

THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KITSAP COUNTY

614 DIVISION STREET
PORT ORCHARD, WASHINGTON 98366
(360) 337-7140

JEANETTE DALTON, JUDGE
DEPARTMENT NO. 1
LEILA MILLS, JUDGE
DEPARTMENT NO. 2
ANNA M. LAURIE, JUDGE
DEPARTMENT NO. 3
STEVE DIXON, JUDGE
DEPARTMENT NO. 4

September 5, 2012

JAY B. ROOF, JUDGE
DEPARTMENT NO. 5
KEVIN D. HULL, JUDGE
DEPARTMENT NO. 6
M. KARLYNN HABERLY, JUDGE
DEPARTMENT NO. 7
SALLY F. OLSEN
DEPARTMENT NO. 8

THURMAN W. LOWANS
COURT COMMISSIONER

FRANK A. MAIOCCO, Jr.
DIRECTOR OF ADMINISTRATION

Clerk of the Court
Supreme Court for the State of Washington
P.O. Box 40929
Olympia, Washington 98504-0929

Re: Comments Concerning Proposed
Family Law Court Rules (FLCR)

May It Please The Court:

For the past 19 years I have conducted all of the Family Law Calendars in Kitsap County, including dissolutions, paternities, domestic violence and dependencies. I also see self-represented litigants regularly and frequently, as they make up well over 50% of the Family Law cases and Hearings I am assigned. In all candor, my experience as both an attorney and a judicial officer over 3½ decades in family law tells me most ardently that "more" is rarely, if ever, better.

The Superior Court Civil Rules are detailed, complicated, and currently span 55 pages in my West publication. In addition, there is a plethora of Local Rules which vary widely around the State. Local Rules exist for very real and substantial reasons of local practice and available resources. Over the past years and in response to leadership from Justice Charles Johnson, our Court and most other Counties have undertaken a concerted effort to consolidate, update and properly align Local Rules. Such efforts have been substantial and of great benefit to all seeking access to our Courts. Whenever possible, Rules should be eliminated where they are duplicative or inaccurate. The language of Court Rules must be made more clear and simplified, including the removal of archaic terms such as "averments", "pleader", "controvert" and "interrogatories" to name a few. There is a lot of work to do on both the Local and the State level concerning the Civil Rules.

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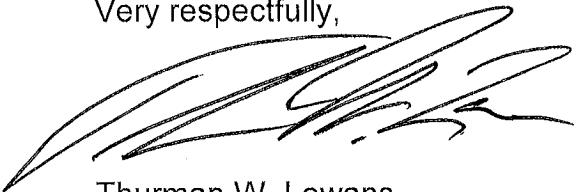
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Rather than overhauling the existing Superior Court Civil Rules as has been done in many Courts concerning their Local Rules, it is proposed that the existing Civil Rules effectively be cloned into yet another State wide layer of Rules. Inexplicably these new proposed Family Law Court Rules will to be more clear, more concise and more easily understandable than the original Civil Rules from which they came. Experience and logic both decry such an effort which will simply add yet another layer of the inexplicable to confuse and confound self-represented litigants seeking to have their day in Court. The additional set of Family Law Court Rules proposed will tax the capacity of self-represented litigants, and yet provide no true benefit. If the new Family Law Court Rules are indeed so simple and readily understandable, then eliminate the existing Superior Court Civil Rules entirely and adopt a new set of Superior Court Civil Rules based upon the approach of the proposed Family Law Court Rules. Creating a new layer of Rules moves us in the wrong direction and will create yet another barrier to access to Justice. The Courts should undertake a comprehensive overhaul of the existing Superior Court Civil Rules, not create a new layer of rules across the State. More is rarely better.

I can only speak for myself, although I do note that my position is far from that of the minority within the ranks of Court Commissioners as I have learned over recent years. Indeed, I believe that many of the Judges doing Family Law work share my concerns and reservations. Local Courts have made substantial progress in "cleaning up" Local Rules. There are also multiple programs available to promote access to justice which vary from County to County, including the Facilitator Program and Pro Bono Programs. The existing Superior Court Civil Rules can, and should be overhauled and rewritten into a more easily understandable and usable form. The Courts can and should do better, but adding yet another set of Rules for specifically for Family Law cases does not serve that end.

Thank you for your efforts and consideration of my perspective from the Front Line.

Very respectfully,



Thurman W. Lowans
Court Commissioner
Kitsap County Superior Court