



## ***Superior Court Judges' Association - Civil Law and Rules Committee***

**Hon. Shelly K. Speir-Moss**  
**Chair**

Pierce County Superior Court  
930 Tacoma Ave. S., Rm 334  
Tacoma, WA 98402-2108

**Hon. Timothy L. Ashcraft**

Pierce County Superior Court  
930 Tacoma Ave. S., Rm 334  
Tacoma, WA 98402-2108

**Hon. Kristin E. Ballinger**

King County Superior Court  
516 Third Avenue, Room C-203  
Seattle, WA 98104

**Hon. Timothy B. Fennesy**

Spokane County Superior Court  
1116 W Broadway Ave.  
Spokane, WA 99260-0350

**Hon. Susan E. Harness**

Snohomish County Superior Court  
3000 Rockefeller Ave., MS 502  
Everett, WA 98201

**Hon. Thomas P. Quinlan**

Pierce County Superior Court  
930 Tacoma Ave. S., Rm 334  
Tacoma, WA 98402-2108

**Hon. Emily A. Sheldrick**

Clark County Superior Court  
1200 Franklin St.  
Vancouver, WA 98660-2812

**Hon. Mary Sue Wilson**

Thurston County Superior Court  
2000 Lakeridge Dr. S.W., Bldg 2  
Olympia, WA 98502

Date: April 8, 2022

Honorable Charles W. Johnson, Co-Chair  
Honorable Mary I. Yu, Co-Chair  
Washington State Supreme Court Rules Committee  
Temple of Justice  
P.O. Box 40929  
Olympia, WA 98504-0929

Re: Proposed Amendments to CRs 3.1, 16, 26, and 77  
Proposed Amendments to GRs 11, 11.1 and 11.3

Dear Justices Johnson and Yu:

The Superior Court Judges' Association Civil Law and Rules Committee ("CLRC") has reviewed the above-referenced proposed rules and amendments, and offers for consideration the following comments which have been approved by the SCJA Board of Trustees.

### **CR 3.1 (Initial Case Schedules) and 16 (Pretrial Procedure)**

The CLRC supports these rules generally, as they are intended to increase efficiency in case processing and thereby decrease the cost of civil litigation. Furthermore, to the extent that members of minority communities are more likely to experience economic barriers that impact their ability to participate in court proceedings, the CLRC believes that these rules would likely help reduce structural racism and improve access to justice.

The only concern voiced by committee members was that mandating case schedules and pretrial conferences in smaller jurisdictions may result in increased court costs and decreased efficiency and/or access to justice. The CLRC believes that this concern was addressed in CR 3.1(f) (allowing courts to "exempt" any action for which compliance with the rule would be impracticable). However, there is no similar provision in CR 16. Accordingly, the CLRC respectfully requests the following addition to CR 16: **"(d) Exemption.** The court may, on a party's motion or on its own initiative, exempt any action or type of action for which compliance with this rule is impracticable."

### CR 26(b), (e), and (g) (General Provisions Governing Discovery)

**CR 26(b).** The CLRC fully supports the proposed amendments to CR 26(b)—with one small change described below—because they will clarify parties’ obligations during discovery, thereby increasing efficiency of case processing and decreasing the cost of litigation. To the extent that members of minority communities are more likely to experience economic barriers that impact their ability to participate in court proceedings, the CLRC believes that these amendments would also help reduce structural racism and improve access to justice.

The CLRC’s proposed change relates to a missing word in CR 26(b)(5)(A)(i): “A case schedule deadline to disclose experts does not excuse a party **from** timely responding to expert discovery” (proposed language in boldface).

**CR 26(e).** With respect to the proposed amendments to CR 26(e), there were differences of opinion between CLRC members. Some members favored the proposed amendments, as they felt the broadened duty to supplement will expedite the discovery process. However, a concern was raised that because the duty to supplement will be broadened without specific limitations, the unintended effect of the amendments could be a decrease in case processing efficiency and a corresponding increase in discovery costs. As the CLRC could not come to consensus, it takes no position on the proposed amendments to this portion of the rule.

**CR 26(g).** The CLRC fully supports the proposed amendments to CR 26(g). The CLRC believes that they will clarify parties’ obligations during discovery, thereby increasing efficiency of case processing and decreasing the cost of litigation. To the extent that members of minority communities are more likely to experience economic barriers that impact their ability to participate in court proceedings, the CLRC believes that these amendments would also help reduce structural racism and improve access to justice.

### CR 77 (Superior Courts and Judicial Officers)

The CLRC fully supports this proposed amendment, as it is intended to increase efficiency and reduce the cost of civil litigation. Again, to the extent that members of minority communities are more likely to experience economic barriers that impact their ability to participate in court proceedings, the CLRC believes that this amendment would help reduce structural racism and improve access to justice.

### GR 11, 11.1, and 11.3 (Interpreting and Language Access)

The CLRC fully supports these proposed amendments, as they clearly promote increased access to justice.

Thank you for your consideration. Should you have any questions or require additional information from the Committee, please feel free to contact me.

Yours truly,

A handwritten signature in blue ink, appearing to read 'SKSM', followed by a horizontal line extending to the right.

Judge Shelly Speir-Moss, Chair  
SCJA Civil Law and Rules Committee

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Linford, Tera](#)  
**Subject:** FW: SCJA Civil Law & Rules Committee Comment Re Proposed Changes to CRs 3.1, 16, 26 and 77 and to GRs 11, 11.1 and 11.3  
**Date:** Friday, April 8, 2022 3:45:22 PM  
**Attachments:** [Ltr SCJACLR to Supr Ct Re CRs \(3.1, 16, 26, 77\) & GRs \(11, 11.1, 11.3\) Final.pdf](#)  
[image002.png](#)

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**From:** Lynch, Jim  
**Sent:** Friday, April 8, 2022 3:41 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** SCJA Civil Law & Rules Committee Comment Re Proposed Changes to CRs 3.1, 16, 26 and 77 and to GRs 11, 11.1 and 11.3

2/8/2022: Good afternoon. I am the AOC staffer for the Superior Court Judges' Association's Civil Law & Rules Committee. The Committee respectfully submits the attached comment to the Supreme Court Rules Committee for its consideration. This comment has been approved by the SCJA Board of Trustees. Thank you; and should you have any questions or concerns, please feel free to contact me.

**James B. "Jim" Lynch**

Legal Services Senior Analyst | Office of Legal Services & Appellate Court Support

**Administrative Office of the Courts**

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