

Washington State District And Municipal Court Judges Assoc.
Reconciliation Detail
Washington Federal, Period Ending 07/31/2018

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						50,615.68
Cleared Transactions						
Deposits and Credits - 1 item						
Deposit	07/31/2018			X	4.30	4.30
Total Deposits and Credits					4.30	4.30
Total Cleared Transactions					4.30	4.30
Cleared Balance					4.30	50,619.98
Register Balance as of 07/31/2018					4.30	50,619.98
Ending Balance					4.30	50,619.98

Washington State District And Municipal Court Judges Assoc.
Transaction Detail by Account
July 2018

Type	Date	Num	Name	Memo	Amount	Balance
Bank of America - Checking						
Check	07/17/2018		Pierce County Bookkeeping	Pierce County Bookk...	(312.00)	(312.00)
Deposit	07/23/2018			Thomas W. Cox	500.00	188.00
Check	07/25/2018		Chelan County		(2,635.47)	(2,447.47)
Check	07/26/2018		Kevin Ringus		(21.80)	(2,469.27)
Check	07/26/2018		Rick Leo		(23.38)	(2,492.65)
Check	07/26/2018		Michelle Gehlsen		(30.52)	(2,523.17)
Check	07/26/2018		Drew Henke		(30.52)	(2,553.69)
Check	07/26/2018		Samuel G. Meyer		(54.50)	(2,608.19)
Check	07/26/2018		Scott Ahlf		(54.50)	(2,662.69)
Check	07/26/2018		City of Bothell		(195.00)	(2,857.69)
Check	07/26/2018		Charles Short		(260.51)	(3,118.20)
Check	07/26/2018		Robert Grim		(272.50)	(3,390.70)
Check	07/26/2018		Ingallina's Box Lunch	Ingallina's Box Lunch...	(383.13)	(3,773.83)
Check	07/26/2018		Melanie Stewart		(2,000.00)	(5,773.83)
Check	07/27/2018		Michelle Gehlsen		(30.52)	(5,804.35)
Check	07/27/2018		Michael Finkle		(26.16)	(5,830.51)
Check	07/30/2018		Mary C. Logan		(18.72)	(5,849.23)
Check	07/30/2018		Linda Coburn		(33.79)	(5,883.02)
Total Bank of America - Checking					(5,883.02)	(5,883.02)
Bank of America - Savings						
Deposit	07/31/2018			Interest	0.98	0.98
Total Bank of America - Savings					0.98	0.98
Washington Federal						
Deposit	07/31/2018			Interest	4.30	4.30
Total Washington Federal					4.30	4.30
Prepaid Expenses						
Genera...	07/31/2018	CEH		1/12 of Contract	(3,833.33)	(3,833.33)
Total Prepaid Expenses					(3,833.33)	(3,833.33)
Interest Income						
Deposit	07/31/2018			Interest	(0.98)	(0.98)
Deposit	07/31/2018			Interest	(4.30)	(5.28)
Total Interest Income					(5.28)	(5.28)
Membership Revenue						
Deposit	07/23/2018		Thomas W. Cox	Garfield County	(500.00)	(500.00)
Total Membership Revenue					(500.00)	(500.00)
Prior Year Budget Expense						
Check	07/25/2018		Chelan County	Education Security	2,500.00	2,500.00
Check	07/25/2018		Chelan County	Education Committee	135.47	2,635.47
Total Prior Year Budget Expense					2,635.47	2,635.47
Board Meeting Expense						
Check	07/26/2018		Kevin Ringus		21.80	21.80
Check	07/26/2018		Rick Leo		23.38	45.18
Check	07/26/2018		Michelle Gehlsen		30.52	75.70
Check	07/26/2018		Drew Henke		30.52	106.22
Check	07/26/2018		Samuel G. Meyer		54.50	160.72
Check	07/26/2018		Scott Ahlf		54.50	215.22
Check	07/26/2018		Charles Short		260.51	475.73
Check	07/26/2018		Robert Grim		272.50	748.23
Check	07/26/2018		Ingallina's Box Lunch	Ingallina's Box Lunch...	383.13	1,131.36
Check	07/27/2018		Michelle Gehlsen		30.52	1,161.88
Check	07/27/2018		Michael Finkle		26.16	1,188.04
Check	07/30/2018		Linda Coburn		33.79	1,221.83
Total Board Meeting Expense					1,221.83	1,221.83

Washington State District And Municipal Court Judges Assoc.
Transaction Detail by Account
July 2018

Type	Date	Num	Name	Memo	Amount	Balance
Bookkeeping Expense						
Check	07/17/2018		Pierce County Bookkeeping	Pierce County Bookk...	312.00	312.00
Total Bookkeeping Expense					312.00	312.00
Judicial Assistance Committee						
Check	07/30/2018		Mary C. Logan		18.72	18.72
Total Judicial Assistance Committee					18.72	18.72
Legislative Pro-Tem						
Check	07/26/2018		City of Bothell		195.00	195.00
Total Legislative Pro-Tem					195.00	195.00
Lobbyist Contract						
Check	07/26/2018		Melanie Stewart		2,000.00	2,000.00
Genera...	07/31/2018	CEH		1/12 of Contract	3,833.33	5,833.33
Total Lobbyist Contract					5,833.33	5,833.33
TOTAL					0.00	0.00

DMCJA 2018-2019 Adopted Budget			
ITEM COMMITTEE	Beginning Balance	Total Costs	Ending Balance
Access to Justice Liaison	\$100.00		\$100.00
Audit	\$2,000.00		\$2,000.00
Bar Association Liaison	\$1,500.00		\$1,500.00
Board Meeting Expense	\$30,000.00	\$1,222.00	\$28,778.00
Bookkeeping Expense	\$3,500.00	\$312.00	\$3,188.00
Bylaws Committee	\$250.00		\$250.00
Conference Calls	\$250.00		\$250.00
Conference Planning Committee	\$4,000.00		\$4,000.00
Conference Incidental Fees For Members Spring Conference 2019	\$40,000.00		\$40,000.00
Diversity Committee	\$2,000.00		\$2,000.00
DMCJA/SCJA Sentencing Alternatives aka "Trial Ct Sentencing & Supervision Comm"	\$1,000.00		\$1,000.00
DMCMA Liaison	\$500.00		\$500.00
DOL Liaison Committee	\$200.00		\$200.00
Education Committee	\$14,500.00		\$14,500.00
Educational Security	\$2,500.00		\$2,500.00
Education-Grants	\$5,000.00		\$5,000.00
Judicial Assistance Committee*	\$14,000.00	\$19.00	\$13,981.00
Judicial College Social Support	\$2,000.00		\$2,000.00
Judicial Community Outreach	\$4,000.00		\$4,000.00
Judicial Independence Fire Brigade	\$1,000.00		\$1,000.00
Legislative Committee	\$4,000.00		\$4,000.00
Legislative Pro-Tem	\$2,500.00	\$195.00	\$2,305.00
Lobbyist Contract	\$70,000.00	\$48,000.00	\$22,000.00
Lobbyist Expenses	\$1,500.00		\$1,500.00
Long-Range Planning Committee	\$750.00		\$750.00
MPA Liaison	\$1,000.00		\$1,000.00
Municipal/Dist. Ct Swearing-in 4 yrs. (12/2017)			\$0.00
National Leadership Grants	\$5,000.00		\$5,000.00
Nominating Committee	\$400.00		\$400.00
President Expense	\$5,000.00		\$5,000.00
Pro Tempore (committee chair approval)	\$10,000.00		\$10,000.00
Professional Services	\$5,000.00		\$5,000.00
Public Outreach (ad hoc workgroup)	\$2,500.00		\$2,500.00
Rules Committee	\$500.00		\$500.00
SCJA Board Liaison	\$1,000.00		\$1,000.00
Therapeutic Courts Committee	\$2,500.00		\$2,500.00
Treasurer Expense and Bonds	\$250.00		\$250.00
Trial Court Advocacy Board	\$500.00		\$500.00
Uniform Infraction Committee	\$1,000.00		\$1,000.00
TOTAL	\$241,700.00	\$49,748.00	\$191,952.00
TOTAL DEPOSITS MADE	\$500.00		
CREDIT CARD (balance owing)	\$0.00		

*Includes \$7,000 from the SCJA
Balance as of 7-31-2018

DMCJA 2017-2018 Adopted Budget			
ITEM COMMITTEE	Beginning Balance	Total Costs	Ending Balance
Access to Justice Liaison	\$100.00		\$100.00
Audit	\$2,000.00		\$2,000.00
Bar Association Liaison	\$1,500.00		\$1,500.00
Board Meeting Expense	\$30,000.00	\$19,831.00	\$10,169.00
Bookkeeping Expense	\$3,500.00	\$3,560.00	-\$60.00
Bylaws Committee	\$250.00		\$250.00
Conference Calls	\$250.00	\$606.00	-\$356.00
Conference Planning Committee	\$4,000.00	\$10.00	\$3,990.00
Conference Incidental Fees For Members Spring Conference 2018	\$40,000.00	\$39,539.00	\$461.00
Diversity Committee	\$2,000.00	\$86.00	\$1,914.00
DMCJA/SCJA Sentencing Alternatives aka "Trial Ct Sentencing & Supervision Comm"	\$1,000.00	\$291.00	\$709.00
DMCMA Liaison	\$500.00		\$500.00
DOL Liaison Committee	\$200.00		\$200.00
Education Committee	\$14,500.00	\$1,335.00	\$13,165.00
Educational Security		\$2,500.00	-\$2,500.00
Education-Grants	\$5,000.00	\$1,000.00	\$4,000.00
Judicial Assistance Committee*	\$13,000.00	\$12,801.00	\$199.00
Judicial College Social Support	\$1,500.00	\$1,500.00	\$0.00
Judicial Community Outreach	\$4,000.00	\$1,600.00	\$2,400.00
Judicial Independence Fire Brigade	\$1,000.00		\$1,000.00
Legislative Committee	\$4,000.00	\$941.00	\$3,059.00
Legislative Pro-Tem	\$2,500.00	\$2,174.00	\$326.00
Lobbyist Contract	\$65,000.00	\$65,000.00	\$0.00
Lobbyist Expenses	\$1,500.00		\$1,500.00
Long-Range Planning Committee	\$750.00	-\$101.00	\$851.00
MCA Liaison	\$1,000.00	\$220.00	\$780.00
Municipal/Dist. Ct Swearing-in 4 yrs. (12/2017)	\$500.00	\$431.00	\$69.00
National Leadership Grants	\$5,000.00	\$5,778.00	-\$778.00
Nominating Committee	\$400.00		\$400.00
President Expense	\$5,000.00	\$369.00	\$4,631.00
Pro Tempore (committee chair approval)	\$10,000.00		\$10,000.00
Professional Services	\$5,000.00		\$5,000.00
Public Outreach (ad hoc workgroup)	\$2,500.00		\$2,500.00
Rules Committee	\$500.00		\$500.00
SCJA Board Liaison	\$1,000.00		\$1,000.00
Treasurer Expense and Bonds	\$250.00	\$162.00	\$88.00
Therapeutic Courts Committee	\$1,000.00		\$1,000.00
Trial Court Advocacy Board	\$500.00		\$500.00
Uniform Infraction Committee	\$1,000.00		\$1,000.00
TOTAL	\$231,700.00	\$159,633.00	\$72,067.00
TOTAL DEPOSITS MADE	\$178,143.00		
CREDIT CARD (balance owing)	\$0.00		

*Includes \$6,500 from the SCJA
Balance as of 7-31-2018

Other current information not included in reports

Washington Federal. invested here.

www.washingtonfederal.com

Statement of Account

PAGE 1 OF 1

Statement Ending Date July 31, 2018

Last Statement Date July 1, 2018

Account Number [REDACTED]

To report a lost or stolen card,
call 800-472-3272.

For 24-hour telephone banking,
call 877-431-1876.

WA STATE DIST & MUNICIPAL COURT JUDGES' 10988
JUDGE SCOTT AHLF
PO BOX 1967
OLYMPIA, WA 98507-1967

For questions or assistance with your account(s),
please call us at 800-324-9375 or stop by your local branch.

Business Money Market Summary - [REDACTED]

Annual Percentage Yield Earned for this Statement Period	0.100%
Interest Rate	0.100%
Year-to-Date Interest Paid	\$29.40

Beginning Balance	\$50,615.68
Interest Earned This Period	+4.30
Deposits and Credits	+0.00
Checks Paid	-0.00
ATM, Electronic and Debit Card Withdrawals	-0.00
Other Transactions	-0.00
Ending Balance	\$50,619.98

	Total for This Period	Total Year-to-Date
Total Overdraft Fees	\$0.00	\$0.00
Total Returned Item Fees	\$0.00	\$0.00

Interest Earned This Period


Date	Description	Amount
07-31	Credit Interest	4.30
Total Interest Earned This Period		4.30

Instant Alerts that Stop Fraud!

Starting June 18th, SMS premium fraud alerts will be provided to all WAFO debit cardholders. There is no enrollment needed, and cardholders will receive a text in the event a transaction triggers an alert.

Simply reply to the text "YES" or "NO" to confirm whether you authorized the transaction.

For more information on the fraud alerts, please call 1-800-324-9375.



washingtonfederal.com



Visa may provide updated debit card information, including your expiration date and card number, with merchants that have an agreement for reoccurring payments. You may opt out of this service by calling 1-800-324-9375.

10/21/18

Attorney Training for Service as Pro Tem Judge in District and Municipal Court



**Friday and Saturday,
August 24 – 25, 2018**

**Approved for 9.0 CLE credits
(5.25 Other + 1.25 Law and Legal
Procedure + 2.5 Ethics)**

TUITION
\$399 – Standard Tuition

**SEEKING DIVERSITY
IN ATTENDANCE**

WSBA is offering a limited number of scholarships for underrepresented populations. Please see <https://www.wsba.org/about-wsba/equity-and-inclusion/wsba-pro-tem-scholarship-application> for more information.

Washington State Bar Association
Conference Center
1325 Fourth Ave, Suite 600
Seattle, WA 98101

Live WEBCAST Option

**Presented in partnership with
The District and Municipal Court
Judges Association**

DESCRIPTION:

The District and Municipal Court Judges Association (DMCJA) and the Washington State Bar Association (WSBA) are delighted to offer training for attorneys interested in being judges pro tempore or simply for those interested in knowing more about being a judge and the challenges of presiding in the courtroom. Attorneys who complete this 1.5 day training will be listed as possible resources for future pro tem appointments. **(NOTE: Completing this program does not guarantee a pro tem appointment, nor is it required to be on the list to be appointed.)**

The program focus on the skills necessary to become an effective judge, and includes topics on courtroom management, handling pro se litigants, diversity, working with court personnel, practice bias, and ethical conflicts for judges. The faculty is made up of judges, attorneys, and court personnel.

FACULTY CHAIR:

Judge Willie Gregory – Seattle Justice Center, Seattle

SCHEDULE

DAY ONE

**7:30 a.m. Check-in • Walk-in Registration
Coffee & Pastry Service**

8:20 a.m. Welcome & Introduction

Judge Willie Gregory – Seattle Justice Center, Seattle

8:35 a.m. Pro Tem Basics

During this session you will learn simple tips and strategies to get on and STAY on a Court’s pro tem list. This presentation will include a broad overview of calendars, case management, recognition of the importance of court staff, and the identification of other strategies and procedures to improve your ability to serve as an effective Judge Pro Tem.

As a result of this segment, you will be able to:

- Recognize and utilize effective time management and case management skills
- Learn best practices to stay on a Pro Tem list

Judge Johanna Bender – King County Superior Court, Seattle

9:20 a.m. Transitions to the Bench

Now that you’re on a different side of the bench, how do you transition from being an advocate to being a neutral and detached judicial officer? In this segment, you will learn about your new role and the required changes you will need to make to be a well-qualified and honest judicial officer, to ensure people’s rights are protected; to project yourself in a way that treats people with dignity and respect; to be prepared for the day; and above all, conduct yourself in a way that fosters trust in the court.

As a result of this segment, you will be able to:

- Recognize difference between old role vs. new role as pro tem
- Communicate your role and actions to all parties in the courtroom
- Identify specific Canons in the Code of Judicial Conduct that apply
- Familiarize yourself with court forms & instructions; statutes; case law; and other resources
- Distinguish how to be patient and professional from the bench

Judge Mary Logan – City of Spokane Municipal Court, Spokane

10:05 a.m. BREAK

10:20 a.m. Working with Court Personnel

Court staff can “make you” or “break you”. Working with court personnel is essential to your continued success as a pro tem. In this section you will learn the best ways to interact with court personnel and the importance of fostering these professional relationships.

As a result of this segment, you will be able to:

- Recognize the role and importance of court staff
- Learn when to ask for assistance
- Learn how to stay on time and on track

Judge Linda Coburn – Edmonds Municipal Court, Edmonds

Judge Lisa O’Toole – King County District Court, Bellevue

Ms. Margaret Yetter – Administrator, King County Municipal Courts, Kent

11:20 a.m. Technology in the Court

The Judicial Access Browser System (JABS) uses a web browser to display information stored in the Judicial Information System (JIS). JABS reduces the complexity of accessing JIS and displays information such as statewide individual case histories; statewide domestic violence information; case summary descriptions; charge or violation summary descriptions; case participants; protection order history for an individual; protection order history associated with a specific case, etc.

As a result of this segment, you will be able to:

- Gain an understanding of the JABS: What is it and why do I need it?
- Access JABS with updated security
- Search JABS by name or case
- Find information under JABS tabs
- Find and maneuver your court calendar in JABS
- View the DOL Abstract

Ms. Sara McNish, Court Education Professional – Administrative Office of the Courts, Olympia

Melanie S. Dane, Former Municipal Court Judge, Black Diamond

(continued next page)

(Day One schedule continued)

12:05 p.m. LUNCH – On Your Own

1:05 p.m. Ethics and Conflicts

During this session and through the use of scenarios and ethics opinions, faculty will discuss the application of the Code of Judicial Conduct, Canons, and rules as they pertain to pro tempore judicial officers.

As a result of this segment, you will be able to:

- Apply an analytical framework to solve ethical problems, particularly in cases with potential conflict
- Distinguish between mandatory and discretionary disqualification
- Locate and read Ethics Advisory Opinions

Ms. J. Reiko Callner – Washington Commission on Judicial Conduct, Olympia

Judge Ketu Shah – King County District Court, Bellevue

2:20 p.m. Working with Court Interpreters

Participants will learn the difference between translation and interpreting; the role of the interpreter during a court setting; how to work with court interpreters; and the uses/misuses of court interpreters.

As a result of this segment, you will be able to:

- Recognize the need for court interpreters when addressing access to justice issues for non-English speaking or deaf/hard of hearing individuals in the court room.
- Gain an understanding of the interpreter’s role and responsibilities
- Spot and address incorrect use of court interpreters

Judge Damon Shadid – Seattle Municipal Court, Seattle

Martha Cohen- King County Office of Interpreter Services, King County Superior Court, Seattle

3:20 p.m. BREAK

3:35 p.m. Role, Judicial Demeanor, and Practice Bias

During this segment, participants will be recognize how their judicial demeanor plays an important role in protecting the dignity of the court and the judicial process while ensuring the litigants are at ease enough to tell their stories.

As a result of this segment, you will be able to:

- Explore how to avoid practice bias
- Recognize why perception matters
- Assess your role and demeanor
- Set and maintain courtroom decorum

Judge N. Scott Stewart – Issaquah, Snoqualmie, and North Bend Municipal Court, Issaquah

4:35 p.m. ADJOURN – Day One

DAY TWO

**7:30 a.m. Check-in • Walk-in Registration
Coffee & Pastry Service**

8:20 a.m. Welcome Back

Judge Willie Gregory – Seattle Justice Center, Seattle

8:30 a.m. Pro Se Litigants, Contempt of Court, Dealing with Difficult Litigants, Taking Guilty Pleas, and Waiver of Rights

Through the use of examples and hypotheticals, faculty will discuss best practices concerning pro se civil and criminal litigants at critical stages of the proceedings.

As a result of this segment, you will be able to:

- Recognize and honor the Right to Counsel
- Develop skills to manage difficult litigants in the civil and criminal courtroom
- Locate best practice materials and forms

Judge Marilyn Paja – Kitsap County District Court, Port Orchard

Judge Charles Short – Okanogan County District Court, Okanogan

Judge Faye Chess – Seattle Municipal Court, Seattle

10:00 a.m. BREAK

10:15 a.m. Pro Se Litigants, Contempt of Court, Dealing with Difficult Litigants, Taking Guilty Pleas, and Waiver of Rights [Continued]

Judge Marilyn Paja – Kitsap County District Court, Port Orchard

Judge Charles Short – Okanogan County District Court, Okanogan

Judge Faye Chess – Seattle Municipal Court, Seattle

11:15 a.m. Judges’ Panel with Q&A on Fulfilling the Role of Judge

During this final segment, the faculty from the 1.5 days will reconvene and answer questions from the audience.

Moderator: Judge Willie Gregory, Seattle Justice Center, Seattle

12:30 p.m. Complete Evaluations • ADJOURN – Day Two

(Registration form - next page)

REGISTRATION

Please fill out the registration form and mail or fax to WSBA.
To register online, go to www.wsba.org/seminars and enter **18979** in the search box.

First Name _____ M.I. _____ Last Name _____

WSBA No. _____ Firm/Company Name: _____

Street Address _____

City _____ State _____ Zip _____

Phone _____ Fax _____

Email _____

Please omit my name from the networking list made available to exhibitors and/or attendees.
If special accommodations are needed, please email cle@wsba.org or call toll-free at 1-800-945-9722.

PAYMENT INFORMATION

Please note: Our service provider will charge you a separate, non-refundable transaction fee of 2.5% on all bank card transactions. There is no transaction fee if you mail in your check.

- | | |
|---|--|
| <input type="checkbox"/> #18979SEA, attend in Seattle, 8/24 - 8/25 | <input type="checkbox"/> #18979WEB, attend via webcast, 8/24 - 8/25 |
| <input type="checkbox"/> \$399 - Standard Tuition | <input type="checkbox"/> \$399 - Standard Tuition |

*New Members who are licensed for less than five years in WA are eligible for the New Member Tuition.

- Check enclosed payable to WSBA
 Visa MasterCard AmEx

Card No. _____

Cardholder Name (print) _____ Exp. Date _____

Authorized Signature _____

Mail: WSBA, 1325 Fourth Avenue, Suite 600, Seattle, WA 98101-2539

Internet: Register online at www.wsba.org/seminars • Order products online at www.mywsba.org.

Phone: 800-945-9722 or 206-443-9722 with credit card and registration/order form in hand.

Fax: 206-727-8324 Include credit card information

PAYMENT POLICIES

PAYMENT: Individual registrants must use a separate form, however, payment may be made with a single check or credit card for multiple parties.

NOTE: Please keep a copy of this flier for your records.

REFUNDS: Registration fees may be refunded, less \$25 for handling, for written cancellations postmarked, emailed, or faxed by 5 p.m., up to 3 business days before the seminar. No refunds after that date, but you will receive the coursebook. Canceled registrations may not be transferred to other seminars. You may send a substitute (e.g., someone from your firm) in lieu of canceling.

Registrations received less than 48 hours before a seminar are not guaranteed a coursebook or other presentation materials on-site.

office use only Date _____ Check # _____ Total _____



WSBA

BOARD OF GOVERNORS

Kim E. Hunter

Phone: 253-709-5050 (office)

Governor, District 8

email: kim@khunterlaw.com

REPORT FROM BOG Liaison Kim Hunter

Judges and Administrators,

I hope that everyone is doing well and having a good summer and trying to beat the heat! I have greatly enjoyed continuing to attend DMCJA. It has been and continues to be a great honor to represent your organization to our BOG and to facilitate and communicate concerns and questions you may have. Here is an update on our last BOG meeting.

The Board of Governors met in Vancouver Washington on July 26, 27, and 28. The 26th, the Board had an all-day retreat, followed by a dinner meeting that night with the Oregon Board of Governors. Friday the 27th, after an all -day meeting, the BOG met with the W.Y.L.C for dinner. Saturday morning, we had breakfast with the Washington Leadership Institute. We met several outstanding young lawyers, heard inspiring and positive stories about how the WLI had helped them, and these young attorneys will no doubt help to shape the future of our profession and be future leaders within the WSBA.

The Board of Governors were honored to have Washington State Supreme Court Chief Justice Mary Fairhurst attend the entire three (3) days of our meetings. We were also honored to have Justice Madsen and Owens attend various portions of the BOG meetings and all three interacted with Governors.

A special BOG meeting was held on June 25, 2018, where we selected Carla Higginson as District 2 Governor. This appointment was necessary as the previous outstanding Governor from District 2, Rajeev Majumdar was elected WSBA President-Elect on May 17th, and was sworn in immediately to start service as a result of former President Brad Furlong's sudden resignation on March 17th. Having had the opportunity to meet and interact with Governor Higginson, I believe she's going to be a fine Governor and I greatly look forward to working with her in the future.

JULY 26-28 2018 BOG MEETING:

The following is a brief summary from the Board of Governors meeting held in Vancouver, Washington on July 26, 27, and 28, 2018. I've tried to be brief with this summary. Please contact me directly with any questions regarding any of these topics.

- **New Treasurer.** We elected Dan Bridges WSBA Treasurer. I look forward to closely working with Treasurer Bridges in 2018-19 on the Budget and Audit Committee on various WSBA budget issues.
- **Health Insurance for Members.** The BOG gave the WSBA staff the go-ahead to proceed with seeking to establish a private group health insurance exchange following the guidelines and suggestions in my proposal to the BOG. Many of you asked that we explore offering group health insurance as a Member benefit and it looks like it may soon be a reality. Myself and WSBA staffers Terra Nevitt and Ana LeNasa-Selvidge worked hard to figure out how to get this done cost effectively. The BOG unanimously voted for this benefit to our members.
- **Casemaker.** WSBA staff gave a detailed and informative report on their evaluation of Casemaker versus FastCase. It seems the consensus will be to stick with Casemaker as the free legal research tool for Members. We'll hear more at the September BOG meetings.
- **Budget First Reading.** Treasurer Kim Risenmay and Controller Ann Holmes walked us through the proposed 2019 budget, which closely tracks the 2018 budget. It will be formally approved in September. Feel free to share any specific concerns you might have with me.
- **Increased LLLT and LPO License Fees.** In a nod to WSBA attorney Members over the high costs of the LLLT program born by the attorney Members, the BOG approved increasing annual fees on LLLTs and LPOs to same amount as the dues paid by attorneys, but with corresponding reductions for the first two years of WSBA membership.

The BOG voted to raise both license types to the same annual license fees as Attorney members. The BOG also voted to impose the \$30 dollar client protection fund fee on ALL members including all LPO and LLLT members. Such license fee increases are subject to review for reasonableness and ultimately approval by the Washington State Supreme Court.

- **CLE Revenue Sharing Model.** The new revenue sharing model between the WSBA and Sections was approved following months of discussions with the Sections. The model allows Sections to share in sales of previously recorded

content. Kudos were rightly offered to WSBA staffers Kevin Plachy, Terra Nevitt and the rest of the CLE team for doing great work.

- **RPC Amendment.** The BOG approved amending Comment 18 to RPC 1.2 to reduce ethics concerns over counseling clients regarding the law involving legal marijuana, given ongoing federal law uncertainty.
- **Mandatory Malpractice Insurance Task Force Interim Report.** We received a report from this task force on a range of issues concerning malpractice insurance. Final recommendations are due next January. According to comments by task force members Doug Ende and Hugh Spitzer, 14% of Washington attorneys are uninsured, 28% of solos are uninsured, and solos are disproportionately represented in malpractice claims.

On September 28, 2017 when this Taskforce was formed with one Governor the only one to oppose such formation.

There is great opposition to any mandatory malpractice insurance provisions imposed upon membership. I've heard from over 200 of you individually and the overwhelming clear majority of membership in District 8 greatly opposes such requirements as a condition to practice law.

Most concerns that I have received are from new or retired attorneys that are greatly concerned with literally having to choose between paying for health insurance, rent and basic necessities in life, and mandatory malpractice premiums. It's important to note that 48 other states do NOT require mandatory malpractice insurance and only Oregon has required it as a condition to practice law for any meaningful amount of time.

I would greatly encourage any of you that have an opinion about this to please send an email and written correspondence to insurancetaskforce@wsba.org I would also ask that you cc me at kim@khunterlaw.com. The Board of Governors will ultimately see all of the member responses on this issue before making a decision, so it is of the utmost importance that if you have concerns about this proposal that you make your voice heard and send an email to the above email address.

If a majority of the BOG ultimately determines that a mandatory insurance model is adopted, I fully believe that first trying a model like South Dakota which requires large-print notice of lack of malpractice insurance on every uninsured lawyer's stationary. Such benefit of adoption of a model like that would result in low cost to administer, and would clearly help to protect the public without imposing increased financial burdens on membership. If a majority of the BOG believes that we need additional safeguards for the public, then I believe this is a first reasonable step prior to moving towards formal mandatory malpractice insurance.

Other Items:

Not much else of substance occurred, aside from preliminary task force reports on amending the civil and criminal rules, and approving a "Member Engagement Task Force" charter and roster. We "kicked the can down the road" on the Member Referendum Process Review Workgroup due to time constraints. The proposed Bylaw amendment to prohibit BOG members from recommending BOG candidates also received no discussion and will be taken up, in September.

Next Meeting:

As mentioned above, the BOG will meet in September 27 & 28, 2018 in Seattle, Washington. If you have any questions or concerns regarding this update, please let me know. It's a continued honor and privilege to serve each of you on the Board of Governors and the DMCJA. I look forward to hearing from you with any questions or concerns you have regarding WSBA.

Respectfully,

Kim

Kim E. Hunter
Governor District 8

Additional informational tidbits.

The APEX awards are presented to those who have contributed to the legal community. There is a dinner on September 27, at the Sheraton to honor these committed individuals.

And the WSBA 2018 APEX Award Goes to ...

At the May 17-18 Board of Governors meeting, the Board approved the slate of recommendations from the Awards Committee for the following WSBA Acknowledging Professional Excellence award categories:

Angelo Petrus Award for Lawyers in Government Service: Leslie E. Reardanz III
Award of Merit: Spokane Community Court

Excellence in Diversity Award: Hon. Bonnie Glenn
Legal Innovation Award: Project Safety
Lifetime Service Award: Milton G. Rowland
Norm Maleng Leadership Award: Joan Barbara Kleinberg
Outstanding Judge Award: Hon. Bruce A. Spanner
Outstanding Young Lawyer: Annalise Martucci
Pro Bono and Public Service Award (Individual): Edward "Eddie" Morfin
Pro Bono and Public Service Award (Group): Law Offices of Carol L. Edward
Professionalism Award: Mark Johnson

I should also for say all of my fellow Gonzaga School of Law graduates that I'm very proud Milt Rowland was selected as the Lifetime Achievement award winner. Milt in my strong opinion is an outstanding law professor, attorney, mentor, and a very worthy recipient of this award.

Kim

TO: Judge Rebecca Robertson, President, and DMCJA Board of Governors
FROM: Judge David Steiner, Chair, Workgroup on Judicial Independence
SUBJECT: Workgroup on Judicial Independence – Final Report
DATE: August 8, 2018

On October 13, 2017, the DMCJA Board of Governors (Board) voted to create the Workgroup on Judicial Independence to develop ideas and create a system of responses for judicial independence related matters. See Board Minutes for October 13, 2018. The Workgroup on Judicial Independence met for nine months and addressed the following:

- Potential judicial independence issues when city officials threaten to close municipal courts prior to the end of a judge’s term of office
- Rule changes to ensure judicial independence is protected for all DMCJA judges
- A Policy and Procedure Manual to provide a system of responses to judicial independence related matters
- Renaming the DMCJA Judicial Independence Fire Brigade to Council on Independent Courts (CIC)

The Workgroup on Judicial Independence submits to the DMCJA Board this Final Report and requests the Board take the following actions:

- (a) Approve renaming the DMCJA Judicial Independence Fire Brigade to Council on Independent Courts (CIC) and amending the bylaws to include the CIC as a thirteenth standing committee
- (b) Approve the CIC Policy and Procedure Manual
- (c) Approve Proposed Amendments to General Rule (GR) 29

Attached please find the following items:

- (1) Workgroup on Judicial Independence Final Report (pp 1-9)
- (2) Proposed Council on Independent Courts Policy and Procedure Manual (pp 2-7)
- (3) Proposed General Rule (GR) 29 Amendments (pp 1, 9)

As Chair of the Workgroup on Judicial Independence, I would like to commend the workgroup for the time and effort spent creating solutions to an issue facing many of our colleagues. Thank you for your consideration of our proposals.

Workgroup on Judicial Independence

Final Report

The Workgroup on Judicial Independence (the workgroup) met regularly for nine months from November of 2017 to the present with the goal of creating a system of responses to court independence issues. Suggested responses to these issues would form the basis for a “blueprint” for the Judicial Independence Fire Brigade, which was created by the DMCJA Board of Governors (Board) during the Board Retreat in May, 2017.

The following judges served consistently on the workgroup:

- Judge Scott Ahlf
- Judge James Docter
- Judge Michelle Gehlsen
- Judge David Larson
- Judge Linda Portnoy
- Judge Rebecca Robertson
- Judge David Steiner

The workgroup has had and continues to have the full support of the Administrative Office of the Courts (AOC). AOC representatives Dirk Marler and Sharon Harvey attended most meetings and Sharon Harvey also provided administrative and policy support.

Initially, members of the workgroup were not satisfied with the name of the committee, “The Judicial Independence Fire Brigade,” and eventually voted to rename the committee, “Council on Independent Courts (CIC).”

The workgroup also considered many options intended to further the independence of Washington’s courts of limited jurisdiction. One consistent option - a standard judicial contract for appointed municipal court judges - was finally abandoned in favor of a proposal for a court rule mandating, in the workgroup’s view, essential content for municipal court judicial services contracts. Arguably, General Rule (GR) 29 already attempts to shore up the constitutional independence of our courts. The independence of part time municipal courts is specifically addressed in GR 29 (k), which currently prohibits judicial service contracts with provisions that conflict with the rule and requires that any judicial service contract acknowledge that the court is a part of an independent branch of government and that the judicial officer and court employees are required to act in accord with the Code of Judicial Conduct and Court Rules.

A. Proposal to Amend General Rule (GR) 29

The CIC proposes the addition of four new provisions to GR 29 in a new subsection (l), which would also require as follows:

(l) Required Provisions of a Part-Time Judicial Officer Employment Contract

(1) Term of Office and Salary

A municipal court judge’s term of office shall be four years as provided in RCW 3.50.050. The judge’s salary shall be fixed by ordinance in accordance with RCW 3.50.080 and the salary shall not be diminished during the term of office.

(2) Judicial Duties

The judge shall perform all duties legally prescribed for a judicial officer according to state law, the requirements of the Code of Judicial Conduct, and Washington State court rules.

(3) Judicial Independence and Administration of the Court

The Court is an independent branch of government. The Presiding Judge shall supervise the daily operations of the court and all personnel assigned to perform court functions in accordance with the provisions of GR 29 (e), GR 29 (f), and RCW 3.50.080. Under no circumstances should judicial retention decisions be made on the basis of a judge’s or a court’s performance relative to generating revenue from the imposition of legal financial obligations.

(4) Termination and Discipline

The judge may only be admonished, reprimanded, censured, suspended, removed, or retired during the judge’s term of office as provided in Article IV, section 31 of the Washington State Constitution.

See attached Proposed GR 29 Amendment.

B. Proposal to Adopt Policy and Procedure Manual

The workgroup also developed (mainly through the work of Judge David Larson) a “blueprint” for CIC responses to court independence challenges, titled The Council on Independent Courts, Policy and Procedure Manual:

Council on Independent Courts

Policy and Procedure Manual

I. Purpose and Powers

The purpose of the Council on Independent Courts (CIC) is to protect, promote, and maintain the respect and dignity of Courts of Limited Jurisdiction as a co-equal branch of local government. The CIC:

1. Provides a knowledge base of laws and principles on the importance of independent Courts of Limited Jurisdiction;
2. Provides advice and counsel to all three branches of local government on issues affecting independent Courts of Limited Jurisdiction;
3. Responds to threats to independent Courts of Limited Jurisdiction within the bounds of its powers and responsibilities;

4. Provides recommendations to the board of the District and Municipal Court Judges Association on further actions needed to be taken in response to threats to independent Courts of Limited Jurisdiction.

II. Guiding Principles

Paragraph 1 of the Preamble to the Code of Judicial Conduct best sets forth the guiding principles of the CIC:

“An independent, fair, and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.”

In sum, judicial independence and public confidence in the judiciary are inextricably intertwined.

Judicial independence provides the equal opportunity for justice and fairness that is desired by the citizens of our communities. Judicial independence is built on a foundation of accountability directly to the people we serve.

Judicial independence is not absolute; it must be tempered with overarching principles that rely upon checks and balances among the three co-equal branches of government. Trust and confidence in the judiciary is achieved and judicial independence is preserved when the decisions reached by judges are based upon a dispassionate application of the facts to the law as well as the competent administration of the judicial branch.

Judges are required by the Code of Judicial Conduct to protect judicial independence and public confidence against external pressures intended to influence their decisions on or off the bench as well as internal threats caused by their own conduct, the conduct of other judges, and the conduct of court staff.

Members of the legislative and executive branches must also support an independent judiciary because to do so increases public confidence in local government as a whole, especially in jurisdictions where government officials appoint and retain judges. Thus, members of the other branches of government also play “...a central role in preserving the principles of justice and the rule of law” and they must “...individually and collectively...respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.”¹

Therefore, all shall adhere to the following principles:

¹ Preamble to the Code of Judicial Conduct

1. Courts and court services shall be established and organized in compliance with Article IV of the State Constitution, all applicable court rules, and all valid enabling laws.
2. The election, appointment, and/or retention of judges shall comply with Article IV of the State Constitution, all applicable court rules, and all valid enabling laws.
3. Only judges and court staff shall manage courts.

III. Guidelines for Action by the Council on Independent Courts

The CIC should consider acting if any of the following guidelines have been violated.

1. Proper Formation and Organization of Courts

Sec.	Guideline	Authority
(a)	A municipal court should not be terminated during the active term of office of a judge serving that court.	The terms of office in RCW 3.50.040 , RCW 3.50.050 , and RCW 35.20.150 should be construed in harmony with termination provisions.
(b)	A redistricting plan that reduces the salary or shortens the term of any district court judge shall not be effective until the next regular election for district judge.	RCW 3.38.040(1)
(c)	A city cannot terminate a contract for court services with a county until the end of the district court judge's term of office.	RCW 3.50.810(2) RCW 35.20.010(3)
(d)	A county cannot terminate an agreement for court services with a city without at least one-year's notice.	RCW 3.50.810(3) RCW 35.20.010(4)
(e)	A court should not be terminated because of the outcome of cases or decisions made by the judge.	General principles of judicial independence

2. Election, Appointment, and Retention of Judges

Sec.	Guideline	Authority
(a)	Judges must be selected for appointment in a fair, non-partisan, and open public process.	General principles of judicial independence
(b)	Local public officials from other branches of government should not attempt to influence judicial elections in the course of their official duties.	General principles of judicial independence
(c)	A district court judge's full term of office is four years and shall not be shortened.	RCW 3.34.070 RCW 3.38.040(1)

	Both elected and appointed municipal court judges serve a term of four years.	RCW 35.20.150 RCW 3.50.040 RCW 3.50.050
(d)	Contracts signed by appointed judges shall comply with GR 29(k).	GR 29(k)
(e)	A municipal court judge's salary and/or other compensation shall be set by ordinance, not by contract.	RCW 3.50.080 RCW 35.20.160
(f)	A judge's salary or other compensation may not be reduced during the judge's term of office.	Wash. Const. Art. XI, Sec. 8,
(g)	The outcome of cases or decisions made by an appointed judge should not be the basis for non-renewal unless it can be shown that the decisions reached are contrary to the law or court rules.	General principles of judicial independence

3. Proper Management of Courts

Sec.	Guideline	Authority
(a)	Judges must control the proposal and management of the court's budget and management of the court.	GR 29(f)
(b)	Courts must be adequately staffed with judges, support staff, and resources.	RCW 3.58.050 RCW 35.20.120 RCW 3.50.080
(c)	Only presiding judges can appoint pro tem judges.	RCW 3.34.130 RCW 35.20.200 RCW 3.50.090
(d)	The presiding judge must have sole control of the hiring, retention, and working conditions of all court staff. This includes control of labor negotiations relating to hiring, retention, and working conditions of court staff. Nothing prevents the presiding judge from voluntarily seeking the advice and assistance of the other branches of government in personnel matters.	GR 29(f) RCW 3.54.020 RCW 35.20 RCW 3.50.080
(e)	The court manages the probation department.	ARLJ 11 RCW 10.64.120
(f)	The court manages the collection of fines, costs, forfeitures, and other assessments.	RCW 3.02.045 RCW 3.62.040 RCW 35.20.220 RCW 3.50.100
(g)	Only courts can supervise violation bureaus.	RCW 3.30.090 RCW 3.50.030 RCW 35.20.131
(h)	Courts will decide cases on the merits consistent with laws and court rules regarding fines, costs, and other assessments. Courts will not serve as mere revenue generators for local government.	General principles of judicial independence

IV. Initiation of Council on Independent Courts Action

If there is a violation of any CIC guideline then any person, including members of the CIC, may request that the CIC take action.

Upon receipt of the request for action, the CIC shall meet as soon as practicable via email. A conference call meeting may be set if email is inadequate. The CIC shall follow these protocols in determining how to respond to a request for CIC action.

1. The CIC will make an initial determination by majority vote of the CIC members participating whether there is good reason to believe that one or more guidelines have been violated;
2. The CIC shall advise the presiding judge of the affected court(s) and the complainant of the CIC's concerns and issues raised by the circumstances.
3. The CIC Chair will appoint a member of the CIC to act as the Lead to investigate the alleged violation and/or to gather further information, if needed;
 - a. No investigation may take place over the objection of the affected presiding judge(s) unless the DMCJA Board approves the investigation;
 - b. The DMCJA Board should call an emergency meeting to make the decision unless a regular meeting is scheduled for less than ten (10) days from the request for approval to proceed.
4. The CIC Lead may seek the assistance of other CIC members;
5. The CIC Lead has the authority to take any necessary action(s) that is/are within the Approved CIC Lead Actions provided below;
 - a. The CIC must approve any action that varies from the approved actions;
 - b. No action may be initiated that would result in the threat of or initiation of litigation or the filing of a complaint with any judicial or administrative body unless the DMCJA Board approves such action;
 - c. The DMCJA Board should call an emergency meeting to make the decision unless a regular meeting is scheduled for less than five (5) days from the request for approval.

V. Actions Allowed with Approval of DMCJA President

A CIC Lead is authorized to take the following actions on behalf of the CIC with further approval by the DMCJA President:

1. Interview anyone with relevant information;
2. Conduct factual and data research;
3. Make public records requests;
4. Prepare position papers that may not be submitted for publication without CIC approval;
 - a. Template position papers shall be used whenever possible.
 - b. In case of an emergency requiring an expedited response, the President may approve the publication without CIC approval.
5. Communicate with public officials and members of the public;
 - a. Template correspondence shall be used whenever possible.
6. Appear and speak at public meetings before county or city legislative bodies;

7. Organize others to appear at public meetings and/or to correspond with public officials;
8. Draft Op-Eds/Letters to the Editor, but such writings may not be submitted for publication without CIC approval;
9. Recommend other actions to the CIC.

C. Proposal to Amend DMCJA Bylaws

The work of standing DMCJA committees is memorialized in Article X of the DMCJA Bylaws. The DMCJA Board should determine whether the CIC should operate as a standing committee. If the Board votes to identify the CIC as a standing committee, the Bylaws should be amended as follows:

ARTICLE X - Committees

Section 1. Membership of Committees:

There shall be thirteen (13) standing committees and other such committees as may be authorized by the Association and by the President. The standing committees shall be the Nominating Committee, Bylaws Committee, Conference Committee, Legislative Committee, Court Rules Committee, Education Committee, Long Range Planning Committee, Diversity Committee, DOL Liaison Committee, Technology Committee, Therapeutic Courts Committee, Judicial Assistance Services Program, and Council on Independent Courts. Committee Chairs shall submit written annual reports to the members at the Association's Annual Meeting. In selecting members for the Association's committees, the President should make every effort to assign a member to the member's first preferred committee, even if such assignment increases the committee's size.

Section 2. Committee Functions:

...

(j) Council on Independent Courts (CIC):

- (1) The DMCJA President shall endeavor to appoint both district and municipal court judges to the CIC.
- (2) The CIC will provide a knowledge base of laws and principles on the importance of independent courts of limited jurisdiction.
- (3) The CIC will provide advice and counsel to all three branches of local government on issues affecting independent courts of limited jurisdiction.
- (4) The CIC will respond to threats to independent courts of limited jurisdiction within the bounds of its powers and responsibilities.
- (5) The CIC will provide recommendations to the board of the DMCJA on further actions needed in response to threats to independent courts of limited jurisdiction.
- (6) The CIC shall maintain a Policy and Procedure Manual outlining appropriate responses to court independence challenges. The Manual and any amendments must receive Board of Governors approval.
- (7) The DMCJA President shall be an ex officio member of the CIC.

It is anticipated that, upon Board approval of the workgroup proposals, the workgroup will sunset and the CIC will begin its work. Please contact me if you have any questions about the work of the workgroup or the proposals for the CIC.

D. Final Proposed Recommendations for Board Action

In conclusion, the workgroup recommends that the Board:

1. Approve the final report of the workgroup;
2. Approve the name change of the Committee from the Judicial Independence Fire Brigade to the Council on Independent Courts;
3. Approve the proposed GR 29 amendments or forward the proposed amendments to the Rules Committee for approval and their eventual return to the Board for later approval;
4. Approve the CIC Policy and Procedure Manual;
5. Approve the proposed Bylaw amendments or forward the proposed amendments to the Bylaws Committee for approval and their eventual return to the Board for later approval and possible consideration at the spring conference pursuant to Article XI of the DMCJA Bylaws;
6. Disband the Workgroup on Judicial Independence and approve the Council on Independent Courts as a new committee (pending the Bylaws change, which would designate the CIC as a standing committee).

David A. Steiner, Chair, Judicial Independence Workgroup

Proposed GR 29 Amendments

[Subsections (a)-(j) remain unchanged.]

(k) Employment Contracts. A part-time judicial officer may contract with a municipal or county authority for salary and benefits. The employment contract

shall not contain provisions which conflict with this rule, the Code of Judicial Conduct or statutory judicial authority, or which would create an impropriety or the appearance of impropriety concerning the judge's activities.

The employment contract should acknowledge the court is a part of an independent branch of government and that the judicial officer or court employees are bound to act in accordance with the provisions of the Code of Judicial Conduct and Washington State Court rules. A contract for judicial services shall include the provisions set forth in section (l) of this rule.

NEW SECTION. (l) Required Provisions of a Part-Time Judicial Officer Employment Contract

(1) Term of Office and Salary

A municipal court judge's term of office shall be four years as provided in RCW 3.50.050. The judge's salary shall be fixed by ordinance in accordance with RCW 3.50.080 and the salary shall not be diminished during the term of office.

(2) Judicial Duties

The judge shall perform all duties legally prescribed for a judicial officer according to state law, the requirements of the Code of Judicial Conduct, and Washington State court rules.

(3) Judicial Independence and Administration of the Court

The Court is an independent branch of government. The Presiding Judge shall supervise the daily operations of the court and all personnel assigned to perform court functions in accordance with the provisions of GR 29 (e), GR 29 (f), and RCW 3.50.080. Under no circumstances should judicial retention decisions be made on the basis of a judge's or a court's performance relative to generating revenue from the imposition of legal financial obligations.

(4) Termination and Discipline

The judge may only be admonished, reprimanded, censured, suspended, removed, or retired during the judge's term of office as provided in Article IV, section 31 of the Washington State Constitution.