



**DISTRICT AND MUNICIPAL
COURT JUDGES' ASSOCIATION**

BOARD MEETING

NOVEMBER 8, 2019

**AOC SEATAC OFFICE
SEATAC, WASHINGTON**

DISTRICT AND MUNICIPAL COURT JUDGES' ASSOCIATION SCHEDULE OF BOARD MEETINGS

2019-2020

DATE	TIME	MEETING LOCATION
<i>Friday, July 12, 2019</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, Aug. 9, 2019</i> CANCELLED	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Sunday, Sept. 22, 2019</i>	9:00 a.m. – 12:00 p.m.	2019 Annual Judicial Conference, Vancouver, WA
<i>Friday, Oct. 11, 2019</i> CANCELLED	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, Nov. 8, 2019</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, Dec. 13, 2019</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, Jan. 10, 2020</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, Feb. 7, 2020</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, March 13, 2020</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, April 10, 2020</i>	12:30 – 3:30 p.m.	AOC SeaTac Office Center
<i>Friday, May 8, 2020 & Saturday, May 9, 2020</i>	May 8: 12:00-5:00 p.m. May 9: 9:00-1:00 p.m.	2020 DMCJA Board Retreat, Location: TBD
<i>May/June 2020 – TBD</i>	9:00 a.m. – 12:00 p.m.	2020 DMCJA Spring Conference, Location: Spokane, WA

AOC Staff: Sharon Harvey

Updated: October 3, 2019



**DMCJA BOARD MEETING
FRIDAY, NOVEMBER 8, 2019
12:30 AM – 3:30 PM
AOC BUSINESS OFFICE
SEATAC, WA**

PRESIDENT SAMUEL MEYER

AGENDA

PAGE

Call to Order

General Business

- A. Minutes
 - 1. September 22, 2019
- B. Treasurer's Report
- C. Special Fund Report
- D. Standing Committee Reports
 - 1. Education – Committee voted to purchase Judge Chip Small's book for DMCJA judges attending Judicial College
 - 2. Legislative Committee
 - 3. Rules – Minutes for August 28, 2019
- E. Judicial Information System (JIS) Report – *Vicky Cullinane*

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Liaison Reports

- A. Board for Judicial Administration (**BJA**) – *Judges Kevin Ringus, Mary Logan, Dan Johnson, and Tam Bui*
- B. District and Municipal Court Management Association (**DMCMA**) – *Ms. Dawn Williams*
- C. Misdemeanant Probation Association (**MPA**) – *Ms. Stacie Scarpaci*
 - 1. DMCJA Request for support letter
 - 2. Substance Use Disorder (SUD) Treatment Provider Letter
- D. Superior Court Judges' Association (**SCJA**) – *Judge Judith Ramseyer*
- E. Washington State Association for Justice (**WSAJ**) – *Sean Bennet Malcolm, Esq.*
- F. Washington State Bar Association (**WSBA**) – *Kim E. Hunter, Esq.*

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12-13

Discussion

- A. Legal Financial Obligation (LFO) Remission Rule – Judge David Steiner

<ul style="list-style-type: none"> 1. Proposed General Rule (GR) 38, Remission of Legal Financial Obligations – Clean Version 2. Proposed GR 38, Remission of Legal Financial Obligations – Redlined Version B. DMCJA Rules Committee Recommendation to Oppose WSBA Proposal to Amend IRLJ 1.2 and 2.2 C. Proposed Court Rule regarding Immigration Enforcement D. Petition to Change Name – Washington Attorney General Office’s concerns regarding practices in Washington State District Courts E. CLJ-CMS Project Status Update – <i>Judge Kimberly Walden and Judge Glenn Phillips, DMCJA Representatives on CLJ-CMS Project Steering Committee</i> F. Trial Court Advocacy Board (TCAB) Status Update G. DMCJA Public Outreach Committee Survey for Approval H. Chief Justice Mary Fairhurst Retirement - Gift Ideas I. Ratification of Commissioner Board Position Appointment 	<p>14-16</p> <p>17-19</p> <p>20-32</p> <p>33-49</p> <p>50-54</p>
<p>Information</p> <ul style="list-style-type: none"> A. The DMCJA President has appointed the DMCJA Nominating Committee. See Nominating Committee Roster [DMCJA Bylaws, Art. IX, Sec. 2(a) (2).] B. Full Court Press Volume 2, 2019: Technology Edition, released on September 26, 2019, provides the status on the CLJ-CMS Project, Enterprise Data Repository, Pattern Forms, and the 2019 Leadership Summit. C. On October 3, 2019, Chief Justice Mary Fairhurst announced that she will retire on January 5, 2020 to focus on her health. For more information, please select the following web link: “Washington chief justice to step down in January because of cancer.” D. The DMCJA Board voted to use the existing allocation percentages regarding the LFO Non-Restitution Interest-Loss Mitigation Funding for the 2020-2021 Biennium. E. The DMCJA Board voted to approve fifteen hundred dollars (\$1500) for oral argument services by Katherine George, Esquire, who prepared an amicus brief on behalf of the DMCJA in Washington v. Stevens County District Court Judge. F. District and municipal courts will be highlighted in the TVW Program, <i>Teach With TVW</i>. G. Letter to Spokane County Clerk, Mr. Timothy Fitzgerald, Washington State Association of County Clerks President, regarding Odyssey Portal Access H. CLJ related articles: Lawyer files claims totaling \$20 million over judge with no law degree in Airway Heights, Cheney 	<p>55</p>

Other Business	
A. The next DMCJA Board Meeting is December 13, 2019, 12:30 p.m. to 3:30 p.m., at the AOC SeaTac Office Center.	
Adjourn	

A. The next DMCJA Board Meeting is December 13, 2019, 12:30 p.m. to 3:30 p.m., at the AOC SeaTac Office Center.

Adjourn



DMCJA Board of Governors Meeting
Sunday, September 22, 2019, 9:00 a.m. – 12:00 p.m.
Heathman Lodge
Vancouver, Washington

MEETING MINUTES

Members Present:

Chair, Judge Samuel Meyer
Judge Linda Coburn
Judge Thomas Cox
Judge Michelle Gehlsen
Judge Drew Ann Henke
Judge Tyson Hill
Commissioner Rick Leo (via phone)
Judge Aimee Maurer
Judge Rebecca Robertson
Judge Charles Short
Judge Jeffrey Smith
Judge Laura Van Slyck
Commissioner Paul Wohl

Guests:

Judge Tam Bui, BJA
Judge Dan Johnson, BJA
Judge Mary Logan, BJA
Judge Kevin Ringus, BJA

AOC Staff:

Sharon R. Harvey
J Benway
Vicky Cullinane

Members Absent:

Judge Robert Grim

CALL TO ORDER

Judge Meyer, 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 9:11 a.m. Meeting participants introduced themselves.

GENERAL BUSINESS

A. Minutes

1. July 12, 2019
2. August 20, 2019 – Special Meeting

The Board moved, seconded, and passed a vote (M/S/P) to approve Minutes for both July 12, 2019 and August 20, 2019.

B. Treasurer's Report

Commissioner Leo referred Board members to the August 2019 Treasurer's Report located in meeting materials. This report includes the (a) statement of financial position, (b) monthly statement of activities, (c) bank reconciliation reports, (d) transaction detail report (year-to-date), (e) current budget balance, and (f) prior budget. Commissioner Leo requested that the Board accept both the August and July 2019 Treasurer's Report. The July Treasurer's Report was not previously accepted because Commissioner Leo was unavailable to attend the July meeting.

M/S/P to accept both July and August 2019 treasurer reports.

C. Special Fund Report

Judge Short requested that the Board accept the Special Fund Report located in meeting materials. Judge Short reported that the five thousand dollar (\$5,000) fee for services to draft and file an amicus brief was taken from the DMCJA Special Fund.

D. Standing Committee Reports

1. Rules Committee
 - a. Minutes for February 28, 2019
 - b. Minutes for March 27, 2019
 - c. Minutes for June 4, 2019
 - d. Minutes for July 24, 2019

Ms. Benway, AOC Staff for the DMCJA Rules Committee, informed that the Rules Committee report consists of Minutes from four committee meetings.

2. Legislative Committee
 - a. Proposed DMCJA Bills for 2020 Legislative Session (Supplemental Materials)

On behalf of the DMCJA Legislative Committee, Commissioner Wohl, Committee Chair, presented the following five proposed DMCJA bills for the 2020 Legislative Session:

1. **Affidavit of Prejudice (Notice of Disqualification)**

This bill would change, "affidavit of prejudice" language to "Notice of Disqualification" for consistency with the Superior Court statute. The amendment would (1) allow a disqualified judge to conduct arraignment and set conditions of release, and (2) allow a disqualified judge to serve upon agreement of parties.

2. **Discover Pass**

This bill seeks to keep monies collected from Discover Pass violations local; initially, all money stayed local from discover pass violations; however, the state receives all revenue now; the Committee for a number of years has been trying to introduce a split of funds between the state and local government. This is primarily important for the smaller counties such as Skamania and Pacific counties. Ultimately, the Committee would like a state and local split and therefore, the Committee agrees to run this back again. The DMCJA Legislative Committee recommends proposing the original Discover Pass bills (Senate Bill (SB) 6297 and House Bill (HB) 2529).

3. **Interlocal Agreements for Probation Services**

This bill would allow courts to enter interlocal agreements for probation services. A detailed analysis was provided in the supplemental agenda packet.

4. **Small Claims**

This bill amends HB 1048, Small Claims Judgment, which was proposed by the DMCJA and passed the 2019 Legislature. The request is to amend [RCW 12.40.105](#) to allow a 30 day appeal window before a judgment is issued to the defendant.

5. **Competency Statutes**

- a. [RCW 10.77.068](#) - Amendment request to (a) align statutory timelines with those set forth in *Trueblood v. Washington State Department of Social and Health Services*, 73 F.Supp.3d 1311 (2014), and (b) render bases for continuances in the statute consistent with *Trueblood*.

- b. [RCW 10.77.010](#) (13) - Amendment request to define history of violent actions to include non-exclusive list of types of evidence Court may consider; [RCW 10.77.088](#) amendment request to add a standard for determining whether a defendant has a history of violent acts
- c. [RCW 10.77.088](#) - Amendment request to eliminate renumbering confusion related to RCW 10.77.088(3) pursuant to 2ESSB 5444 and SB 5205

The Board reviewed the list, which was sent to them prior to the Board meeting. M/S/P to move this to an action item to vote on whether to approve the DMCJA Legislative Committee's proposed DMCJA bills for the 2020 Legislative Session.

E. Judicial Information System (JIS) Report

Ms. Cullinane reported that the Judicial Information System Committee (JISC) approved the Courts of Limited Jurisdiction Case Management System (CLJ-CMS) Project Steering Committee's recommendation that the Administrative Office of the Courts (AOC) open contract negotiations with Tyler Technologies. Tyler's product has made significant improvements since the original request for proposal (RFP), and the CLJ-CMS Project has ongoing meetings with Tyler Technologies in the coming weeks to review the previously identified gaps and determine if they can be met before moving on to negotiations. The CLJ-CMS Court User Work Group (CUWG), which had been on hiatus, has now reconvened. The project is targeting the start of the work with Tyler for early next year.

LIAISON REPORTS

A. Board for Judicial Administration (BJA)

Judges Bui, Ringus, and Johnson, DMCJA representatives on the BJA, reported on BJA activities related to education, adequate court funding, court infrastructure, the Judicial Leadership Summit in August, court security task force, and the BJA Legislative Committee. The BJA Education Committee is discussing methods, such as online education, to provide more judicial educational opportunities for Washington judges. The BJA Policy and Planning and Committee will identify options for addressing adequate court funding, including behavioral courts, and bring back to the Board for review. The BJA Legislative Committee is soliciting from court associations legislative requests that may impact the entire judicial community. For more information on BJA activities, please visit the following web site: http://www.courts.wa.gov/programs_orgs/pos_bja/.

ACTION

1. Proposed DMCJA Bills for 2020 Legislative Session

M/S/P to approve the DMCJA Legislative Committee's proposed DMCJA bills for the 2020 Legislative Session. These proposed bills are as follows: (1) Affidavit of Prejudice (Notice of Disqualification), (2) Discover Pass, (3) Interlocal Agreements for Probation Services, (4) Small Claims, and (5) Competency Statutes cleanup related to (a) statutory timelines, (b) whether defendant has a history of violent acts, and (c) renumbering confusion.

2. Audit Update

M/S/P to hire Fruci & Associates to perform a 5 year audit for 2015-2020 not to exceed ten thousand dollars (\$10,000). M/S/P to table the issue until the 2020 DMCJA Board Retreat.

3. Information Technology Governance Request for DMCJA Endorsement: Snohomish County District Court

M/S/P to endorse Snohomish County District Court's ITG 272 request to receive AOC assistance with a data exchange with the Enterprise Data Repository (EDR) subject to Snohomish County District Court's oral agreement to perform the necessary tasks to ensure data is received statewide.

4. Proposal to CrRLJ 1.3

The Board voted to forward the DMCJA Rules Committee's proposal to amend CrRLJ 1.3 to the Washington Supreme Court for consideration as part of its rule review cycle.

5. Judicial Assistance Services Program (JASP) – Amendments to JASP Bylaws

The Board approved JASP's request to amend its bylaws to remove a member who is absent from two consecutive meetings and two consecutive JAPS Peer Counselor trainings.

DISCUSSION

- A. DMCJA Amicus Curiae Brief: The DMCJA Board has filed an amicus brief for the appeal of *State of Washington v. Stevens County District Court*, 7 Wn. App. 2d 927, 436 P.3d 430 (2019).

Judge Meyer reported that the Board voted to file an amicus brief in the case, *State of Washington v. Stevens County District Judge*, in which a memorandum was issued to superior court and district court judges, prosecutors, and court personnel notifying them that all in-custody first appearances for both courts are to be heard by the Superior Court. Judge Gina Tveit, Stevens County District Court Judge, opposed this memorandum and issued a memorandum stating that the court administrator should not file any orders in Stevens County District Court unless signed by a district court judge or district court administrator. This dispute ended in court with a Superior Court judge ruling in favor of Judge Tveit in a Writ of Mandamus lawsuit. This case was appealed to the Court of Appeals, which ruled in favor of the State of Washington (prosecutor). The case is currently on appeal to the Washington State Supreme Court.

On September 9, 2019, Katherine George, Esquire, filed an amicus curiae brief on behalf of the DMCJA. The prosecutor (state) has until October 7, 2019 to respond. Ms. George was retained by the DMCJA in August 2019 for a fee of five thousand dollars (\$5,000). This fee covers the cost of the brief and any oral argument made by the attorney. Judge Meyer reported that the Supreme Court hearing is October 24, 2019 at 1:30 p.m. Ms. Harvey and Judge Meyer will send Board members more information regarding this October hearing.

- B. Audit Update

1. Proposal by Fruci & Associates
2. Fruci & Associates performed Agreed Upon Procedures (AUPs) for DMCJA in 2015

Commissioner Leo, DMCJA Treasurer, reported on the status of an audit of DMCJA financial accounts. He provided a brief twenty year history of DMCJA audits from 1999 to 2019. In 1999, there was an IRS audit of DMCJA accounts. In 2002, the DMCJA sought a limited audit. In 2012, Fruci & Associates performed an Agreed Upon Procedures audit, which is known as a limited audit. In 2015, Fruci & Associates performed an AUP for 2013-2014.

Commissioner Leo reported that Dino Traverso, DMCJA accountant, informed that he is not available to perform an audit of the DMCJA because of his ties with the DMCJA bookkeeper, however, he provided the following three references for audit services: (1) Fruci & Associates, (2) Brantley Jansen, and (3) Shannon & Associates. Ms. Harvey, AOC Primary DMCJA Staff, contacted each referral for a quote. Only Fruci &

Associates, which provided services to DMCJA in the past, were available to provide services to the DMCJA. Fruci & Associates provided a quote for the Board's review that is located in meeting materials. Services for an AUP, limited audit, are between seven thousand dollars (\$7,000) and ten thousand dollars (\$10,000). In contrast, a full audit is approximately twenty-two thousand dollars (\$22 K). Commissioner Leo informed that a limited audit is a sampling of the association's transactions while a full audit is a review of all DMCJA financial transactions.

Commissioner Leo recommended a five year limited audit from Fruci & Associates. Judge Meyer recommended tabling this audit decision to the 2020 DMCJA Board Retreat in which members will order the five year audit at this time. This would allow the five year audit to cover 2015 to 2020.

M/S/P to move this discussion topic to an action item.

C. Information Technology Governance Request for DMCJA Endorsement: Snohomish County District Court

1. Important Information for Courts Planning to Connect to the Enterprise Data Repository

Commissioner Leo reported that the Snohomish County District Court has decided to obtain its own case management system (CMS), namely, Journal Technologies, Inc. Ms. Cullinane informed the Board of the Information Technology Governance (ITG) process a court must follow when deciding to leave JIS and obtain a new CMS. First, a court must initiate a request using the ITG website. Here Snohomish County has initiated ITG 272 seeking to connect with AOC's Enterprise Data Repository when they acquire their own electronic case management system. Second, the request must be endorsed by the DMCJA Board, which serves as the endorsement body for the DMCJA. Third, the AOC performs a ballpark analysis of costs and resources to perform the request, and informs the endorsing group for a confirmation to proceed to step four. Fourth, the request and AOC analysis goes to either the CLJ Court Level User Group (CLUG) or Multi-Court Level User Group (MCLUG) for approval and prioritization. Fifth, for large requests, which this would be, the JISC approves and prioritizes requests from all court level user groups. The JISC has final approval authority on all information technology requests. For more information on the ITG process, please visit the following website: <https://www.courts.wa.gov/content/ItgPortal/IT%20Governance%20Process%20Flow.pdf>

Ms. Cullinane informed that courts desiring to leave JIS are required to send data from their case management systems to the Enterprise Data Repository so courts statewide can view their court records. If the work for the data exchange cannot be completed before the court implements its own case management system, the court is responsible for manual data entry into JIS until the data exchange is complete. The Board discussed concerns regarding courts leaving JIS and not performing necessary tasks to ensure that JIS courts can view the non-JIS court's data. Commissioner Leo and Judge Bui, who sit on this court's bench, confirmed that Judge Douglas Fair, Presiding Judge, has expressed that Snohomish County District Court will take all necessary actions to ensure the court's data is viewable to all Washington courts. Thus, after robust discussion, the Board by general consensus decided to endorse courts as long as the court assures the Board that it will perform necessary tasks to allow JIS courts to view the data.

M/S/P to make this topic a discussion item.

D. Judicial Assistance Services Program (JASP) – Amendments to JASP Bylaws

JASP requests the Board to approve the following amendment to its bylaws:

(F) If a member fails to attend two (2) consecutive JASP committee meetings, or does not attend two (2) consecutive JASP Peer Counselor trainings, the JASP Executive Committee will directly contact the member. If the member does not wish to continue on the committee or does

not respond, the JASP Executive Committee will notify the Association the member represents, requesting the member be removed from the committee and a replacement named.

A Board member inquired whether this JASP bylaw amendment must be presented to the DMCJA membership since it is a bylaw amendment. Ms. Benway, AOC Staff for the DMCJA Bylaws Committee, informed that the DMCJA Bylaws Committee discussed this issue when previous JASP Bylaws were changed and decided by general consensus that JASP Bylaws relate to a DMCJA Standing Committee only and not the entire association's bylaws; thus, there is no need to present the amendment before the entire association. Article XI, Amendments, of the DMCJA Bylaws govern amendments to association bylaws. M/S/P to make an action item.

E. Proposal to CrRLJ 1.3

Ms. Benway reported that the DMCJA Rules Committee requests expedited Board approval of its proposed amendments to Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) 1.3, *Effect*, which clarify the rule and make it consistent with case law. If the Board approves, the committee request the Board forward the proposal to the Supreme Court for consideration as part of its rule review cycle. M/S/P to make this discussion item an action item.

Ms. Benway also reported on the status of the following rules amendments addressed by the DMCJA Rules Committee:

1. Rule 82.5, Tribal State Court Consortium Rule Request – Committee drafted rule similar to Superior Court Rule
2. GR 7, Local Rulemaking – Committee needs more information because it is not clear whether it relates to courts of limited jurisdiction; Committee needs clarity regarding “emergency provision” related to whether local rules are subject to the provision
3. GR 29, Presiding Judges – will be submitted to the Washington Supreme Court by October 15, 2019
4. Access to Court Records, GR 31 – will be submitted to the Washington Supreme Court by October 15, 2019

F. U.S. Immigration and Customs Enforcement (ICE) Practices at Courthouses: WA Attorney General Request For Feedback Regarding The Impact On Courts Of Limited Jurisdiction

Judge Meyer reported that the Washington Attorney General's Office has reached out to him requesting information from district and municipal court judges regarding any impact ICE practices at courthouses have had on the administration of justice. Judge Meyer encouraged judges to contact Mitchell Riese at Mitchell.riese@atg.wa.gov or 206-587-5094 to express any court impact from ICE practices. Judge Meyer informed the Board of an incident in which undercover ICE agents detained an alleged non-documented immigrant in front of the courthouse. There was also mention of individuals hesitant to enter the Temple of Justice for fear of being detained by ICE agents. A Board member requested that the Washington Attorney General's Office present the issue to the Board.

G. Ratification of Commissioner Board Position Appointment

Judge Meyer expressed that Position 7, Commissioner, is vacant. He anticipates having a nominee for Board ratification at the next Board meeting.

INFORMATION

Judge Meyer shared the following information with Board meeting participants:

- A. The DMCJA sent flowers to the family of Judge Peter Nault, King County District Court, who passed away on July 19, 2019.
- B. Pretrial Reform: Thurston County and Pierce County were two of five counties chosen to participate in a five-year initiative to improve pretrial justice systems and reduce jail populations. For more information, please see the following article: [Thurston 1 of 5 counties nationwide chosen for pretrial justice initiative](#)

OTHER BUSINESS

- A. The next DMCJA Board Meeting is October 11, 2019, 12:30 p.m. to 3:30 p.m., at the AOC SeaTac Office Center.
- B. Search Warrants (After-Hours) – Judge Gehlsen informed that the Superior Court Judges' Association (SCJA) has concerns about the number of after-hours search warrants. For this reason, the SCJA is considering assigning a commissioner or other person to sign after-hours search warrants. This practice would benefit only superior courts, however, Judge Gehlsen suggested that the DMCJA may consider a similar practice for its benefit.

ADJOURN

The meeting was adjourned at approximately 12:00 p.m.



DMCJA Rules Committee

Wednesday, August 28, 2019 (Noon – 1:00 p.m.)

Via Teleconference

MEETING MINUTES

Members:

Chair, Judge Goodwin
Judge Buttorff
Judge Campagna
Judge Eisenberg
~~Commissioner Hanlon~~
~~Judge Oaks~~
~~Commissioner O'Sullivan~~
Judge Samuelson
Ms. Patti Kohler, DMCMA Liaison
~~Ms. Melanie Conn, DMCMA Liaison~~

AOC Staff:

Ms. J Benway

Judge Goodwin called the meeting to order at 12:05 p.m.

The Committee discussed the following items:

1. Welcome & Introductions

Judge Goodwin welcomed the Committee members in attendance.

2. Approve Minutes from the July 24, 2019 Rules Committee meeting

It was motioned, seconded, and passed to approve the minutes from the July 24, 2019 Rules Committee meeting. Judge Campagna abstained. The approved minutes will be provided to the DMCJA Board.

3. Discuss Proposal to Amend Rules Pertaining to Judge Disqualification

Judge Goodwin stated that earlier this year, Judge Eisenberg proposed amendments to court rules and statutes to address concerns pertaining to the disqualification of CLJ judges. The Rules Committee decided to defer consideration of the proposal because the proposed legislation seemed to be progressing. However, the legislative session ended without passage of the bill (HB 1305). Ms. Benway stated that she would check to see whether the DMCJA Legislative Committee was intending to pursue this legislation in the 2020 session. This item will be continued to the next meeting.

4. Discuss DMCJA Proposal to Amend GR 29

This item was carried over from the last meeting. The Committee had previously commented on and made recommendations regarding amendments to GR 29 that were proposed by the Council on Independent Courts (CIC). Following that recommendation, however, the Board

voted to send the proposal back to the CIC for review. The Board has now approved new amended language and has requested that the Rules Committee integrate the proposals and comment on the form of the proposed rule. Ms. Benway provided the updated proposal to the Committee. The Committee agreed with the proposed amendments and recommends that the proposal be forwarded to the Supreme Court for consideration.

5. Discuss Proposal to Amend GR 7 (revised proposal)

Ms. Benway stated that the DMCJA Board had requested that the Rules Committee review this proposal to amend GR 7 pertaining to local rulemaking, which was presented by the superior court clerks' association. Ms. Benway also stated that the GR 7 proposal as presented was based on a previous version of the rule and did not reflect its recent amendment so she created a new proposal showing the amendments incorporated into the current version of the rule. The proposal would require a review and comment period to be included in the procedure for local rulemaking. The Committee determined that, while it was not opposed to the concept of the rule, it was unclear whether it was intended to only apply to superior courts given the references to the "county prosecutor," the "county clerk," etc. If the proposal is intended to only apply to superior courts, that needs to be more clear. If it is intended to apply to CLJs as well, the proposed language would need to be broader to indicate that, e.g., substituting "jurisdiction" for county. However, if it is intended to apply to CLJs, there is concern that smaller jurisdictions may not have, for example, a local bar or their own internet site so there may need to be some sort of exemption. In addition, there was agreement that it should be clearer that enactment of an emergency local court rule (under subsection (f)) would not be subject to the new review provisions. Ms. Benway stated that she would convey the Committee's concerns to Judge Meyer, President of the DMCJA Board.

6. Discuss Strategy to Address Legislative Changes: HB 1908 and SB 5017

This item was continued from the last meeting to allow the Committee time to consider recently-passed legislation that would have a potential impact on court rules. Ms. Benway distributed a memo discussing HB 1908, repealing the electronic authentication act, and SB 5017, concerning the uniform unsworn declarations act, which amend or repeal statutes that are referenced in court rules. Ms. Benway also prepared a list of general and statewide CLJ rules that reference the pertinent statutes. The Committee was concerned about whether other efforts were underway to address the concerns stemming from this legislation. Ms. Benway stated that she would investigate whether there was a coordinated response and would also prepare a memo addressing specific concerns raised by the statutory repeals. This item will be carried over to the next meeting.

7. Discuss IRLJ Amendment Process

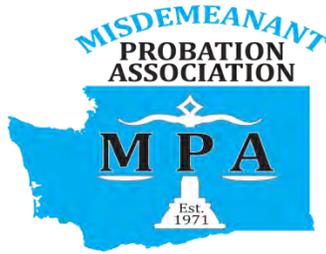
The Committee discussed the efforts of the WSBA's IRLJ Subcommittee, which is reviewing and considering amendments to the IRLJ. Committee members and staff have reached out to the Subcommittee regarding the amendments, particularly in light of the omnibus IRLJ amendments that had been previously been prepared by Judge Steiner. The WSBA Subcommittee is apparently taking a piecemeal rather than a holistic approach and has invited CLJ judicial comment on specific proposals. Committee members and staff will continue to monitor the amendment process and will offer comment as appropriate but the effort to engage in a comprehensive overview of the IRLJ will be tabled indefinitely.

8. Other Business and Next Meeting Date

Ms. Benway stated that the Supreme Court had rejected the rule amendments proposed by the Washington Association of Criminal Defense Attorneys, and which were disfavored by the DMCJA.

The next Committee meeting is scheduled for Wednesday, September 25, 2019 at noon via teleconference.

There being no further business, the meeting was adjourned at 1:10 p.m.



To: District and Municipal Court Judges Association
From: Washington State Misdemeanant Probation Association (MPA)
Date: October 29, 2019
Re: Substance Use Disorder Treatment Provider Letter

In July of 2006 a letter was mailed out to all Substance Use Disorder Treatment Providers from the Presiding Judges of the District and Municipal Courts of King County.

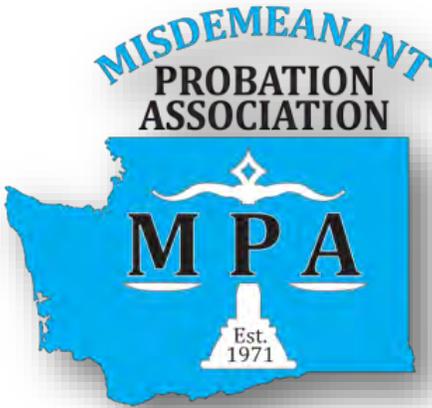
The letter outlined what the Courts expected as the mandatory minimum for acceptable evaluations and compliance reports. It has now been 13 years and these minimum standards are not being followed by some providers.

The Misdemeanant Probation Association, with advice from the Department Health and a local Substance Use Disorder provider, developed a new letter in the hopes of reminding and encouraging treatment providers to re-adopt these minimum standards and meeting court expectations.

Our hope is that the District and Municipal Courts Judges Association, as well as the District and Municipal Court Management Association, are in agreement and will support MPA's goal of better accountability with this letter.

Thank you,

Misdemeanant Probation Association



Substance Use Disorder Treatment Providers/Directors,

Treatment agencies provide a valuable service to the Courts. We hope to continue the great partnership currently between the Courts and Treatment agencies, in an effort to work together and address substance abuse issues while protecting the public.

The Misdemeanant Probation Association, in conjunction with *the District and Municipal Court Management Association, and the District and Municipal Court Judges Associations (if they agree to the letter as well)*, have come together to adopt guidelines regarding compliance reports and assessments from substance use disorder treatment agencies.

This letter is written, in part, due to on-going deficiencies by some agencies. Many courts have experienced difficulty carrying out their duties in monitoring compliance, which has resulted in delay and inconvenience to defendants, probation, and court staff.

The following information will be considered the minimum expectations the Court and Probation expect to be provided. Most treatment agencies are already meeting these requirements and standards. If you are one of these agencies, we thank you for your commitment and timely production of reports and letters.

All agencies are strongly encouraged to ensure the following procedures are adhered to. The following expectations are based on the assumption that appropriate Releases of Information have been signed by the defendant.

Substance Use Disorder Assessment Expectations:

- A copy of the full assessment should be sent to the probation officer(s)/probation department(s)/ or monitoring court within 10 business days of the assessment.
- The assessment should state whether or not the following were or were not considered in making the treatment recommendation;
 - Underlying police report(s) that is the basis for the criminal charge/conviction in the court
 - BAC and/or lab results (if required under WAC 246.341.0820)
 - Washington State abstract of the defendant's driving record (ADR) driving abstract
 - Defendant's Washington State defendant case history record (DCH).
- The assessment should also include the results of a urinalysis test administered at the time of the defendant's initial appointment.
- Please notate the disclosure of any previous assessment(s) or treatment the defendant may have completed.
- An assessment that does not include this information may not be accepted.
- Please ensure notification is sent when a defendant has attended an assessment appointment or has failed to attend an assessment appointment (if the assessment is a condition of their sentence).

Notifications and Expectations for corresponding with the monitoring Court/Probation:

Intake:

- Please send notification that a defendant has enrolled and started the recommended treatment or has failed to enroll and start the recommended treatment.
- Please do not wait for the following month's compliance report, to notify Probation/Court of enrollment.
- If the defendant has been referred elsewhere or has chosen to not begin or continue services with your agency, please advise where they were referred to and the reason for the referral.

Monthly Progress Reports:

Monthly treatment progress reports should be sent to the probation officer(s)/probation department(s)/monitoring court by the 10th day of each month.

These treatment reports should include, at a minimum, the following:

- Current program they are enrolled in with your agency (i.e. intensive outpatient, outpatient, relapse prevention.....).
- Number of required individual sessions/groups to be attended for that reporting period, the actual number of individuals/groups attended, and whether the absences were excused or non-excused.
- Dates and outcomes of urinalysis tests.
 - Ideally- Please ensure all defendants are complying with at least once per month testing. If the results are positive, please include a copy of the lab report if available. If positive, please advise what action was taken and provide a copy (i.e. treatment plan was revised or placed on a behavioral contract).
 - If your agency does not administer, at minimum, once per month testing please ensure the monitoring party is aware that this did not/will not occur. Please note whether this is due to financial, insurance does not cover, or the agency's policy to not administer.
- Whether they are compliant or non-compliant. Please explain the reason why or why not (please refrain from marking someone "partially compliant", as this causes confusion for the Court/Probation).
- Verification that they submitted their sober support meeting logs if they are required to attend.
- Please ensure these monthly reports are dated as well as noting the month the report is referring to.
- Please include the counselor's name, signature, and their direct telephone number.
- Please include case numbers (if known) with any correspondence.
- Please notify the probation officer/department of an emergency non-compliant event (positive urinalysis, refusal to submit, tampering with urinalysis, excessive absences, aborting treatment) within 3 business days of occurrence. *(WAC 246.341.0800)*
- Please ensure that a discharge summary is sent, summarizing whether or not the defendant was successfully or unsuccessfully discharged. Also include any follow-up recommendations for ongoing sober support or lack thereof.

We hope these standards will result in more accurate information for the courts and greater consistency for the substance use disorder community. Please feel free to discuss any specific questions you may have with your local Probation Department or Monitoring Court.

Thank you for your anticipated cooperation in following these minimum expectations.

Misdemeanant Probation Association

District and Municipal Court Management Association (if approved)

District and Municipal Court Judges Associations (if approved)

GR 9 Cover Sheet

- (A) Name of Proponent: Workgroup, Washington State LFO Stakeholder Consortium
- (B) Spokesperson: Judge David Steiner, King County Superior Court
- (C) Purpose: Trial courts may not impose discretionary costs upon an indigent defendant and may not impose discretionary costs upon a non-indigent defendant unless the defendant is able to pay those costs. RCW 10.01.160(3). When legal financial obligations (LFOs) in any form are imposed upon indigent defendants or imposed upon non-indigent defendants in an amount greater than the defendant's ability to pay, these LFOs create problems that have been well documented. State v. Blazina, 182 Wn.2d 827, 834 – 837, 344 P.3d 680 (2015). LFOs may include court-imposed costs, fines, fees, penalties, assessments, and restitution. LFOs may have been imposed without an individualized inquiry into a defendant's ability to pay, or a sentenced defendant may have lost the ability to pay LFOs ordered at the time of sentencing. State law currently requires that, upon motion by a defendant, following the defendant's release from total confinement, the court shall waive all interest on the portions of the LFOs that have accrued that are not restitution. RCW 10.82.090. In addition, if default on payment of LFOs is not willful and the defendant is indigent as defined in RCW 10.101.010(3)(a) through (c), the court shall modify the terms of payment of the LFOs, reduce or waive nonrestitution legal financial obligations, or convert nonrestitution legal financial obligations to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage established in RCW 49.46.020 for each hour of community restitution. RCW 9.94A.6333(3)(f). This proposed rule creates a process whereby a defendant may request remission or reduction of LFOs (except for restitution and victim penalty assessment). Defendants may also request removal of LFOs from collection, payment by other forms of community restitution and additional time to pay. This proposed rule cites to existing authority regarding the disposition of hearings related to the imposition of LFOs and does not create new authority directing the outcome of a petition requesting remission of LFOs. In drafting this proposed rule, consideration was given to the following authorities: GR 34; RCW 9.94A.6333(3)(f); RCW 9.94A.780(7); RCW 9.94B.040(4)(f); RCW 10.01.160(3) & (4); RCW 10.01.170(1); RCW 10.01.180(5); RCW 10.101.010(3); RCW 10.82.090; RCW 36.18.016(29); State v. Blazina, 182 Wn.2d 827, 344 P.3d 680 (2015); State v. Ramirez, 191 Wn.2d 732, 426 P.3d, 714 (2018).

The definition of an LFO within this proposed rule does not include clerk's fees imposed pursuant to RCW 9.94A.780(7) and RCW 36.18.016(29). These clerk's fees must not exceed the annual cost of collections and must never exceed \$100 annually. A county clerk may also "exempt or defer payment of all or part of the assessment" based upon any of the factors listed in RCW 9.94A.780(1). RCW 9.94A.780(7).

(D) Hearing:

(E) Expedited Consideration:

Proposed GR:

RULE 38. REMISSION OF LEGAL FINANCIAL OBLIGATIONS

- a) A legal financial obligation (LFO), as referenced in this rule, means costs, fines, fees, penalties, assessments, and restitution imposed by a Washington court and does not include the RCW 9.94A.780 clerk's fee for collecting the LFO.
- b) An individual who has been required to pay LFOs may petition the sentencing court for a waiver of interest and remission or reduction of any unpaid portion of the LFOs, except restitution and victim penalty assessment, and may request any other relief as allowed by law. The petitioner may also request that the LFOs be removed from a collection agency; request additional time to pay the LFOs; and, excluding restitution and victim penalty assessment, request payment by community service or other forms of community restitution if available in the community.
- c) A petition shall allege that the petitioner is indigent or lacks the financial ability to pay the LFO. Provided, indigence and ability to pay are not related to a request to waive interest pursuant to RCW 10.82.090. For purposes of this rule, "indigent" is defined in RCW 10.101.010.
- d) The petitioner shall complete and file a mandatory pattern form petition, declaration of mailing and proposed order created by the Administrative Office of the Courts (AOC). The petitioner may attach appropriately redacted financial documents supporting the request. See GR 31(e). The petitioner shall also mail copies of the petition, declaration of mailing and proposed order to the appropriate prosecuting attorney.
- e) The court shall accept the petition submitted in person, by mail, or, where authorized by local court rule not inconsistent with GR 30, by electronic filing. All petitions shall be presented to a judicial officer for consideration in a timely manner and there shall be no fee imposed for filing and consideration of a petition.
- f) The judicial officer may set the petition for a hearing, or may consider the petition ex parte without a hearing no sooner than three business days from filing of the petition and declaration of mailing or the filing of the declaration of mailing if filed after the petition. Provided, when the appropriate prosecuting authority files a letter with a presiding judge requesting notice of all petitions filed pursuant to this rule, the court shall set all such petitions for hearing and send the notice of hearing to all parties. In the letter provided to the presiding judge, the prosecuting authority, however, may limit the notice requested to select cases, such as cases where the fine or costs are greater than a specified amount.

- g) Hearings by telephone improve access to the courts. If a petition is set for hearing, upon request, the court in its discretion may permit a telephone appearance by the petitioner subject to local court rule and/or local policies.

GR 9 Cover Sheet

- (A) Name of Proponent: Workgroup, Washington State LFO Stakeholder Consortium
- (B) Spokesperson: Judge David Steiner, King County Superior Court
- (C) Purpose: Trial courts may not impose discretionary costs upon an indigent defendant and may not impose discretionary costs upon a non-indigent defendant unless the defendant is able to pay those costs. RCW 10.01.160(3). When legal financial obligations (LFOs) in any form are imposed upon indigent defendants or imposed upon non-indigent defendants in an amount greater than the defendant's ability to pay, these LFOs create problems that have been well documented. State v. Blazina, 182 Wn.2d 827, 834 – 837, 344 P.3d 680 (2015). LFOs may include court-imposed costs, fines, fees, penalties, assessments, and restitution. LFOs may have been imposed without an individualized inquiry into a defendant's ability to pay, or a sentenced defendant may have lost the ability to pay LFOs ordered at the time of sentencing. State law currently requires that, upon motion by a defendant, following the defendant's release from total confinement, the court shall waive all interest on the portions of the LFOs that have accrued that are not restitution. RCW 10.82.090. In addition, if default on payment of LFOs is not willful and the defendant is indigent as defined in RCW 10.101.010(3)(a) through (c), the court shall modify the terms of payment of the LFOs, reduce or waive nonrestitution legal financial obligations, or convert nonrestitution legal financial obligations to community restitution hours, if the jurisdiction operates a community restitution program, at the rate of no less than the state minimum wage established in RCW 49.46.020 for each hour of community restitution. RCW 9.94A.6333(3)(f). This proposed rule creates a process whereby a defendant may request remission or reduction of LFOs (except for restitution and victim penalty assessment). Defendants may also request removal of LFOs from collection, payment by other forms of community restitution and additional time to pay. This proposed rule cites to existing authority regarding the disposition of hearings related to the imposition of LFOs and does not create new authority directing the outcome of a petition requesting remission of LFOs. In drafting this proposed rule, consideration was given to the following authorities: GR 34; RCW 9.94A.6333(3)(f); [RCW 9.94A.780\(7\)](#); RCW 9.94B.040(4)(f); RCW 10.01.160(3) & (4); RCW 10.01.170(1); RCW 10.01.180(5); RCW 10.101.010(3); RCW 10.82.090; [RCW 36.18.016\(29\)](#); State v. Blazina, 182 Wn.2d 827, 344 P.3d 680 (2015); State v. Ramirez, 191 Wn.2d 732, 426 P.3d, 714 (2018).

The definition of an LFO within this proposed rule does not include clerk's fees imposed pursuant to RCW 9.94A.780(7) and RCW 36.18.016(29). These clerk's fees must not exceed the annual cost of collections and must never exceed \$100 annually. A county clerk may also "exempt or defer payment of all or part of the assessment" based upon any of the factors listed in RCW 9.94A.780(1). RCW 9.94A.780(7).

- (D) Hearing:
- (E) Expedited Consideration:

Proposed GR:

RULE 38. REMISSION OF LEGAL FINANCIAL OBLIGATIONS

- a) A legal financial obligation (LFO), as referenced in this rule, means costs, fines, fees, penalties, assessments, and restitution imposed by a Washington court and does not include the RCW 9.94A.780 clerk's fee for collecting the LFO.
- b) An individual who has been required to pay LFOs may petition the sentencing court for a waiver of interest ~~on all LFOs~~ and remission or reduction of any unpaid portion of the LFOs, except restitution and victim penalty assessment, and may request any other relief as allowed by law. The petitioner may also request that the LFOs be removed from a collection agency; ~~request payment by community service or other forms of community restitution, and request additional time to pay the LFOs.~~ request additional time to pay the LFOs; and, excluding restitution and victim penalty assessment, request payment by community service or other forms of community restitution if available in the community.
- e) A petition shall allege that the petitioner is indigent or lacks the financial ability to pay the LFO fine or costs. Provided, indigence and ability to pay are not related to a request to waive interest pursuant to RCW 10.82.090. For purposes of this rule, "indigent" is defined in RCW 10.101.010. ~~If the petitioner is not indigent, the court shall determine whether the petitioner has demonstrated an inability to pay the fine and/or costs. The court shall also determine whether circumstances demonstrate a basis to grant further requests referenced in section b).~~ [Comment on proposed edit: no need for stricken language given first sentence which addresses "or lacks the financial ability to pay the fine or costs."]
- d) The petitioner shall complete and file ~~and mail to the appropriate prosecuting authority, and the court shall use,~~ a mandatory pattern form petition, declaration of mailing and proposed order created by the Administrative Office of the Courts (AOC) ~~in~~ conformance with this rule. The petitioner may attach appropriately redacted financial documents supporting the request. See GR 31(e). The petitioner shall also mail copies of the petition, declaration of mailing and proposed order to the appropriate prosecuting attorney. [Comment: unless we direct folks to the applicable rule relative to what needs to be redacted, I don't think they will redact.]
- e) The court shall accept the petition submitted in person, by mail, or, where authorized by local court rule not inconsistent with GR 30, by electronic filing. All petitions shall be presented to a judicial officer for consideration in a timely manner and there shall be no fee imposed for filing and consideration of a petition.

- f) The judicial officer may set the petition for a hearing, or may consider the petition ex parte without a hearing no sooner than three business days from filing of the petition and declaration of mailing or the filing of the declaration of mailing if filed after the petition. Provided, when the appropriate prosecuting authority files a letter with a presiding judge requesting notice of all petitions filed pursuant to this rule, the court shall set all such petitions for hearing and send the notice of hearing to all parties. ~~and shall provide the prosecuting authority a copy of the petition and a copy of the notice of hearing.~~ **[Comment:** given Odyssey and third-party document management systems to which the prosecuting authority has access, it can get copies of the petition on one of those systems.] In the letter provided to the presiding judge, the prosecuting authority, however, may limit the notice requested to select cases, such as cases where the fine or costs are greater than a specified amount.
- g) Hearings by telephone improve access to the courts. If a petition is set for hearing, upon request, the court in its discretion may permit a telephone appearance by the petitioner subject to local court rule and/or local policies.

TO: Judge Sam Meyer, President, DMCJA Board
FROM: Judge Jeffrey Goodwin, Chair, DMCJA Rules Committee
SUBJECT: WSBA Proposed Amendments to IRLJ 1.2 and 2.2
DATE: October 28, 2019

The Washington State Bar Association (WSBA) recently proposed amendments to IRLJ 1.2 and 2.2, pertaining to definitions and the initiation of infraction cases. The proposals have a comment deadline of November 18, 2019. For the reasons set forth below, the Rules Committee recommends that the DMCJA oppose these proposed amendments. The proposed substantive amendments are set forth below:

IRLJ 1.2(b) Notice of Infraction. “Notice of infraction” means a document initiating an infraction case when issued ~~and filed~~ pursuant to statute and these rules.

IRLJ 1.2(n) Date of the Notice of Infraction. “Date of the Notice of Infraction” means the date a Notice of Infraction is handed to a defendant, or the date a Notice of Infraction is signed and dated by a citing officer or prosecuting authority, whichever date occurs first.

IRLJ 2.2(a) Generally. An infraction case is initiated by the issuance, ~~service, and filing~~ of a ~~n~~Notice of ~~i~~nfraction in accordance with this rule. An infraction is issued on the date the Notice of ~~i~~nfraction is handed to the defendant, or the date on which the Notice of Infraction is signed and dated by the a citing officer or prosecuting authority, whichever date occurs first.

Under the current version of IRLJ 2.6(a), a contested hearing must be held within 120 days of the date of the notice of infraction. A notice of infraction (NOI) is defined under IRLJ 1.2(b) as requiring both the issuance and filing of the NOI with the Court. So the ‘date of the notice of infraction’ currently used to start the speedy hearing clock is the filing date. The use of the filing date to start the time for hearing clock is readily ascertainable and provides certainty for the Court and the parties in determining the application of the time periods set forth in the IRLJs.

If the WSBA proposals were to be adopted, start of the IRLJ 2.6(a)(1) time for hearing clock would be based upon the specific facts of each infraction case and could require evidentiary hearings to make that determination. If the NOI is handed to the defendant, that results in one potential start date. If the is signed and dated by the citing officer, that would result in another

alternative start date. If the NOI is dated and signed by a prosecutor, that results in a third alternative start date.

In the GR 9 cover sheet in support of these proposals, the WSBA Rules Committee suggests the need for a change is based upon three uses of the phrase ‘date of the notice of infraction’ which is not specifically defined. The WSBA Committee asserts that confusion results from the lack of a definition, but does not articulate the nature and scope of the asserted confusion. The DMCJA and WSBA rules subcommittees did previously discuss that the term was not specifically defined. However, the DMCJA Rules Committee has consistently maintained that the Court filing date is the correct interpretation for the start of the speedy hearing clock.

The definition of the ‘date of the notice of infraction’ is already contained within the existing rules. Under IRLJ 1.2(b), “Notice of infraction” means a document initiating an infraction case when issued and filed pursuant to statute and these rules. The ‘date’ of the notice of infraction is the date upon which it is both issued and filed.

In summary, the DMCJA Rules Committee recommends opposition to the WSBA proposed amendments to IRLJ 1.2 and 2.2 because the amendments would create alternative start times for the speedy hearing clock based upon how the NOI was issued to the defendant. If indeed there is widespread confusion regarding what ‘date of the notice of infraction’ means¹, a more uniform solution would be to specifically define the start of speedy hearing as the filing of the NOI in the Court.

Thank you for your consideration of this matter. Please let me know if you have any questions. I can be reached through 425-744-6800 or jeffrey.goodwin@snoco.org.

CC: DMCJA Rules Committee

Attachments: WSBA GR 9 Cover Sheets and Rule Amendment Proposals for IRLJ 1.2 and 2.2

¹ The DMCJA Rules Committee is not aware of any confusion raised by our membership on this issue.

GR 9 COVER SHEET

Suggested Amendment

INFRACTION RULES FOR COURTS OF LIMITED JURISDICTION (IRLJ) 1.2

- A. Proponent:** Washington State Bar Association Rules Committee, IRLJ Subcommittee
- B. Spokesperson:** Jon Zimmerman, IRLJ Subcommittee Chair
- C. Purpose:** To provide clarity by defining the term “date of the notice of infraction,” which is used three times in the IRLJ without any definition. The proposal adds a definition to IRLJ 1.2 by creating IRLJ 1.2(n). Without this definition, there has been dispute as to the meaning of the term “date of the notice of infraction.” The DMCJA alerted the IRLJ Subcommittee, which was concurrently working on language for an IRLJ definition of the term.

The lack of a definition of the above term is problematic and defining this term would lend clarity for the parties and courts throughout the State of Washington.

The DMCJA explained that the current rule indicates that the “speedy hearing” clock begins on the “date of the notice of infraction,” a term for which there is currently no definition. However, a “notice of infraction,” is defined as “a document initiating an infraction case when issued and filed pursuant to statute and these rules.” IRLJ 1.2(b). This gives no assistance in determining the start of the “clock.” Further confusion is added by IRLJ 2.2(a), which states that:

“An infraction case is initiated by the issuance, service, and filing of a notice of infraction in accordance with this rule. An infraction is issued on the date the infraction is signed by the citing officer or prosecuting authority.”

To resolve these issues, the Subcommittee discussed the issues of the lack of a definition of “date of the notice of infraction” as well as the definition of “notice of infraction,” and recommends a definition of “date of the notice of infraction,” added as IRLJ 1.2(n), and an

amendment to “notice of infraction” in IRLJ 1.2(b). Specifically, the terms “and filed” are removed from IRLJ 1.2(b) because the Subcommittee sees the issuance of an infraction as initiation. Per statute and court rule, a defendant issued a Notice of Infraction has a set time to respond, regardless of filing. Hence, the Notice of Infraction’s issuance commences the case.

The need for a definition for “date of the notice of infraction” is for speedy hearing purposes and for proportionality and consistency among courts of limited jurisdiction. It was the experience of practitioners on the Subcommittee that the term is unevenly and inconsistently applied because typically three dates may become an issue at hearing with a Notice of Infraction: the issue date, the violation date, and the filing date. Hence defining the term “date of the notice of infraction” will give clarity, create consistency, and lend uniformity.

Amending the definition of “notice of infraction” will give similar clarity and consistency.

With regards to IRLJ 1.2(k), this was mostly a cosmetic change. There was some discussion in the Subcommittee as to whether the term “their deputies and assistants” means non-attorneys and yet the Subcommittee was of the unanimous belief that only attorneys could appear on behalf of parties to an infraction case. The language is clarified to include modern use of the types of attorneys who encompass a prosecuting authority.

The Subcommittee addresses IRLJ 2.2 in the GR 9 Cover Sheet; however, the Subcommittee has looked at any proposed change to IRLJ 2.2 in light of the proposed changes to IRLJ 1.1.

Amendment to IRLJ 1.2(b), amendment to IRLJ 1.2(k), and addition of definition as IRLJ 1.2 (n).

For the purposes of these rules:

(a) Infraction Case. "Infraction case" means a civil proceeding initiated in a court of limited jurisdiction pursuant to a statute that authorizes offenses to be punished as infractions. [Unchanged.]

(b) Notice of Infraction. "Notice of infraction" means a document initiating an infraction case when issued ~~and filed~~ pursuant to statute and these rules.

- (c) Defendant. "Defendant" means a person cited for an infraction, a registered owner of a vehicle cited for a parking infraction, or the person who responds to the parking infraction or requests a hearing. [Unchanged.]
- (d) Court. "Court" means a court of limited jurisdiction organized pursuant to RCW Title 3, RCW Title 35, or RCW Title 35A. [Unchanged.]
- (e) Judgment. "Judgment" means any final decision in an infraction case, including, but not limited to, a finding entered after a hearing governed by these rules or after payment of a monetary penalty in lieu of a hearing. [Unchanged.]
- (f) Plaintiff. "Plaintiff" means the governmental unit issuing the notice of infraction, including, but not limited to, the state, a county, or a municipality. [Unchanged.]
- (g) Department. "Department" means the Washington State Department of Licensing. [Unchanged.]
- (h) Lawyer. "Lawyer" means any person authorized by Supreme Court rule to practice law. [Unchanged.]
- (i) Statute. "Statute" means any state statute, local or county ordinance, resolution, or regulation, or agency regulation. [Unchanged.]
- (j) Citing Officer. "Citing officer" means a law enforcement officer or other official authorized by law to issue a notice of infraction. [Unchanged.]
- (k) Prosecuting Authority. "Prosecuting authority" includes prosecuting **and deputy prosecuting** attorneys, city **and assistant city** attorneys, corporation **and assistant corporation** counsel, ~~and their deputies and assistants~~, or such other persons as may be designated by statute.
- (l) Judge. "Judge" means any judge of any court of limited jurisdiction and shall include every judicial officer authorized to preside over infraction cases. [Unchanged.]
- (m) Community Restitution. "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the defendant.
- (n) Date of the Notice of Infraction. "Date of the Notice of Infraction" means the date a Notice of Infraction is handed to a defendant, or the date a Notice of Infraction is signed and dated by a citing officer or prosecuting authority, whichever date occurs first.**
- [Adopted effective September 1, 1992; amended effective June 2, 1998; amended effective January 3, 2006.] [Unchanged.]

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)
RULE 1.2 – DEFINITIONS

1 For the purposes of these rules:

2 (a) [Unchanged.]

3 (b) Notice of Infraction. "Notice of infraction" means a document initiating an infraction case
4 when issued ~~and filed~~ pursuant to statute and these rules.

5 (c) - (j) [Unchanged.]

6 (k) Prosecuting Authority. "Prosecuting authority" includes prosecuting ~~and deputy prosecuting~~
7 attorneys, city ~~and assistant city~~ attorneys, corporation ~~and assistant corporation~~ counsel, ~~and~~
8 ~~their deputies and assistants~~, or such other persons as may be designated by statute.

9 (l) - (m) [Unchanged.]

10 (n) Date of the Notice of Infraction. "Date of the Notice of Infraction" means the date a Notice
11 of Infraction is handed to a defendant, or the date a Notice of Infraction is signed and dated by a
12 citing officer or prosecuting authority, whichever date occurs first.

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SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)
RULE 1.2 – DEFINITIONS

1 For the purposes of these rules:

2 (a) [Unchanged.]

3 (b) Notice of Infraction. "Notice of infraction" means a document initiating an infraction case when
4 issued pursuant to statute and these rules.

5 (c) - (j) [Unchanged.]

6 (k) Prosecuting Authority. "Prosecuting authority" includes prosecuting and deputy prosecuting
7 attorneys, city and assistant city attorneys, corporation and assistant corporation counsel, or such
8 other persons as may be designated by statute.

9 (l) - (m) [Unchanged.]

10 (n) Date of the Notice of Infraction. "Date of the Notice of Infraction" means the date a Notice of
11 Infraction is handed to a defendant, or the date a Notice of Infraction is signed and dated by a
12 citing officer or prosecuting authority, whichever date occurs first.

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GR 9 COVER SHEET

Suggested Amendment

INFRACTION RULES FOR COURTS OF LIMITED JURISDICTION (IRLJ) 2.2

- A. Proponent:** Washington State Bar Association Rules Committee, IRLJ Subcommittee
- B. Spokesperson:** Jon Zimmerman, IRLJ Subcommittee Chair
- C. Purpose:** To create uniformity with amendments to IRLJ 1.2, as well as some cosmetic changes.

Substantively, the amendment to IRLJ 2.2(a) removes “service, and filing” from the present rule because the Subcommittee discussed that issuance alone of a Notice of Infraction can initiate an infraction case. The date an infraction is issued is also in the proposed amendment. Also, this amendment will be consistent with the proposed amendment to IRLJ 1.2(n). The DMCJA also noted that IRLJ 2.2 as presently written added some confusion as to how infraction cases are in reality initiated. Hence, the Subcommittee proposes this amendment.

IRLJ 2.2(b)(1) appeared to lack an apostrophe. The proposed amendment adds an apostrophe.

Finally, the term “Notice” is sometimes capitalized and sometimes is not, even when both terms are referring to the Notice of Infraction (“NOI”). An NOI is usually both a first and final charging document in an infraction case, unlike other notices, such as notices of hearing or payment notices. Hence the amendment to capitalize the term.

Amendment to IRLJ 2.2

(a) Generally. An infraction case is initiated by the issuance, ~~service, and filing~~ of a ~~n~~Notice of ~~h~~Infraction in accordance with this rule. An infraction is issued on the date the ~~Notice of H~~Notice of Infraction is ~~handed to the defendant, or the date on which the Notice of Infraction is signed and dated by the~~ handed to the defendant, or the date on which the Notice of Infraction is signed and dated by a citing officer or prosecuting authority, whichever date occurs first.

(b) Who May Issue. A ~~notice of infraction~~ Notice of Infraction may be issued, upon certification that the issuer has probable cause to believe, and does believe, that a person has committed an infraction contrary to law:

(1) By a citing officer. The infraction need not have been committed in the officer's presence, except as provided by statute; [Unchanged.]

(2) By the prosecuting authority. [Unchanged.]

(c) Service of Notice. A ~~notice of infraction~~ Notice of Infraction may be served either by:

(1) The citing officer serving the ~~notice of infraction~~ Notice of Infraction on the person named in the ~~notice of infraction~~ Notice of Infraction at the time of issuance;

(2) The citing officer affixing to a vehicle in a conspicuous place the ~~notice~~ Notice of a traffic infraction if it alleges the violation of a parking, standing, or stopping statute; or

(3) The citing officer or the prosecuting authority filing the ~~notice of infraction~~ Notice of Infraction with the court, in which case the court shall have the ~~notice~~ Notice served either personally or by mail, postage prepaid, on the person named in the ~~notice of infraction~~ Notice of Infraction at his or her address. If a ~~notice of infraction~~ Notice of Infraction served by mail is returned to the court as undeliverable, the court shall issue a summons.

(d) Filing of Notice. When a ~~notice of infraction~~ Notice of Infraction has been issued, the ~~notice~~ Notice shall be filed with a court having jurisdiction over the infraction or with a violations bureau subject to such courts supervision. The ~~notice~~ Notice must be filed within five days of issuance of the ~~notice~~ Notice, excluding Saturdays, Sundays, and holidays. In the absence of good cause shown, a ~~notice of infraction~~ Notice of Infraction not filed within the time limits of this section shall, upon motion, be dismissed with prejudice.

[Adopted as JTIR effective January 1, 1981; amended effective September 1, 1989. Changed from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; September 1, 1999; amended effective January 3, 2006.]

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)

RULE 2.2 – INITIATION OF AN INFRACTION CASE

1 (a) Generally. An infraction case is initiated by the issuance, ~~service, and filing~~ of a
2 ~~n~~Notice of ~~i~~nfraction in accordance with this rule. ~~An~~ Notice of ~~I~~nfraction is issued on the date
3 the ~~Notice of i~~nfraction is ~~handed to the defendant, or the date on which the Notice of Infraction~~
4 ~~is signed and dated~~ by ~~the~~ a citing officer or prosecuting authority, ~~whichever date occurs first.~~

5 (b) Who May Issue. A ~~notice of infraction~~ Notice of Infraction may be issued, upon
6 certification that the issuer has probable cause to believe, and does believe, that a person has
7 committed an infraction contrary to law:

8 (1) By a citing officer. The infraction need not have been committed in the officer's
9 presence, except as provided by statute; [Unchanged]

10 (2) By the prosecuting authority. [Unchanged.]

11 (c) Service of Notice. A ~~notice of infraction~~ Notice of Infraction may be served either
12 by:

13 (1) The citing officer serving the ~~notice of infraction~~ Notice of Infraction on the person
14 named in the ~~notice of infraction~~ Notice of Infraction at the time of issuance;

15 (2) The citing officer affixing to a vehicle in a conspicuous place the ~~notice~~ Notice of a
16 traffic infraction if it alleges the violation of a parking, standing, or stopping statute; or

17 (3) The citing officer or the prosecuting authority filing the ~~notice of infraction~~ Notice
18 of Infraction with the court, in which case the court shall have ~~the notice~~ Notice served either
19 personally or by mail, postage prepaid, on the person named in the ~~notice of infraction~~ Notice of
20 Infraction at his or her address. If a ~~notice of infraction~~ Notice of Infraction served by mail is
21 returned to the court as undeliverable, the court shall issue a summons.

22 (d) Filing of Notice. When a ~~notice of infraction~~ Notice of Infraction has been issued,
23 the ~~notice~~ Notice shall be filed with a court having jurisdiction over the infraction or with a

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)

RULE 2.2 – INITIATION OF AN INFRACTION CASE

1 violations bureau subject to such courts supervision. The ~~notice~~ Notice must be filed within five
2 days of issuance of the ~~notice~~ Notice, excluding Saturdays, Sundays, and holidays. In the
3 absence of good cause shown, a ~~notice-of-infraction~~ Notice of Infraction not filed within the time
4 limits of this section shall, upon motion, be dismissed with prejudice.
5 [Adopted as JTIR effective January 1, 1981; amended effective September 1, 1989. Changed
6 from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997;
7 September 1, 1999; amended effective January 3, 2006.]

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)

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4 citing officer or prosecuting authority, whichever date occurs first.

5 (b) Who May Issue. A Notice of Infraction may be issued, upon certification that the
6 issuer has probable cause to believe, and does believe, that a person has committed an infraction
7 contrary to law:

8 (1) [Unchanged.]

9 (2) [Unchanged.]

10 (c) Service of Notice. A Notice of Infraction may be served either by:

11 (1) The citing officer serving the Notice of Infraction on the person named in the
12 Notice of Infraction at the time of issuance;

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14 infraction if it alleges the violation of a parking, standing, or stopping statute; or

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16 the court, in which case the court shall have the Notice served either personally or by mail,
17 postage prepaid, on the person named in the Notice of Infraction at his or her address. If a Notice
18 of Infraction served by mail is returned to the court as undeliverable, the court shall issue a
19 summons.

20 (d) Filing of Notice. When a Notice of Infraction has been issued, the Notice shall be
21 filed with a court having jurisdiction over the infraction or with a violations bureau subject to
22 such courts supervision. The Notice must be filed within five days of issuance of the Notice,
23 excluding Saturdays, Sundays, and holidays. In the absence of good cause shown, a Notice of

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
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SUPPLEMENTAL MATERIALS

MEMORANDUM OF LAW IN SUPPORT OF PROPONENT'S GR 9 PETITION FOR A NEW COURT RULE RECOGNIZING THE CIVIL ARREST PRIVILEGE

Summary

Federal immigration authorities, namely, Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) are conducting civil enforcement actions at Washington courthouses to identify, arrest and deport people attending court proceedings or accessing court services who are suspected of being present in the United States in violation of immigration law.

To address the access to justice concerns raised by these actions, proponents of the accompanying GR 9 petition are requesting the Supreme Court to promulgate a court rule recognizing the privilege from civil arrest for persons attending court proceedings or accessing court services. This memorandum provides an overview of this privilege, its long-established roots in common law and its continued viability as a means to ensure effective administration of, and access to, justice.

- ICE enforcement of immigration laws by warrantless arrest of suspected undocumented immigrants is civil in nature. *Arizona v. United States*, 567 U.S. 387, 407 (2012) (citing *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1038 (1984)). Administrative warrants correspond to civil immigration law violations (such as unlawful presence in the US) and are issued and executed exclusively by immigration agents. 8 USC 1357; 8 CFR 287.5(e).
- Under the Washington constitution and common law, litigants have a right to access the courts to seek redress. *King v. King*, 162 Wn. 2d 378 (2007).
- Under English common law a court may invoke the privilege from arrest to protect parties and witnesses from civil arrest while traveling to, attending and returning from court.
- The common law of Washington State incorporates the English common law, both case law and general statutes, so long as not inconsistent with the U.S. and Washington Constitutions and compatible with current society and institutions. Washington courts have adopted the common law civil arrest privilege.
- When adopting rules, the Supreme Court has taken an expansive view of what is “procedural” and finding a nexus to “procedure.” There is a clear nexus between the rationale underlying the civil arrest privilege and the effective and efficient administration of justice. Prohibiting warrantless civil arrests and other intrusive activities in or near courthouses is a means of assuring effective participation in the justice system, whether as a witness or a party.

The Common Law Civil Arrest Privilege

Under ancient common law, a civil suit was commenced with the arrest of the defendant.¹ The privilege was developed to prevent a civil arrest while the putative defendant was attending other court proceedings. The privilege has been adopted by American federal and state courts and, in light of the “modern” use of a summons to commence civil actions, the scope of the privilege has been extended to apply to service of process.

Leading Federal and State Cases

United States v. Zavelo, 177 F. 536, 537–38 (C.C.N.D. Ala. 1910). (Witnesses in criminal case served with civil process for malicious prosecution before the witnesses were able to return home. Privilege extended to civil process where no arrest occurred.)

The privilege of a witness of freedom from arrest under civil process during the time he reasonably consumes in coming to court, attending upon it, and returning from it to his home, is well established by the authorities. *Larned v. Griffin* (C.C.) 12 Fed. 590, and cases cited. As this privilege extends to the witness for a reasonable time after his discharge as a witness, to enable him to reach his home, it is clear that the reason supporting it is not altogether that the detention of the witness may prevent his presence and testimony in the cause at the term at which he is summoned to testify, by reason of his confinement under the writ of arrest. The probability that the fear of arrest may prevent his return to the place of trial at a future term, if his presence be thereafter required, operates also in support of the rule, as does the general deterrent effect upon the attendance of witnesses at court of a contrary rule.

The purpose of the privilege is not so much for the advantage of the witness as for the proper and efficient conduct of the court in the procuring of the necessary attendance of its witnesses. This being the reason of the rule, it seems clear that the difference in effect in this respect between writs of arrest and other civil processes is a difference of degree rather than one of kind. The deterrent effect would exist, but possibly not so forcibly, in the latter as in the former class of process. That the possibility of being so subjected to service of process in a civil suit, which could not otherwise reach a witness, would be a material inducement operating to prevent his attendance upon court in all cases in which his attendance was optional and could not be enforced by subpoena, is manifest. This seems an ample reason for extending the rule to process not involving arrest of the person; and the authorities support the extension, though not with unanimity. *In re Healey*, 53 Vt. 694, 38 Am.Rep. 713; *Bridges v. Sheldon* (C.C.) 7 Fed. 17-45; *Atchison v. Morris* (C.C.) 11 Fed. 582. *Contra: Blight v. Fisher*, 3 Fed.Cas. 704; *Ex parte Schulenberg* (C.C.) 25 Fed. 211.

¹ See *A Common Law Privilege to Protect State and Local Courts During the Crimmigration Crisis*, 127 Yale L.J. Forum 410, 424-25 (2017). Available at: <https://www.yalelawjournal.org/forum/a-common-law-privilege-to-protect-state-and-local-courts-during-the-crimmigration-crisis>

Diamond v. Earle, 217 Mass. 499, 500–01, 105 N.E. 363, 363 (1914). (Privilege extended to individuals from out-of-state and foreign jurisdictions.)

The rule has been stated generally that suitors and witnesses from a foreign jurisdiction are exempt from service of civil process while attending court and for such reasonable time before and after as may enable them to come from and return to their home. This statement is broad enough to include the parties' plaintiff as well as defendants and witnesses. The rule is an ancient one. The reason upon which it rests is that justice requires the attendance of witnesses cognizant of material facts, and hence that no unreasonable obstacles ought to be thrown in the way of their freely coming into court to give oral testimony. Nonresidents cannot be compelled to come within the jurisdiction to testify. As such testimony may be essential in the due administration of justice, they ought to be protected in coming voluntarily into our courts to aid in the ascertainment of truth and in the accomplishment of right results by the courts. It is not merely a privilege of the person; it is a prerogative exerted by the sovereign power through the courts for the furtherance of the ends of justice. Every party has a right to testify in his own behalf. He cannot do this freely, if hampered by the hazard that he may become entangled in other litigation in foreign courts. The rule is applied almost universally in behalf of witnesses coming from a foreign state. It is extended generally to defendants living outside the state where the litigation is pending. See cases collected in 32 Cyc. 492, 494; *Mullen v. Sanborn*, 79 Md. 364, 29 Atl. 522, 25 L. R. A. 721, 47 Am. St. Rep. 421.

The state courts, with few exceptions², have followed this rule, applying it to plaintiffs as well as defendants, and to witnesses attending voluntarily as well as those under subpoena. Illustrative cases include: *Richardson v. Smith*, 74 N. J. L. 111, 114, 65 Atl. 162; *Matthews v. Tufts*, 87 N. Y. 568; *Mitchell v. Huron; Circuit Judge*, 53 Mich. 541, 19 N. W. 176; *Andrews v. Lembeck*, 46 Ohio St. 38, 15 Am. St. Rep. 547, 18 N. E. 483; *Wilson v. Donaldson*, 117 Ind. 356, 3 L.R.A.; 266, 10 Am. St. Rep. 48, 20 N. E. 250; *First Nat. Bank v. Ames*, 39 Minn. 179, 39; N. W. 308; *Linton v. Cooper*, 54 Neb. 438, 69 Am. St. Rep. 727, 74 N. W. 842; *Bolz v. Crone*, 64 Kan. 570, 67 Pac. 1108; *Murray v. Wilcox*, 122 Iowa, 188, 64 L.R.A. 534, 101 Am. St. Rep. 263, 97 N. W. 1807; *Martin v. Bacon*, 76 Ark. 158, 113 Am. St. Rep. 81, 88 S. W. 863, 6 Ann. Cas. 336.

Page Co. v. MacDonald, 261 U.S. 446, 447-48 (1923) [The Supreme Court applied the privilege to a Canadian defendant was served with federal lawsuit while in state court.]

A federal court in a state is not foreign and antagonistic to a court of the state within the principle and, therefore, as said in *Stewart v. Ramsay (supra)*... 'Suitors as well as witnesses, coming from another state or jurisdiction, are exempt from the service of civil process while in attendance upon court, and during a reasonable time in coming and going.'

² See *Bishop v. Vose*, 27 Conn. 1, 11; *Baldwin v. Emerson*, 16 R. I. 304, 27 Am. St. Rep. 741, 15 Atl. 83; *Lewis v. Miller*, 115 Ky. 623, 74 S. W. 691.

And we can add nothing to what is said in support of the rule. ‘It is founded,’ it is said, ‘in the necessities of the judicial administration,’ and the courts, federal and state, have equal interest in those necessities. They are both instruments of judicial administration within the same territory, available to suitors, fully available, neither they nor their witnesses subject to be embarrassed or vexed while attending, the one ‘for the protection of his rights’; the others ‘while attending to testify.’

Lamb v. Schmitt, 285 U.S. 222, 225, 52 S. Ct. 317, 318, 76 L. Ed. 720 (1932). [Defendant’s case lacked the requisite “judicial necessity” to be accorded the privilege.]

As commonly stated and applied, [the privilege] proceeds upon the ground that the due administration of justice requires that a court shall not permit interference with the progress of a cause pending before it, by the service of process in other suits, which would prevent, or the fear of which might tend to discourage, the voluntary attendance of those whose presence is necessary or convenient to the judicial administration in the pending litigation. *See Bridges v. Sheldon* (C. C.) 7 F. 17, 43 et seq. In *Stewart v. Ramsay*, the court said at page 130, of 242 U. S., 37 S. Ct. 44, 46, quoting from *Parker v. Hotchkiss*, Fed. Cas. No. 10,739: ‘The privilege which is asserted here is the privilege of the court, rather than of the defendant. It is founded in the necessities of the judicial administration, which would be often embarrassed, and sometimes interrupted, if the suitor might be vexed with process while attending upon the court for the protection of his rights, or the witness while attending to testify,’ ... It follows that the privilege should not be enlarged beyond the reason upon which it is founded, and that it should be extended or withheld only as judicial necessities require.

Ryan v. U.S. Immigration and Customs Enforcement

Federal District of Massachusetts Issues Preliminary Injunction 6/20/19

A preliminary injunction was recently issued against federal immigration authorities (ICE, CBP and others) prohibiting civil arrests for suspected civil immigration law violations. *Ryan v. U.S. Immigration and Customs Enforcement*, Case No. 19-CV-11003-IT (Docket Document 52, June 20, 2019). The district judge based the plaintiffs’ likelihood of success on the merits on the common law privilege against civil arrest. The district judge relied upon the cases of *Parker v. Hotchkiss*, *supra*, *Stewart v. Ramsay*, *supra*, *Diamond v. Earle*, *supra*, and *Larned v. Griffin*, 12 F. 590 (C.C.D. Mass. 1882) referenced above. Applying those (and other) decisions, the court found that Congress did not repeal the civil arrest privilege in passing or amending the Immigration & Nationality Act.

Application of the Common Law in Washington State

There is constitutional³ and statutory⁴ authority for English common law being the law of Washington. Washington courts have a long history of applying the common law when doing so is “compatible with current society and institutions,” and not contrary to Washington’s constitutional and statutes.

McGinn v. N. Coast Stevedoring Co., 149 Wash. 1, 12 (1928). [Federal case law on employee assumption of risk was not binding on Washington as relates to patent and latent defects, and the Court applied common law principles to hold federal case law on employee assumption of risk not binding.]

In fact, were [the U.S. Supreme Court] itself to announce any different rule as to an employer being an insurer of the safety of his employee, we should not be bound to follow it, for we determine the common law within our jurisdiction for ourselves, and that is a question of common law.

Garrett v. Byerly, 155 Wash. 351, 354 (1930). [The common law included both English cases and statutes, and provided authority for courts to issue a judgment *nunc pro tunc*.]

Construing this statute [RRS § 143], we have held that the term ‘common law,’ as therein used, includes not only the unwritten law of England as it was administered by its courts, but also the general statutes of that commonwealth modifying and interpreting the unwritten laws which were enacted prior to and in force at the time of our Declaration of Independence. *Wagner v. Law*, 3 Wash. 500, 15 L. R. A. 784, 28 Am. St. Rep. 56; *Bates v. Drake*, 28 Wash. 447; *Richards v. Redelsheimer*, 36 Wash. 325.

In re Hudson, 13 Wn.2d 673, 684-85 (1942). [No court authority to subject a child to a surgical procedure over the objection of the child’s parents who had not been deprived of custody for being unfit or unsuitable. Decision superseded by statute.]

The common law prevails in this state, so far as it is not inconsistent with the constitution and laws of this state, nor incompatible with the institutions and conditions of society. Rem. Rev.Stat. § 143; cf. Laws of 1863, p. 88, § 1; Code 1881, § 1; Laws of 1891, p. 31, § 1; 2 H.C. § 108.[..] The common law of England, including the English statutes in force at the time of the Declaration of Independence, as adopted by the territorial law of 1863, continues

³ All laws now in force in the Territory of Washington, which are not repugnant to this Constitution, shall remain in force until they expire by their own limitation, or are altered or repealed by the legislature: *Provided*, That this section shall not be so construed as to validate any act of the legislature of Washington Territory granting shore or tide lands to any person, company or any municipal or private corporation. Wa. Const. art. XXVII, § 2.

⁴ The common law, so far as it is not inconsistent with the Constitution and laws of the United States, or of the state of Washington nor incompatible with the institutions and condition of society in this state, shall be the rule of decision in all the courts of this state. [1891 c 17 § 1; Code 1881 § 1; 1877 p 3 § 1; 1862 p 83 § 1; RRS § 143. Formerly RCW 1.12.030.] RCW 4.04.010.

to be the law of this state, except so far as modified by statute. See *Bates v. Drake*, 28 Wash. 447; *Garrett v. Byerly*, 155 Wash. 351, 68 A.L.R. 254; *Compton v. Evans*, 200 Wash. 125.

Cooper v. Runnels, 48 Wn.2d 108, 112 (1955). [Under common law, property damage tort claims are assignable as causes of action]

The common law of England, including the English statutes in force at the date of the Declaration of Independence, continues to be the law of this state except as it is inconsistent with state and Federal constitutions, or incompatible with the institutions and society of this state, or [] statute.

There is express constitutional and statutory bases for the application of the common law as it existed prior to statehood and Washington courts have not been reluctant to do so.

Civil Arrest Privilege – Washington Cases

Washington's cases applying the civil arrest privilege all involved non-residents. However, application of the privilege has been determined by judicial necessity and whether risk of civil arrest would interfere or hamper a person's ability to participate in proceedings, not Washington residency per se.

Groundwater v. Town, 93 Wash. 384, 386 (1916). [Washington Supreme Court acknowledged the common law privilege but declined to examine and apply the privilege, holding that the appellant remained in Washington more than the reasonable needed to return to Montana, and therefore the common law was not applicable.]

We shall assume, without so deciding, that a suitor or a witness from another state is entitled to immunity from service of process while in attendance upon court in this state and for a reasonable time in coming from and returning to the state of his domicile. This court has never so decided, but decisions from many other jurisdictions so holding have been cited.

State ex rel. Gunn v. Superior Court of King Cty, 111 Wash. 187, 190–91 (1920), [Extends the common law privilege to service of process on a defendant.⁵]

Those who criticize the majority rule lose sight of the underlying principle which gave rise to it, and argue that, the rule having originated when arrest of the person gave the court jurisdiction in civil cases, now, such process being obsolete, that the rule should be annulled. They mistake the early application of the rule for the reason of the rule.

⁵ *State ex rel. Gunn* was cited, quoted and followed in *Smith v. Iverson*, 63 Utah 292, 225 P. 603, 605 (1924), where the Utah court held: "The immunity concerns and mainly extends to nonresidents. The fact that the courts of so great a majority of the states have adopted and approved the rule by which they afford the immunity in question to the residents of other states is a forceful reason why we should extend a corresponding immunity to nonresidents of this state as a matter of comity."

It is not necessary to further discuss the origin and development of the common law upon this subject, but we content ourselves with the statement of the fundamental idea on which the common-law rule rested. At common law witnesses and parties were privileged from the service of the then existing means of summons in civil actions during the time they were in attendance upon the court. A review of the decided cases would extend this opinion to an unpardonable length and would reveal that the eminent judges of the various federal courts and the Supreme Court itself, and the overwhelming majority of the state courts, are committed to the rule established at common law, and that only a small minority of the state courts adhere to the contrary doctrine. We are content to follow the majority rule, not only because of its overwhelming indorsement by the courts and the eminent jurists who have given it their sanction, but as well because it is founded upon a reason which originally was sound, and which time has not altered. As Judge Cooley says in *Mitchell v. Huron Circuit Judge*, 53 Mich. 541, 19 N. W. 176:

‘Public policy, the due administration of justice, and protection of parties and witnesses alike demand it. There would be no question about it if the suit had been commenced by arrest; but the reasons for exemption are applicable, though with somewhat less force, in other cases also.’

In *Wilson Sewing Machine Co. v. Wilson* (C. C.) 22 Fed. 803, it is said:

‘It is important to the administration of justice that each party to a suit should have a free and untrammelled opportunity to present his case, and that nonresident defendants should not be deterred, by the fear of being harassed or burdened with new suits in a foreign state, from presenting themselves in such state to testify in their own behalf or to defend their property.’

Husby v. Emmons, 148 Wash. 333, 339 (1928) [Privilege not applied to nonresident defendant.]

Other cases are cited by respondent which undoubtedly sustain his contention, but we feel that the weight of authority and the better reasoning are with those cases which hold that when a person is present in a foreign jurisdiction by reason of arrest or detention in, or in connection with, some criminal proceeding, the rule of immunity from service of civil process does not apply; and this rule, we think, must logically be held to extend to a case such as this, where a nonresident of the state of Washington is held in tentative custody and as a witness whose presence is required at a coroner's inquest summoned to investigate an accident to which he himself was one of the contributing causes.

McKinney v. Northwest Tractor & Equipment, 41 Wn.2d 372 (1952) [Privilege not applied to officer of non-resident corporation who had remained in Washington beyond the reasonable time needed to return to home.

Anderson v. Ivarsson, 77 Wn.2d 391, 393-95 (1969). [Non-resident defendants were served with process. The court examined whether service on defendants interfered with the civil action.]

[A]ll of the federal courts, including the United States Supreme Court, and an overwhelming majority of the state courts are committed to the general immunity doctrine alluded to above. Indeed, the principle is one which finds its genesis in the common law of England, being mentioned in the Year Books as early as Henry VI. R. Bowers, *Process and Service* s 369 (1927); W. Alderson, *Judicial Writs and Process* ss 118, 119 (1895); 3 W. Blackstone, *Commentaries* 289 (3 W. Hammond Ed. at 385, 1890).

The underlying purpose of the rule extending immunity from the service of unrelated civil process to nonresident suitors and witnesses, attending upon a local civil judicial proceeding, is to insulate the pending litigation against the interference and vexation which might arise from the untimely intervention of unrelated litigation. It proceeds upon the ground that courts should not permit the progress of a civil trial to be interrupted by the service of process in other civil suits, the portent of which could prevent or tend to discourage the voluntary attendance of those nonresident persons whose presence is essential or desirable if justice in the pending cause is to be fully and fairly administered. The privilege of the immunity is, therefore, primarily a privilege of the courts rather than a privilege of the individual, resting, as it does, upon the foundation of judicial convenience and the furtherance of the orderly and unfettered administration of justice. The exemption provided by the privilege, however, is not one to be arbitrarily and rigorously enforced upon all occasions; but, rather, it can and should be extended or withheld only as judicial necessities dictate. *Stewart v. Ramsay*, 242 U.S. 128, 37 S.Ct. 44, 61 L.Ed. 192, (1916); *Lamb v. Schmitt*, 285 U.S. 222, 52 S.Ct. 317, 76 L.Ed. 720 (1932).

The Constitution Right of Access to Courts

The Washington state constitution, article I, section 10, provides that “justice in all cases shall be administered openly and without unnecessary delay.” Const. Art. 1, § 10. This clause encompasses “the right to a remedy for a wrong suffered.” Robert F. Utter & Hugh D. Spitzer, *The Washington State Constitution: A Reference Guide* (2002). “The people have a right of access to the courts; indeed, it is the ‘bedrock foundation upon which rest all the people’s rights and obligations.’” *Pullman v. Wenatchee Valley Medical Center, P.S.*, 166 Wn.2d 974, 979 (2009) (quoting *John Doe v. Puget Sound Blood Ctr.*, 117 Wn. 2d 772, 780 (1991)).

It is “within the inherent power of a court exercising common law jurisdiction to make such orders as are necessary to protect the rights of the poor to access the judicial system.” *King v. King*, 162 Wn. 2d 387, 390 (2007) (citing *Bullock v. Roberts*, 84 Wn.2d 101 (1974)). See also *Jafar v. Webb*, 177 Wn.2d 520 (2013) (discussing the constitutional right of access to the courts for indigent people).

Supreme Court Rule-Making Authority

The Washington Supreme Court has taken an expansive view of what is “procedural” when adopting rules of court and finding a nexus between the rules adopted and its inherent,

constitutional and statutory rule-making authority. See *State v. Smith*, 84 Wn.2d 498, 501, 527 (1974); *State v. Templeton*, 148 Wn.2d 193, 212-13, 221-22 (2002);

Conclusion

The common law rationale for the civil arrest privilege has a clear nexus to effective and efficient administration of justice. Prohibiting warrantless civil arrests and other intrusive activities in or near courthouses protects people's Washington State constitutional right and ensures effective participation in, and access to, the justice system, whether as a witness or party, or a person accessing services or conducting business with the court.

DRAFT

GR 9 COVER SHEET

Proposed New Washington State Court Rule

(A) Names of Proponents: Northwest Justice Project, Washington Defender Association, American Civil Liberties Union (ACLU) of Washington, Northwest Immigrant Rights Project, Washington Immigrant Solidarity Network, Columbia Legal Services, Central Washington Justice For Our Neighbors, Asian Pacific Islander Institute on Gender-Based Violence, Washington State Coalition Against Domestic Violence, Washington Coalition of Sexual Assault Programs, Colectiva Legal del Pueblo

(B) Spokespersons: Annie Benson, Washington Defender Association
110 Prefontaine Place South, Suite 610, Seattle, WA 98104
Tel: 206-623-4321 Email: abenson@defensenet.org
Vanessa Hernandez, Northwest Justice Project
401 Second Avenue, Suite 407, Seattle, WA 98104
Tel: 206-464-1519 Email: Vanessa.Hernandez@nwjustice.org

(C) Purpose:

The proposed court rule is based on the civil arrest privilege. As the supplemental materials outline, the privilege has a long-established tradition in common law and Washington caselaw.¹ The privilege prohibits civil arrests without a judicial arrest warrant, or other judicial arrest order, from being carried out against a person who is inside a Washington courthouse, or who is traveling to, or returning from, a Washington courthouse to attend hearings or conduct business with the court.

As of the filing of this petition, incidents involving warrantless arrests in connection with federal civil immigration enforcement activities have been documented in courthouses in 18 Washington counties² Federal immigration enforcement agents of the Department of Homeland Security Divisions of Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) are arresting people inside, outside and adjacent to (e.g., on courthouse sidewalks and in courthouse parking lots) Washington district, municipal and superior courts. Additionally, ICE and CBP agents are following people as they leave the courthouse, pulling them over in their cars and arresting drivers and passengers.

Targeted people are at courthouses in connection with court business, such as attending a hearing or paying traffic infractions. There is no documented incidents of such individuals causing any disturbance of the peace or posing any danger to others while engaging in court business.

¹ See memorandum in supplemental materials providing an overview of the law on the civil arrest privilege.

² See factsheet *Immigration Enforcement At Washington Courthouses*, Washington Immigrant Solidarity Network, (Sept. 2019), provided in the supplemental materials and available at: <https://defensenet.org/wp-content/uploads/2019/08/Summary-2-pgr-Immig-Enforement-@-WA-Ct-Houses-AB-FINAL-0829019.pdf>

Immigration enforcement agents target people of color, predominantly Latinx Spanish speakers. Targeted people are stopped, questioned and/or simply apprehended, often forcefully.

Immigration enforcement actions at courthouses are now well-known throughout Washington's immigrant communities. As a result, noncitizens and their families and communities are afraid to engage with our state's justice system. Some of the impacts of these actions are:

- Victims are afraid to report crimes for fear that they or their family members would have to come to a courthouse as a result of their report.
- Victims and other witnesses are afraid to testify in both civil and criminal cases.
- Victims are afraid to seek domestic violence and other forms of protective orders.
- Would-be parties to civil litigation are afraid to commence civil litigation through which they could otherwise obtain orders of dissolution, parenting plans and orders for support and division of property.
- Respondents in a range of civil litigation are afraid to participate, forcing them to choose between being defaulted, or risking arrest.
- People are forgoing payment of traffic fines, seeking marriage licenses and accessing other administrative court services.
- Defendants fear showing up for court dates to answer and defend against criminal charges. They must choose risking additional charges for failing to appear (an offense with severe immigration consequences) or being arrested, detained and possibly deported by immigration enforcement officers. These circumstances compromise defense attorney's capacity and obligations to defend their clients.
- People who would otherwise accompany friends and relatives to court, are now afraid to provide that accompaniment or transportation to court.
- Prosecutors are impeded in their duties to pursue justice for alleged criminal violations.

It is a fundamental right of all Washington residents to access our courts. Const. art. 1, § 10. The purpose of Washington's court rules is to "provide necessary governance of court procedure and practice and to promote justice by ensuring a fair and expeditious process." GR 9. Targeting those who appear at our courthouses and subjecting them to arrest without a judicial warrant for alleged civil immigration violations frustrates justice and compromises our judicial process.

This civil arrest activity denies access to our justice system for large numbers of individuals and their families, the majority of whom are Spanish-speaking people of color. Their legitimate fears of arrest and deportation require justice system stakeholders to engage all possible strategies to ensure Washington courts are open, neutral and accessible to the public, free of restrictions that would otherwise impede the proper administration of justice. The proposed rule recognizing the civil arrest privilege is one such strategy. It would prohibit unwarranted immigration enforcement actions and help to restore access to Washington's courts for all, renew confidence in our judicial system and provide a basis to pursue legal action against state and federal actors who violate orders invoking the privilege. Accordingly, it is appropriate and necessary that the Court adopt the proposed rule.

This rule does not create or resolve conflicts with statutes, case law or other court rules.

(D) Hearing:

The proponents do not believe a public hearing is needed.

(E) Expedited Consideration:

The proponents believe exceptional circumstances justify expedited consideration of the suggested rule. The current circumstances have resulted in an access to justice crisis for noncitizens, their families and in their communities. Much damage has already occurred, to these people as well as our courts. And federal immigration enforcement actions continue. Community members report arrests taking place multiple times each week in Grant County alone. Communities and justice system stakeholders cannot wait until September 1st, 2020. Indeed, even if the petition is processed in an expedited manner there will be significant damage to people and the mission of our courts. As such, proponents respectfully request that the proposed rule be moved through the process as quickly as possible. If the committee votes to permit the petition to proceed, proponents request commencement of a 30 day comment period as soon as possible and an expedited schedule for the remainder of the process.

DRAFT

PROPOSED WASHINGTON COURT RULE

1. No person shall be subject to civil arrest without a judicial arrest warrant or judicial order for arrest while the person is inside a courthouse of this state in connection with a judicial proceeding or other business with the court.
2. No person shall be subject to civil arrest without a judicial arrest warrant or judicial order for arrest while the traveling to a courthouse of this state for the purpose of participating in any judicial proceeding or other business with the court, or while traveling to return home or to employment after participating in any judicial proceeding or business with the court. Participating in a judicial proceeding includes, but is not limited to, participating as a party, witness, interpreter, attorney or lay advocate. Business with the court includes, but is not limited to, doing business with, responding to, or seeking information from the office of the court clerk, financial/collections clerk, judicial administrator, courthouse facilitator, family law facilitator, court interpreter, and other court and clerk employees.
3. Washington courts may issue writs or other court orders necessary to enforce this court rule.

GR 9 COVER SHEET

**Suggested Amendment to
COMMENT ON RULES OF PROFESSIONAL CONDUCT (RPC)
Comment to Rule 4.4 – RESPECT FOR RIGHTS OF THIRD PERSON**

A. Names of Proponent:

American Civil Liberties Union of Washington (ACLU-WA), Washington Defender Association, Northwest Justice Project, Northwest Immigrant Rights Project, Washington Immigrant Solidarity Network, Columbia Legal Services, Central Washington Justice For Our Neighbors, Asian Pacific Islander Institute on Gender-Based Violence, Washington State Coalition Against Domestic Violence, Washington Coalition of Sexual Assault Programs, Colectiva Legal del Pueblo

B. Spokesperson:

Enoka Herat
ACLU-WA
901 Fifth Avenue, Suite 630
Seattle, WA 98164
(206) 624-2184

C. Purpose:

Since Comment (4) to Rule of Professional Conduct (RPC) 4.4 was originally adopted in 2013, the landscape of immigration enforcement has drastically changed. A technical amendment to the comment is needed to clarify that the protections extend to the use of civil immigration enforcement as a weapon against immigrant parties and witnesses across Washington. The changes to the comment would prevent all lawyers in Washington from reporting people to immigration authorities in both civil and criminal cases and help to ensure that all lawyers are upholding their duty to facilitate access to justice. The proposed changes also provides exceptions for state and federal law, and for lawyers employed by federal immigration authorities.

These clarifications to the existing comment are proposed to prevent warrantless civil arrests being carried out in and around Washington courthouses by federal immigration enforcement agents. Cooperation with federal immigration enforcement agencies to facilitate these arrests transforms state courthouses into a staging ground for immigration detention and deportation, and makes the courthouse a frightening and unwelcoming place for immigrants and their families. The Washington State Bar Association (WSBA) Board of Governors unanimously approved sending a letter to the Department of Homeland Security Divisions of Immigration and Customs Enforcement (ICE) recognizing that the “situation leads to access to justice impediments and risks less safe communities.”¹ Chief Justice Fairhurst has sent similar

¹ See attached letter from WSBA BOG to ICE.

letters to ICE and Customs and Border Protection (CBP) asserting that these arrests “impede the fundamental mission of our courts, which is to ensure due process and access to justice for everyone, regardless of their immigration status.”² Unfortunately, as reflected in the current Comment [4], lawyers have used immigration enforcement as a strategic tactic knowing that ICE and CBP have in recent months increased their presence at courthouses.³

Immigration enforcement actions have occurred at courthouses throughout Washington, in at least 16 different counties.⁴ ICE and CBP primarily target people of color, predominantly Latinx Spanish speakers. Targeted people are stopped, questioned and/or apprehended as they seek to enter, are inside, or are leaving a Washington courthouse. As a result, noncitizens, including immigrants with lawful status, and their families and communities are afraid to engage with our state’s justice system. Defendants fear showing up for court dates to answer and defend against criminal charges. They must choose risking additional charges for failing to appear or being arrested, detained and possibly deported by immigration enforcement officers. These circumstances compromise defense attorneys’ capacity and obligations to defend clients, and prosecutors are impeded in their duties to pursue justice for alleged criminal violations. Similarly, victims of crime, including domestic violence are afraid to seek judicial protections from domestic violence for fear being separated from their children or otherwise having to defend themselves against possible deportation.

Our Supreme Court Chief Justice, WSBA, and prosecutors around the country — including in California, Colorado, Massachusetts, and New York — have publicly condemned immigration enforcement actions in courthouses because of the chilling effect on immigrants. However, as the University of Washington’s Center for Human Rights has recently reported, some prosecutors in Washington have proactively shared information and reported people to ICE.⁵ Many prosecutors know first-hand that the specter of county involvement in ICE arrests harms public trust in law enforcement, making people less likely to come forward as crime witnesses or to seek protection because they fear doing so will lead ICE agents to detain and deport them or their family members. As a letter sent by California prosecutors to ICE noted, “[n]o one should fear that their immigration status prevents them from seeking justice, whether as a crime victim or otherwise.”⁶ The proposed amendment seeks to clarify that all lawyers in Washington are prohibited from sharing someone’s personal information in order to facilitate immigration arrests as doing so burdens community members’ access to courts.

² See attached letter from Justice Fairhurst to ICE.

³ Lilly Fowler, More Immigrants Report Arrests at WA Courthouses, Despite Outcry, <https://crosscut.com/2019/04/more-immigrants-report-arrests-wa-courthouses-despite-outcry>, (last accessed on 9/26/19).

⁴ See attached report, University of Washington Center for Human Rights, *Justice Compromised, Immigration arrests at Washington state courthouses* (Oct. 2019).

⁵ See *Id.*

⁶ Letter to Attorney General Jeff Sessions from California Prosecutors, <https://fairandjustprosecution.org/wpcontent/uploads/2017/09/Letter-to-AG-Sessions-from-California-Prosecutors.pdf> (April 2017).

In Washington state, law enforcement is already prohibited from sharing nonpublic, personal information with immigration authorities,⁷ as are state agencies.⁸ Extending these prohibitions to all lawyers promotes fairness, public safety, and access to justice for all Washingtonians.⁹

It is a fundamental right of all Washington residents to access our courts. Const. art. 1, § 10. Justice system stakeholders must take all possible steps to ensure Washington courts are open, neutral and accessible to the public, free of restrictions that would otherwise impede the proper administration of justice. The technical amendment comment to RPC 4.4 furthers the intent of the current comment and reflects the need to ensure that all lawyers, including prosecutors, are not contributing to immigration arrests which actively undermine access to justice. Accordingly, it is appropriate and necessary that the proposed technical amendment to the comment to RPC 4.4 is adopted.

D. Hearing:

The proponents do not believe a public hearing is needed.

E. Expedited Consideration:

The proponents believe exceptional circumstances justify expedited consideration of the suggested technical amendment to the comment to RPC 4.4 and request that the Rules Committee proceed to a 30 day comment period.

F. Supporting Materials:

- a. Justice Fairhurst letter to ICE and CBP
- b. WSBA BOG letter to ICE
- c. UWHCR Report
- d. ATJ/MJC letter of support?

⁷ See SB 5497 (2019-20), Section 6(5), <http://lawfilesexternal.wa.gov/biennium/201920/Pdf/Bills/Senate%20Passed%20Legislature/5497-S2.PL.pdf>.

⁸ See Executive Order 17-01, https://www.governor.wa.gov/sites/default/files/execute_order/eo_17-01.pdf (February 2017).

⁹ Additionally, an update to the comment was necessary to recognize prosecutors' obligations under state and federal law, as well as to protect lawyers employed by federal immigration agencies.

1 **SUGGESTED RULE CHANGES**

2 **RULES OF PROFESSIONAL CONDUCT 4.4 COMMENT (4)**

3 The duty imposed by paragraph (a) of this Rule includes a lawyer's assertion or inquiry about
4 a ~~ny~~ person's immigration status when the lawyer's purpose is to intimidate, coerce, or obstruct
5 that person from participating in a civil ~~or criminal~~ matter ~~, or otherwise assists with civil~~
6 ~~immigration enforcement~~. Issues involving immigration status carry a significant danger of
7 interfering with the proper functioning of the justice system. See *Salas v. Hi-Tech Erectors*, 168
8 Wn.2d 664, 230 P.3d 583 (2010). When a lawyer is representing a client, ~~whether the client is~~
9 ~~the state or one of its political subdivisions, an organization, or an individual,~~ a lawyer's
10 communication to a party or a witness that the lawyer will report that person to immigration
11 authorities, or a lawyer's report of that person to immigration authorities, furthers no substantial
12 purpose of the ~~adjudicative system and~~ ~~violates this Rule~~.

13
14 A communication in violation of this Rule can also occur by an implied assertion that is the
15 equivalent of an express assertion prohibited by paragraph (a). ~~Sharing personal information~~
16 ~~with federal immigration authorities, including but not limited to, home address, court hearing~~
17 ~~dates, citizenship or immigration status, or place of birth, absent a court order, for the purpose of~~
18 ~~facilitating civil immigration arrests is conduct that is in violation of this Rule.~~ See also Rules
19 ~~1.6(a) (prohibiting a lawyer from revealing information relating to the representation of a~~
20 ~~client), 8.4(b) (prohibiting criminal acts that reflect adversely on a lawyer's honesty,~~
21 ~~trustworthiness, or fitness as a lawyer in other respects), 8.4(d) (prohibiting conduct prejudicial~~
22 ~~to the administration of justice), and 8.4(h) (prohibiting conduct that is prejudicial to the~~
23 ~~administration of justice toward judges, lawyers, LLLTs, other parties, witnesses, jurors, or~~
24 ~~court personnel or officers, that a reasonable person would interpret as manifesting prejudice or~~
25 ~~bias on the basis of sex, race, age, creed, religion, color, national origin,~~ ~~immigration status,~~
26 ~~disability, sexual orientation, or marital status).~~

27
28 ~~Government officials may provide federal immigration authorities with information relating to~~
29 ~~any person involved in matters before a court only pursuant to RCW 7.98, or upon request and in~~
30 ~~the same manner and to the same extent as such information is lawfully made available to the~~
31 ~~general public, or pursuant to a court order. Additionally, under 8 U.S.C. § 1373, government~~
32 ~~officials are not prohibited from sending to or receiving from immigration authorities a person's~~
33 ~~immigration status or citizenship. Lawyers employed by federal immigration authorities engaged~~
34 ~~in authorized activities within the scope of lawful duties shall not be deemed in violation of this~~
35 ~~rule.~~

Deleted: third

Deleted: in a civil matter

Deleted: civil

Deleted: if the lawyer's purpose is to intimidate, coerce, or obstruct that person



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON
Civil Rights Division
800 Fifth Avenue • Suite 2000 • MS TB 14 • Seattle WA 98104
(206) 442-4492

October 15, 2019

Sent via FedEx

The Honorable Samuel Meyer
District and Municipal Court Judges' Association President
Administrative Office of the Courts
PO Box 41170
Olympia, WA 98504

RE: Name Change Petitions Asking for Unnecessary Personal Information

Dear Judge Meyer:

It has come to the attention of the Wing Luke Civil Rights Division of the Attorney General's Office that some Washington district courts require adults petitioning for a legal name change to provide unnecessary personal information. Despite the limited requirements to petition for a name change as an adult, *see* RCW 4.24.130(1)-(3), a number of district court petition forms inappropriately seek personal information including: citizenship status, place of birth, date of birth, full address, and names of parents. Through this practice, district courts may fail to comply with the statutory obligation to provide legal name change to petitioners who meet the limited requirements of RCW 4.24.130. We are additionally concerned that because name change petitions filed within district courts are public records, forms that require the disclosure of unnecessary personal information may expose petitioners' personal information to the public. This practice could potentially deter some of Washington's most vulnerable residents from accessing an important court service.

Name Change Procedure under RCW 4.24.130

As Your Honor knows, in Washington, "[a]ny person" who wishes to change their name may do so by petitioning the district court of the judicial district in which they reside. RCW 4.24.130(1). The only statutory requirements for a name change are that the petitioner make an application "to the district court of the judicial district in which he or she resides," that "set[s] for the reasons for the name change." *Id.* The ability to legally change one's name, as an adult, is not limited by citizenship or immigration status, and the statute contains no requirements that petitioners

ATTORNEY GENERAL OF WASHINGTON

The Honorable Samuel Meyer
October 15, 2019
Page 2

disclose other personal biographical or family data or present a birth certificate. *See id.* While there are additional reporting steps for individuals under the jurisdiction of the Washington State Department of Corrections and sex offenders who are subject to registration under RCW 9A.44.130, *see* RCW 4.24.130(2)-(3), the statute still allows for individuals of wide ranging backgrounds, whether citizens or noncitizens, to petition for a legal name change.

Name Change Petitions with Citizenship Requirement

Despite the lack of a citizenship requirement under RCW 4.24.130, we are aware of at least eleven district courts that require citizenship disclosure within their forms. Adams (Ritzville), Chelan, Clark, Lincoln and Snohomish counties ask the petitioner if they are a U.S. Citizen. *See* Attachments A, B, C, D, and E (adult name change petition forms for Adams (Ritzville), Chelan, Clark, Lincoln, and Snohomish counties). Benton, Klickitat (East and West), Pacific (North and South), San Juan, Stevens, and Wahkiakum counties, through their petition's mandatory form language of requiring the petitioner to be a U.S. Citizen, leads the petitioner to assume that citizenship is required when filing a legal name change. *See* Attachments F, G, H, I, J, and K (adult name change petition forms for Benton, Klickitat (East and West), Pacific (North and South), San Juan, Stevens, and Wahkiakum counties).

For example, the Snohomish County District Court form petition asks, "Are you a United States citizen?" and requires petitioners to check "Yes" or "No." *See* Attachment E (adult name change petition form for Snohomish County District Court). The Snohomish County District Court also warns noncitizens that additional scrutiny will be given to their petitions. *See* Snohomish Cty. Dist. Court, *Legal Change of Name*, <https://snohomishcountywa.gov/581/Legal-Change-of-Name> (last visited Oct. 8, 2019) ("Are you a citizen of the United States? If not, be aware, at the time of your hearing the judge may request additional information such as a green card, naturalization documents, or passport."). The Benton County name change petition implies that U.S. citizenship is a prerequisite to name change by requiring the petitioner to swear under oath that the petitioner "is a citizen of the United States of America." *See* Attachment F (adult name change petition form for Benton County District Court).

The ability to petition for a legal name change is not limited by U.S. citizenship. *See* RCW 4.24.130(1). By seeking this information, district courts may give the false impression that legal name change is only available to U.S. citizens or those born in Washington State.

Name Change Petitions Requesting Birthplace or Other Unnecessary Personal Information

Inappropriate citizenship questions are not the only issue. Despite limited requirements under RCW 4.24.130, some counties ask adults petitioning for a name change for additional personal biographical information or family data, and some also require submission of a birth certificate. For example, Mason, Okanogan, and Skagit counties have name change petition forms that ask for the petitioner's date of birth, place of birth, and names of parents. *See* Attachments L, M, and

ATTORNEY GENERAL OF WASHINGTON

The Honorable Samuel Meyer
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Page 3

N (adult name change petition forms for Mason, Okanogan, and Skagit counties). In addition, Pierce County asks for the petitioner's sex. *See* Attachment O (screen captures of the "Adult Petitioner Filing for Self" page of the Pierce County District Court Kiosk).

Jefferson, Pacific, and Skagit counties require a copy of the petitioner's birth certificate in addition to other forms of identification. *See* Attachments P (Jefferson County District Court Name Change Procedures which list as a requirement a "[c]opy of the birth certificate of the petitioner"), H (adult name change petition form for Pacific County (North and South) which states, "[a] copy of the Petitioner's birth certificate has been filed with the Court"), and N (Skagit County name change information brochure which lists "[a] copy of a birth certificate" under "What to File"). Requiring a birth certificate may improperly prevent individuals who do not have access to their birth certificate from petitioning for a name change. This barrier is not required by any statute and appears to have been created by local officials at the time they created the name change forms.

Some district courts appear to be anticipating petitioners' later desire to use their new name to change government issued documents, such as birth certificates. While the Washington State Department of Health's Center for Health Statistics does require an individual's parents' names and date of birth to find a birth certificate in order to make a change, this information is not required to petition for the name change order itself. Each petitioner will have unique needs and reasons for pursuing the name change. Because the district court is not involved in the process of changing birth certificates, driver's licenses, or similar documents issued by other government entities, it is not appropriate for district courts to "over ask" for information on name change petitions in anticipation of some future process.

Effects on Washingtonians, Including Transgender Residents, Seeking Name Changes

Access to a legal name change is especially important to transgender and gender-expansive Washingtonians who change their names to align with their gender identities and lived experiences. Studies show that using a chosen name is linked to reduced depressive symptoms in transgender individuals.¹ Court-ordered legal name change is often the first step to changing records and identifying documents. For transgender and nonbinary people, not having an identification that accurately reflects a chosen name is frequently dangerous. As a result of showing an ID with a name or gender that did not match their gender presentation, respondents to the 2015 U.S. Transgender Survey reported being verbally harassed, denied services or benefits, asked to leave a location or establishment, and assaulted or attacked.² People of color and residents who are undocumented were even more likely to report being assaulted or attacked

¹ Stephen T. Russell, et al., *Chosen Name Use Is Linked to Reduced Depressive Symptoms, Suicidal Ideation, and Suicidal Behavior Among Transgender Youth*, 63 J. of Adolescent Health 503, 505 (Oct. 2018).

² Sandy E. James, et al., Nat'l Ctr. For Transgender Equality, *The Report of the 2015 U.S. Transgender Survey*, 81 (2016).

ATTORNEY GENERAL OF WASHINGTON

The Honorable Samuel Meyer
October 15, 2019
Page 4

for using incongruous IDs.³ Despite the importance of using a chosen name and having identification that reflects this name, many transgender individuals are not able to access legal name change. According to the 2015 survey, forty-nine percent of respondents did not have an ID or record with the name they preferred.⁴ Transgender noncitizens are even less likely to have an ID or record with their preferred name.⁵ Ensuring access to the vital gender affirming service of legal name change is critical to ensuring the safety and well-being of transgender Washingtonians.

Name change petitions also implicate privacy concerns for anyone who seeks name changes, whether transgender or not. Name change petitions filed in the district courts are public records. The over-collection of personal information could expose that personal information to public disclosure. All Washingtonians, regardless of citizenship status or gender identity, have a right to access court services without fear of unnecessarily disclosing personal information to the public.

Conclusion

In order to prevent further confusion to petitioners, ensure equal access to legal name change, prevent unnecessary disclosure of personal information, and ensure compliance with Washington State law, I respectfully ask that you advise district court judges to work with court staff to modify adult name change petitions and related information as follows:

- 1) Remove any request for citizenship or immigration status information from the name change petition;
- 2) Remove any request for inessential personal information, including sex, full address, date of birth, place of birth, and parents' names from the name change petition;
- 3) Update administrative policies and local rules to remove any requirement of providing a birth certificate as an additional form of identification;
- 4) Update court administrative procedures to prohibit the request for citizenship information, immigration status, or inessential personal information from name change petitioners and ensure court staff are trained on these changes; and
- 5) Update the court website, if one is used, and all court materials to reflect the above changes.

Along with contacting you, I am also reaching out directly to the Presiding Judges of district courts in 34 counties to identify specific issues related to their forms and practices. Copies of those letters are enclosed for your information.

³ *Id.* at 90.

⁴ *Id.*

⁵ *Id.* at 85.

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The Honorable Samuel Meyer
October 15, 2019
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I am happy to discuss the contents of this letter and work with you to ensure accessible court services to all Washington residents. Please do not hesitate to reach out to me at (206) 464-5342 or via email at Colleen.Melody@atg.wa.gov.

Sincerely,



COLLEEN M. MELODY
Division Chief
Wing Luke Civil Rights Division

Attachments

2019-2020 District and Municipal Court Judges' Association Nominating Committee

Listserv Address: DMCJANC@listserv.courts.wa.gov

Members

**Judge Rebecca C. Robertson,
Chair**
Federal Way Municipal Court
33325 8th Ave S
Federal Way, WA 98003-6325
253-835-3000
rebecca.robertson@cityof-federalway.com

Judge James N. Docter
Bremerton Municipal Court
550 Park Ave
Bremerton, WA 98337
360-473-5215
james.docter@ci.bremerton.wa.us

**Ex Officio
Judge Willie J. Gregory
Diversity Chair Position**
Seattle Municipal Court
Seattle Justice Center, 600 5th Ave
PO Box 34987
Seattle, WA 98124-4987
206-684-8711
willie.gregory@seattle.gov

Judge John H. Hart
Whitman County District Court
400 N Main St
PO Box 230
Colfax, WA 99111-0230
509-397-6260
john.hart@whitmancounty.net

Judge Debra R. Hayes
Spokane County District Court
1100 W Mallon Ave
PO Box 2352
Spokane, WA 99210-2352
509-477-2904
drhayes@spokanecounty.org

Judge Kristian E. Hedine
Walla Walla Co. District Court
317 W Rose St
Walla Walla, WA 99362-1881
509-524-2760
khedine@co.walla-walla.wa.us

Judge Tyson R. Hill
Grant County District Court
35 C St NW, Fl 3
PO Box 37
Ephrata, WA 98823-0037
509-754-2011, ext 3128
trhill@grantcountywa.gov

Judge Nancy R. McAllister
Pacific County District Court
7013 Sandridge Rd
Long Beach, WA 98631
360-642-9417 ext. 2518
nmcallister@co.pacific.wa.us

AOC Staff
Susan Peterson
Admin. Office of the Courts
PO Box 41170
Olympia, WA 98504-1170
360-705-5278
susan.peterson@courts.wa.gov

Charges

1. The Nominating Committee shall annually select not more than two candidates for Vice-President, Secretary/Treasurer, President-Elect, and three Board member-at-large positions. The Board member-at-large positions shall be for three-year terms.
2. The report of the Nominating Committee shall be submitted to the Board at its March meeting. The names of the nominees will be published in the written notice of the Spring Conference and in the Minutes of the Board's March meeting. Nominations for all offices except President may be made by the members at the Spring Conference.
3. The Nominating Committee shall make nominations for other vacancies on the Board.

Budget

Budget: \$400

Updated 7/3/2019

N:\Programs & Organizations\DMCJA\Committees\19-20 COMMITTEE ROSTERS.docx



**DMCJA BOARD MEETING
FRIDAY, NOVEMBER 8, 2019
12:30 AM – 3:30 PM
AOC BUSINESS OFFICE
SEATAC, WA**

PRESIDENT SAMUEL MEYER

SUPPLEMENTAL AGENDA

PAGE

Call to Order

General Business

- A. Minutes
 - 1. September 22, 2019
- B. **Treasurer’s Report**
- C. **Special Fund Report**
- D. Standing Committee Reports
 - 1. Education – Committee voted to purchase Judge Chip Small’s book for DMCJA judges attending Judicial College
 - 2. Legislative Committee
 - 3. Rules – Minutes for August 28, 2019
- E. Judicial Information System (JIS) Report – *Vicky Cullinane*

**X1-X14
X11-X13**

Liaison Reports

- A. Board for Judicial Administration (**BJA**) – *Judges Kevin Ringus, Mary Logan, Dan Johnson, and Tam Bui*
- B. District and Municipal Court Management Association (**DMCMA**) – *Ms. Dawn Williams*
- C. Misdemeanant Probation Association (**MPA**) – *Ms. Stacie Scarpaci*
 - 1. DMCJA Request for support letter
 - 2. Substance Use Disorder (SUD) Treatment Provider Letter
- D. Superior Court Judges’ Association (**SCJA**) – *Judge Judith Ramseyer*
- E. Washington State Association for Justice (**WSAJ**) – *Sean Bennet Malcolm, Esq.*
- F. Washington State Bar Association (**WSBA**) – *Kim E. Hunter, Esq.*

Discussion

- A. Legal Financial Obligation (LFO) Remission Rule – Judge David Steiner

of County Clerks President, regarding Odyssey Portal Access

- I. CLJ related articles: [Lawyer files claims totaling \\$20 million over judge with no law degree in Airway Heights, Cheney](#)

Other Business

- A. The next DMCJA Board Meeting is December 13, 2019, 12:30 p.m. to 3:30 p.m., at the AOC SeaTac Office Center.

Adjourn

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

SUMMARY OF REPORTS

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

For the Period Ending October 31st, 2019

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)
- Special Fund Bank Statement
- Current Budget Balance

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 October 31, 2019

	Oct 31, 19
ASSETS	
Current Assets	
Checking/Savings	
Bank of America - Checking	7,055
Bank of America - Savings	39,487
US Bank - Savings	70,766
Washington Federal	45,756
Total Checking/Savings	163,065
Total Current Assets	163,065
Fixed Assets	
Accumulated Depreciation	(703)
Computer Equipment	579
Total Fixed Assets	(124)
Other Assets	
Prepaid Expenses	34,000
Total Other Assets	34,000
TOTAL ASSETS	196,940
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Credit Cards	
Credit Cards	
Bank of America C. C.	10
Total Credit Cards	10
Total Current Liabilities	10
Total Liabilities	10
Equity	
Unrestricted Earnings	(49,021)
Unrestricted Net Assets	305,296
Net Income	(59,344)
Total Equity	196,930
TOTAL LIABILITIES & EQUITY	196,940

Washington State District And Municipal Court Judges Assoc.
Statement of Activities
For the Four Months Ending October 31st, 2019

	<u>Jul 19</u>	<u>Aug 19</u>	<u>Sep 19</u>	<u>Oct 19</u>	<u>TOTAL</u>
Ordinary Income/Expense					
Income					
Interest Income	57.02	56.76	53.23	46.34	213.35
Membership Revenue	0.00	250.00	0.00	0.00	250.00
Total Income	<u>57.02</u>	<u>306.76</u>	<u>53.23</u>	<u>46.34</u>	<u>463.35</u>
Gross Profit	57.02	306.76	53.23	46.34	463.35
Expense					
Conference Incidental Fees 2020	0.00	0.00	0.00	(657.73)	(657.73)
Council on Independent Courts	0.00	0.00	113.68	0.00	113.68
MPA Liaison	0.00	228.60	0.00	0.00	228.60
Special Fund Expense	0.00	47.20	5,000.00	0.00	5,047.20
Prior Year Budget Expense	2,969.36	0.00	0.00	473.50	3,442.86
Board Meeting Expense	1,190.73	0.00	7,590.53	1,965.84	10,747.10
Bookkeeping Expense	318.00	318.00	318.00	318.00	1,272.00
Conference Calls	0.00	0.00	33.22	197.63	230.85
Conference Planning Committee	0.00	0.00	957.54	0.00	957.54
Education Committee	0.00	0.00	1,655.00	558.16	2,213.16
Educational Grants	0.00	1,000.00	0.00	0.00	1,000.00
Judicial Assistance Committee	0.00	925.00	0.00	2,632.40	3,557.40
Judicial College Social Support	0.00	0.00	0.00	2,000.00	2,000.00
Legislative Committee	0.00	116.00	58.00	23.00	197.00
Legislative Pro-Tem	0.00	0.00	642.96	910.22	1,553.18
Lobbyist Contract	6,250.00	8,250.00	6,250.00	6,250.00	27,000.00
Rules Committee	0.00	0.00	166.94	0.00	166.94
SCJA Board Liaison	0.00	0.00	0.00	32.48	32.48
Treasurer Expense and Bonds	0.00	0.00	0.00	10.00	10.00
Bank Service Charges	0.00	0.00	14.00	14.00	28.00
Total Expense	<u>10,728.09</u>	<u>10,884.80</u>	<u>22,799.87</u>	<u>14,727.50</u>	<u>59,140.26</u>
Net Ordinary Income	(10,671.07)	(10,578.04)	(22,746.64)	(14,681.16)	(58,676.91)
Other Income/Expense					
Other Expense					
Ask the client	0.00	0.00	667.36	0.00	667.36
Total Other Expense	0.00	0.00	667.36	0.00	667.36
Net Other Income	0.00	0.00	(667.36)	0.00	(667.36)
Net Income	<u>(10,671.07)</u>	<u>(10,578.04)</u>	<u>(23,414.00)</u>	<u>(14,681.16)</u>	<u>(59,344.27)</u>

Washington State District And Municipal Court Judges Assoc.

11/05/19

Reconciliation Detail

Bank of America - Checking, Period Ending 10/31/2019

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						180.49
Cleared Transactions						
Checks and Payments - 31 items						
Check	10/04/2019		The Judicial Institute	X	-1,000.00	-1,000.00
Check	10/04/2019		Charles Short	X	-438.48	-1,438.48
Check	10/04/2019		Dan B Johnson	X	-174.42	-1,612.90
Check	10/04/2019		Linda Coburn	X	-144.42	-1,757.32
Check	10/04/2019		Tyson R. Hill	X	-144.42	-1,901.74
Check	10/04/2019		Drew Henke	X	-30.00	-1,931.74
Check	10/04/2019		Laura Vanslyck	X	-30.00	-1,961.74
Check	10/11/2019		Thurston County Dis...	X	-665.32	-2,627.06
Check	10/11/2019		Pierce County Book...	X	-318.00	-2,945.06
Check	10/17/2019		AOC	X	-808.06	-3,753.12
Check	10/18/2019		Judicial Conf. Regist...	X	-2,000.00	-5,753.12
Check	10/18/2019		University of Washin...	X	-750.00	-6,503.12
Check	10/18/2019		King County District ...	X	-244.90	-6,748.02
Check	10/18/2019		Susan Woodard	X	-209.16	-6,957.18
Check	10/18/2019		Michelle Gehlsen	X	-194.42	-7,151.60
Check	10/18/2019		Chris Culp	X	-160.72	-7,312.32
Check	10/18/2019		James Doctor	X	-68.80	-7,381.12
Check	10/18/2019		Douglas Fair	X	-34.80	-7,415.92
Check	10/18/2019		Michael Finkle	X	-32.48	-7,448.40
Check	10/18/2019		Michelle Gehlsen	X	-32.48	-7,480.88
Check	10/18/2019		Michael Evans	X	-25.00	-7,505.88
Check	10/18/2019		Mary C. Logan	X	-20.28	-7,526.16
Check	10/18/2019		Timothy Jenkins	X	-10.44	-7,536.60
Check	10/24/2019		Charles Short	X	-400.04	-7,936.64
Check	10/24/2019		James Doctor	X	-68.80	-8,005.44
Check	10/24/2019		Kalo Wilcox	X	-54.52	-8,059.96
Check	10/24/2019		Douglas Fair	X	-34.80	-8,094.76
Check	10/25/2019		Melanie Stewart	X	-2,000.00	-10,094.76
Check	10/25/2019		AOC	X	-1,210.21	-11,304.97
Check	10/25/2019		Jackie Shea-Brown	X	-332.76	-11,637.73
Check	10/31/2019			X	-14.00	-11,651.73
Total Checks and Payments					-11,651.73	-11,651.73
Deposits and Credits - 4 items						
Deposit	10/01/2019			X	1,000.00	1,000.00
Transfer	10/03/2019			X	5,000.00	6,000.00
Transfer	10/18/2019			X	3,000.00	9,000.00
Transfer	10/25/2019			X	10,000.00	19,000.00
Total Deposits and Credits					19,000.00	19,000.00
Total Cleared Transactions					7,348.27	7,348.27
Cleared Balance					7,348.27	7,528.76
Uncleared Transactions						
Checks and Payments - 1 item						
Check	10/31/2019		Superior Court Judg...		-473.50	-473.50
Total Checks and Payments					-473.50	-473.50
Total Uncleared Transactions					-473.50	-473.50
Register Balance as of 10/31/2019					6,874.77	7,055.26
New Transactions						
Checks and Payments - 1 item						
Transfer	11/04/2019				-10.00	-10.00
Total Checks and Payments					-10.00	-10.00
Total New Transactions					-10.00	-10.00
Ending Balance					6,864.77	7,045.26

Washington State District And Municipal Court Judges Assoc.

Reconciliation Detail

Bank of America - Savings, Period Ending 10/31/2019

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						51,828.65
Cleared Transactions						
Checks and Payments - 3 items						
Transfer	10/03/2019			X	-5,000.00	-5,000.00
Transfer	10/18/2019			X	-3,000.00	-8,000.00
Transfer	10/25/2019			X	-10,000.00	-18,000.00
Total Checks and Payments					-18,000.00	-18,000.00
Deposits and Credits - 2 items						
Deposit	10/03/2019			X	5,657.73	5,657.73
Deposit	10/31/2019			X	0.81	5,658.54
Total Deposits and Credits					5,658.54	5,658.54
Total Cleared Transactions					-12,341.46	-12,341.46
Cleared Balance					-12,341.46	39,487.19
Register Balance as of 10/31/2019					-12,341.46	39,487.19
Ending Balance					-12,341.46	39,487.19

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

July through October 2019

Type	Date	Num	Name	Memo	Amount	Balance
Bank of America - Checking						
Check	07/01/2019		Melanie Stewart		(2,000.00)	(2,000.00)
Check	07/05/2019		Pierce County Bookkeeping		(318.00)	(2,318.00)
Transfer	07/08/2019			Funds Transfer	(103.33)	(2,421.33)
Check	07/18/2019		Charles Short	Board Meeting 7/12/19	(424.39)	(2,845.72)
Check	07/18/2019		Linda Coburn	Board Meeting 7/12/19	(35.96)	(2,881.68)
Check	07/18/2019		Kevin Ringus	Board Meeting 7/12/19	(23.20)	(2,904.88)
Check	07/19/2019		Laura Vanslyck	Board Meeting 7/12/19	(49.30)	(2,954.18)
Check	07/19/2019		Michele Gehlsen	Board Meeting 7/12/19	(32.48)	(2,986.66)
Check	07/19/2019		Samuel G. Meyer	Board Meeting 7/12/19	(58.00)	(3,044.66)
Check	07/19/2019		Tyson R. Hill		(220.40)	(3,265.06)
Check	07/22/2019		Ingallina's Box Lunch	Board Meeting 7/12/19	(347.00)	(3,612.06)
Transfer	07/25/2019			Funds Transfer	5,000.00	1,387.94
Check	07/25/2019		AOC		(2,969.36)	(1,581.42)
Check	08/01/2019		Melanie Stewart	August Invoice 4681	(2,000.00)	(3,581.42)
Transfer	08/08/2019			End of year gift for MMelanie Stewart's gift	221.64	(3,359.78)
Deposit	08/08/2019			Deposit	250.00	(3,109.78)
Check	08/09/2019		Susanna Neil Kanther-Raz		(925.00)	(4,034.78)
Check	08/09/2019		City of Spokane		(228.60)	(4,263.38)
Transfer	08/12/2019			Funds Transfer	7,000.00	2,736.62
Check	08/12/2019		Pierce County Bookkeeping		(318.00)	2,418.62
Deposit	08/15/2019			Deposit	14.00	2,432.62
Deposit	08/15/2019			Deposit	76.58	2,509.18
Deposit	08/15/2019				447.21	2,956.39
Transfer	08/15/2019			Funds Transfer	(47.20)	2,909.19
Check	08/28/2019		Melanie Stewart		(58.00)	2,851.19
Check	08/28/2019		Samuel G. Meyer		(58.00)	2,793.19
Check	08/28/2019		Brian Sanderson		(1,000.00)	1,793.19
Check	08/28/2019		Melanie Stewart	September Invoice	(2,000.00)	(206.81)
Check	08/31/2019			Service Charge	(14.00)	(220.81)
Check	09/04/2019		King County District Court		(244.90)	(465.71)
Deposit	09/09/2019			Deposit	146.25	(319.46)
Deposit	09/12/2019			Deposit	92.00	(227.46)
Transfer	09/13/2019			Funds Transfer	15,000.00	14,772.54
Check	09/13/2019		Melanie Stewart		(2,000.00)	12,772.54
Check	09/13/2019		Linda S. Portnoy	9/11/19	(15.66)	12,756.88
Check	09/13/2019		City of Lake Forrest	9/11/19	(137.50)	12,619.38
Check	09/13/2019		Scott Ahlf	CIC retreat 9/11/19	(55.68)	12,563.70
Check	09/13/2019		Samuel G. Meyer	CIC retreat 9/11/19	(58.00)	12,505.70
Check	09/13/2019		Scott Ahlf	uncashed check reissue	(46.00)	12,459.70
Check	09/13/2019		Rebecca Robertson	uncashed check reissue	(76.56)	12,383.14
Check	09/13/2019		Rebecca Robertson	uncashed check reissue	(46.00)	12,337.14
Check	09/13/2019		King County District Court	9/3/19	(244.90)	12,092.24
Check	09/13/2019		AOC		(10,268.86)	1,823.38
Check	09/13/2019		Ingallina's Box Lunch		(134.37)	1,689.01
Check	09/13/2019		Michelle Gehlsen		(82.36)	1,606.65
Check	09/13/2019		City of Bothell		(585.00)	1,021.65
Check	09/16/2019		Samuel G. Meyer		(58.00)	963.65
Check	09/19/2019		Pierce County Bookkeeping		(318.00)	645.65
Check	09/23/2019		Johnston George LLP	Amicus Brief for DMCJA	(5,000.00)	(4,354.35)
Check	09/30/2019			Service Charge	(14.00)	(4,368.35)
Deposit	10/01/2019			Deposit	1,000.00	(3,368.35)
Transfer	10/03/2019			Funds Transfer	5,000.00	1,631.65
Check	10/04/2019		Charles Short	DMCJA board meeting 9/22/19	(438.48)	1,193.17
Check	10/04/2019		Dan B Johnson	DMCJA board meeting 9/22/19	(174.42)	1,018.75
Check	10/04/2019		Draw Henke	DMCJA board meeting 9/22/19	(30.00)	988.75
Check	10/04/2019		Laura Vanslyck	DMCJA board meeting 9/22/19	(30.00)	958.75
Check	10/04/2019		The Judicial Institute	reissue of uncashed check	(1,000.00)	(41.25)
Check	10/04/2019		Linda Coburn	DMCJA board meeting 9/22/19	(144.42)	(185.67)
Check	10/04/2019		Tyson R. Hill	DMCJA board meeting 9/22/19	(144.42)	(330.09)
Check	10/11/2019		Pierce County Bookkeeping	Invoice 892 September Services	(318.00)	(648.09)
Check	10/11/2019		Thurston County District Court	61st Judicial Conf. - Sam Meyer	(665.32)	(1,313.41)
Check	10/17/2019		AOC		(808.06)	(2,121.47)
Transfer	10/18/2019			Funds Transfer	3,000.00	878.53
Check	10/18/2019		Michelle Gehlsen	DMCJA board meeting 9/22/19	(194.42)	684.11
Check	10/18/2019		Michelle Gehlsen	SCJA board meeting 10/5/19	(32.48)	651.63
Check	10/18/2019		Judicial Conf. Registrar		(2,000.00)	(1,348.37)
Check	10/18/2019		King County District Court	10/11/19 Meeting	(244.90)	(1,593.27)
Check	10/18/2019		University of Washington/Forefront		(750.00)	(2,343.27)
Check	10/18/2019		Chris Culp	JASP Training 10/4/19	(160.72)	(2,503.99)
Check	10/18/2019		Douglas Fair	JASP Training 10/4/19	(34.80)	(2,538.79)
Check	10/18/2019		James Doctor	JASP Training 10/4/19	(68.80)	(2,607.59)
Check	10/18/2019		Mary C. Logan	JASP Training 10/4/19	(20.28)	(2,627.87)
Check	10/18/2019		Michael Finkle	JASP Training 10/4/19	(32.48)	(2,660.35)
Check	10/18/2019		Michael Evans	JASP Training 10/4/19	(25.00)	(2,685.35)
Check	10/18/2019		Susan Woodard	JASP Training 10/4/19	(209.16)	(2,894.51)
Check	10/18/2019		Timothy Jenkins	JASP Training 10/4/19	(10.44)	(2,904.95)
Check	10/24/2019		Charles Short	Education Committee 10/17/19	(400.04)	(3,304.99)

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

July through October 2019

Type	Date	Num	Name	Memo	Amount	Balance
Check	10/24/2019		Douglas Fair	Education Committee 10/17/19	(34.80)	(3,339.79)
Check	10/24/2019		James Doctor	Education Committee 10/17/19	(68.80)	(3,408.59)
Check	10/24/2019		Kalo Wilcox	Education Committee 10/17/19	(54.52)	(3,463.11)
Transfer	10/25/2019			Funds Transfer	10,000.00	6,536.89
Check	10/25/2019		Jackie Shea-Brown	JASP Training 10/4/19	(332.76)	6,204.13
Check	10/25/2019		Melanie Stewart	Invoice 4732 November Services	(2,000.00)	4,204.13
Check	10/25/2019		AOC		(1,210.21)	2,993.92
Check	10/31/2019		Superior Court Judges Association	2017-2018 JASP Refund	(473.50)	2,520.42
Check	10/31/2019			Service Charge	(14.00)	2,506.42
Total Bank of America - Checking					2,506.42	2,506.42
Bank of America - Savings						
Transfer	07/25/2019			Funds Transfer	(5,000.00)	(5,000.00)
Deposit	07/31/2019			Interest	1.32	(4,998.68)
Transfer	08/12/2019			Funds Transfer	(7,000.00)	(11,998.68)
Deposit	08/31/2019			Interest	1.18	(11,997.50)
Transfer	09/13/2019			Funds Transfer	(15,000.00)	(26,997.50)
Deposit	09/30/2019			Interest	0.95	(26,996.55)
Transfer	10/03/2019			Funds Transfer	(5,000.00)	(31,996.55)
Deposit	10/03/2019			Deposit	5,657.73	(26,338.82)
Transfer	10/18/2019			Funds Transfer	(3,000.00)	(29,338.82)
Transfer	10/25/2019			Funds Transfer	(10,000.00)	(39,338.82)
Deposit	10/31/2018			Interest	0.81	(39,338.01)
Total Bank of America - Savings					(39,338.01)	(39,338.01)
Washington Federal						
Deposit	07/31/2019			Interest	55.70	55.70
Transfer	08/08/2019			End of year gift for MMelanie Stewart's gift	(221.64)	(165.94)
Deposit	08/15/2019			Special fund 1-800-flowers on 8-15-19	(47.21)	(213.15)
Deposit	08/31/2019			Interest	55.58	(157.57)
Deposit	09/30/2019			Interest	52.28	(105.29)
Deposit	10/03/2019			Check # 1063	(5,000.00)	(5,105.29)
Deposit	10/31/2019			Interest	45.53	(5,059.76)
Total Washington Federal					(5,059.76)	(5,059.76)
Accounts Receivable						
Deposit	08/15/2019		Judicial Registrar	refund for Judge Moore and Judge Woodro...	(400.00)	(400.00)
Deposit	09/09/2019		City of Bothell.	refund for overpayment	(146.25)	(546.25)
Total Accounts Receivable					(546.25)	(546.25)
Prepaid Expenses						
Genera...	07/30/2019	CEH		1/12 of Contract	(4,250.00)	(4,250.00)
Genera...	08/31/2019	CEH		1/12 of Contract	(4,250.00)	(8,500.00)
Genera...	09/30/2019	CEH		1/12 of Contract	(4,250.00)	(12,750.00)
Genera...	10/31/2019	CEH		1/12 of Contract	(4,250.00)	(17,000.00)
Total Prepaid Expenses					(17,000.00)	(17,000.00)
Credit Cards						
Bank of America C. C.						
Transfer	07/08/2019			Funds Transfer	103.33	103.33
Credit ...	08/06/2019		1-800-Flowers.com		(94.41)	8.92
Transfer	08/15/2019			Funds Transfer	47.20	56.12
Credit ...	08/15/2019		1-800-Flowers.com		47.21	103.33
Credit ...	10/02/2019		Secretary of State		(10.00)	93.33
Total Bank of America C. C.					93.33	93.33
Total Credit Cards					93.33	93.33
Due to Judicial Institute						
Deposit	10/01/2019		The Judicial Institute	returned uncashed check	(1,000.00)	(1,000.00)
Check	10/04/2019		The Judicial Institute	reissue of uncashed check	1,000.00	0.00
Total Due to Judicial Institute					0.00	0.00
Due to Rebecca Robertson						
Deposit	08/15/2019		Rebecca Robertson	Uncashed check.	(76.56)	(76.56)
Deposit	09/12/2019		Rebecca Robertson	returned uncashed check	(46.00)	(122.56)
Check	09/13/2019		Rebecca Robertson	uncashed check reissue	76.56	(46.00)
Check	09/13/2019		Rebecca Robertson	uncashed check reissue	46.00	0.00
Total Due to Rebecca Robertson					0.00	0.00

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

July through October 2019

Type	Date	Num	Name	Memo	Amount	Balance
Due to Scott Ahlf						
Deposit	09/12/2019		Scott Ahlf	returned uncashed check	(46.00)	(46.00)
Check	09/13/2019		Scott Ahlf	uncashed check reissue	46.00	0.00
Total Due to Scott Ahlf					0.00	0.00
Interest Income						
Deposit	07/31/2019			Interest	(1.32)	(1.32)
Deposit	07/31/2019			Interest	(55.70)	(57.02)
Deposit	08/31/2019			Interest	(1.18)	(58.20)
Deposit	08/31/2019			Interest	(55.58)	(113.78)
Deposit	09/30/2019			Interest	(0.95)	(114.73)
Deposit	09/30/2019			Interest	(52.28)	(167.01)
Deposit	10/31/2019			Interest	(0.81)	(167.82)
Deposit	10/31/2019			Interest	(45.53)	(213.35)
Total Interest Income					(213.35)	(213.35)
Membership Revenue						
Deposit	08/08/2019		Thomas L. Meyer	For last budget membership	(250.00)	(250.00)
Total Membership Revenue					(250.00)	(250.00)
Conference Incidental Fees 2020						
Deposit	10/03/2019			Deposit	(657.73)	(657.73)
Total Conference Incidental Fees 2020					(657.73)	(657.73)
Council on Independent Courts						
Check	09/13/2019		Scott Ahlf	CIC retreat 9/11/19	55.68	55.68
Check	09/13/2019		Samuel G. Meyer	CIC retreat 9/11/19	58.00	113.68
Total Council on Independent Courts					113.68	113.68
MPA Liaison						
Check	08/09/2019		City of Spokane	July Board Meeting for Judge Mary Logan	228.60	228.60
Total MPA Liaison					228.60	228.60
Special Fund Expense						
Credit ...	08/06/2019		1-800-Flowers.com	Judge Peter Nault's funeral	94.41	94.41
Credit ...	08/15/2019		1-800-Flowers.com	refund on flowers. Will refund special fund ...	(47.21)	47.20
Check	09/23/2019		Johnston George LLP	Amicus Brief for DMCJA	5,000.00	5,047.20
Total Special Fund Expense					5,047.20	5,047.20
Prior Year Budget Expense						
Check	07/25/2019		AOC	Board meeting ecpense	1,483.23	1,483.23
Check	07/25/2019		AOC	conference calls	62.99	1,546.22
Check	07/25/2019		AOC	JASP	23.14	1,569.36
Check	07/25/2019		AOC	Therapeutic Courts	1,400.00	2,969.36
Check	10/31/2019		Superior Court Judges Association	2017-2018 JASP Refund	473.50	3,442.86
Total Prior Year Budget Expense					3,442.86	3,442.86
Board Meeting Expense						
Check	07/18/2019		Charles Short	Board Meeting 7/12/19	424.39	424.39
Check	07/18/2019		Linda Coburn	Board Meeting 7/12/19	35.96	460.35
Check	07/18/2019		Kevin Ringus	Board Meeting 7/12/19	23.20	483.55
Check	07/19/2019		Laura Vanslyck	Board Meeting 7/12/19	49.30	532.85
Check	07/19/2019		Michelle Gehlsen	Board Meeting 7/12/19	32.48	565.33
Check	07/19/2019		Samuel G. Meyer	Board Meeting 7/12/19	58.00	623.33
Check	07/19/2019		Tyson R. Hill	Board meeting 7/12/19	220.40	843.73
Check	07/22/2019		Ingallina's Box Lunch	Board Meeting 7/12/19	347.00	1,190.73
Check	09/13/2019		AOC		7,456.16	8,646.89
Check	09/13/2019		Ingallina's Box Lunch	DMCJA board meeting 8/9/19 01-503629	134.37	8,781.26
Check	10/04/2019		Charles Short	DMCJA board meeting 9/22/19	438.48	9,219.74
Check	10/04/2019		Dan B Johnson	DMCJA board meeting 9/22/19	174.42	9,394.16
Check	10/04/2019		Drew Henke	DMCJA board meeting 9/22/19	30.00	9,424.16
Check	10/04/2019		Laura Vanslyck	DMCJA board meeting 9/22/19	30.00	9,454.16
Check	10/04/2019		Linda Coburn	DMCJA board meeting 9/22/19	144.42	9,598.58
Check	10/04/2019		Tyson R. Hill	DMCJA board meeting 9/22/19	144.42	9,743.00
Check	10/17/2019		AOC		754.09	10,497.09
Check	10/18/2019		Michelle Gehlsen	DMCJA board meeting 9/22/19	194.42	10,691.51
Check	10/25/2019		AOC		55.59	10,747.10
Total Board Meeting Expense					10,747.10	10,747.10

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

July through October 2019

Type	Date	Num	Name	Memo	Amount	Balance
Bookkeeping Expense						
Check	07/05/2019		Pierce County Bookkeeping	June services	318.00	318.00
Check	08/12/2019		Pierce County Bookkeeping	Invoice 867 for July	318.00	636.00
Check	09/19/2019		Pierce County Bookkeeping	August Services	318.00	954.00
Check	10/11/2019		Pierce County Bookkeeping	Invoice 892 September Services	318.00	1,272.00
Total Bookkeeping Expense					1,272.00	1,272.00
Conference Calls						
Check	09/13/2019	AOC			33.22	33.22
Check	10/17/2019	AOC			30.97	64.19
Check	10/25/2019	AOC			166.66	230.85
Total Conference Calls					230.85	230.85
Conference Planning Committee						
Check	09/13/2019	AOC			957.54	957.54
Total Conference Planning Committee					957.54	957.54
Education Committee						
Check	09/13/2019	AOC			1,655.00	1,655.00
Check	10/24/2019	Charles Short		Education Committee 10/17/19	400.04	2,055.04
Check	10/24/2019	Douglas Fair		Education Committee 10/17/19	34.80	2,089.84
Check	10/24/2019	James Doctor		Education Committee 10/17/19	68.80	2,158.64
Check	10/24/2019	Kalo Wilcox		Education Committee 10/17/19	54.52	2,213.16
Total Education Committee					2,213.16	2,213.16
Educational Grants						
Check	08/28/2019	Brian Sanderson		Ledership conference in Minneapolis Minne...	1,000.00	1,000.00
Total Educational Grants					1,000.00	1,000.00
Judicial Assistance Committee						
Check	08/09/2019	Susanna Neil Kanther-Raz		Quarterly payment	900.00	900.00
Check	08/09/2019	Susanna Neil Kanther-Raz		meeting expense	25.00	925.00
Check	10/18/2019	University of Washington/Forefront		Invoice 000103	750.00	1,675.00
Check	10/18/2019	Chris Culp		JASP Training 10/4/19	160.72	1,835.72
Check	10/18/2019	Douglas Fair		JASP Training 10/4/19	34.80	1,870.52
Check	10/18/2019	James Doctor		JASP Training 10/4/19	68.80	1,939.32
Check	10/18/2019	Mary C. Logan		JASP Training 10/4/19	20.28	1,959.60
Check	10/18/2019	Michael Finkle		JASP Training 10/4/19	32.48	1,992.08
Check	10/18/2019	Michael Evans		JASP Training 10/4/19	25.00	2,017.08
Check	10/18/2019	Susan Woodard		JASP Training 10/4/19	209.16	2,226.24
Check	10/18/2019	Timothy Jenkins		JASP Training 10/4/19	10.44	2,236.68
Check	10/25/2019	Jackie Shea-Brown		JASP Training 10/4/19	332.76	2,569.44
Check	10/25/2019	AOC			967.96	3,557.40
Total Judicial Assistance Committee					3,557.40	3,557.40
Judicial College Social Support						
Check	10/18/2019	Judicial Conf. Registrar			2,000.00	2,000.00
Total Judicial College Social Support					2,000.00	2,000.00
Legislative Committee						
Check	08/28/2019	Melanie Stewart		8/9/19 Meeting	58.00	58.00
Check	08/28/2019	Samuel G. Meyer		8/9/19 meeting	58.00	116.00
Check	09/16/2019	Samuel G. Meyer		DMCJA Legislative meeting 9/13	58.00	174.00
Check	10/17/2019	AOC			23.00	197.00
Total Legislative Committee					197.00	197.00
Legislative Pro-Tem						
Check	09/04/2019	King County District Court		8/9 meeting	244.90	244.90
Check	09/13/2019	Linda S. Portnoy		9/11/19	15.66	260.56
Check	09/13/2019	City of Lake Forrest		9/11/19	137.50	398.06
Check	09/13/2019	King County District Court		9/3/19	244.90	642.96
Check	10/11/2019	Thurston County District Court		61st Judicial Conf. - Sam Meyer	665.32	1,308.28
Check	10/18/2019	King County District Court		10/11/19 Meeting	244.90	1,553.18
Total Legislative Pro-Tem					1,553.18	1,553.18

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

July through October 2019

Type	Date	Num	Name	Memo	Amount	Balance
Lobbyist Contract						
Check	07/01/2019		Melanie Stewart	Invoice 4671 July Services	2,000.00	2,000.00
Genera...	07/30/2019	CEH		1/12 of Contract	4,250.00	6,250.00
Check	08/01/2019		Melanie Stewart	August Invoice 4681	2,000.00	8,250.00
Check	08/28/2019		Melanie Stewart	September Invoice	2,000.00	10,250.00
Genera...	08/31/2019	CEH		1/12 of Contract	4,250.00	14,500.00
Check	09/13/2019		Melanie Stewart	For October	2,000.00	16,500.00
Genera...	09/30/2019	CEH		1/12 of Contract	4,250.00	20,750.00
Check	10/25/2019		Melanie Stewart	Invoice 4732 November Services	2,000.00	22,750.00
Genera...	10/31/2019	CEH		1/12 of Contract	4,250.00	27,000.00
Total Lobbyist Contract					27,000.00	27,000.00
Rules Committee						
Check	09/13/2019		AOC		166.94	166.94
Total Rules Committee					166.94	166.94
SCJA Board Liaison						
Check	10/18/2019		Michelle Gehlsen	SCJA board meeting 10/5/19	32.48	32.48
Total SCJA Board Liaison					32.48	32.48
Treasurer Expense and Bonds						
Credit ...	10/02/2019		Secretary of State		10.00	10.00
Total Treasurer Expense and Bonds					10.00	10.00
Bank Service Charges						
Deposit	08/15/2019			refund for bank charges in error	(14.00)	(14.00)
Check	08/31/2019			Service Charge	14.00	0.00
Check	09/30/2019			Service Charge	14.00	14.00
Check	10/31/2019			Service Charge	14.00	28.00
Total Bank Service Charges					28.00	28.00
Ask the client						
Check	09/13/2019		Michelle Gehlsen	8/12/19	82.36	82.36
Check	09/13/2019		City of Bothell	Judicial Ledership Summit	585.00	667.36
Total Ask the client					667.36	667.36
TOTAL					0.00	0.00



Statement of Account

PAGE 1 OF 2

Statement Begin Date October 31, 2019

Last Statement Date October 1, 2019

Account Number

To report a lost or stolen card, -
call 800-324-9375.

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

WA STATE DIST & MUNICIPAL COURT JUDGES' 9714
JUDGE MICHELLE K GEHLEN
10116 NE 183RD ST
BOTHELL, WA 98011-3416

For questions or assistance with your account(s), please call 800-324-9375, stop by your local branch, or send a written request to our Client Care Center at 9929 Evergreen Way, Everett WA 98204.

Business Premium Money Market Summary - #

Annual Percentage Yield Earned for this Statement Period	1.147%
Interest Rate Effective 10/01/2019	1.140%
Interest Earned/Accrued this Cycle	\$45.53
Number of Days in this Cycle	31
Date Interest Posted	10-31-2019
Year-to-Date Interest Paid	\$533.81

Beginning Balance	\$50,710.33
Interest Earned This Period	+45.53
Deposits and Credits	+0.00
Checks Paid	-5,000.00
ATM, Electronic and Debit Card Withdrawals	-0.00
Other Transactions	-0.00
Ending Balance	\$45,755.86

We're excited to share important news with you! We're updating our name to WaFd Bank.

Why? Folks have asked us if we're part of the Federal government, or if we were associated with our nation's capital, others weren't sure if we were a bank or another type of financial company.

We like our new name: We've had the nickname "Wah-Fed" for decades, now we've chosen to adopt it as our trade name. It's simple, short and easy to use in today's digital world.

We won't change our values and commitment to our clients and partners, common-sense banking approach or ongoing investment in technology to make banking easier. We're still us, WaFd Bank. Our goal remains the same: to support your success with the financial tools you need when, where, and how you want them.

wafdbank.com



	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
10-31	Credit Interest	45.53
Total Interest Earned This Period		45.53

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.



Statement of Account

PAGE 2 OF 2

Statement Begin Date October 31, 2019
Last Statement Date October 1, 2019
Account Number

For 24-hour telephone banking
1-877-431-1876

Checks Paid

<u>Number</u>	<u>Date</u>	<u>Amount</u>
1063	Oct 9	5,000.00

<u>Number</u>	<u>Date</u>	<u>Amount</u>
---------------	-------------	---------------



Total Checks Paid **\$5,000.00**

* All of your recent checks may not be on this statement, either because they haven't cleared yet, they were listed on one of your previous statements, or they were converted to an electronic withdrawal and may be listed below.

WF-01 (8/15)

DMCJA 2019-2020 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	\$10,747.00	\$19,253.00
Bookkeeping Expense	\$3,500.00	\$1,272.00	\$2,228.00
Bylaws Committee	\$250.00		\$250.00
Conference Calls	\$750.00	\$231.00	\$519.00
Conference Planning Committee	\$4,000.00	\$958.00	\$3,042.00
Conference Incidental Fees for 2020 Spring Program	\$40,000.00		\$40,000.00
Council on Independent Courts (DMCJA Judicial Independence Fire Brigade)	\$1,000.00	\$114.00	\$886.00
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
DMCMA Mandatory Education	\$20,000.00		\$20,000.00
DOL Liaison Committee	\$200.00		\$200.00
Education Committee	\$14,500.00	\$2,213.00	\$12,287.00
Education-Security	\$2,500.00		\$2,500.00
Educational Grants	\$5,000.00	\$1,000.00	\$4,000.00
Judicial Assistance Committee*	\$14,000.00	\$3,557.00	\$10,443.00
Judicial College Social Support	\$2,000.00	\$2,000.00	\$0.00
Judicial Community Outreach	\$4,000.00		\$4,000.00
Legislative Committee	\$4,000.00	\$197.00	\$3,803.00
Legislative Pro-Tem	\$2,500.00	\$1,553.18	\$946.82
Lobbyist Contract	\$75,000.00	\$61,000.00	\$14,000.00
Lobbyist Expenses	\$1,500.00		\$1,500.00
Long-Range Planning Committee	\$750.00		\$750.00
MPA Liaison	\$1,000.00	\$229.00	\$771.00
Municipal/Dist Ct Swearing-in 4 yrs (12/2017)	\$0.00		\$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	\$167.00	\$333.00
SCJA Board Liaison	\$1,000.00	\$32.48	\$967.52
Special Fund		\$5,047.00	(\$5,047.00)
Therapeutic Courts Committee	\$2,500.00		\$2,500.00
Treasurer Expense and Bonds	\$250.00	\$250.00	\$0.00
Trial Court Advocacy Board	\$500.00		\$500.00
Uniform Infraction Committee	\$1,000.00		\$1,000.00
Total	\$267,200.00	\$90,567.66	\$176,632.34
*Includes \$7,000 from the SCJA			

DMCJA\Board\Budget\2010-Present\2019-2020 Adopted Budget--as amended at 7-12-2019 Board Mtg.xls

TO: Judge Sam Meyer, President, DMCJA Board
FROM: Judge Jeffrey Goodwin, Chair, DMCJA Rules Committee
SUBJECT: DMCJA Proposed New Rule CRLJ 82.5
DATE: October 30, 2019

In 2018, Judge Rebecca Robertson, then-President of the DMCJA, requested that the DMCJA Rules Committee consider whether to recommend the adoption of a new CLJ rule to address state-tribal court jurisdiction and communication, similar to CR 82.5. The DMCJA Rules Committee considered the matter and agreed to recommend a new CLJ civil rule, CRLJ 82.5, based on the then-current version of CR 82.5. After the new draft rule had been approved by the Rules Committee, on September 5, 2019, the Supreme Court published an amended version of CR 82.5 that was different than the version upon which the draft CRLJ 82.5 was based (WSSC Order No. 25700-A-1264).

Because of the importance of having the rules for the trial courts be congruent, Rules Committee staff prepared a new version of the rule, which was approved unanimously by the Rules Committee at our October 2019 meeting. The proposed CRLJ 82.5 reflects the most-current version of CR 82.5 including the most recent amendments.

Although the opportunity for jurisdictional concerns and communication with tribal courts occurs less frequently for courts of limited jurisdiction than for superior courts, it was the consensus of the Committee that it would be helpful to have a rule should the need arise. Because CR 82.5 was previously established, the Committee thought the best practice would be to adopt the language of the superior court rule with minor modifications for the CLJ context.

Thank you for your consideration of this matter. Please let me know if you have any questions. I can be reached through 425-744-6800 or jeffrey.goodwin@snoco.org.

CC: DMCJA Rules Committee

Attachments: GR 9 Cover Sheet for Proposed New Rule CRLJ 82.5

Proposal to Adopt New Rule CRLJ 82.5 - 1

GR 9 COVER SHEET
Proposal to Adopt New
WASHINGTON STATE COURT RULE:

CRLJ 82.5: TRIBAL COURT JURISDICTION

Submitted by the District & Municipal Courts Judges' Association

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

B. Spokesperson: Judge Samuel Meyer, President
DMCJA

C. Purpose: Superior Court Civil Rule 82.5 was adopted in 1995 to address issues of jurisdiction in cases in which both a tribal and state trial court may have an interest. It was recently amended to add provisions pertaining to communications between tribal and state courts. Although the opportunity for jurisdictional concerns and communication with tribal courts occurs less frequently for courts of limited jurisdiction than for superior courts, it was the consensus of the DMCJA Board that it would be helpful to have a rule should the need arise. Adoption of the new rule also provides greater congruence between the rules of the trial courts. Because CR 82.5 was previously established, it was thought the best practice would be to adopt the language of the superior court rule with minor modifications for the CLJ context.

The proposed CRLJ 82.5 reflects the most-current version of CR 82.5 including the most recent amendments.

D. Proposed New Rule:

CRLJ 82.5
TRIBAL COURT JURISDICTION

(a) Indian Tribal Court; Exclusive Jurisdiction. Where an action is brought in a court of limited jurisdiction of this state, and where, under the Laws of the United States, exclusive jurisdiction over the matter in controversy has been granted or reserved to an Indian tribal court of a federally recognized Indian tribe, the court of limited jurisdiction shall, upon motion of a party or upon its own motion, dismiss such action pursuant to CR 12(b)(1), unless transfer is required under federal law.

(b) Indian Tribal Court; Concurrent Jurisdiction. Where an action is brought in a court of limited jurisdiction of this state, and where, under the Laws of the United States, concurrent jurisdiction over the matter in controversy has been granted or reserved to an Indian tribal court of a federally recognized Indian tribe, court may, if the interests of justice require, cause such action to be transferred to the appropriate Indian tribal court. In making such determination, the court of limited jurisdiction shall consider, among other things, the nature of the action, the interests and identities of the parties, the convenience of the parties and witnesses, whether state or tribal law will apply to the matter in controversy, and the remedy available in such Indian tribal court.

(c) Enforcement of Indian Tribal Court Orders, Judgments or Decrees.

(1) The courts of the State of Washington shall recognize, implement and enforce the orders, judgments and decrees of Indian tribal courts in matters in which either the exclusive or concurrent jurisdiction has been granted or reserved to an Indian tribal court of a federally recognized tribe under the Laws of the United States, unless the court finds the tribal court that rendered the order, judgment or decree (A) lacked jurisdiction over a party or the subject matter, (B) denied due process as provided by the Indian Civil Rights Act of 1968, or (C) does not reciprocally provide for recognition and implementation of orders, judgments and decrees of the courts of the State of Washington.

(2) The court may attempt to resolve any issues raised regarding an Indian tribal court money judgment by contacting the Indian tribal court that issued the judgment. The court shall follow the procedure for communicating with the Indian tribal court judge outlined in subsection (d) of this rule.

(d) Communication Between Limited Jurisdiction Court and Indian Tribal Court.

(1) A limited jurisdiction court may communicate with any Indian tribal court concerning co-occurring proceedings, whether they are active or have been concluded. The parties shall provide to the respective courts the identity, contact information, and a case or docket number of the other court's proceedings to facilitate this communication.

(2) The court may allow the parties to participate in the communication. If the parties are not able or allowed to participate in the communication, they shall be given an opportunity to present facts and legal arguments in writing before a decision is made regarding the communication, or the subject of the communication, by the court. The Indian tribal court's procedures and customs shall determine the parties' participation in the Indian tribal court proceedings.

(3) The court shall make a record of a communication made pursuant to this section. The parties shall be informed promptly of the communication by the court and granted access to the record. The Indian tribal court's procedures shall determine whether and how a record is made in Indian tribal court proceedings, and whether and

how parties may be informed of the communication or granted access to a record of the communication.

(4) Except as otherwise provided in subsection (3) of this section, communication between the court and the Indian tribal court regarding scheduling, administrative or emergency purposes, and similar matters may occur without informing the parties. The court need not make a record of the communication under this subsection. The Indian tribal court's procedures shall determine whether and how a record is made in Indian tribal court proceedings of such communication.

(5) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) The court shall follow the procedures set forth in subsection (3) of this section when communicating regarding adult criminal matters, except as otherwise authorized by law. The Indian tribal court's procedures shall determine the requirements for communication regarding adult criminal matters in Indian tribal court proceedings. Courts of limited jurisdiction and Indian tribal courts may communicate about the orders prohibiting contact as set forth in subsections (1) – (5) above.

E. Hearing: A hearing is not recommended.

F. Expedited Consideration: Not requested.

PROPOSED NEW RULE:
CRLJ 82.5
TRIBAL COURT JURISDICTION

(a) Indian Tribal Court; Exclusive Jurisdiction. Where an action is brought in a court of limited jurisdiction of this state, and where, under the Laws of the United States, exclusive jurisdiction over the matter in controversy has been granted or reserved to an Indian tribal court of a federally recognized Indian tribe, the court of limited jurisdiction shall, upon motion of a party or upon its own motion, dismiss such action pursuant to CR 12(b)(1), unless transfer is required under federal law.

(b) Indian Tribal Court; Concurrent Jurisdiction. Where an action is brought in a court of limited jurisdiction of this state, and where, under the Laws of the United States, concurrent jurisdiction over the matter in controversy has been granted or reserved to an Indian tribal court of a federally recognized Indian tribe, court may, if the interests of justice require, cause such action to be transferred to the appropriate Indian tribal court. In making such determination, the court of limited jurisdiction shall consider, among other things, the nature of the action, the interests and identities of the parties, the convenience of the parties and witnesses, whether state or tribal law will apply to the matter in controversy, and the remedy available in such Indian tribal court.

(c) Enforcement of Indian Tribal Court Orders, Judgments or Decrees.

(1) The courts of the State of Washington shall recognize, implement and enforce the orders, judgments and decrees of Indian tribal courts in matters in which either the exclusive or concurrent jurisdiction has been granted or reserved to an Indian tribal court of a federally recognized tribe under the Laws of the United States, unless the court finds the tribal court that rendered the order, judgment or decree (A) lacked jurisdiction over a party or the subject matter, (B) denied due process as provided by the Indian Civil Rights Act of 1968, or (C) does not reciprocally provide for recognition and implementation of orders, judgments and decrees of the courts of the State of Washington.

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(2) The court may allow the parties to participate in the communication. If the parties are not able or allowed to participate in the communication, they shall be given an opportunity to present facts and legal arguments in writing before a decision is made regarding the communication, or the subject of the communication, by the court. The Indian tribal court's procedures and customs shall determine the parties' participation in the Indian tribal court proceedings.

(3) The court shall make a record of a communication made pursuant to this section. The parties shall be informed promptly of the communication by the court and granted access to the record. The Indian tribal court's procedures shall determine whether and how a record is made in Indian tribal court proceedings, and whether and how parties may be informed of the communication or granted access to a record of the communication.

(4) Except as otherwise provided in subsection (3) of this section, communication between the court and the Indian tribal court regarding scheduling, administrative or emergency purposes, and similar matters may occur without informing the parties. The court need not make a record of the communication under this subsection. The Indian tribal court's procedures shall determine whether and how a record is made in Indian tribal court proceedings of such communication.

(5) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) The court shall follow the procedures set forth in subsection (3) of this section when communicating regarding adult criminal matters, except as otherwise authorized by law. The Indian tribal court's procedures shall determine the requirements for communication regarding adult criminal matters in Indian tribal court proceedings. Courts of limited jurisdiction and Indian tribal courts may communicate about the orders prohibiting contact as set forth in subsections (1) – (5) above.

The following message is sent on behalf of Judge Beth Fraser, DMCJA Public Outreach Committee Chair.

Greetings DMCJA Members:

The DMCJA Board of Governors has held that educating justice partners is a top priority. The DMCJA Public Outreach Committee would like to assist our judges in educating local justice partners of the challenges and accomplishments of courts of limited jurisdiction. District and municipal courts are funded by towns and cities, therefore, the Committee would like to assist you in communicating with local entities. In order to accomplish this goal, we ask that you take a brief survey regarding communication with local governmental entities. Please answer the following survey questions:

1. Does your court provide a State of the Judiciary for local government officials?
 - a. If yes, are you willing to share your presentation with the membership?
2. Have you invited a government official (state legislator, mayor, city councilmember, county councilmember, etc.) to your court for a court tour?
 - a. If yes, did the government official accept the invitation and visit your court?
 - b. If yes, was it beneficial to relations between your court and other branches of local government?
 - c. If no, are you interested in receiving resources to assist you when speaking with local governmental entities?

Please send all responses to Sharon Harvey at sharon.harvey@courts.wa.gov by December XX, 2019. Thank you.

Sincerely,

Judge Beth Fraser
DMCJA Public Outreach Committee Chair

Superior Court of the State of Washington for the County of King

JAMES E. ROGERS
Presiding Judge

King County Courthouse
Seattle, Washington 98104-2381
Jim.Rogers@kingcounty.gov
(206) 477-1597

October 21, 2019

Judge Samuel G. Meyer, President
Thurston County District Court
2000 Lakeridge Dr. SW, Bldg 3
PO Box 40947
Olympia, WA 98504-0947

RE: Your September 20, 2019 Letter regarding Court Records

Dear Judge Meyer:

Thank you for your September 20, 2019 letter requesting free access to online court records. We are happy to respond and clarify some of the details in your letter.

Your letter states that *"in the past, judicial officers were able to review essential court records, including records such as various types of evaluations, compliance reports, without cost via the Judicial Access Browser system. At present, the same level of information is not available for King County Superior Court (KCSC) case records and judicial officers are now required to pay to access court records."*

Please let us clarify:

- Whatever was viewable in JABS in the past is currently viewable in JABS, including King County Superior Court records. The EDR went live in July and since then all KCSC records are viewable in JABS, as they were in the past. The EDR implementation included all data from KCSC.
- The requests for copies of KCSC records we receive from limited jurisdiction court judicial officers have been supplied for free. We are happy to continue that service.

Your letter also states: *"A full and complete history of a particular defendant is essential to all members of the criminal justice system...."* Of course we agree with this paragraph and the next one in your letter. We invested over three years' worth of time and over \$7 million in state funds to successfully implement the EDR with AOC so that KCSC data is available in JABS with all the other Washington state court records. Our complete court records are there for everyone who uses JABS.

The EDR will of course be essential to the Limited Jurisdiction (LJ) courts and all of us who use JABS during implementation of the new CLJ-CMS, while courts are migrating between the systems over a many-year period. Without the EDR, that migration would have meant that statewide data would not

Judge Samuel Meyer

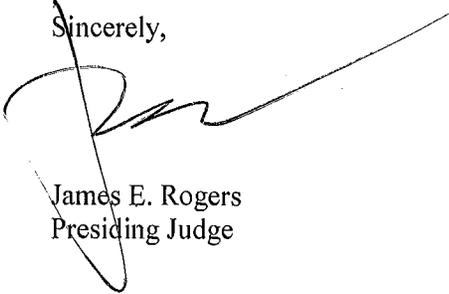
October 21, 2019

Page 2

have a central repository throughout the migration period. We are happy to have blazed the trail both for the LJ courts migrating to the new Odyssey system and for those courts migrating to their own CMS. The EDR is there for all to use now.

We thank you for your inquiry. Why don't we meet to discuss this further? That would be the best way to clear up any misunderstandings. Elizabeth Willoughby, Confidential Secretary to Barbara Miner, will contact you and get a meeting on all of our calendars.

Sincerely,



James E. Rogers
Presiding Judge



Barbara Miner
County Clerk



WASHINGTON
COURTS

District and Municipal Court Judges' Association

President

JUDGE SAMUEL G. MEYER
Thurston County District Court
2000 Lakeridge Dr SW, Bldg 3
PO Box 40947
Olympia, WA 98504-0947
(360) 786-5562

President-Elect

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Edmonds Municipal Court
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Garfield County District Court
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Okanogan County District Court
(509) 422-7170

JUDGE DREW ANN HENKE
Tacoma Municipal Court
(253) 591-5357

JUDGE TYSON R. HILL
Grant County District Court
(509) 754-2011

JUDGE AIMEE MAURER
Spokane County District Court
(509) 477-2961

JUDGE JEFFREY R. SMITH
Spokane County District Court
(509) 477-2959

JUDGE LAURA VAN SLYCK
Everett Municipal Court
(425) 257-8778

COMMISSIONER PAUL WOHL
Thurston County District Court
(360) 786-5562

October 22, 2019

Timothy Fitzgerald, President
Washington State Association of County Clerks
Spokane County Clerk
1116 W Broadway Ave, Rm 300
Spokane, WA 99260-0090

RE: DMCJA Odyssey Portal Access Request

Dear Mr. Fitzgerald:

I am writing you on behalf of the District and Municipal Court Judges' Association (DMCJA) to request that you work with us to have the Administrative Office of the Courts (AOC) create a user profile in the Odyssey Portal, which will provide district and municipal court judges with statewide access to all non-sealed documents for Odyssey document management system (DMS) courts. I understand that decisions about access will need to be made by the duly elected Clerks in each county, but as the newly elected Washington State Association of County Clerks (WSACC) President I hope you are able to convey our needs to the members of your Association as set out below.

There is information contained in superior court documents that is critical for accurate and efficient decision-making by district and municipal court judges. With Odyssey Portal now available, there is finally an efficient way for our judges to obtain instant access to documents from many counties in the state. District and municipal court judges make thousands of daily decisions that impact public safety, personal liberty, and property interests of the public. These judges conducted over 19,000 hearings last year involving civil protection orders—domestic violence, stalking, harassment, and sexual assault. We were involved in approximately 17,000 felony matters, thousands of domestic violence criminal proceedings, and made release decisions involving persons accused of driving under the influence and other serious matters affecting public safety.

The integrity and fairness of the judicial process depends on access to all available information. Judges require a defendant's full case history to craft appropriate orders and sentences. Without this information, defendants might be subject to conflicting orders. As you know, district and municipal courts are high volume courts and numerous decisions are made every day on whether a defendant is held on bail or released into the community. A judicial officer should have all available information about a defendant before making that decision. Without that information some defendants may be released when they

STATE OF WASHINGTON

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would have been held on bail. A full and complete history of a particular defendant is essential to all members of the criminal justice system.

Further, with the pace of limited jurisdiction caseloads, judicial officers do not have the luxury of the time it would take to call superior court clerks and have them read them the terms of all relevant orders over the telephone, nor do they have the time to wait hours for an e-mailed copy, or days for a paper copy of an order to be mailed to them. The integrity of judicial decision-making and the safety of Washington's citizens depends on judicial access to all available information in its most readily available format. For this reason, it is critical that Washington's district and municipal court judges have access to the electronic documents available through the Odyssey Portal. Time is of the essence.

We look forward to working with the county clerks and the Administrative Office of the Courts to promptly address this issue on a statewide basis.

Sincerely,

A handwritten signature in cursive script, appearing to read "Samuel G. Meyer".

Judge Samuel G. Meyer
President, DMCJA
Thurston County District Court

cc: Dawn Marie Rubio, Washington State Court Administrator, AOC