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April 29, 2019

Honorable Charles W. Johnson
Supreme Court Rules Committee
c/o Clerk of the Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

RE: Comment on WACDL proposals to add or amend criminal rules for courts of limited jurisdiction (CrRLJ)

Dear Justice Johnson and Members of the Rules Committee:

The District and Municipal Court Judges' Association (DMCJA) Board of Governors (Board) has reviewed the Washington Association of Criminal Defense Lawyers' (WACDL's) proposed rules, and one rule amendment, for the criminal rules for the courts of limited jurisdiction (CrRLJ), which were published for comment by the Washington State Supreme Court with a comment deadline of April 30, 2019. In sum, WACDL is proposing:

- New Rule CrRLJ 3.7, Recording Interrogations
- New Rule CrRLJ 3.8, Recording Eyewitness Identification Procedure
- New Rule CrRLJ 3.9, In-Court Eyewitness Identification
- New Rule CrRLJ 4.11, Recording Witness Interviews
- Amendments to CrRLJ 4.7, Discovery

The DMCJA is opposed to the proposed enactments and amendments.

In addition to reviewing the GR 9 Cover Sheets and proposed new rules, the Board also considered the comments made on the proposals by members of the legal profession. The Board did not examine the policy behind the rules, but rather the potential impact on courts of limited jurisdiction operations and whether the rules would be workable in practice.

The DMCJA Board has two primary concerns regarding the proposals: (1) The proposed new rules are inconsistent with existing court rules, including the Rules of Evidence, and (2) the procedures required by the rules would necessitate new hearings, which could prove onerous for courts of limited jurisdiction. In addition, the Board found the proposals in general to be poorly worded; the drafting is unartful and would make application challenging. For these reasons, the Board recommends that the proposals not be adopted.

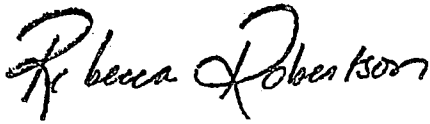
STATE OF WASHINGTON

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Honorable Charles W. Johnson
April 29, 2019
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Please let me know if you have any questions regarding this comment. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Rebecca Robertson". The signature is written in a cursive style with a large, stylized "R" at the beginning.

Judge Rebecca Robertson
DMCJA President

cc: Judge Jeffrey Goodwin, DMCJA Rules Committee Chair
Ms. Shannon Hinchcliffe, AOC
Ms. J Benway, AOC

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Tuesday, April 30, 2019 4:09 PM
To: Tracy, Mary
Subject: FW: DMCJA - Assignments for Today (Supreme Court Rules Comment Letters)
Attachments: WACDL proposals DMCJA cmt ltr.pdf; WDA CrRLJ 3.1 proposal DMCJA cmt ltr.pdf; WSBA CrRLJ 4.4 proposal DMCJA cmt ltr.pdf; WSBA CrRLJ 4.4 proposal DMCJA cmt ltr.doc; WDA CrRLJ 3.1 proposal DMCJA cmt ltr.doc; WACDL proposals DMCJA cmt ltr.doc

From: Harvey, Sharon
Sent: Tuesday, April 30, 2019 4:08 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Hinchcliffe, Shannon <Shannon.Hinchcliffe@courts.wa.gov>; Benway, Jennifer <Jennifer.Benway@courts.wa.gov>; Peterson, Susan <Susan.Peterson@courts.wa.gov>; Harvey, Sharon <Sharon.Harvey@courts.wa.gov>
Subject: FW: DMCJA - Assignments for Today (Supreme Court Rules Comment Letters)

Dear Clerk:

Attached please find District and Municipal Court Judges' Association (DMCJA) comments regarding the following proposed rules:

1. Opposition to Washington Association of Criminal Defense Lawyers (WACDL) Proposals
 - a. CrRLJ 3.7, Recording Interrogations
 - b. CrRLJ 3.8, Recording Eyewitness Identification Procedure
 - c. CrRLJ 3.9, In-Court Eyewitness Identification
 - d. CrRLJ 4.11, Recording Witness Interviews
 - e. Amendments to CrRLJ 4.7, Discovery
2. Support for Washington Defenders' Association (WDA) Proposal to CrRLJ 3.1
3. Support for Washington Bar Association (WSBA) Proposal to CrRLJ 4.4

Comments are provided in Word and PDF versions for your convenience. Please let me know if you have any questions or concerns. Thank you.

Sincerely,

Sharon R. Harvey
Court Association Coordinator
Administrative Office of the Courts
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Olympia, WA 98504-1170
360-705-5282
sharon.harvey@courts.wa.gov