

April 15, 2010

Hon. Justice Charles W. Johnson, Chair
Washington State Supreme Court Rules Committee
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929



Via email to Camilla.Faulk@courts.wa.gov

Re: Comments on Proposed New Superior Court Family Law Civil Rules (FLCR)

Dear Justice Johnson,

Legal Voice (formerly the Northwest Women's Law Center) appreciates the opportunity to comment on the proposed new Superior Court Family Law Civil Rules (FLCR) submitted by the Local Rules Task Force of the Washington State Bar Association. As you may know, for more than 30 years Legal Voice has advanced women's legal rights in Washington, Oregon, Montana, Idaho and Alaska. We have also served more than 100,000 women and men with direct legal information and referrals to appropriate services. Legal Voice was one of the first organizations in the nation to identify pro se litigants as a significantly under-served population in the legal system, and to develop strategies to assist pro se litigants.

Our Legal Information and Referral Line volunteers speak to thousands of callers in Washington every year. The most common issues presented involve family law matters, and most of our callers will represent themselves. Through our work responding to calls and developing self help materials, we are frequently reminded of the importance of court rules. At times, court rules provide clear guidance to pro se litigants; at other times, they lead to frustration and increased stress. We hope our comments assist you and the Task Force as you move forward with the rules.

General Comments:

- We support the creation of consistent family law court rules and commend the work of the Task Force.
- The language level is unnecessarily high. Additionally, some sentence structures may be too complex for some readers.
- Consistent numbering is a major improvement to court rules because it is confusing and difficult to find rules on the same topics under different rule numbers. It is helpful that the rules refer people to the CR when there is

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no local rule. The long list of unrelated rules, see Rules 18-39, may be distracting.

- Local rules that differ by county would still be allowed. It is appropriate to have a mechanism for this because size differences necessitate differences in court management. Having a uniform numbering system would make the differences between each county's rules more manageable. Differing local rules would have to be approved by the Supreme Court, which would help to stop a county from creating too many differing local rules.

Rule-Specific Comments:

- Rule 7(e)(2) – The declaration page limit of 10 pages (for hearings with testimony) may not be adequate in some cases. It may also be confusing that there would be different page limits for hearings with and without testimony. Pro se litigants may not be clear about whether testimony will be taken at their hearing.
- Rule 7(f) Pattern Forms – In part, this rule prohibits the court from dismissing a case, refusing a filing, or striking a pleading based on a party not using a pattern form or not following formatting rules. This is a good rule for pro se parties, who are at a disadvantage in terms of knowing and following the formatting/form rules.
- Rule 9(d)(1) - “Declarations shall be appropriately verified and formatted” -- does that mean you do have to use a pattern form or just that it has to be signed under penalty of perjury? This language is not clear in terms of what is required and may be confusing to pro se litigants.
- Rule 16(c) – The information required to be exchanged under this rule should be provided more than 30 days before trial or 14 days before a settlement conference because in some cases more time is needed to evaluate information, receive expert opinions, and subpoena or otherwise obtain additional information. Additionally, this rule should read that the below information must be exchanged if it exists or can be obtained. Otherwise, it could be read to require appraisals and valuations where none exist.
- Rule 16(c)(11) – What is a joint management report? Is this a confirmation of issues? This term should be changed or clarified.
- Rule 16(d) - The word “automatic” implies this will always happen. But then the rule goes on to say that the court “may” issue a temporary order. This rule needs to be clarified as to whether a temporary order is really automatic or not. The inclusion of meretricious relationships is helpful because these cases are properly included with other family law cases.

- Rule 53.5 – Mediation in family law cases would only be required if the court pays for mediation for those who cannot afford it, which is helpful to low income parties. This rule should also include an exception to the mediation requirement for domestic violence cases.
- Rule 83(a) – We support this rule, which requires local rules conform to these rules, because it will cut down on confusion.
- Rule 83(b) – We support this rule, which bans courts from including any substantive law in the court rules, because substantive law is appropriately contained in statute and case law.
- Rule 87 – This rule allows courts to require that pro se parties meet with a facilitator, but if they can't afford it, the court must pay for it. This is good for low income parties. It also allows pro se's to have attorneys review their documents to satisfy the requirement. This would prevent the unnecessary delay and cost of having both attorney and facilitator review.
- Rule 88(a) – This rule is important for domestic violence victims so that they are not required to attend a class with their abusers.
- Rule 88(b) – It is important that a court can't require a parenting seminar if this would cause financial hardship, unless the court funds it, as this rule states.
- Rule 88(d) – This rule is helpful because it does not allow a court to refuse to finalize a case if one parent failed to attend a parenting seminar. Currently, some judicial officers do this, but it is not fair to penalize the parent trying to finalize (and the children) because the other parent did not take the initiative to complete the seminar.

Thank you for your consideration of these comments.

Sincerely,



Lisa M. Stone
Executive Director
Legal Voice