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AUG 18 2022
Washington State
Supreme Court

Island County District and Municipal Courts
800 SE 8th Avenue
Oak Harbor, WA 98277
360-675-5988

William H. Hawkins
Judge

Ronald A. Costeck
Commissioner

August 15, 2022

Honorable Charles W. Johnson, Co-Chair
Honorable Mary I. Yu, Co-Chair
Washington State Supreme Court Rules Committee
c/o Clerk of the Supreme Court
Temple of Justice
P.O. Box 40929
Olympia, WA 985004-0929

Re: Comment on the Proposed IRLJ Amendments

Dear Justice Johnson and Justice Yu:

In addition to comments you will be receiving from the DMCJA Rules Committee and DMCJA Pattern Forms Sub-Committee, there is one particular comment I, as Chair of the Pattern Forms Subcommittee for the Court of Limited Jurisdiction, feel the need to share directly with you. It concerns the failure to treat as confidential financial information which the proposed rule change would require the District and Municipal Court judges attempt to obtain from all respondents in moving traffic infraction cases.

The goal of the proposed rule change is a laudable one: to avoid imposing legal financial obligations (LFOs) on respondents charged with civil moving traffic infractions who cannot afford to pay them. However, as part of the proposed changes to the IRLJ, "...the court shall send the defendant a Petition and Order for a traffic infraction payment plan, as required in IRLJ 3.5(a), with written instructions on how to complete these forms and request a payment plan..." Proposed IRLJ 2.6(d)(1). The problem I bring to your attention is that the proposed rule changes do not contain authority for the court to treat the financial information as confidential. If the

proposed rules were to pass as currently written, the sensitive financial information would be public record, available to the public.

In family law, financial information and other sensitive information are treated as confidential. Mandatory use of forms includes the Confidential Information Form, Attachment to Confidential Information Form, and Sealed Financial Source Documents Cover Sheet. GR 22.

In criminal law, RCW 10.101.020(3) provides that, "Any information given by the accused under [RCW 10.101] shall be confidential and shall not be available for use by the prosecution in the pending case." A violation of this rule has been found to be an ethical issue. See Stipulation, Agreement and Order of Reprimand entered in In Re the Matter of The Honorable Debra Burchett, CJC No. 9848-F-191. Paragraph 9 of the Agreement counsels that the stipulation does not include a finding of conduct warranting sanctions, "but rather is highlighting the issue in order to put Respondent and other judicial officers on notice that failing to conduct such an inquiry in confidence could violate the governing statute, court rule, and Code of Judicial Conduct."

The same public policy interests warranting confidentiality of financial information that exist in family law and criminal law are no less present in traffic infraction cases. Yet, without any legal authority for treating financial information as confidential, the proposed IRLJ rule changes would place the courts of limited jurisdiction in the awkward and uncomfortable position of being mandated to solicit sensitive financial information, with no corresponding ability to treat the information as confidential. In this regard, it is worth noting that the courts of limited jurisdiction lack inherent authority. Without such authority, financial information would be publicly available. It is unlikely that this result was contemplated by the drafters of the proposed rules.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "W. H. Hawkins", with a long horizontal line extending to the right.

William H. Hawkins

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