



COLLABORATIVE
PROFESSIONALS
of WASHINGTON

Sent via mail and email to:
Denise.Foster@courts.wa.gov

June 28, 2013

Wendy Rawlins MS LMHC
President

Tom Cena WSBA #6539
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Michael Fancher
Past-President

Jennie Bousca-Coddington
Treasurer

Michelle O'Loane
Secretary

Karen Vauche
Director

Ltigh Noffstinger
Director

John James
Director

Kristin Little
Director

PO Box 601
Bellevue, WA
98009-0601

Hon. Barbara Madsen, Chief Justice
Hon. Charles Johnson, Associate Chief Justice
c/o Clerk of the Court
Washington State Supreme Court
PO Box 40929
Olympia, WA 98504-0929

Dear Chief Justice Madsen, Justice Johnson and the Justices of the Supreme Court:

We are submitting this letter on behalf of the Collaborative Professionals of Washington (CPW), the organization whose members include collaborative professionals statewide. CPW adopts all of the content of the letter dated June 21, 2013 submitted by Loretta S. Story, President of King County Collaborative Law. 1

Collaborative practice is an innovative dispute resolution process which involves lawyers but does not necessarily involve courts. For example, some collaborative negotiations, in areas other than family law, might be completed with no interface at all with any court.

When courts are involved at all in a successful collaborative case there will truly be only the "narrow intersection" between the collaborative process and the court noted (p.4) in Ms. Story's letter of June 21st.

As the proposed rules are drafted, they do little or nothing to address the implementation of this intersection, the only apparent area to which rules of *court* might conceivably apply. 2 Instead, the

A copy of that letter, without its enclosures is enclosed.

Pierce County has adopted such a rule as PCLSPR 94.04(a)(6):

(6) Collaborative Law. In the event that represented parties mutually agree to participate in Collaborative Law, they shall present to the assigned judicial department the Order and Joint Notice of Participation in Collaborative Law as set forth in the Appendix, Form P, and obtain a mandatory status conference date and the parties shall no longer have to comply with the Order Setting Case Schedule Requirements of PCLR 3. If the case does not resolve by the mandatory status conference date, the mandatory status conference shall be held to advise the Court of the progress. Counsel and the court may agree to continue the status conference if participation in the Collaborative Law process is ongoing. Failure to comply may lead to dismissal of the case.

There is a standard form, Form P, which the Pierce County Court has drafted to accomplish the requirements of this rule. A copy of Form P is enclosed.

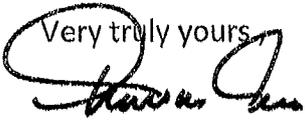
Letter to Hon. Barbara Madsen, Chief Justice & Hon. Charles Johnson, Associate Chief Justice

draft rules merely restate significant sections of the UCLA, enacted in Washington as Chapter 119, Laws of 2013. The proposed rules thus appear redundant, and unnecessary. If implemented they would also create confusion and uncertainty as to their application relative to the statute and because their content purports to regulate stages of the collaborative process which may or even likely will occur before any court proceeding has begun (see proposed rules 3, 9, 12, 13, 14, 15) and which in fact, (rules 13, 14) might result in no collaborative relationship being established at all. That being said, all of the material in the rules mentioned above are included in the statute itself and address perfectly legitimate areas for statutory regulation.

Of course, if the WSBA/BOG 's intent in submitting its proposed rules is based on a plan to later seek repeal of all or part of the enacted UCLA, this would be a disingenuous motive. The Act was made into law by the legislative process to which the Bar Association had full access. The collaborative process for dispute resolution is a worldwide phenomenon, at least twenty-five years old, and is here to stay. The enactment of Chapter 119 can only benefit the public and collaborative practitioners (3) alike by formalizing appropriate standards which are wholly consistent with the philosophy and effective, safe implementation of this very valuable alternative dispute resolution process. And, as noted at page 5 of Ms. Story's letter, none of the states which have enacted the UCLA have done so entirely without accompanying court rules, except with the narrow exceptions noted for Utah and Alabama.

CPW joins KCCL, the Washington Uniform Law Commission, and the WSBA Rules Committee in opposing the proposed Uniform Collaborative Law Rules (UCLR)

Very truly yours,



Wendy Rawlings MS LMHC DCC

CPW President



Thomas Cena WSBA# 6539

CPW Vice President

3 Both lawyers and non-lawyers