WSR 15-09-016
RULES OF COURT
STATE SUPREME COURT
[April 2, 2015]

IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE SUPERIOR COURT CIVIL RULES (CR) CR 4—PROCESS, CR 5—SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS, CR 6—TIME, CR 8—GENERAL RULES OF PLEADING, CR 9—PLEADING SPECIAL MATTERS, CR 10—FORM OF PLEADINGS AND OTHER PAPERS, CR 12—DEFENSES AND OBJECTIONS, CR 13—COUNTERCLAIM AND CROSS CLAIM, CR 14—THIRD PARTY PRACTICE, CR 15—AMENDED AND SUPPLEMENTAL PLEADINGS, CR 17—PARTIES PLAINTIFF AND DEFENDANT: CAPACITY, CR 18—JOINDER OF CLAIMS AND REMEDIES, CR 19—JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION, CR 20—PERMISSIVE JOINDER OF PARTIES, CR 22—INTERPLEADER, CR 23—CLASS ACTIONS, CR 23.1—DERIVATIVE ACTIONS BY SHAREHOLDERS, CR 24—INTERVENTION, CR 25—SUBSTITUTION OF PARTIES, CR 26—GENERAL PROVISIONS GOVERNING DISCOVERY, CR 27—PERPETUATION OF TESTIMONY, CR 28—PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN, CR 30—DEPOSITIONS UPON ORAL EXAMINATION, CR 31—DEPOSITIONS UPON WRITTEN QUESTIONS, CR 32—USE OF DEPOSITIONS IN COURT PROCEEDINGS, CR 36—REQUESTS FOR ADMISSION, CR 37—FAILURE TO MAKE DISCOVERY: SANCTIONS, CR 38—JURY TRIAL OF RIGHT, CR 40—ASSIGNMENT OF CASES, CR 41—DISMISSAL OF ACTIONS, CR 43—TAKING OF TESTIMONY, CR 44.1—DETERMINATION OF FOREIGN LAW, CR 46—EXCEPTIONS UNNECESSARY, CR 47—JURORS, CR 49—VERDICTS, CR 51—INSTRUCTIONS TO JURY DELIBERATION, CR 54—JUDGMENT AND COSTS, CR 55—DEFAULT AND JUDGMENT, CR 56—SUMMARY JUDGMENT, CR 58—ENTRY OF JUDGMENT, CR 59—NEW TRIAL, RECONSIDERATION, AND AMENDMENTS OF JUDGMENTS, CR 60—RELIEF FROM JUDGMENT OR ORDER, CR 63—JUDGES, CR 65—INJUNCTIONS, CR 65.1—SECURITY—PROCEEDINGS 1AGAINST SURETIES, CR 68—OFFER OF JUDGMENT, CR 69—EXECUTION, CR 77—SUPERIOR COURTS AND JUDICIAL OFFICERS, CR 78—CLERKS	ORDER NO. 25700-A-1099

Justice Steven Gonzalez, having recommended the expeditious adoption of the Proposed Amendments to the Superior Court Civil Rules (CR) CR 4—Process, CR 5—Service and Filing of Pleadings and Other Papers, CR 6—Time, CR 8—General Rules of Pleading, CR 9—Pleading Special Matters, CR 10—Form of Pleadings and Other Papers, CR 12—Defenses and Objections, CR 13—Counterclaim and Cross Claim, CR 14—Third Party Practice, CR 15—Amended and Supplemental Pleadings, CR 17—Parties Plaintiff and Defendant: Capacity, CR 18—Joinder of Claims and Remedies, CR 19—Joinder of Persons Needed for Just Adjudication, CR 20—Permissive Joinder of Parties, CR 22—Interpleader, CR 23—Class Actions, CR 23.1—Derivative Actions by Shareholders, CR 24—Intervention, CR 25—Substitution of Parties, CR 26—General Provisions Governing Discovery, CR 27—Perpetuation of Testimony, CR 28—Persons Before Whom Depositions May Be Taken, CR 30—Depositions Upon Oral Examination, CR 31—Depositions Upon Written Questions, CR 32—Use of Depositions in Court Proceedings, CR 36—Requests for Admission, CR 37—Failure to Make Discovery: Sanctions, CR 38—Jury Trial of Right, CR 40—Assignment of Cases, CR 41—Dismissal of Actions, CR 43—Taking of Testimony, CR 44.1—Determination of Foreign Law, CR 46—Exceptions Unnecessary, CR 47—Jurors, CR 49—Verdicts, CR 51—Instructions to Jury Deliberation, CR 54—Judgment and Costs, CR 55—Default and Judgment, CR 56—Summary Judgment, CR 58—Entry of Judgment, CR 59—New Trial, Reconsideration, and Amendments of Judgments, CR 60—Relief from Judgment or Order, CR 63—Judges, CR 65—Injunctions, CR 65.1—Security—Proceedings Against Sureties, CR 68—Offer of Judgment, CR 69—Execution, CR 77—Superior Courts and Judicial Officers, CR 78—Clerks, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the new rules as shown below are adopted.

(b) That the new rules will be published expeditiously in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 2nd day of April, 2015.

	Madsen, C.J.
Johnson, J.	Wiggins, J.
Owens, J.	Gonzalez, J.
Fairhurst, J.	Gordon McCloud, J.
Stephens, J.	Yu, J.

Reviser's note: The typographical error in the above material occurred in the copy filed by the State Supreme Court and appears in the Register pursuant to the requirements of RCW 34.08.040.

[PROPOSED] CrR 8.10
POST TRIAL CONTACT WITH JURORS

After a jury has been discharged, or after a verdict has been returned, or after a mistrial has been declared, a lawyer

who participated in the trial, a representative from that lawyer's office, or a law enforcement officer who participated in the trial shall not communicate to the jury information that was suppressed or excluded pursuant to a ruling by the judge in the case.

[PROPOSED] CrRLJ 8.13
POST-TRIAL CONTACT WITH JURORS

After a jury has been discharged, or after a verdict has been returned, or after a mistrial has been declared, a lawyer who participated in the trial, a representative from that lawyer's office, or a law enforcement officer who participated in the trial shall not communicate to the jury information that was suppressed or excluded pursuant to a ruling by the judge in the case.

GR 27
~~FAMILY LAW~~ COURTHOUSE FACILITATORS

(a) Generally. RCW 26.12.240 and RCW xx.xx.xxx provide a county may create a courthouse facilitator program to provide basic services to pro se litigants in family law and guardianship cases. This Rule applies only to courthouse facilitator programs created pursuant to RCW 26.12.240 or RCW xx.xx.xxx.

(b) The Washington State Supreme Court shall create a ~~Family~~ Courthouse Facilitator Advisory Committee supported by the Administrative Office of the Courts to establish minimum qualifications and develop and administer a curriculum of initial and ongoing training requirements for family law and guardianship courthouse facilitators. The Administrative Office of the Courts shall assist counties in administering ~~family law~~ courthouse facilitator programs.

(c) Definitions. For the purpose of this rule the following definitions apply:

(1) A ~~Family Law~~ Courthouse Facilitator is an individual ~~or individuals~~ who has ~~or have~~ met or exceeded the minimum qualifications and completed the curriculum developed by the ~~Administrative Office of the Courts~~ Courthouse Facilitator Advisory Committee and who is ~~or are~~ providing basic services in family law or guardianship cases in a Superior Court.

(2) Family Law Cases include, but are not limited to, dissolution of marriage, modification of dissolution matters such as child support, parenting plans, non-parental custody or visitation, and parentage by unmarried persons to establish paternity, child support, child custody and visitation.

(3) Guardianship cases include cases filed under RCW 11.88, RCW 11.90, RCW 11.92 and RCW 73.36.

(4) "Basic Service" includes but is not limited to:

a) referral to legal and social service resources, including lawyer referral and alternate dispute referral programs and resources on obtaining ~~family law~~ forms and instructions;

b) assistance in calculating child support using standardized computer based program based on financial information provided by the pro se litigant;

c) processing interpreter requests for facilitator assistance and court hearings;

d) assistance in selection as well as distribution of forms and standardized instructions that have been approved by the court, clerk's office, or the Administrative Office of the Courts;

e) assistance in completing forms that have been approved by the court, clerk's office, or the Administrative Office of the Courts;

f) explanation of legal terms;

g) information on basic court procedures and logistics including requirements for service, filing, scheduling hearings and complying with local procedures;

h) review of completed forms to determine whether forms have been completely filled out but not as to substantive content with respect to the parties' legal rights and obligations;

i) previewing pro se documents prior to hearings for matters such as dissolution of marriage, review hearings, and show cause and temporary relief motions calendars under the direction of the Clerk or Court to determine whether procedural requirements have been complied with;

j) attendance at ~~pro se~~ hearings to assist the Court with pro se matters;

k) assistance with preparation of court orders under the direction of the Court; and

l) preparation of pro se instruction packets under the direction of the Administrative Office of the Courts.

(d) ~~Family Law~~ Courthouse Facilitators shall, whenever reasonably practical, obtain a written and signed disclaimer of attorney-client relationship, attorney-client confidentiality and representation from each person utilizing the services of the ~~Family Law~~ Courthouse Facilitator. The prescribed disclaimer shall be in the format developed by the Administrative Office of the Courts.

(e) No attorney-client relationship or privilege is created, by implication or by inference, between a ~~Family Law~~ Courthouse Facilitator providing basic services under this rule and the users of ~~Family Law~~ Courthouse Facilitator Program services.

(f) ~~Family law~~ Courthouse facilitators providing basic services under this rule are not engaged in the unauthorized practice of law. Upon a courthouse facilitator's voluntary or involuntary termination from a courthouse facilitator program, that person is no longer a courthouse facilitator providing services pursuant to RCW 26.12.240 or RCW xx.xx.xx or this Rule.

[Adopted effective September 1, 2002.]

SUGGESTED AMENDMENTS TO
RULE 4 (a)(1), (a)(2), (a)(3), (b)(1)(ii), (b)(1)(iii), (b)(2), (c), (d)(4), (d)(5), (g)(1), (g)(2), (g)(3), (g)(5), (i)(1)
OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 4. PROCESS

(a) Summons—Issuance.

(1) The summons must be signed and dated by the plaintiff or the plaintiff's ~~his~~ attorney, and directed to the defendant requiring the defendant ~~him~~ to defend the action and to serve a copy of the defendant's ~~his~~ appearance or defense on the person whose name is signed on the summons.

(2) Unless a statute or rule provides for a different time requirement, the summons shall require the defendant to serve a copy of the defendant's ~~his~~ defense within 20 days after the service of summons, exclusive of the day of service. If a statute or rule other than this rule provides for a different

time to serve a defense, that time shall be stated in the summons.

(3) A notice of appearance, if made, shall be in writing, shall be signed by the defendant or the defendant's ~~his~~ attorney, and shall be served upon the person whose name is signed on the summons. In condemnation cases a notice of appearance only shall be served on the person whose name is signed on the petition.

(b) Summons.

(1) *Contents.* The summons for personal service shall contain:

(ii) A direction to the defendant summoning the defendant ~~him~~ to serve a copy of the defendant's ~~his~~ defense within a time stated in the summons;

(iii) A notice that, in case of failure so to do, judgment will be rendered against the defendant ~~him~~ by default. It shall be signed and dated by the plaintiff, or the plaintiff's ~~his~~ attorney, with the addition of the plaintiff's ~~his~~ post office address, at which the papers in the action may be served on the plaintiff ~~him~~ by mail.

(2) *Form.* Except in condemnation cases, and except as provided in rule 4.1, the summons for personal service in the state shall be substantially in the following form:

SUPERIOR COURT OF WASHINGTON

FOR [_____] COUNTY

_____)

_____,

Plaintiff,) No. _____

Summons [20 days]

_____)

_____,

Defendant.)

TO THE DEFENDANT: A lawsuit has been started against you in the above entitled court by _____, plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and by serving a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where plaintiff is entitled to what she or he asks for because you have not responded. If you serve a notice of appearance on the undersigned person, you are entitled to notice before a default judgment may be entered. You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the person signing this summons. Within 14 days after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of this summons and complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to rule 4 of the Superior Court Civil Rules of the State of Washington.

[signed] _____

Print or Type Name

( ) Plaintiff ( ) Plaintiff's Attorney

P.O. Address _____

Dated _____

Telephone

Number _____

(c) By Whom Served. Service of summons and process, except when service is by publication, shall be by the sheriff of the county wherein the service is made, or by the sheriff's ~~his~~ deputy, or by any person over 18 years of age who is competent to be a witness in the action, other than a party. Subpoenas may be served as provided in rule 45.

(d) Service.

(4) *Alternative to Service by Publication.* In circumstances justifying service by publication, if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication, the court may order that service be made by any person over 18 years of age, who is competent to be a witness, other than a party, by mailing copies of the summons and other process to the party to be served at the party's ~~his~~ last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender. The summons shall contain the date it was deposited in the mail and shall require the defendant to appear and answer the complaint within 90 days from the date of mailing. Service under this subsection has the same jurisdictional effect as service by publication.

(5) *Appearance.* A voluntary appearance of a defendant does not preclude the defendant's ~~his~~ right to challenge lack of jurisdiction over the defendant's ~~his~~ person, insufficiency of process, or insufficiency of service of process pursuant to rule 12(b).

(g) Return of Service. Proof of service shall be as follows:

(1) If served by the sheriff or the sheriff's ~~his~~ deputy, the return of the sheriff or the sherrif's ~~his~~ deputy endorsed upon or attached to the summons;

(2) If served by any other person, the person's ~~his~~ affidavit of service endorsed upon or attached to the summons; or

(3) If served by publication, the affidavit of the publisher, supervisor ~~foreman~~, principal clerk, or business manager of the newspaper showing the same, together with a printed copy of the summons as published; or

(5) The written acceptance or admission of the defendant, the defendant's ~~his~~ agent or attorney;

(i) Alternative Provisions for Service in a Foreign Country.

(1) *Manner.* When a statute or rule authorizes service upon a party not an inhabitant of or found within the state, and service is to be effected upon the party in a foreign country, it is also sufficient if service of the summons and complaint is made: (A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or (B) as directed by the foreign authority in response to a letter rogatory or a letter of

request; or (C) upon an individual, by delivery to the party ~~him~~ personally, and upon a corporation or partnership or association, by delivery to an officer, a managing or general agent; or (D) by any form of mail, requiring a signed receipt, to be addressed and mailed to the party to be served; or (E) pursuant to the means and terms of any applicable treaty or convention; or (F) by diplomatic or consular officers when authorized by the United States Department of State; or (G) as directed by order of the court. Service under (C) or (G) above may be made by any person who is not a party and is not less than 21 years of age or who is designated by order of the court or by the foreign court. The method for service of process in a foreign country must comply with applicable treaties, if any, and must be reasonably calculated, under all the circumstances, to give actual notice.

SUGGESTED AMENDMENTS TO RULE 5 (b)(1), (b)(2)(B), (b)(3), (d)(3) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(b) Service—How Made.

(1) *On Attorney or Party.* Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service directly upon the party ~~himself~~ is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to the party or the party's attorney ~~him~~ or by mailing it to the party's or the party's attorney's ~~him at his~~ last known address or, if no address is known, filing with the clerk of the court an affidavit of attempt to serve. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at the party's or the attorney's ~~his~~ office with a ~~his~~ clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's ~~his~~ dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service on an attorney is subject to the restrictions in subsections (b)(4) and (5) of this rule and in rule 71, Withdrawal by Attorneys.

(2) *Service by Mail.*

(B) Proof of Service by Mail. Proof of service of all papers permitted to be mailed may be by written acknowledgment of service, by affidavit of the person who mailed the papers, or by certificate of an attorney. The certificate of an attorney may be in form substantially as follows:

CERTIFICATE

I certify that I mailed a copy of the foregoing _____ to [*here name the person, first name then last name ~~John Smith~~*], [*plaintiff's*] attorney, at [*office address or residence*], and to [*here name the person, first name then last name ~~Joseph Doe~~*], an additional [*defendant's*] attorney [*or attorneys*] at [*office address or residence*], postage prepaid, on [*date*].

[*here name the person, first name then last name ~~John Brown~~*] Attorney for [*Defendant*] [here name the person, first name then last name] ~~William Noe~~

(3) *Service on Nonresidents.* Where a plaintiff or defendant who has appeared resides outside the state and has no attorney in the action, the service may be made by mail if the party's ~~his~~ residence is known; if not known, on the clerk of the court for the party ~~him~~. Where a party, whether resident or nonresident, has an attorney in the action, the service of papers shall be upon the attorney instead of the party. If the attorney does not have an office within the state or no longer resides ~~has removed his residence from~~ in the state, the service may be upon the attorney ~~him~~ personally either within or without the state, or by mail to the attorney ~~him~~ at either the attorney's ~~his~~ place of residence or ~~his~~ office, if either is known, and if not known, then by mail upon the party, if the attorney's ~~his~~ residence is known, whether within or without the state. If the residence of neither the party nor the party's ~~his~~ attorney, nor the office address of the attorney is known, an affidavit of the attempt to serve shall be filed with the clerk of the court.

(d) Filing.

(3) *Limitation.* No sanction shall be imposed if prior to the hearing the pleading or paper other than the complaint is filed and the moving attorney is notified of the filing before the attorney ~~he~~ leaves ~~his~~ the office for the hearing.

SUGGESTED AMENDMENTS TO RULE 6(e) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 6. TIME

(e) Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party ~~him~~ and the notice or paper is served upon the party ~~him~~ by mail, 3 days shall be added to the prescribed period.

SUGGESTED AMENDMENTS TO RULE 8 (a), (b), (e)(2) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 8. GENERAL RULES OF PLEADING

(a) Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross claim, or third party claim, shall contain (1) a short and plain statement of the claim showing that the pleader is entitled to relief and (2) a demand for judgment for the relief to which the pleader ~~he~~ deems the pleader is ~~himself~~ entitled. Relief in the alternative or of several different types may be demanded.

(b) Defenses; Form of Denials. A party shall state in short and plain terms the ~~his~~ defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If a party ~~he~~ is without knowledge or information sufficient to form a belief as to the truth of an averment, the party ~~he~~ shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, the pleader ~~he~~ shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, the pleader ~~he~~ may make ~~his~~ denials as specific denials of designated averments or paragraphs, or the pleader ~~he~~ may generally deny all the averments except such designated

averments or paragraphs as the pleader ~~he~~ expressly admits; but, when the pleader ~~he~~ does so intend to controvert all its averments, the pleader ~~he~~ may do so by general denial subject to the obligations set forth in rule 11.

(e) Pleading to Be Concise and Direct; Consistency.

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as the party ~~he~~ has regardless of consistency and whether based on legal or on equitable grounds or on both. All statements shall be made subject to the obligations set forth in rule 11.

SUGGESTED AMENDMENTS TO
RULE 9 (k)(1), (k)(2), (k)(4)
OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 9. PLEADING SPECIAL MATTERS

(k) Foreign Law.

(1) *United States Jurisdictions.* A party who intends to raise an issue concerning the law of a state, territory, or other jurisdiction of the United States shall set forth in the party's ~~his~~ pleading facts which show that the law of another United States jurisdiction may be applicable, or shall state in the party's ~~his~~ pleading or serve other reasonable written notice that the law of another United States jurisdiction may be relied upon.

(2) *Other Jurisdictions.* A party who intends to raise an issue concerning the law of a jurisdiction other than a state, territory or other jurisdiction of the United States shall give notice in the ~~his~~ pleading of the foreign jurisdiction whose law the party ~~he~~ contends may be applicable to the facts of the case. The following matters need not be pleaded, but may be discovered pursuant to rule 26:

(i) the party's contentions as to which issues of law are governed by the foreign law;

(ii) the substance of such foreign law;

(iii) the expected effect of such foreign law on the legal issues and on the outcome of the case being tried;

(iv) the specific foreign statutes, regulations, judicial and administrative decisions, documents and other nonprivileged written materials and translations thereof upon which the party intends to rely.

(4) *Failure to Plead Foreign Law.* If no party has requested in ~~his~~ pleadings application of the law of a jurisdiction other than a state, territory or other jurisdiction of the United States, the court at time of trial shall apply the law of the State of Washington unless such application would result in manifest injustice.

SUGGESTED AMENDMENTS TO
RULE 10 (a)(2) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 10. FORM OF PLEADINGS AND OTHER PAPERS

(a) Caption. Every pleading shall contain a caption setting forth the name of the court, the title of the action, the file number if known to the person signing it, and an identification as to the nature of the pleading or other paper.

(2) *Unknown Names.* When the plaintiff is ignorant of the name of the defendant, it shall be so stated in the plaintiff's ~~his~~ pleading, and such defendant may be designated in any pleading or proceeding by any name, and when the defendant's ~~his~~ true name shall be discovered, the pleading or proceeding may be amended accordingly.

SUGGESTED AMENDMENTS TO
RULE 12 (a)(1), (a)(3), (a)(4), (b), (e), (f), (g)
OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 12. DEFENSES AND OBJECTIONS

(a) When Presented. A defendant shall serve an ~~his~~ answer within the following periods:

(1) Within 20 days, exclusive of the day of service, after the service of the summons and complaint upon the defendant ~~him~~ pursuant to rule 4;

(3) Within 60 days after the service of the summons upon the defendant ~~him~~ if the summons is served upon the defendant ~~him~~ personally out of the state in accordance with RCW 4.28.180 and 4.28.185 or on the Secretary of State as provided by RCW 46.64.040.

(4) Within the period fixed by any other applicable statutes or rules.

A party served with a pleading stating a cross claim against another party ~~him~~ shall serve an answer thereto within 20 days after the service upon that other party ~~him~~. The plaintiff shall serve ~~his~~ a reply to a counterclaim in the answer within 20 days after service of the answer or, if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs. The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court.

(b) How Presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross claim, or third party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted, (7) failure to join a party under rule 19. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, the pleader ~~he~~ may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by rule 56.

(e) Motion for More Definite Statement. If a pleading to which a responsive pleading is permitted is so vague or

ambiguous that a party cannot reasonably be required to frame a responsive pleading, or if more particularity in that pleading will further the efficient economical disposition of the action, the party ~~he~~ may move for a more definite statement before interposing a ~~his~~ responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after the notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

(f) Motion to Strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon the party ~~him~~ or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

(g) Consolidation of Defenses in Motion. A party who makes a motion under this rule may join with it any other motions herein provided for and then available to the party ~~him~~. If a party makes a motion under this rule but omits therefrom any defense or objection then available to the party ~~him~~ which this rule permits to be raised by motion, the party ~~he~~ shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in subsection (h)(2) hereof on any of the grounds there stated.

SUGGESTED AMENDMENTS TO RULE 13 (a), (e), (f), (j) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 13. COUNTERCLAIM AND CROSS CLAIM

(a) Compulsory Counterclaims. A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. But the pleader need not state the claim if (1) at the time the action was commenced the claim was the subject of another pending action, or (2) the opposing party brought suit upon the pleader's ~~his~~ claim by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim, and the pleader is not stating any counterclaim under this rule.

(e) Counterclaim Maturing or Acquired After Pleading. A claim which either matured or was acquired by the pleader after serving the ~~his~~ pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleading.

(f) Omitted Counterclaim. When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, the pleader ~~he~~ may by leave of court set up the counterclaim by amendment.

(j) Setoff Against Assignee. The defendant in a civil action upon a contract express or implied, other than upon a negotiable promissory note or bill of exchange, negotiated in good faith and without notice before due, which has been assigned to the plaintiff, may set off a demand of a like nature existing against the person to whom the defendant ~~he~~ was originally liable, or any assignee prior to the plaintiff, of such contract, provided such demand existed at the time of the assignment thereof, and belonging to the defendant in good faith, before notice of such assignment, and was such a demand as might have been set off against such person to whom the defendant ~~he~~ was originally liable, or such assignee while the contract belonged to the defendant ~~him.~~.

SUGGESTED AMENDMENTS TO RULE 14 (a) (b) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 14. THIRD PARTY PRACTICE

(a) When Defendant May Bring in Third Party. At any time after commencement of the action a defending party, as a third party plaintiff, may cause a summons and complaint to be served upon a person not a party to the action who is or may be liable to the defending party ~~him~~ for all or part of the plaintiff's claim against the defending party. ~~him~~. The third party plaintiff need not obtain leave to make the service if the third party plaintiff ~~he~~ files the third party complaint not later than 10 days after the third party plaintiff ~~he~~ serves an ~~his~~ original answer. Otherwise the third party plaintiff ~~he~~ must obtain leave on motion upon notice to all parties to the action. The person served with the summons and third party complaint, hereinafter called the third party defendant, shall make ~~his~~ defenses to the third party plaintiff's claim as provided in rule 12 and ~~his~~ counterclaims against the third party plaintiff and cross claims against other third party defendants as provided in rule 13. The third party defendant may assert against the plaintiff any defenses which the third party plaintiff has to the plaintiff's claim. The third party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third party plaintiff. The plaintiff may assert any claim against the third party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third party plaintiff, and the third party defendant thereupon shall assert ~~his~~ defenses as provided in rule 12 and ~~his~~ counterclaims and cross-claims as provided in rule 13. Any party may move to strike the third party claim, or for its severance or separate trial. A third party defendant may proceed under this rule against any person not a party to the action who is or may be liable to the third party defendant ~~him~~ for all or part of the claim made in the action against the third party defendant.

(b) When Plaintiff May Bring in Third Party. When a counterclaim is asserted against a plaintiff, the plaintiff ~~he~~ may cause a third party to be brought in under circumstances which under this rule would entitle a defendant to do so.

SUGGESTED AMENDMENTS TO RULE 15 (c), (d) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 15. AMENDED AND SUPPLEMENTAL PLEADINGS

(c) Relation Back of Amendments. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. An

amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against the original party ~~him~~, the party to be brought in by amendment (1) has received such notice of the institution of the action that the new party ~~he~~ will not be prejudiced in maintaining her or his defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the new party ~~him~~.

(d) Supplemental Pleadings. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit the party ~~him~~ to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the court deems it advisable that the adverse party plead to the supplemental pleading, it shall so order, specifying the time therefor.

SUGGESTED AMENDMENTS TO
RULE 17(a) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 17. PARTIES PLAINTIFF AND DEFENDANT; CAPACITY

(a) Real Party in Interest. Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in the party's ~~his~~ own name without joining ~~with him~~ the party for whose benefit the action is brought. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

SUGGESTED AMENDMENTS TO
RULE 18 (a), (b) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 18. JOINDER OF CLAIMS AND REMEDIES

(a) Joinder of Claims. A party asserting a claim to relief as an original claim, counterclaim, cross claim, or third party claim, may join, either as independent or as alternate claims, as many claims, legal, equitable, or maritime, as the party ~~he~~ has against an opposing party.

(b) Joinder of Remedies; Fraudulent Conveyances. Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion, the two claims may be joined in a single action; but the court shall grant relief in that action only in accordance with the relative substantive rights of the parties. In particular, a plaintiff may state a claim for money and a claim to have set aside a conveyance fraudulent as to the plaintiff ~~him~~, without first having obtained a judgment establishing the claim for money.

SUGGESTED AMENDMENTS TO
RULE 19 (a), (b), (e) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 19. JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION

(a) Persons to Be Joined if Feasible. A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in the person's ~~his~~ absence complete relief cannot be accorded among those already parties, or (2) the person ~~he~~ claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's ~~his~~ absence may (A) as a practical matter impair or impede the person's ~~his~~ ability to protect that interest or (B) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the person's ~~his~~ claimed interest. If the person ~~he~~ has not been so joined, the court shall order that the person ~~he~~ be made a party. If the person ~~he~~ should join as a plaintiff but refuses to do so, the person ~~he~~ may be made a defendant, or, in a proper case, an involuntary plaintiff. If the joined party objects to venue and the person's ~~his~~ joinder would render the venue of the action improper, the joined party ~~he~~ shall be dismissed from the action.

(b) Determination by Court Whenever Joinder Not Feasible. If a person joinable under (1) or (2) of section (a) hereof cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include: (1) to what extent a judgment rendered in the person's absence might be prejudicial to the person ~~him~~ or those already parties; (2) the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; (3) whether a judgment rendered in the person's absence will be adequate; (4) whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

(e) Spouse or Domestic Partner ~~Husband and Wife~~ Must Join—Exceptions. [Reserved. See RCW 4.08.030.]

SUGGESTED AMENDMENTS TO
RULE 20 (b), (c), (d)(1), (d)(2)
OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 20. PERMISSIVE JOINDER OF PARTIES

(b) Separate Trials. The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom the party ~~he~~ asserts no claim and who asserts no claim against the party ~~him~~, and may order separate trials or make other orders to prevent delay or prejudice.

(c) When Either Spouse or Either Domestic Partner ~~Husband and Wife~~ May Join.

[Reserved. See RCW 4.08.040.]

(d) Service on Joint Defendants; Procedure After Service. When the action is against two or more defendants and the summons is served on one or more but not on all of them, the plaintiff may proceed as follows:

(1) If the action is against the defendants jointly indebted upon a contract, the plaintiff ~~he~~ may proceed against the defendants served unless the court otherwise directs; and if the plaintiff ~~he~~ recovers judgment it may be entered against all the defendants thus jointly indebted so far only as it may be enforced against the joint property of all and the separate property of the defendants served.

(2) If the action is against defendants severally liable, the plaintiff ~~he~~ may proceed against the defendants served in the same manner as if they were the only defendants.

SUGGESTED AMENDMENTS TO
RULE 22(a) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 22. INTERPLEADER

(a) Rule. Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another, or that the plaintiff avers that the plaintiff ~~he~~ is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross claim or counterclaim. The provisions of this rule supplement and do not in any way limit the joinder of parties permitted under other rules and statutes.

SUGGESTED AMENDMENTS TO
RULE 23.1 OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 23.1. DERIVATIVE ACTIONS BY SHAREHOLDERS

In a derivative action brought by one or more shareholders or members to enforce a right of a corporation or of an unincorporated association, the corporation or association having failed to enforce a right which may properly be asserted by it, the complaint shall be verified and shall allege (a) that the plaintiff was a shareholder or member at the time of the transaction of which the plaintiff ~~he~~ complains or that the plaintiff's ~~his~~ share or membership thereafter devolved on the plaintiff ~~him~~ by operation of law, and (b) that the action is not a collusive one to confer jurisdiction on a court of this state which it would not otherwise have. The complaint shall also allege with particularity the efforts, if any, made by the plaintiff to obtain the action the plaintiff ~~he~~ desires from the directors or comparable authority and, if necessary, from the shareholders or members, and the reasons for the plaintiff's ~~his~~ failure to obtain the action or for not making the effort. The derivative action may not be maintained if it appears that the plaintiff does not fairly and adequately represent the interests of the shareholders or members similarly situated in enforcing the right of the corporation or association. The action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to shareholders or members in such manner as the court directs.

SUGGESTED AMENDMENTS TO
RULE 23 (c)(2) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 23. CLASS ACTIONS

(c) Determination by Order Whether Class Action to Be Maintained; Notice; Judgment; Actions Conducted Partially as Class Actions.

(2) In any class action maintained under subsection (b)(3), the court shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice shall advise each member that (A) the court will exclude the member ~~him~~ from the class if the member ~~he~~ so requests by a specified date; (B) the judgment, whether favorable or not, will include all members who do not request exclusion; and (C) any member who does not request exclusion may, if the member ~~he~~ desires, enter an appearance through ~~his~~ counsel.

SUGGESTED AMENDMENTS TO
RULE 24(a) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 24. INTERVENTION

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the person ~~he~~ is so situated that the disposition of the action may as a practical matter impair or impede the person's ~~his~~ ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

SUGGESTED AMENDMENTS TO
RULE 25(b) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 25. SUBSTITUTION OF PARTIES

(b) Incompetency. If a party becomes incompetent, the court upon motion served as provided in section (a) of this rule may allow the action to be continued by or against the party's ~~his~~ representative.

SUGGESTED AMENDMENTS TO
RULE 26 (b)(4), (e), (e)(1), (e)(2), (f), (g)
OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 26. GENERAL PROVISIONS GOVERNING DISCOVERY

(b) Discovery Scope and Limits. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(4) *Trial Preparation: Materials.* Subject to the provisions of subsection (b)(5) of this rule, a party may obtain discovery of documents and tangible things otherwise discoverable under subsection (b)(1) of this rule and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including a party's ~~his~~ attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of such party's ~~his~~ case and that the party ~~he~~ is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect

against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.

(e) Supplementation of Responses. A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement the ~~his~~ response to include information thereafter acquired, except as follows:

(1) A party is under a duty seasonably to supplement ~~his~~ response with respect to any question directly addressed to (A) the identity and location of persons having knowledge of discoverable matters, and (B) the identity of each person expected to be called as an expert witness at trial, the subject matter on which the expert witness ~~he~~ is expected to testify, and the substance of the expert witness's ~~his~~ testimony.

(2) A party is under a duty seasonably to amend a prior response if the party ~~he~~ obtains information upon the basis of which (A) the party ~~he~~ knows that the response was incorrect when made, or (B) the party ~~he~~ knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(f) Discovery Conference. At any time after commencement of an action the court may direct the attorneys for the parties to appear before it for a conference on the subject of discovery. The court shall do so upon motion by the attorney for any party if the motion includes:

(1) A statement of the issues as they then appear;

(2) A proposed plan and schedule of discovery;

(3) Any limitations proposed to be placed on discovery;

(4) Any other proposed orders with respect to discovery; and

(5) A statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion.

Each party and each party's ~~his~~ attorney are under a duty to participate in good faith in the framing of a discovery plan if a plan is proposed by the attorney for any party.

Notice of the motion shall be served on all parties. Objections or additions to matters set forth in the motion shall be served not later than 10 days after service of the motion.

Following the discovery conference, the court shall enter an order tentatively identifying the issues for discovery purposes, establishing a plan and schedule for discovery, setting limitations on discovery, if any, and determining such other matters, including the allocation of expenses, as are necessary for the proper management of discovery in the action. An order may be altered or amended whenever justice so requires.

Subject to the right of a party who properly moves for a discovery conference to prompt convening of the conference, the court may combine the discovery conference with a pretrial conference authorized by rule 16.

(g) Signing of Discovery Requests, Responses, and Objections. Every request for discovery or response or objection thereto made by a party represented by an attorney shall be signed by at least one attorney of record in the attorney's ~~his~~ individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the request, response, or objection and state the party's ~~his~~ address. The signature of the attorney or party constitutes a certification that the attorney or the party ~~he~~ has read the request, response, or objection, and that to the best of their ~~his~~ knowledge, information, and belief formed after a reasonable inquiry it is: (1) consistent with these rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (2) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and (3) not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation. If a request, response, or objection is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the party making the request, response, or objection and a party shall not be obligated to take any action with respect to it until it is signed.

If a certification is made in violation of the rule, the court, upon motion or upon its own initiative, shall impose upon the person who made the certification, the party on whose behalf the request, response, or objection is made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including a reasonable attorney fee.

SUGGESTED AMENDMENTS TO RULE 27 (a)(1), (a)(1)(B), (a)(1)(C), (a)(1)(D), (a)(1)(E), (b) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 27. PERPETUATION OF TESTIMONY

(a) Perpetuation Before Action.

(1) *Petition.* A person who desires to perpetuate one's ~~his~~ own testimony or that of another person regarding any matter that may be cognizable in any superior court may file a verified petition in the superior court in the county of the residence of any expected adverse party. The petition shall be entitled in the name of the petitioner and shall show:

(B) the subject matter of the expected action and the petitioner's ~~his~~ interest therein;

(C) the facts which the petitioner ~~he~~ desires to establish by the proposed testimony and the ~~his~~ reasons for desiring to perpetuate it;

(D) the names or a description of the persons the petitioner ~~he~~ expects will be adverse parties and their addresses so far as known; and

(E) the names and addresses of the persons to be examined and the substance of the testimony which the petitioner ~~he~~ expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

(b) Perpetuation Pending Appeal. If an appeal has been taken from a judgment of a superior court or before the taking of an appeal if the time therefor has not expired, the superior court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the superior court. In such case the party who desires to perpetuate the testimony may make a motion in the superior court for leave to take the depositions, upon the same notice

and service thereof as if the action was pending in the superior court. The motion shall show (1) the names and addresses of the persons to be examined and the substance of the testimony which the party ~~he~~ expects to elicit from each; (2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken and may make orders of the character provided for by rules 34 and 35, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the superior court.

SUGGESTED AMENDMENTS TO
RULE 28(b) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 28. PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN

(b) In Foreign Countries. In a foreign country, depositions may be taken (1) on notice before a person authorized to administer oaths in the place in which the examination is held, either by the law thereof or by the law of the United States, or (2) before a person commissioned by the court, and the person so commissioned shall have the power by virtue of the person's ~~his~~ commission to administer any necessary oath and take testimony, or (3) pursuant to a letter rogatory or a letter of request, or (4) pursuant to the means and terms of any applicable treaty or convention. A commission, a letter rogatory, or a letter of request shall be issued on application and notice, and on terms that are just and appropriate. It is not requisite to the issuance of a commission, a letter rogatory, or a letter of request that the taking of the deposition in any other manner is impracticable or inconvenient; and a commission, a letter rogatory, and a letter of request may all be issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or by descriptive title. A letter rogatory may be addressed "To the Appropriate Authority in [here name the country]." A letter of request or any other device permitted by any applicable treaty or convention shall be styled in the form prescribed by that treaty or convention. Evidence obtained in response to a letter rogatory or a letter of request need not be excluded merely for the reason that it is not a verbatim transcript or that the testimony was not taken under oath or for any similar departure from the requirements for depositions taken within the United States under these rules.

SUGGESTED AMENDMENTS TO
RULE 30 (b)(1), (b)(2), (b)(4), (b)(6), (b)(7), (c), (g)(1), (g)(2)
OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 30. DEPOSITIONS UPON ORAL EXAMINATION

(b) Notice of Examination: General Requirements; Special Notice; Nonstenographic Recording; Production of Documents and Things; Deposition of Organization; Video Tape Recording.

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing of not less than 5 days (exclusive of the day of service, Saturdays, Sundays and court holidays) to every other party to the action and to the deponent, if not a party or a managing agent of a party. Notice to a deponent who is not a party or a managing agent of a party may be given by mail or by any means reasonably likely to provide actual notice. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the deponent ~~him~~ or the particular class or group to which the deponent ~~he~~ belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice. A party seeking to compel the attendance of a deponent who is not a party or a managing agent of a party must serve a subpoena on that deponent in accordance with rule 45. Failure to give 5 days' notice to a deponent who is not a party or a managing agent of a party may be grounds for the imposition of sanctions in favor of the deponent, but shall not constitute grounds for quashing the subpoena.

(2) Leave of court is not required for the taking of a deposition by plaintiff if the notice (A) states that the person to be examined is about to go out of the state and will be unavailable for examination unless the person's ~~his~~ deposition is taken before expiration of the 30-day period, and (B) sets forth facts to support the statement. The plaintiff's attorney shall sign the notice, and the attorney's ~~his~~ signature constitutes a certification by the attorney ~~him~~ that to the best of ~~his~~ the attorney's knowledge, information, and belief the statement and supporting facts are true. The sanctions provided by rule 11 are applicable to the certification.

If a party shows that when the party ~~he~~ was served with notice under this subsection (b)(2) the party ~~he~~ was unable through the exercise of diligence to obtain counsel to represent her or him at the taking of the deposition, the deposition may not be used against the party ~~him~~.

(4) The parties may stipulate in writing or the court may upon motion order that the testimony at a deposition be recorded by other than stenographic means. The stipulation or the order shall designate the person before whom the deposition shall be taken, the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. A party may arrange to have a stenographic transcription made at the party's ~~his~~ own expense. Any objections under section (c), any changes made by the witness, the witness's ~~his~~ signature identifying the deposition as the witness's own or the statement of the officer that is required if the witness does not sign, as provided in section (e), and the certification of the officer required by section (f) shall be set forth in a writing to accompany a deposition recorded by nonstenographic means.

(6) A party may in a ~~his~~ notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and designate with reasonable particularity the matters on which examination is requested. In that event the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters known on which the deponent ~~he~~ will testify. A subpoena shall advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to the

matters known or reasonably available to the organization. This subsection (b)(6) does not preclude taking a deposition by any other procedure authorized in these rules.

(7) The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone or by other electronic means. For the purposes of this rule and rules 28(a), 37 (a)(1), 37 (b)(1), and 45(d), a deposition taken by telephone or by other electronic means is taken at the place where the deponent is to answer the propounded questions. ~~propounded to him.~~

(c) Examination and Cross Examination; Record of Examination; Oath; Objections.

Examination and cross examination of witnesses may proceed as permitted at the trial under the provisions of the Washington Rules of Evidence (ER). The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with subsection (b)(4) of this rule. If requested by one of the parties, the testimony shall be transcribed.

All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. A judge of the superior court, or a special master if one is appointed pursuant to rule 53.3, may make telephone rulings on objections made during depositions. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and the party ~~he~~ shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(g) Failure to Attend or to Serve Subpoena; Expenses.

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by such other party ~~him~~ and such other party's ~~his~~ attorney in attending, including reasonable attorney fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness ~~him~~ and the witness because of such failure does not attend, and if another party attends in person or by attorney because such party ~~he~~ expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by such other party ~~him~~ and such other party's ~~his~~ attorney in attending, including reasonable attorney fees.

SUGGESTED AMENDMENTS TO
RULE 31(a) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 31. DEPOSITIONS UPON WRITTEN QUESTIONS

(a) Serving Questions; Notice. After the summons and a copy of the complaint are served, or the complaint is filed, whichever shall first occur, any party may take the testimony of any person, including a party, by deposition upon written questions. The attendance of witnesses may be compelled by the use of subpoena as provided in rule 45. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating (1) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify the person ~~him~~ or the particular class or group to which the person ~~he~~ belongs, and (2) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of rule 30 (b)(6).

Within 15 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 10 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within 10 days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

SUGGESTED AMENDMENTS TO
RULE 32 (a)(4), (c) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 32. USE OF DEPOSITIONS IN COURT PROCEEDINGS

(a) Use of Depositions.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require the party ~~him~~ to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

(c) Effect of Taking or Using Depositions. A party does not make a person the party's ~~his~~ own witness for any purpose by taking the person's ~~his~~ deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition under subsection (a)(2) of this rule. At the trial or hearing any party may rebut any relevant evidence contained in a deposition whether introduced by the party ~~him~~ or by any other party.

SUGGESTED AMENDMENTS TO
RULE 36 (a), (b) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 36. REQUESTS FOR ADMISSION

(a) Request for Admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of rule 26(b) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the plaintiff after the summons and a copy of the complaint are served upon the

defendant, or the complaint is filed, whichever shall first occur, and upon any other party with or after service of the summons and complaint upon that party. Requests for admission shall not be combined in the same document with any other form of discovery.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by the party's ~~his~~ attorney, but, unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of 40 days after service of the summons and complaint upon the defendant ~~him~~. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an ~~his~~ answer or deny only a part of the matter of which an admission is requested, the party ~~he~~ shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the answering party ~~he~~ states that the answering party ~~he~~ has made reasonable inquiry and that the information known or readily obtainable by the answering party ~~him~~ is insufficient to enable the answering party ~~him~~ to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial or a central fact in dispute may not, on that ground alone, object to the request; a party ~~he~~ may, subject to the provisions of rule 37(c), deny the matter or set forth reasons why the party ~~he~~ cannot admit or deny it.

The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to trial. The provisions of rule 37 (a)(4) apply to the award of expenses incurred in relation to the motion.

(b) Effect of Admission. Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of rule 16 governing amendment of a pretrial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice the party ~~him~~ in maintaining an ~~his~~ action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission by the party ~~him~~ for any other purpose nor may it be used against the party ~~him~~ in any other proceeding.

SUGGESTED AMENDMENTS TO RULE 37 (a)(2), (b)(2)(B), (b)(2)(E), (c), (e) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 37. FAILURE TO MAKE DISCOVERY: SANCTIONS

(a) Motion for Order Compelling Discovery. A party, upon reasonable notice to other parties and all persons affected thereby, and upon a showing of compliance with rule 26(i), may apply to the court in the county where the deposition was taken, or in the county where the action is pending, for an order compelling discovery as follows:

(2) *Motion.* If a deponent fails to answer a question propounded or submitted under rules 30 or 31, or a corporation or other entity fails to make a designation under rule 30 (b)(6) or 31(a), or a party fails to answer an interrogatory submitted under rule 33, or if a party, in response to a request for inspection submitted under rule 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, any party may move for an order compelling an answer or a designation, or an order compelling inspection in accordance with the request. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before the proponent ~~he~~ applies for an order.

If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to rule 26(c).

(b) Failure to Comply With Order.

(2) *Sanctions by Court in Which Action Is Pending.* If a party or an officer, director, or managing agent of a party or a person designated under rule 30 (b)(6) or 31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under section (a) of this rule or rule 35, or if a party fails to obey an order entered under rule 26(f), the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the disobedient party ~~him~~ from introducing designated matters in evidence;

(E) Where a party has failed to comply with an order under rule 35(a) requiring the party ~~him~~ to produce another for examination such orders as are listed in sections (A), (B), and (C) of this subsection, unless the party failing to comply shows that the party ~~he~~ is unable to produce such person for examination.

(c) Expenses on Failure to Admit. If a party fails to admit the genuineness of any document or the truth of any matter as requested under rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the party ~~he~~ may apply to the court for an order requiring the other party to pay the requesting party ~~him~~ the reasonable expenses incurred in making that proof, including reasonable attorney fees. The court shall make the order unless it finds that (1) the request was held objectionable pursuant to rule 36(a), or (2) the admission sought was of no substantial importance, or (3) the party failing to admit had reasonable ground to believe the fact was not true or the document was not genuine, or (4) there was other good reason for the failure to admit.

(e) Failure to Participate in the Framing of a Discovery Plan. If a party or a party's ~~his~~ attorney fails to participate in good faith in the framing of a discovery plan by agreement as is required by rule 26(f), the court may, after opportunity for hearing, require such party or such party's ~~his~~ attorney to pay to any other party the reasonable expenses, including attorney fees, caused by the failure.

SUGGESTED AMENDMENTS TO RULE 38 (c), (d) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 38. JURY TRIAL OF RIGHT

(c) Specification of Issues. ~~In his demand~~ A party may specify the issues which the party ~~he~~ wishes so tried in a demand; otherwise the party ~~he~~ shall be deemed to have demanded trial by jury for all the issues so triable. If a party ~~he~~ has demanded trial by jury for only some of the issues, any other party within 10 days after service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.

(d) Waiver of Jury. The failure of a party to serve a demand as required by this rule, to file it as required by this rule, and to pay the jury fee required by law in accordance with this rule, constitutes a waiver by the party ~~him~~ of trial by jury. A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties.

SUGGESTED AMENDMENTS TO RULE 40 (a)(4), (a)(5) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 40. ASSIGNMENT OF CASES

(a) Notice of Trial—Note of Issue.

(4) *Filing Note by Opposite Party.* The party upon whom notice of trial is served may file the note of issue and cause the action to be placed upon the calendar without further notice ~~on~~ by the served party. ~~his part.~~

(5) *Issue May Be Brought to Trial by Either Party.* Either party, after the notice of trial, whether given by either party ~~himself or the adverse party~~, may bring the issue to trial, and in the absence of the adverse party, unless the court for good cause otherwise directs, may proceed with the ~~his~~ case, and take a dismissal of the action, or a verdict or judgment, as the case may require.

SUGGESTED AMENDMENTS TO RULE 41 (a)(1)(B), (a)(2), (a)(3), (b)(3) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 41. DISMISSAL OF ACTIONS

(a) Voluntary Dismissal.

(1) *Mandatory.* Subject to the provisions of rules 23(e) and 23.1, any action shall be dismissed by the court:

(B) By Plaintiff Before Resting. Upon motion of the plaintiff at any time before plaintiff rests at the conclusion of plaintiff's ~~his~~ opening case.

(2) *Permissive.* After plaintiff rests after plaintiff's ~~his~~ opening case, plaintiff may move for a voluntary dismissal without prejudice upon good cause shown and upon such terms and conditions as the court deems proper.

(3) *Counterclaim.* If a counterclaim has been pleaded by a defendant prior to the service upon the defendant ~~him~~ of plaintiff's motion for dismissal, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court.

(b) Involuntary Dismissal; Effect. For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against him or her.

(3) *Defendant's Motion After Plaintiff Rests.* After the plaintiff, in an action tried by the court without a jury, has completed the presentation of ~~his~~ evidence, the defendant, without waiving ~~his~~ the right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. The court as trier of the facts may then determine them and render judgment against the plaintiff or may decline to render any judgment until the close of all the evidence. If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in rule 52(a). Unless the court in its order for dismissal otherwise specifies, a dismissal under this subsection and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under rule 19, operates as an adjudication upon the merits.

SUGGESTED AMENDMENTS TO RULE 43 (f)(3), (f)(3)(A), (g), (j) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 43. TAKING OF TESTIMONY

(f) Adverse Party as Witness.

(3) *Refusal to Attend and Testify; Penalties.* If a party or a managing agent refuses to attend and testify before the officer designated to take the party's ~~his~~ deposition or at the trial after notice served as prescribed in rule 30 (b)(1), the complaint, answer, or reply of the party may be stricken and judgment taken against the party, and the contumacious party or managing agent may also be proceeded against as in other cases of contempt. This rule shall not be construed:

(A) to compel any person to answer any question where such answer might tend to be incriminating. ~~him~~;

(g) Attorney as Witness. If any attorney offers to be ~~himself as~~ a witness on behalf of the attorney's ~~his~~ client and gives evidence on the merits, the attorney ~~he~~ shall not argue the case to the jury, unless by permission of the court.

(j) Report of Proceedings in Retrial of Nonjury Cases. In the event a cause has been remanded by the court for a new trial or the taking of further testimony, and such cause shall have been tried without a jury, and the testimony in such cause shall have been taken in full and used as the report of proceedings upon review, either party upon the retrial of such cause or the taking of further testimony therein shall have the right, provided the court shall so order after an application on 10 days' notice to the opposing party or parties, to submit said report of proceedings as the testimony in said cause upon its second hearing, to the same effect as if the witnesses called by either party ~~him~~ in the earlier hearing had been called, sworn, and testified in the further hearing; but no party shall be denied the right to submit other or further testimony upon such retrial or further hearing, and the party having the right of cross examination shall have the privilege of

subpoenaing any witness whose testimony is contained in such report of proceedings for further cross examination.

SUGGESTED AMENDMENTS TO
RULE 44.1(a) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 44.1. DETERMINATION OF FOREIGN LAW

(a) Pleading. A party who intends to raise an issue concerning the law of a state, territory, or other jurisdiction of the United States, or a foreign country shall give notice in the party's ~~his~~ pleadings in accordance with rule 9(k).

SUGGESTED AMENDMENTS TO
RULE 46 OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 46. EXCEPTIONS UNNECESSARY

Formal exceptions to rulings or orders of the court are unnecessary; but for all purposes for which an exception has heretofore been necessary it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which the party ~~he~~ desires the court to take or the party's ~~his~~ objection to the action of the court and ~~his~~ grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice the party ~~him~~.

SUGGESTED AMENDMENTS TO
RULE 47 (i)(2) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 47. JURORS

(i) Care of Jury While Deliberating.

(2) *Communication Restricted.* Unless the jury is allowed to separate, the jurors shall be kept together under the charge of one or more officers until they agree upon their verdict or are discharged by the court. The officer shall keep the jurors separate from other persons and shall not allow any communication which may affect the case to be made to the jurors, nor make any such communication, ~~himself,~~ unless by order of the court, except to ask the jurors if they have agreed upon their verdict. The officer shall not, before the verdict is rendered, communicate to any person the state of the jurors' deliberations or their verdict.

SUGGESTED AMENDMENTS TO
RULE 49(a) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 49. VERDICTS

(a) Special Verdict. The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and requiring the written findings thereon as it deems most appropriate. The court shall give to the jury such explanation and instruction concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives ~~his~~ the right~~s~~ to a trial by jury of the issue so omitted unless before the jury retires that party ~~he~~ demands its submission to the jury. As to an issue omitted without such demand the court may make a finding; or, if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.

SUGGESTED AMENDMENTS TO
RULE 51 (d)(1), (f) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 51. INSTRUCTIONS TO JURY AND DELIBERATION

(d) Published Instructions.

(1) *Request.* Any instruction appearing in the Washington Pattern Instructions (WPI) may be requested by counsel who must submit the proper number of copies of the requested instruction, identified by number as in section (c) of this rule, in the form counsel ~~he~~ wishes it read to the jury. If the instruction in WPI allows or provides for a choice of wording by the use of brackets or otherwise, the written requested instruction shall use the choice of wording which is being requested.

(f) Objections to Instruction. Before instructing the jury, the court shall supply counsel with copies of its proposed instructions which shall be numbered. Counsel shall then be afforded an opportunity in the absence of the jury to make objections to the giving of any instruction and to the refusal to give a requested instruction. The objector shall state distinctly the matter to which counsel ~~he~~ objects and the grounds of counsel's ~~his~~ objection, specifying the number, paragraph or particular part of the instruction to be given or refused and to which objection is made.

SUGGESTED AMENDMENTS TO
RULE 54 (c), (e) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 54. JUDGMENT AND COSTS

(c) Demand for Judgment. A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in her or his pleadings.

(e) Preparation of Order or Judgment. The attorney of record for the prevailing party shall prepare and present a proposed form of order or judgment not later than 15 days after the entry of the verdict or decision, or at any other time as the court may direct. Where the prevailing party is represented by an attorney of record, no order or judgment may be entered for the prevailing party unless presented or approved by the attorney of record. If both the prevailing party and the prevailing party's ~~his~~ attorney of record fail to prepare and present the form of order or judgment within the prescribed time, any other party may do so, without the approval of the attorney of record of the prevailing party upon notice of presentation as provided in subsection (f)(2).

SUGGESTED AMENDMENTS TO
RULE 55 (a)(2), (b)(1), (b)(3)
OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 55. DEFAULT AND JUDGMENT

(a) Entry of Default.

(2) *Pleading After Default.* Any party may respond to any pleading or otherwise defend at any time before a motion for default and supporting affidavit is filed, whether the party

previously has appeared or not. If the party has appeared before the motion is filed, the party ~~he~~ may respond to the pleading or otherwise defend at any time before the hearing on the motion. If the party has not appeared before the motion is filed the party ~~he~~ may not respond to the pleading nor otherwise defend without leave of court. Any appearances for any purpose in the action shall be for all purposes under this rule 55.

(b) Entry of Default Judgment. As limited in rule 54(c), judgment after default may be entered as follows, if proof of service is on file as required by subsection (b)(4):

(1) *When Amount Certain.* When the claim against a party, whose default has been entered under section (a), is for a sum certain or for a sum which can by computation be made certain, the court upon motion and affidavit of the amount due shall enter judgment for that amount and costs against the party in default, if the party ~~he~~ is not an infant or incompetent person. No judgment by default shall be entered against an infant or incompetent person unless represented by a general guardian or guardian ad litem. Findings of fact and conclusions of law are not necessary under this subsection even though reasonable attorney fees are requested and allowed.

(3) *When Service by Publication or Mail.* In an action where the service of the summons was by publication, or by mail under rule 4 (d)(4), the plaintiff, upon the expiration of the time for answering, may, upon proof of service, apply for judgment. The court must thereupon require proof of the demand mentioned in the complaint, and must require the plaintiff or the plaintiff's ~~his~~ agent to be examined on oath respecting any payments that have been made to the plaintiff, or to any one for the plaintiff's ~~his~~ use on account of such demand, and may render judgment for the amount which the plaintiff ~~he~~ is entitled to recover, or for such other relief the plaintiff ~~as he~~ may be entitled to.

SUGGESTED AMENDMENTS TO RULE 56 (a), (b), (e), (f), (g) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 56. SUMMARY JUDGMENT

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross claim, or to obtain a declaratory judgment may, after the expiration of the period within which the defendant is required to appear, or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in the party's ~~his~~ favor upon all or any part thereof.

(b) For Defending Party. A party against whom a claim, counterclaim, or cross claim is asserted or a declaratory judgment is sought may move with or without supporting affidavits for a summary judgment in such party's ~~his~~ favor as to all or any part thereof.

(e) Form of Affidavits; Further Testimony; Defense Required. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of ~~his~~ a pleading, but ~~his~~ a response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party ~~he~~ does not so respond, summary judgment, if appropriate, shall be entered against the adverse party. ~~him~~.

(f) When Affidavits Are Unavailable. Should it appear from the affidavits of a party opposing the motion that ~~he cannot~~, for reasons stated, the party cannot present by affidavit facts essential to justify the party's ~~his~~ opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(g) Affidavits Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party ~~him~~ to incur, including reasonable attorney fees, and any offending party or attorney may be adjudged guilty of contempt.

SUGGESTED AMENDMENTS TO RULE 58(b) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 58. ENTRY OF JUDGMENT

(b) Effective Time. Judgments shall be deemed entered for all procedural purposes from the time of delivery to the clerk for filing, unless the judge earlier permits the judgment to be filed directly with the judge ~~him~~ as authorized by rule 5(e).

SUGGESTED AMENDMENTS TO RULE 59 (a)(2), (a)(4) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 59. NEW TRIAL, RECONSIDERATION, AND AMENDMENT OF JUDGMENTS

(a) Grounds for New Trial or Reconsideration. On the motion of the party aggrieved, a verdict may be vacated and a new trial granted to all or any of the parties, and on all issues, or on some of the issues when such issues are clearly and fairly separable and distinct, or any other decision or order may be vacated and reconsideration granted. Such motion may be granted for any one of the following causes materially affecting the substantial rights of such parties:

(2) Misconduct of prevailing party or jury; and whenever any one or more of the jurors shall have been induced to assent to any general or special verdict or to a finding on any question or questions submitted to the jury by the court, other and different from the juror's ~~his~~ own conclusions, and arrived at by a resort to the determination of chance or lot, such misconduct may be proved by the affidavits of one or more of the jurors;

(4) Newly discovered evidence, material for the party making the application, which the party ~~he~~ could not with reasonable diligence have discovered and produced at the trial;

SUGGESTED AMENDMENTS TO
RULE 60 (b), (e)(1) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 60. RELIEF FROM JUDGMENT OR ORDER

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party or the party's ~~his~~ legal representative from a final judgment, order, or proceeding for the following reasons:

(e) Procedure on Vacation of Judgment.

(1) *Motion.* Application shall be made by motion filed in the cause stating the grounds upon which relief is asked, and supported by the affidavit of the applicant or the applicant's ~~his~~ attorney setting forth a concise statement of the facts or errors upon which the motion is based, and if the moving party be a defendant, the facts constituting a defense to the action or proceeding.

SUGGESTED AMENDMENTS TO
RULE 63(b) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 63. JUDGES

(b) Disability of a Judge. If by reason of death, sickness, or other disability, a judge before whom an action has been tried is unable to perform the duties to be performed by the court under these rules after a verdict is returned or findings of fact and conclusions of law are filed, then any other judge regularly sitting in or assigned to the court in which the action was tried may perform those duties; but if a new judge cannot perform those duties, the new judge has the discretion to grant a new trial. ~~such other judge is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may n his discretion grant a new trial.~~

SUGGESTED AMENDMENTS TO
RULE 65.1 OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 65.1. SECURITY—PROCEEDINGS AGAINST SURETIES

Whenever these rules require or permit the giving of security by a party, and security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits ~~himself~~ to the jurisdiction of the court and irrevocably appoints the clerk of the court as the surety's ~~his~~ agent upon whom any papers affecting the surety's ~~his~~ liability on the bond or undertaking may be served. The surety's ~~His~~ liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

SUGGESTED AMENDMENTS TO
RULE 65(b) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 65. INJUNCTIONS

(b) Temporary Restraining Order; Notice; Hearing; Duration. A temporary restraining order may be granted without written or oral notice to the adverse party or the adverse party's ~~his~~ attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or her or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the applicant's ~~his~~ claim that notice should not be required. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed 14 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if the party ~~he~~ does not do so, the court shall dissolve the temporary restraining order. On 2 days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

SUGGESTED AMENDMENTS TO
RULE 68 OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 68. OFFER OF JUDGMENT

At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against the defending party ~~him~~ for the money or property or to the effect specified in the defending party's ~~his~~ offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the court shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by verdict or order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability.

SUGGESTED AMENDMENTS TO
RULE 69(b) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 69. EXECUTION

(b) Supplemental Proceedings. In aid of the judgment or execution, the judgment creditor or ~~his~~ successor in interest when that interest appears of record, may examine any person, including the judgment debtor, in the manner provided in these rules for taking depositions or in the manner provided by RCW 6.3

SUGGESTED AMENDMENTS TO
RULE 77 (c)(7), (c)(8)(B), (k)
OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 77. SUPERIOR COURTS AND JUDICIAL OFFICERS

(c) Powers of Judicial Officers.

(7) *Powers of Judge in Counties of Judge's ~~His~~ District.* [Reserved. See RCW 2.08.190.]

(8) *Visiting Judges.*

(B) Powers. Whenever a visiting judge has heard or tried any case or matter and has departed from the county, the visiting judge ~~he~~ may require the argument on any posttrial motion to be submitted to the ~~him~~ visiting judge on briefs at such place within the state as the visiting judge ~~he~~ may designate and the visiting judge ~~he~~ may sign findings of fact, conclusions of law, judgments and posttrial orders anywhere within the state. See also RCW 2.08.140 and 2.08.150.

(k) Motion Day—Local Rules. Unless local conditions make it impracticable, the superior court in each county shall establish regular times and places, at intervals sufficiently frequent for the prompt dispatch of business, at which motions requiring notice and hearing may be heard and disposed of; but the judge at any time or place and on such notice, if any, as the judge considers reasonable may make orders for the advancement, conduct, and hearing of actions.

SUGGESTED AMENDMENTS TO
RULE 78(c) OF THE SUPERIOR COURT CIVIL RULES (Cr)

RULE 78. CLERKS

(c) Orders by Clerk. All motions and applications in the clerk's office for issuing mesne process, for issuing final process to enforce and execute judgments, and for other proceedings which do not require allowance or order of the court are grantable of course by the clerk; but the clerk's ~~his~~ action may be suspended or altered or rescinded by the court upon cause shown.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

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STATE SUPREME COURT
[April 2, 2015]

IN THE MATTER OF THE PROPOSED AMENDMENTS TO APR 11—CONTINUING LEGAL EDUCATION AND APPENDIX APR 11—REGULATIONS OF THE WASHINGTON STATE BOARD OF CONTINUING LEGAL EDUCATION	))))))	ORDER NO. 25700-A-1101

The Washington State Bar Association, having recommended the adoption of the Proposed Amendments to APR 11—Continuing Legal Education and Appendix APR 11—Regulations of the Washington State Board of Continuing Legal Education, and the Court having considered the amendments and comments submitted thereto, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the new rules shown below are adopted.

(b) That the new rules will be published in the Washington Reports and will become effective on January 1, 2016.

DATED at Olympia, Washington this 2nd day of April, 2015.

	Madsen, C.J.
Johnson, J.	Wiggins, J.
Owens, J.	Gonzalez, J.
Fairhurst, J.	
Stephens, J.	Yu, J.

SUGGESTED AMENDMENTS
ADMISSION AND PRACTICE RULES (APR)
RULE 11 & APPENDIX APR 11. REGULATIONS OF THE WASHINGTON STATE BOARD OF CONTINUING LEGAL EDUCATION

RULE 11. MANDATORY CONTINUING LEGAL EDUCATION (MCLE)

(a) Purpose. Mandatory continuing legal education ("MCLE") is intended to enhance lawyers' legal services to their clients and protect the public by assisting lawyers in maintaining and developing their competence as defined in RPC 1.1, fitness to practice as defined in APR 22, and character as defined in APR 21. These rules set forth the minimum continuing legal education requirements for lawyers to accomplish this purpose.

(b) Definitions.

(1) "Activity" means any method by which a lawyer may earn MCLE credits.

(2) "Association" means the Washington State Bar Association.

(3) "Attending" means participating in an approved activity or course.

(4) "Calendar year" means a time period beginning January 1 and ending December 31.

(5) "Identical activity" means any prior course or other activity that has not undergone any substantial or substantive changes since last offered, provided or undertaken.

(6) "Lawyer" means an active member of the Association, a judicial member of the Association classified as an administrative law judge, and any other lawyer admitted to the limited practice of law in Washington who is required by the Admission and Practice Rules (APR) to comply with this rule.

(7) "Reporting period" means a three-year time period as assigned by the Association in which a lawyer must meet the education requirements of this rule.

(8) "Sponsor" means a provider of continuing legal education activities.

(c) Education Requirements.

(1) *Minimum Requirement*. Each lawyer must complete 45 credits of approved continuing legal education by December 31 of the last year of the reporting period with the following requirements:

(i) at least 15 credits must be from attending approved courses in the subject of law and legal procedure, as defined in section (f)(1); and

(ii) at least six credits must be in ethics and professional responsibility, as defined in section (f)(2).

(2) *Earning Credits.* A lawyer earns one credit for each 60 minutes of attending an approved activity. Credits are rounded to the nearest quarter hour. A lawyer may earn no more than eight credits per calendar day. A lawyer cannot receive credit more than once for an identical activity within the same reporting period.

(3) *New Lawyers*. Newly admitted lawyers are exempt for the calendar year of admission.

(4) *Military Personnel.* Military personnel in the United States Armed Forces may be granted an exemption, waiver or modification upon proof of undue hardship, which includes deployment outside the United States. A petition shall be filed in accordance with subsection (i)(5) of these rules.

(5) *Exemptions*. The following are exempt from the requirements of this rule for the reporting period(s) during which the exemption applies:

(i) *Judicial Exemption.* Judicial members of the Association, except for administrative law judges;

(ii) *Supreme Court Clerks.* The Washington State Supreme Court clerk and assistant clerk(s) who are prohibited by court rule from practicing law;

(iii) *Legislative Exemption.* Members of the Washington State Congressional Delegation or the Washington State Legislature; and

(iv) *Gubernatorial Exemption.* The Governor of Washington state.

(6) *Comity*. The education requirements in Oregon, Idaho and Utah substantially meet Washington's education requirements. These states are designated as comity states. A lawyer may certify compliance with these rules in lieu of meeting the education requirement by paying a comity fee and filing a Comity Certificate of MCLE Compliance from a comity state certifying to the lawyer's subjection to and compliance with that state's MCLE requirements during the lawyer's most recent reporting period.

(7) *Carryover Credits*. If a member completes more than the required number of credits for any one reporting period, up to 15 of the excess credits, two of which may be ethics and professional responsibility credits, may be carried forward to the next reporting period.

(d) MCLE Board

(1) *Establishment*. There is hereby established an MCLE Board consisting of seven members, six of whom must be active members of the Bar Association and one who is not a member of the Association. The Supreme Court shall designate one board member to serve as chair of the MCLE Board. The members of the MCLE Board shall be appointed by the Supreme Court. Appointments shall be staggered for a 3-year term. No member may serve more than two consecutive terms. Terms shall end on September 30 of the applicable year.

(2) *Powers and Duties*.

(i) Rules and Regulations. The MCLE Board shall review and suggest amendments or make regulations to APR 11 as necessary to fulfill the purpose of MCLE and for the timely and efficient administration of these rules, and clarification of education requirements, approved activities and approved course subjects. Suggested amendments are subject to review by the Association's Board of Governors and approval by the Supreme Court.

(ii) Policies. The MCLE Board may adopt policies to provide guidance in the administration of APR 11 and the associated regulations. The MCLE Board will notify the Board of Governors and the Supreme Court of any policies that it adopts. Such policies will become effective 60 days after promulgation by the MCLE Board.

(iii) Approve Activities. The MCLE Board shall approve and determine the number of credits earned for all courses and activities satisfying the requirements of these rules. The MCLE Board shall delegate this power to the Association subject to MCLE Board review and approval.

(iv) Review. The MCLE Board shall review any determinations or decisions regarding approval of activities made by the Association under these rules that adversely affect any lawyer or sponsor upon request of the lawyer, sponsor or Association. The MCLE Board may take appropriate action consistent with these rules after any such review and shall notify the lawyer or sponsor in writing of the action taken. The MCLE Board's decision shall be final.

(v) Fees. The MCLE Board shall determine and adjust fees for the failure to comply with these rules and to defray the reasonably necessary costs of administering these rules. Fees shall be approved by the Association's Board of Governors.

(vi) Waive and Modify Compliance. The MCLE Board shall waive or modify a lawyer's compliance with the education or reporting requirements of these rules upon a showing of undue hardship filed in accordance with these rules. The MCLE Board may delegate this power to the Association subject to (1) parameters and standards established by the MCLE Board, and, (2) review by the MCLE Board.

(vii) Approve Mentoring Programs. The MCLE Board shall approve mentoring programs that meet requirements and standards established by the MCLE Board for the purposes of awarding MCLE credit under these rules.

(viii) Audits for Standards Verification. The MCLE Board may audit approved courses to ensure compliance with the standards set forth in these rules.

(3) *Expenses and Administration*. Members of the MCLE Board shall not be compensated for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties according to the Association's expense policies. All expenses incurred and fees collected shall be submitted on a budget approved by the Association's Board of Governors. The Association shall provide administrative support to the MCLE Board.

(e) Approved Activities. A lawyer may earn MCLE credit by attending, teaching, presenting or participating in activities approved by the Association. Only the following types of activities may be approved:

(1) Attending, teaching, presenting or participating in or at a course, provided that any pre-recorded audio/visual course is less than five years old;

(2) Preparation time for a teacher, presenter or panelist of an approved activity at the rate of up to five credits per hour of presentation time, provided that the presentation time is at least 30 minutes in duration;

(3) Attending law school courses with proof of registration or attendance;

(4) Attending bar review courses for jurisdictions other than Washington with proof of registration or attendance;

(5) Writing for the purpose of lawyer education, when the writing has been published by a recognized publisher of legal works as a book, law review or scholarly journal article of at least 10 pages, will earn one credit for every 60 minutes devoted to legal research and writing;

(6) Teaching law school courses, when the instructor is not a full-time law school professor;

(7) Providing pro bono legal services provided the legal services are rendered through a qualified legal services provider as defined in APR 8(e);

(8) Participating in a structured mentoring program approved by the MCLE Board provided the mentoring is free to the mentee and the mentor is an active member of the Association in good standing and has been admitted to the practice of law in Washington for at least five years. The MCLE Board shall develop standards for approving mentoring programs; and

(9) Judging or preparing law school students for law school recognized competitions, mock trials or moot court. The sponsoring law school must comply with all sponsor requirements under this rule.

(f) Approved Course Subjects. Only the following subjects for courses will be approved:

(1) *Law and legal procedure*, defined as legal education relating to substantive law, legal procedure, process, research, writing, analysis, or related skills and technology;

(2) *Ethics and professional responsibility*, defined as topics relating to the general subject of professional responsibility and conduct standards for lawyers and judges, including diversity and anti-bias with respect to the practice of law or the legal system, and the risks to ethical practice associated with diagnosable mental health conditions, addictive behavior, and stress;

(3) *Professional development*, defined as subjects that enhance or develop a lawyer's professional skills including effective lawyering, leadership, career development, communication, and presentation skills;

(4) *Personal development and mental health,* defined as subjects that enhance a lawyer's personal skills, well-being and awareness of mental health issues. This includes, stress management, and courses about, but not treatment for, anxiety, depression, substance abuse, suicide and addictive behaviors;

(5) *Office management*, defined as subjects that enhance the quality of service to clients and efficiency of operating an office, including case management, time management, business planning, financial management, office technology, practice development and marketing, client relations, employee relations, and responsibilities when opening or closing an office;

(6) *Improving the legal system,* defined as subjects that educate and inform lawyers about current developments and changes in the practice of law and legal profession in general, including legal education, global perspectives of the law, courts and other dispute resolution systems, regulation of the practice of law, access to justice, and pro bono and low cost service planning; and

(7) *Nexus subject*, defined as a subject matter that does not deal directly with the practice of law but that is demonstrated by the lawyer or sponsor to be related to a lawyer's professional role as a lawyer.

(g) Applying for Approval of an Activity. In order for an activity to be approved for MCLE credit, the sponsor or lawyer must apply for approval as follows.

(1) *Sponsor.* A sponsor must apply for approval of an activity by submitting to the Association an application fee and an application in a form and manner as prescribed by the Association by no later than 15 days prior to the start or availability of the activity.

(i) *Late fee.* A late fee will be assessed for failure to apply by the deadline. The Association may waive the late fee for good cause shown.

(ii) *Repeating Identical Course*. A sponsor is not required to pay an application fee for offering an identical course if the original course was approved and the identical course is offered less than 12 months after the original course.

(iii) *Waiver of Application Fee*. The Association shall waive the application fee for a course if the course is offered for free by a government agency or nonprofit organization. This provision does not waive any late fee.

(2) *Lawyer.* A lawyer may apply for approval of an activity not already approved or submitted for approval by a sponsor by submitting to the Association an application in a form and manner as prescribed by the Association. No application fee is required.

(h) Standards for Approval. Application of the standards for approval, including determination of approved subject areas and approved activities in subsections (e) and (f) of this rule, shall be liberally construed to serve the purpose of these rules. To be approved for MCLE credit, all courses, and other activities to the extent the criteria apply, must meet all of the following criteria unless waived by the Association for good cause shown:

(1) A course must have significant intellectual or practical content designed to maintain or improve a lawyer's pro-

fessional knowledge or skills, competence, character, or fitness;

(2) Presenters must be qualified by practical or academic experience or expertise in the subjects presented and not disbarred from the practice of law in any jurisdiction;

(3) Written materials in either electronic or hardcopy format must be distributed to all lawyers before or at the time the course is presented. Written materials must be timely and must cover those matters that one would expect for a professional treatment of the subject. Any marketing materials must be separate from the written subject matter materials;

(4) The physical setting must be suitable to the course and free from unscheduled interruption;

(5) A course must be at least 30 minutes in duration;

(6) A course must be open to audit by the Association or the MCLE Board at no charge except in cases of government-sponsored closed seminars where the reason is approved by the Association;

(7) Presenters, teachers, panelists, etc. are prohibited from engaging in marketing during the presentation of the course;

(8) A course must not focus directly on a pending legal case, action or matter currently being handled by the sponsor if the sponsor is a lawyer, private law firm, corporate legal department, legal services provider or government agency; and

(9) A course cannot have attendance restrictions based on race, color, national origin, marital status, religion, creed, gender, age, disability or sexual orientation.

(i) Lawyer Reporting Requirements.

(1) *Certify Compliance*. By February 1 of the year following the end of a lawyer's reporting period, a lawyer must certify compliance, including compliance by comity certification, with the education requirements for that reporting period in a manner prescribed by the Association.

(2) *Notice*. Not later than July 1 every year, the Association shall notify all lawyers who are in the reporting period ending December 31 of that year, that they are due to certify compliance.

(3) *Delinquency*. A lawyer who does not certify compliance by the certification deadline or by the deadline set forth in any petition decision granting an extension may be ordered suspended from the practice of law as set forth in APR 17.

(4) *Lawyer Late Fee.* A lawyer will be assessed a late fee for either (i) or (ii) below but not both.

(i) *Education Requirements Late Fee.* A lawyer will be assessed a late fee for failure to meet the minimum education requirements of this rule by December 31. Payment of the late fee is due by February 1, or by the date set forth in any decision or order extending time for compliance, or by the deadline for compliance set forth in an APR 17 pre-suspension notice.

(ii) *Certification and Comity Late Fee.* A lawyer will be assessed a late fee for failure to meet the certification requirements or comity requirements by February 1. Payment of the late fee is due by the date set forth in any decision or order extending time for compliance or by the deadline for compliance set forth in an APR 17 pre-suspension notice.

(iii) *Failure to Pay Late Fee.* A lawyer who fails to pay the MCLE late fee by the deadline for compliance set forth in an APR 17 pre-suspension notice may be ordered suspended from the practice of law as set forth in APR 17.

(5) *Petition for Extension, Modification or Waiver*. A lawyer may file with the MCLE Board an undue hardship petition for an extension, waiver and/or modification of the MCLE requirements for that reporting period. In consideration of the petition, the MCLE Board shall consider factors of undue hardship, such as serious illness, extreme financial hardship, disability, or military service, that affect the lawyer's ability to meet the education or reporting requirements. The petition shall be filed at any time in a form and manner as prescribed by the Association but a petition filed later than 30 days after the date of the APR 17 pre-suspension notice will not stay suspension for the reasons in the APR 17 pre-suspension notice.

(6) *Decision on Petition*. The MCLE Board shall as soon as reasonably practical notify the lawyer of the decision on a petition. A lawyer may request review of the decision by filing, within 10 days of notice of the decision, a request for a hearing before the MCLE Board.

(7) *Hearing on Petition*. Upon the timely filing of a request for hearing, the MCLE Board shall hold a hearing upon the petition.

(i) The MCLE Board shall give the lawyer at least 10 days written notice of the time and place of the hearing.

(ii) Testimony taken at the hearing shall be under oath and recorded.

(iii) The MCLE Board shall issue written findings of fact and an order consistent with these rules as it deems appropriate. The MCLE Board shall provide the lawyer with a copy of the findings and order.

(iv) The MCLE Board's order is final unless within 10 days from the date thereof the lawyer files a written notice of appeal with the Supreme Court and serves a copy on the Association. The lawyer shall pay to the Clerk of the Supreme Court any required filing fees.

(8) *Review by the Supreme Court.* Within 15 days of filing a notice with the Supreme Court for review of the MCLE Board's findings and order, after such a non-compliance petition hearing, the lawyer shall cause the record or a narrative report in compliance with RAP 9.3 to be transcribed and filed with the Bar Association.

(i) The MCLE Board chairperson shall certify that any such record or narrative report of proceedings contains a fair and accurate report of the occurrences in and evidence introduced in the cause.

(ii) The MCLE Board shall prepare a transcript of all orders, findings, and other documents pertinent to the proceeding before the MCLE Board, which must be certified by the MCLE Board chairperson.

(iii) The MCLE Board shall then file promptly with the Clerk of the Supreme Court the record or narrative report of proceedings and the transcripts pertinent to the proceedings before the MCLE Board.

(iv) The matter shall be considered by the Supreme Court pursuant to procedures established by order of the Court.

(v) The times set forth in this rule for filing notices of appeal are jurisdictional. The Supreme Court, as to appeals pending before it, may, for good cause shown (1) extend the

time for the filing or certification of said record or narrative report of proceedings and transcripts; or (2) dismiss the appeal for failure to prosecute the same diligently.

(9) *Compliance Audits*. The Association may audit an individual lawyer's compliance certification to substantiate participation in the activities listed in the certification. The Association may request records from a lawyer or sponsor for the purpose of conducting the audit and the lawyer must comply with all such requests. Where facts exist that indicate a lawyer may not have participated in the activities certified to, the lawyer may be referred to the Association's Office of Disciplinary Counsel and/or credit for the activities may be rescinded.

(j) Sponsor Duties. All sponsors must comply with the following duties unless waived by the Association for good cause shown:

(1) The sponsor must not advertise course credit until the course is approved by the Association but may advertise that the course credits are pending approval by the Association after an application has been submitted. The sponsor shall communicate to the lawyer the number of credits and denominate whether the credits are "law and legal procedure" as defined under section (f)(1), "ethics and professional responsibility" as defined under section (f)(2), or "other," meaning any of the other subjects identified in sections (f)(3)-(7).

(2) The sponsor must provide each participant with an evaluation form to complete. The forms or the information from the forms must be retained for two years and provided to the Association upon request.

(3) The sponsor must submit an attendance report in a form and manner as prescribed by the Association and pay the required reporting fee no later than 30 days after the conclusion of the course. A late fee will be assessed for failure to report attendance by the deadline.

(i) *Waiver of Reporting Fee*. The Association shall waive the reporting fee for a course if the course is offered for free by a government agency or nonprofit organization. This provision does not waive any late fee.

(4) The sponsor must retain course materials for four years from the date of the course. Upon request of the Association, a sponsor must submit for review any written, electronic or presentation materials including copies of audio/visual courses.

(5) The sponsor must keep accurate attendance records and retain them for six years. The sponsor must provide copies to the Association upon request.

(6) The sponsor shall not state or imply that the Association or the MCLE Board approves or endorses any person, law firm or company providing goods or services to lawyers or law firms.

(7) *Accredited Sponsors.* The Association may approve and accredit sponsoring organizations as "accredited sponsors" subject to procedures and fees established by the Association. Accredited sponsors have the same duties as sponsors but have the additional responsibility of approving their own courses and determining appropriate MCLE credit in accordance with this rule. Accredited sponsors pay an annual flat fee for all course applications submitted in lieu of an application fee for each individual course.

(k) Confidentiality. Unless expressly authorized by the Supreme Court or by the lawyer, all files and records relating to a lawyer's individual MCLE requirements are confidential and shall be privileged against disclosure except as necessary to conduct an investigation, hearing, and appeal or review pursuant to these rules. This provision does not apply to the Association except that such records shall not be disclosed to Association staff responsible for creating or marketing CLE products.

~~**RULE 11.1 PURPOSE**~~

~~It is of primary importance to the members of the Washington State Bar Association (referred to in these rules as the Bar Association) and to the public that lawyers continue their legal education throughout the period of their active practice of law. These rules state the minimum requirements for continuing legal education.~~

~~**RULE 11.2 EDUCATIONAL REQUIREMENT**~~

~~**(a) Minimum Requirement.** Each active member of the Bar Association, and other lawyers who are required by the APRs to complete continuing legal education credits, must complete a minimum of 45 credit hours of accredited legal education (as provided in APR 11.4) by December 31 of the last year of the lawyer's three-year reporting period as assigned by the Bar Association. Specific requirements are the following, and are described in Appendix APR 11 - Regulations of the Washington State Board of Mandatory Continuing Legal Education:~~

~~**(1)** A lawyer may earn all of the required credit hours, and must earn at least half of the required credits, as live credits, as described in Regulation 103(b) of Appendix APR 11.~~

~~**(2)** A lawyer must earn a minimum of six of the required 45 credit hours of accredited legal education in the area of ethics, as that is defined in Regulation 101(g) of Appendix APR 11.~~

~~**(3)** A lawyer may earn a maximum of one-half of the required credit hours for any reporting period through self-study, as defined in Regulation 103(h) of Appendix APR 11.~~

~~**(4)** A lawyer may earn a maximum of six credit hours annually through pro bono training and service carried out strictly in compliance with Regulation 103(f) of Appendix APR 11.~~

~~**(5)** A lawyer may earn a maximum of six of the required credit hours for any reporting period for participation in law school competitions, moot court, or mock trials programs, as described in Regulation 103(g) of Appendix APR 11.~~

~~**(b) New Admission.** Newly admitted members must complete 45 continuing legal education credits during the four full calendar years after the member's date of admission. Following the new admission period, the member shall complete 45 credits every three years as required by APR 11.2(a).~~

~~**(c) Carryover of excess earned credits.** If a member completes more than the required credits for any one reporting period, up to 15 of the excess credits may be carried forward and applied to that member's education requirement for the next reporting period. Of the 15 credit hours that may be carried forward to the next reporting period, pursuant to sections (a) and (b) of this rule:~~

(1) A maximum of two credit hours may be applied toward the ethics requirement; and

(2) A maximum of five credit hours may be applied to self-study credits.

RULE 11.3 BOARD OF MANDATORY CONTINUING LEGAL EDUCATION

There is hereby established a Board of Mandatory Continuing Legal Education (the MCLE Board) consisting of seven members. Six of the members of the MCLE Board must be active members of the Bar Association. The seventh member shall not be a member of the Bar Association. The Supreme Court shall designate a chairperson of the MCLE Board, who shall serve at the pleasure of the Court. The members of the MCLE Board shall be nominated by the Board of Governors of the Bar Association and appointed by the Supreme Court. Appointments shall be staggered for a 3-year term. No member may serve more than two consecutive terms. Terms shall end on September 30 of the applicable year.

RULE 11.4 POWERS OF THE MCLE BOARD

The MCLE Board shall:

(a) Accredit and determine the number of credit hours to be allowed for all or portions of individual courses that satisfy the education requirements of these rules and Appendix APR 11 Regulations;

(b) Accredit all or portions of the entire legal educational program of a given organization that satisfy the education requirements of these rules and Appendix APR 11 Regulations;

(c) Adopt regulations pertinent to these powers subject to the approval of the Board of Governors and the Supreme Court;

(d) Waive or modify individual compliance with the educational or time requirements of these rules upon a showing of undue hardship, age, or infirmity;

(e) Set and adjust fees and fines for failure to comply with these rules and to defray the reasonably necessary costs of administering these rules with the approval of the Board of Governors; and

(f) Waive or reduce fees or fines on a proper showing by the petitioner.

RULE 11.5 EXPENSES OF THE MCLE BOARD

Members of the MCLE Board shall not be compensated for their services, but actual and necessary expenses incurred in the performance of their duties shall be reimbursed by the Bar Association in a manner consistent with the Bar Association's reimbursement of its committee members. The Bar Association shall furnish the MCLE Board with the necessary staff to carry out its duties. The MCLE Board, directly or through the staff provided, annually shall submit a budget to the Bar Association, which shall be subject to approval by the Board of Governors.

RULE 11.6 REPORTS AND ENFORCEMENT

(a) Reporting and Other Activities.

(1) Sponsor Reports. The sponsor of each approved program (or each program for which approval is sought) must make available attendance reports to be completed by those lawyers in attendance to show the actual time spent by each lawyer in attendance. The form of the reports will be determined by the MCLE Board. The sponsor must send a report, consisting of a compilation of the information contained in these forms, to the Bar Association not later than 30 days after conclusion of the program.

(2) Other Activities. Consistent with the provisions of Appendix APR 11 Regulations, in the case of some programs for which approval has not been sought or obtained by the sponsor, or for other activities which may qualify for CLE credit under these rules, individual lawyers may apply for credit by direct application to the MCLE Board, using the form or forms specified by the MCLE Board for that purpose.

(3) Member Credit Status Reports.

(A) Not later than July 1 of each year, the Bar Association shall advise each active member and other lawyers required to report in the current reporting cycle of the number of earned credit hours reflected in that lawyer's records with the Bar Association.

(i) If the lawyers do not request changes to their records within forty-five days of the mailing of the report, the reported credits will be deemed correct.

(ii) After 45 days, the records may be changed upon a showing of good cause.

(B) By not later than December 15 of each year, a similar report shall be provided to all active members and other lawyers required to report continuing education credits.

(b) Compliance Certification. Each active member or other lawyer required to complete and report continuing legal education requirements must submit an MCLE compliance certification form by February 1 following the end of the lawyer's three-year reporting period or as approved by the MCLE Board pursuant to rule 11.4. If a lawyer has not completed the minimum education requirement for that lawyer's reporting period, the lawyer may complete and return to the MCLE Board a petition, which shall be accompanied by a declaration(s) or affidavit(s) in support of the request, for an extension of time to complete the requirements. If the petition is approved, the lawyer shall make up the deficiency, file a supplemental report with the Bar Association, and pay a late filing fee by the date set forth in the agreement or order extending the time for compliance.

(c) Delinquency.

Any lawyer required to do so who has not complied by the certification deadline, or by the date set forth in an agreement or order extending the time for compliance, may be ordered suspended from the practice of law by the Supreme Court.

(1) Pendency Notice. The MCLE Board shall send a written notice of the pendency of suspension proceedings by certified mail to any lawyer who has not complied with either the educational or certification requirements of APR 11 and the Appendix APR 11 Regulations by the certification deadline for that lawyer's reporting period or extended deadline granted by the MCLE Board. It will be sent to the lawyer's address of record with the Bar Association. The notice shall advise the member of the pendency of suspension proceedings and state that the MCLE Board will recommend suspension of the lawyer's license to practice law unless the lawyer becomes compliant or completes and returns to the MCLE

Board a petition for extension of time, exemption from compliance, or ruling of complete compliance as set forth below. The MCLE Board shall include with the pendency notice a copy of the form of petition to be used.

(2) Petition for extension, waiver, modification or finding of compliance.

(A) Timing. Within 10 days of receipt of the pendency notice, a lawyer may complete and return to the MCLE Board a petition requesting an extension of time, a waiver of compliance, modifications to the requirements, or a ruling by the MCLE Board of compliance with the standard requirements.

(B) Supporting documents. The petition may be accompanied by supporting affidavit(s) or declaration(s).

(3) No timely petition filed; suspension recommendation. Unless such petition is filed, the noncompliance is deemed agreed. The MCLE Board shall report the lawyer's noncompliance to the Supreme Court with its recommendations for appropriate action. The Supreme Court shall enter such order as it deems appropriate. The provisions of RAP 17.4 and RAP 17.5 shall apply to any motion for reconsideration of such order.

(4) Petition filed. If such petition is filed, in its consideration of the petition, the MCLE Board shall consider factors of undue hardship, age, or disability. One of the following shall result from consideration of a petition:

(A) Approval without hearing. The MCLE Board may, in its discretion, approve the petition without hearing; or

(B) Agreement with lawyer. The MCLE Board may enter into agreement on terms with such lawyer as to time and requirements for achieving compliance with the provisions of APR 11.2(a) and APR 11.6(b); or

(C) Hearing on petition. If the MCLE Board does not approve such petition or enter into an agreement with terms, the MCLE Board (or a subcommittee of one or more MCLE Board members) shall hold a hearing upon the petition.

(i) The Board shall give the lawyer at least 10 days notice of the time and place thereof.

(ii) Testimony taken at the hearing shall be under oath, and an audio or stenographic record will be made at the request and expense of the lawyer. The oath shall be administered by the chairperson of the MCLE Board or the chairperson of the subcommittee.

(iii) For good cause shown the MCLE Board may rule that the lawyer has substantially complied with these rules for the reporting period in question or, if he or she has not done so, it may grant the lawyer an extension of time within which to comply, upon terms it deems appropriate.

(iv) For each hearing, the MCLE Board shall enter written findings of fact and an appropriate order. The MCLE Board shall mail a copy of the findings and order forthwith to the lawyer at the address on file with the Bar Association.

(v) The MCLE Board's order is final unless within 10 days from the date thereof the lawyer files a written notice of appeal with the Supreme Court and serves a copy on the Washington State Bar Association. The lawyer shall pay to the Clerk of the Supreme Court a docket fee of $250.00.

(d) Review by the Supreme Court. Within 15 days of filing a notice with the Supreme Court for review of the MCLE Board's findings and order, after a noncompliance petition hearing, the lawyer shall cause the record or a narrative report in compliance with RAP 9.3 to be transcribed and filed with the Bar Association.

(1) The MCLE Board chairperson or chairperson of the subcommittee shall certify that any such record or narrative report of proceedings contains a fair and accurate report of the occurrences in and evidence introduced in the cause.

(2) The MCLE Board shall prepare a transcript of all orders, findings, and other documents pertinent to the proceeding before the MCLE Board, which must be certified by the MCLE Board chairperson or chairperson of the subcommittee.

(3) The MCLE Board shall then file promptly with the Clerk of the Supreme Court the record or narrative report of proceedings and the transcripts pertinent to the proceedings before the MCLE Board.

(4) The matter shall be heard in the Supreme Court pursuant to procedures established by order of the Court.

(e) Time. The times set forth in this rule for filing notices of appeal are jurisdictional. The Supreme Court, as to appeals pending before it, may, for good cause shown:

(1) Extend the time for the filing or certification of said record or narrative report of proceedings and transcripts; or

(2) Dismiss the appeal for failure to prosecute the same diligently.

(f) Costs. If the lawyer prevails in his or her appeal before the Supreme Court, the lawyer shall be awarded costs against the Bar Association in an amount equal to his or her reasonable expenditures for the preparation of the record or narrative report of proceedings.

(g) Change of Status. Once a lawyer has been ordered suspended from practice for noncompliance with these rules, the lawyer affected must comply with the then applicable regulations of the MCLE Board and the WSBA Bylaws in order to return to active status.

RULE 11.7 CONFIDENTIALITY

The files and records of the Bar Association, as they may relate to or arise out of any failure of a member of the Association, or other lawyers, to satisfy these continuing legal education requirements, shall be deemed confidential and shall not be disclosed except in furtherance of its duties, or upon request of the lawyer affected, or pursuant to a proper subpoena duces tecum, or as directed by this Court. The records and information contained therein should not be available to any sponsoring organization, including the Continuing Legal Education Department of the Bar Association. In any matter referred to the Supreme Court under these rules, the file, record, briefs, and arguments shall not be subject to this confidentiality rule.

APPENDIX APR 11. REGULATIONS OF THE WASHINGTON STATE BOARD OF CONTINUING LEGAL EDUCATION

Approved as Amended by the Board of Governors and Supreme Court
Regulation 101 Terminology

(a) "Accredited activity" means any method by which a lawyer may earn MCLE credits, and includes courses, self study, teaching, pro bono legal services, law school competitions, nexus, and writing and editing, as described in these regulations.

~~**(b)** "Accredited sponsor" means an organization that meets the requirements of Regulation 105 for accreditation of its entire legal education program subject to review by the MCLE Board.~~

~~**(c)** "APR 11" means Admission to Practice Rule 11, including subsequent amendments.~~

~~**(d)** "Attending" means:~~

~~**(1)** Presenting for or being present in an audience, either in person or through an electronic medium, at an accredited live continuing legal education course at the time the course is actually being presented; or~~

~~**(2)** Engaging in self-study using pre-recorded audiovisual or audio-only courses that have been accredited by the MCLE Board.~~

~~**(e)** "Chairperson" means the chairperson of the MCLE Board, except where otherwise indicated.~~

~~**(f)** "Course" means an organized program of learning dealing with matter directly relating to the practice of law or legal ethics, including anti-bias and diversity training, and substance abuse prevention training.~~

~~**(g)** "Ethics" includes discussion, analysis, interpretation, or application of the Rules of Professional Conduct, Rules for Enforcement of Lawyer Conduct, Code of Judicial Conduct, judicial decisions interpreting these rules, and ethics opinions published by bar associations relating to these rules. It also includes the general subject of professional conduct standards for lawyers representing clients and the public interest. Ethics credits may also be awarded for accreditable activities in the areas of diversity and anti-bias with respect to the practice of law, or the risks to ethical practice associated with diagnosable conditions of stress, anxiety, depression, and addictive behavior.~~

~~**(h)** "Executive Secretary" means the executive secretary of the MCLE Board.~~

~~**(i)** "Form 1" means the CLE course accreditation application form.~~

~~**(j)** "Governmental agency" means federal, state, local, and military agencies and organizations, and organizations primarily funded by one or more of the preceding, but excludes colleges, universities, law schools, and graduate schools.~~

~~**(k)** "Groups 1, 2, and 3" means three groups of lawyers for purposes of the reporting periods to which they are assigned: Group 1 consists of lawyers admitted through 1975 and in 1991, 1994, 1997, 2000, etc.; Group 2 consists of lawyers admitted 1976 through 1983, and in 1992, 1995, 1998, etc.; and Group 3 consists of lawyers admitted 1984 through 1990 and in 1993, 1996, 1999, etc. New admittees shall be assigned to these Groups in the same manner upon admission.~~

~~**(l)** "Legal education" means activities that meet the requirements of these regulations and that maintain or enhance the competence of lawyers with respect to the practice of law.~~

~~**(m)** "MCLE Board" means the Washington State Board of Mandatory Continuing Legal Education.~~

~~**(n)** "Participating" means taking part in an accredited continuing legal education course as a contributing member of a panel.~~

~~**(o)** "Qualified legal services provider" means a not-for-profit legal services organization whose primary purpose is to provide legal services to low income clients, as defined in APR 8 (e)(2).~~

~~**(p)** "Quorum of the MCLE Board" means four or more members of the Board.~~

~~**(q)** "Teaching" means the delivery of a prepared talk, lecture or address at an accredited continuing legal education course.~~

~~**Regulation 102. Standards for Approval and Accreditation.** To be approved for credit, all courses must meet all of the following criteria, except where otherwise stated.~~

~~**(a)** A course must have significant intellectual or practical content relating to the practice of law or legal ethics. In determining whether courses have such content, the following factors should be considered:~~

~~**(1)** The topic, depth, and skill level of the material;~~

~~**(2)** The level of practical or academic experience or expertise of the presenters or faculty;~~

~~**(3)** The intended audience, which may include others besides lawyers;~~

~~**(4)** The written materials, which must be of high quality, in a hardcopy or electronic format, and distributed to all attendees at or before the course is presented. In some unusual cases, written materials may not be necessary, but that is the exception and not the rule; and,~~

~~**(5)** The physical setting, which must be suitable to the educational activity and free from unscheduled interruption.~~

~~**(b)** Any written, electronic, or presentation materials must be available for submission and review upon request by the MCLE Board. However, in the case of government-sponsored, closed seminars, where materials are subject by law to confidentiality rules or regulations, those portions of the materials subject to confidentiality may be redacted from the overall submission, provided that a list of the redacted materials, a general summary of the redacted materials, and the basis for confidentiality, is supplied.~~

~~**(c)** The course must be open to audit by the MCLE Board or its designees at no charge. However, this requirement may be waived in cases of government-sponsored, closed seminars if the reason stated on the Form 1, as required by Reg 104 (a)(3), is approved by the MCLE Board.~~

~~**(d)** The sponsor must keep accurate attendance records and retain them for six years. The sponsor must provide copies to the MCLE Board upon request. In addition, the sponsor must report attendance within 30 days of the end of the program as required by APR 11.6 (a)(1).~~

~~**(e)** The attendees must be provided with a critique form or evaluation sheet to complete. The completed forms, or a compilation of all numerical ratings and comments, must be retained by the sponsor for two years and copies must be provided to the MCLE Board upon request.~~

~~**(f)** There must be no marketing of any law firm or any company that provides goods or services to lawyers or law firms during the presentation of the program in the room where the program is being held.~~

~~**(g)** Aside from indicating that an activity has been accredited for the number and type of credits approved by the MCLE Board, people and organizations must not state or imply that the WSBA or the MCLE Board approves or~~

endorses any person, law firm, or company providing goods or services to lawyers or law firms.

(h) A course must not focus directly on a pending case, action or matter currently being handled by the sponsor if the sponsor is a private law firm, corporate legal department, or a government agency.

(i) If the course is sponsored by a private law firm, no client, former client, or prospective client of the private law firm may directly or indirectly pay for or underwrite the course, in whole or in part.

Regulation 103. Earning and Calculating Credits. WSBA MCLE staff, the Executive Secretary, or the MCLE Board will apply APR 11 and these regulations to determine approval or denial of accreditation, and to determine the number of credits a lawyer can earn for each activity.

(a) Accreditable activities. A lawyer may earn continuing legal education credit by attending, teaching, or participating in accredited continuing legal education activities, subject to all restrictions, limitations, and conditions set forth in APR 11 and these regulations.

(1) A lawyer may earn credits through an accreditable activity even if neither the lawyer nor the activity is in Washington State (see Regulation 103 (e)(1), 103(k), and 107(e)); and

(2) To be accreditable, an activity must have no attendance restrictions based on race, color, national origin, religion, creed, gender, age, disability, sexual orientation, or marital status.

(3) A lawyer may earn teaching and preparation credits through teaching a pre-admission course required by APR 5(b) and APR 18 (e)(1)(i)

(b) Live credits. A lawyer may earn "live credits" by attending in person or via an electronic medium, or teaching or participating in an accredited course at the time the course is actually being presented.

(1) Teleconferences, videoconferences, and webcasts are considered "live" if there are presenters or expert moderators available to all course attendees at the time the course is actually being presented and all attendees can hear or see other attendees' questions and the resultant responses at the time they happen.

(2) Viewings of pre-recorded courses, presented by one or more expert moderators qualified and available at the time of the viewing to answer questions and expand on topics may also be considered "live".

(3) Writing credits, as defined in Regulation 103(j), are considered to be live credits.

(c) Credit for attending accredited courses. A lawyer may earn one credit for each 60 minutes spent attending actual instruction at an accredited course. A lawyer may earn no more than eight credits per day spent attending courses. A lawyer may earn credit only once for attending the same approved course.

(d) Credit for teaching or participating in accredited courses. A lawyer may earn credit by teaching or participating in an accredited continuing legal education course. Additionally, a lawyer who is teaching or participating in an accredited course may earn one credit for each 60 minutes actually spent by the lawyer preparing for the presentation of the course, up to a maximum of 10 credits per course. A lawyer may earn credit only once for teaching or participating in the same accredited course, regardless of the number of times the course is presented.

(i) EXAMPLE: Lawyer X gives a one hour presentation and attends the other five hours at a six credit hour course presented in three cities, and attends the rest of the course on each of those days. If Lawyer X spent 10 hours preparing for the presentation, Lawyer X may earn a total of 16 credits.

(ii) EXAMPLE: Lawyer X gives a two hour presentation and attends the other four hours at a six credit hour course presented in three cities, and attends the rest of the course on each of those days. If Lawyer X spent 15 hours preparing for the presentation, Lawyer X may earn a total of 16 credits.

(e) Credit for attending or teaching law school courses.

(1) Attending. A lawyer may earn one credit for each 60 minutes of instructed class time the lawyer attends in law school courses at the J.D. or advanced education level. The course may be taken within or outside the United States, and the lawyer is not required to take or be successful on any examination given in connection with the course in order to earn CLE credits for attending the course. To earn credit, the lawyer must:

(A) Arrange for the instructor or law school registrar to verify the lawyer's actual attendance at the various sessions of the course and to report such attendance to the MCLE Board; and

(B) Comply with the applicable regulations of the law school or university involved.

(2) Teaching. Full time teachers and lawyers whose primary employment is teaching law school courses may not earn credit for teaching or preparation of law school courses, but a lawyer who is acting as a part-time adjunct professor or lecturer may earn credit in connection with that lawyer's first presentation of a specific law school course, as follows:

(A) Presentation time - one credit for each 60 minutes of presentation time for that lawyer's first presentation of a specific law school course, up to a maximum 15 credits for actual presentation time; and

(B) Preparation time - one credit for each 60 minutes the lawyer spends preparing for each 60 minutes of presentation time, up to a maximum of 10 credits of actual preparation time for each 60 minutes of presentation time.

(f) Credit for pro bono legal services: A lawyer may earn six credits annually if:

(1) The lawyer receives at least two hours of education in a given calendar year, under the auspices of a qualified legal services provider, which may consist of:

(A) Not less than two hours of training in MCLE Board-approved live presentation(s); or

(B) Not less than two hours individually viewing or listening to pre-recorded training courses approved by the MCLE Board; or

(C) Not less than two hours of any combination of the foregoing training; or

(D) Not less than two hours serving as a mentor to a participating lawyer who has completed the foregoing training; and

(2) The lawyer completes not less than four hours of pro bono work in that same calendar year, by:

~~**(A)** Providing legal advice, representation, or other legal assistance to low-income client(s) through a qualified legal services provider; or~~

~~**(B)** Serving as a mentor to other participating lawyer(s) who are providing legal advice, representation, or assistance to low-income client(s) through a qualified legal services provider.~~

~~**(g) Credit for law school competitions.** A lawyer may earn one general - not ethics - credit for each 60 minutes spent judging or preparing law school students for law competitions, mock trials, or moot court arguments at an ABA accredited law school. Up to a maximum of six credits per reporting period may be earned provided the following conditions are met:~~

~~**(1)** Prior to the event, the sponsor provides the lawyer "judge" training in the feedback process to be used by the "judge" to give performance feedback to each student during the event. Such training must incorporate the requirements of Regulation 102(a), and it can be conveyed by live or videotaped training, a written outline of points to be covered by the "judge', or other acceptable method.~~

~~**(2)** The lawyer "judge" provides specific performance feedback to each student participant during the event.~~

~~**(3)** The sponsor issues appropriate certification documenting the name of the lawyer, the activity name, date, and location, and the number of CLE credits earned.~~

~~**(4)** The lawyer does not earn credits for preparation time or for grading written briefs or other written papers in connection with this type of activity.~~

~~**(h) Credit for self-study.** A lawyer may earn credit for self-study by completing MCLE Board-approved prerecorded audiovisual or audio-only courses, under the following conditions:~~

~~**(1) Requirements for lawyers.**~~

~~**(A)** For all self-study courses, the lawyer must report on a Form 1 for each activity:~~

~~**(i)** The sponsor and title of the course;~~

~~**(ii)** The original date the activity was recorded;~~

~~**(iii)** The date the lawyer completed the course; and~~

~~**(iv)** The number of credits for which the course was approved.~~

~~**(B)** The lawyer must declare on the reporting period CLE Certification form that the lawyer did not knowingly violate any copyright laws in earning the credits.~~

~~**(2) Requirements for sponsors regarding accreditation of self-study courses.**~~

~~For all pre-recorded courses approved for credit by the MCLE Board:~~

~~**(A)** The sponsor must affix on the outside of the recording:~~

~~**(i)** The name of the sponsor;~~

~~**(ii)** The name of the course;~~

~~**(iii)** The date originally recorded;~~

~~**(iv)** The total running time in hours and minutes; and~~

~~**(v)** The number of credits for which it has been approved.~~

~~**(B)** Sponsors are not required to submit a copy of the self-study course with the Form 1, but must provide copies to the MCLE Board on request.~~

~~**(C)** If the live course was approved by the Board, the recorded version of that course is automatically approved if the sponsor creates a "duplicate" Form 1 at the MCLE website or submits a paper Form 1 for the recorded version of the course.~~

~~**(D)** Written materials distributed at the live course must also be distributed with the pre-recorded course.~~

~~**(E)** The accreditation of the pre-recorded course expires five years after the date the course was originally recorded, except those determined by the MCLE Board to be purely skills training courses.~~

~~**(i) Credit for nexus courses.** A lawyer may earn credits for actually attending, teaching, or participating at a course that does not qualify for approval under these regulations and does not directly deal with the practice of law but that is substantially related to the lawyer's area of practice. To earn such credits, the lawyer must demonstrate that the topic, depth, and skill level will improve the lawyer's competence to practice law.~~

~~**(j) Credit for writing and editing activities.** Credit for writing or editing activities is granted sparingly, and only on a case by case basis. A lawyer may earn one live credit for every 60 minutes spent in writing and editing activities, up to a maximum of 10 live credits per writing activity, under the following conditions:~~

~~**(1)** The writing or editing in question meets the standards of these regulations;~~

~~**(2)** The writing is published for the education of the Bar by a recognized publisher of legal works; and~~

~~**(3)** The writing or editing is not performed for or on behalf of a client or prospective client, for marketing purposes, or in the course of the regular practice of law.~~

~~**(k) Credit for courses for lawyers in foreign countries and/or remote locations in the United States.**~~

~~**(1)** A lawyer may earn credit for programs outside the United States, including courses concerning laws of jurisdictions outside the United States, if those courses are approved for credit by the MCLE Board.~~

~~**(2)** A lawyer residing in a foreign country where standard live CLE courses are unavailable may earn credit for courses that do not fully meet the standards of these regulations and which would not be approved if offered within the United States. In determining whether to grant credit for such courses, the MCLE Board shall consider, among other things, the availability of courses in the area involved and the good faith attempts of the lawyer to comply with the requirements of APR 11 and these regulations.~~

~~**(3)** With approval from the MCLE Board, a lawyer in a foreign country with no reasonable opportunities for attendance at live CLE programs may earn a maximum of 45 credits per reporting period through approved self-study courses or by attending informal CLE programs developed and presented by lawyers in the foreign jurisdiction.~~

~~**(4)** With approval from the MCLE Board, a lawyer in a location within the United States that is very remote and removed from reasonable opportunities for attendance at live CLE programs may earn a maximum of 45 credits per reporting period through approved self-study courses. Such approval will be granted sparingly.~~

(l) Examples of activities that may qualify for credit. The following types of activities may be approved for credit, subject to the other provisions of these regulations:

(1) Courses about running a law office - in particular, docket control, malpractice avoidance, education on substance abuse by lawyers and other legal professionals, time management, increasing office efficiency, business planning, office financial management, billing and collections procedures, office technology, and customer service, as each relates to the practice of law.

(2) Courses designed to improve a lawyer's skills for communicating with clients or to improve the lawyer-client relationship.

(3) Courses on how to conduct electronic legal research.

(4) Alternate dispute resolution courses.

(5) A lawyer's attendance at Bar review/refresher courses for jurisdictions other than Washington, on the basis of one credit for each classroom hour of actual instruction or audio/videotaped instruction.

(6) Courses sponsored by or involving participation by a company that provides services or products to the legal community, but only if the written material does not include prepared promotional literature, and:

(A) There is no marketing of that company during the program; or

(B) There is equal treatment in any discussion and written materials of alternate vendors of the particular product or service.

(m) Examples of activities that do not qualify for credit. The following types of activities will not be approved for credit:

(1) Teaching a legal subject to non-lawyers in an activity or course that would not be approved for credit if taught to lawyers.

(2) Programs primarily designed to teach lawyers how to improve market share, attract clients or increase profits unless the program primarily focuses on topic areas that include, but are not limited to, marketing ethics, case law updates, conflicts of interest, or conflicts of law.

(3) Programs primarily designed to be a sales vehicle for a service or product.

(4) Writing for or on behalf of a client, or for the regular practice of law.

(5) Meritorious legal work, such as pro bono work, except as provided in Reg. 103.(f).

(6) Bar review/refresher courses offered in preparation for the Washington State Bar examination.

(7) Jury duty.

(8) Programs primarily designed to enhance a person's ability to present or prepare a continuing education program.

(9) Private law firm, corporate legal department, or government agency sponsored courses that are focused directly on a pending case, action or matter being handled by the private law firm, corporate legal department or government agency sponsor.

Regulation 104. Applying for Accreditation of an Activity. Subject to the requirements and restrictions of APR 11 and these regulations, sponsoring organizations or individual lawyers may apply for accreditation of an activity. The MCLE Board, with the approval of the WSBA Board of Governors, may adopt and assess a fee on sponsoring organizations or individuals for the purpose of defraying the costs of processing applications for accreditation of courses or activities.

(a) Application by sponsor.

(1) Submitting Form 1. A sponsoring organization may apply for accreditation of a continuing legal education course or activity by submitting a completed Form 1 to the WSBA MCLE staff, together with payment of the required fee, if any.

(2) Private law firm and corporate legal department sponsors. Private law firms and corporate legal departments must:

(A) Register as the sponsor of a course if they either present the course or contract with an outside CLE provider to present the course.

(B) Submit completed Form 1s by no later than 14 days before the first presentation day of the activity. Failure to submit the Form 1 at least 14 days in advance of the activity may result in imposition of a late fee and/or denial of accreditation for the activity.

(3) Government sponsors. Government sponsors must:

(A) Register as the sponsor of a course if they either present the course or contract with an outside CLE provider to present the course;

(B) Submit completed Form 1s by no later than 14 days before the first presentation day of the activity. Failure to submit the Form 1 at least 14 days in advance of an activity may result in imposition of a late fee and/or denial of the accreditation of the activity; and

(C) If a closed course cannot be audited by the MCLE Board or its designees due to confidentiality rules or regulations, this must be stated on the Form 1.

(4) Accreditation of same course. A sponsor may apply for accreditation of a course that is the same as an accredited course presented by that sponsor within 12 months from the original date of accreditation, by creating a duplicate Form 1 on the MCLE website or submitting a paper Form 1 for each subsequent presentation. Such duplicate or paper Form 1s must be submitted by no later than one day before the subsequent presentation of the previously approved activity.

(5) Accreditation statement in brochures. If a course has been approved and accredited, the sponsoring organization may announce in informational brochures and/or registration materials: "This course has been approved for _____ hours of Washington MCLE credit, including _____ hours of ethics credit."

(6) Reporting attendance. After the conclusion of the presentation of a course, the sponsor must submit an attendance report showing the actual attendance time of each lawyer, either through the MCLE website or by submitting it to the Executive Secretary, within 30 days after the program.

(b) Application by individual lawyer.

(1) Submitting Form 1. A lawyer may apply to receive credit for a continuing legal education course or activity by submitting a completed Form 1 to the WSBA MCLE staff for that activity, along with any other materials or information required by these regulations or requested by the WSBA MCLE staff, the Executive Secretary, or the MCLE Board.

(2) No individual application for private law firm or corporate legal department sponsored course. A lawyer who is associated with or employed by a private law firm or corporate legal department that maintains an office within Washington State may not apply to receive credit for a continuing legal education course sponsored by that private law firm or corporate legal department for which the sponsor did not submit a completed Form 1.

(3) Individual lawyer as sponsor. A lawyer who is the sponsor of a CLE program must submit a Form 1 as a sponsor, not as an individual lawyer, and follow all rules and regulations applicable to sponsors.

Regulation 105. Accredited sponsors.

(a) General provisions. The Executive Secretary may approve sponsoring organizations as "accredited sponsors". The following apply to all accredited sponsors:

(1) Accredited sponsors are not required to seek approval for individual courses that they sponsor.

(2) All courses sponsored by an accredited sponsor and in compliance with APR 11 and these regulations are considered approved by the MCLE Board, subject to review by the MCLE Board.

(3) For any course it is sponsoring, an accredited sponsor may state the following (or something substantially similar) in the promotional or registration materials: This activity has been approved for Washington State MCLE credit in the amount of _____ hours (of which _____ hours will apply to ethics credit requirements).

(4) Approval of a course and/or the award of credits made by an accredited sponsor may be reviewed at any time, and accepted or rejected by the MCLE Board, Executive Secretary, and/or WSBA MCLE staff, based on the course's conformance to Regulation 102.

(5) The MCLE Board may set and assess fees and fines, or revoke an organization's accredited sponsor status, for repeated failure to correctly award credit for courses, failure to pay the annual accredited sponsor fee, or for failure to comply with accredited sponsor reporting or other requirements.

(6) Except as specified in this regulation, an accredited sponsor shall continue to be subject to and governed by all provisions of APR 11 and these regulations.

(b) Duties of accredited sponsors. Any organization that is approved as an accredited sponsor must:

(1) Accurately calculate the number of credits to be awarded for each course, by applying the provisions of Regulations 102 and 103.

(2) Submit an accurately completed electronic Form 1 for a course at least one day prior to presentation of the live course or one day prior to making a pre-recorded course available to lawyers.

(3) Keep accurate attendance records for each live course and retain them for six years. An attendance report showing the actual attendance of each lawyer must be submitted through the MCLE website within 30 days of completion of the course.

(4) Provide a critique form or evaluation sheet to all live course attendees. The accredited sponsor must retain the completed forms, or a compilation of all numerical ratings and comments, for two years and provide copies to the MCLE Board upon request.

(5) Demonstrate a continuing ability to provide high-quality continuing legal education activities and to correctly determine credit awards for those activities.

(6) At least annually, provide to the MCLE Board a list of all its course offerings, identifying the number of lawyers and non-lawyers attending each program, and providing any additional information required by the MCLE Board.

(7) Pay any required annual accredited sponsor fee.

(8) Permit course audits by the MCLE Board or its designees at no charge.

(9) For any pre-recorded programs not originally offered as a live program by the sponsor, the sponsor must:

(A) Review the content and materials of each such course; and

(B) Ensure that the course is in compliance with all provisions of APR 11 and these regulations.

(c) Applying to become an accredited sponsor.

(1) To apply to become an accredited sponsor, an organization must:

(A) Submit a completed application form and all required documentation, in the required format, to the Executive Secretary, along with payment of any required fee; and

(B) Provide proof to the Executive Secretary that the sponsoring organization has at least three years of previous experience in sponsoring and presenting at least 30 unique continuing legal education activities a year, and that the organization can correctly apply APR 11 and these regulations to determine and award credit for such activities; and

(C) Provide on request information about 10 courses from the previous three years, selected by the Executive Secretary, for evaluation of course content and attendee evaluations.

(2) No private law firm or corporate legal department may be an accredited sponsor.

(3) A request for accredited sponsor status shall be granted or denied by the Executive Secretary after consideration of the application and other materials submitted.

(4) An adverse determination by the Executive Secretary regarding an application for accredited sponsor status may be appealed to the MCLE Board for a final review and decision on the application in a manner consistent with the provisions of Regulation 106.(e).

Regulation 106. Delegation by MCLE Board and Executive Secretary.

(a) To committees: The MCLE Board may delegate tasks and duties to committees for the purpose of administering and enforcing APR 11 and these regulations.

(b) To Executive Secretary.

(1) Subject to review by the MCLE Board, the Executive Secretary is authorized to act on behalf of the MCLE Board, in reviewing, granting or denying applications for accreditation of continuing legal education activities or applications for accredited legal sponsor status, ensuring compliance with reporting and other requirements and regulations, granting or denying petitions for waivers or for extension of time deadlines, and in providing interpretations of APR 11 and these regulations. The Executive Secretary may delegate to WSBA

MCLE staff such of these duties and responsibilities as may be appropriate for timely and orderly administration of the Board's work, subject to review by the Executive Secretary and MCLE Board.

(2) Pursuant to guidelines established by the MCLE Board, the Executive Secretary shall provide a written description of any action taken in response to written requests for approval of courses or accreditation of sponsors, awarding of credit for attending, teaching or participating in approved courses, writing and editing, waivers, extensions of time deadlines and interpretations of APR 11 and these regulations. The Executive Secretary may seek a determination of the Board before making such response.

(3) Upon request by the MCLE Board, the Executive Secretary shall report on determinations made since the last meeting of the MCLE Board.

(c) Review of Executive Secretary's actions.

(1) Any person or organization affected by any adverse determination or any question of interpretation of these regulations or APR 11 by the Executive Secretary may seek MCLE Board review by filing a written petition.

(2) The petitioning person or organization may present information to the MCLE Board in writing or in person or both.

(3) The MCLE Board shall review petitions for review of adverse determinations made by the Executive Secretary.

(4) The MCLE Board may take appropriate action after review of a petition and any other relevant information presented to it, and the Board shall advise the affected person or sponsoring organization in writing of its findings and any action taken.

Regulation 107. Exemptions, Waivers, Modifications

(a) Undue hardship, age, or disability. All active members of the WSBA, and other lawyers as established from time to time by the APRs or these regulations, are required to comply with the provisions of APR 11 and these regulations. The MCLE Board may grant extensions, waivers or modifications of the time deadlines or education requirements because of undue hardship, age, or disability of a lawyer. Exemptions, waivers, or modifications based upon undue hardship, age or disability should be granted only sparingly. All applications for exemptions, waivers and modifications shall be retained by the MCLE Board.

(1) Applications for extensions, waivers or modifications must be made in writing and supported by a sworn statement in the form of an affidavit or declaration.

(2) The applicant must establish to the satisfaction of the MCLE Board that such condition of undue hardship, age, or disability warrants granting an exemption, waiver, or modification.

(3) An application for exemption, waiver, or modification, including the sworn statement in support thereof, must be filed for each reporting period for which the exemption, waiver or modification is sought.

(4) Neither a lawyer's status with the WSBA, nor the lawyer's other duties and obligations as established by the WSBA bylaws or by court rules and regulations, are affected by the granting of an exemption, waiver, or modification of the continuing legal education requirements under this regulation.

(5) The MCLE Board may revoke an exemption, waiver, or modification if there is a change in the facts or circumstances upon which such exemption, waiver, or modification was granted.

(b) Judicial exemption.

(1) Qualified WSBA Judicial members, except for administrative law judges, are exempt from the continuing legal education requirement established by APR 11.

(c) Legislative and gubernatorial exemption.

(1) Active WSBA members otherwise subject to the continuing legal education requirements of APR 11, who are also members of the Washington State Congressional Delegation or members of the Washington State Legislature, or who are currently serving as the Governor of Washington State, are exempted from the requirements of APR 11 for the reporting period(s) during which they are in office.

(2) This exemption does not apply to active lawyers who are:

(A) Serving in the legislature of any other state;

(B) Serving in the administrative branch of any state government; or

(C) Serving on the staff of any member of the Washington State Congressional Delegation, the Washington State Legislature, or the Washington State Governor.

(d) Active military duty. Active lawyers who are employed in the armed forces of the United States may be granted an exemption, waiver, or modification of the continuing legal education requirement established by APR 11, upon proof of undue hardship.

(e) No exemption for active lawyers living outside the United States. Active lawyers who live or are employed outside the United States are required to comply with the continuing legal education requirements of APR 11, unless they otherwise qualify under these regulations for an exemption for a different reason.

Regulation 108. Reinstatement of Continuing Education Requirements.

(a) A lawyer who was not required to comply with the education or reporting requirements of APR 11 and these regulations for any reason, who returns to being subject to those requirements, retains the lawyer's original assigned reporting group (Group 1, 2, or 3), and is subject to the requirements immediately.

(b) Reinstatement is conditioned on compliance with the reinstatement requirements of the WSBA Bylaws.

Regulation 109. Reinstatement of Lawyers Suspended from Practice for Failure to Comply with APR 11

(a) To be reinstated to active status with the WSBA after being suspended from practice for failure to comply with APR 11 and its regulations, a lawyer must:

(1) File a completed application to return to active status with the WSBA, together with any required application fee;

(2) Make up any deficiency and fully comply with the provisions of APR 11 and these regulations;

(3) Pay all required fees, late fees, and/or penalties; and

~~**(4)** Fully comply with any additional requirements imposed by the Admission to Practice Rules or the WSBA Bylaws.~~

~~**(b)** Once a suspended lawyer has complied with the provisions of Regulation 109(a), the MCLE Board shall recommend to the Supreme Court that the suspended lawyer be reinstated to active status, and refer the matter to the Supreme Court for entry of an appropriate order.~~

~~**Regulation 110. Rulemaking Authority.**~~

~~**(a)** The MCLE Board, subject to the approval of the Board of Governors and the Supreme Court, has continuing authority to make regulations consistent with APR 11 in furtherance of the development and regulation of continuing legal education for Washington lawyers.~~

~~**(b)** The MCLE Board may adopt policies consistent with these regulations to provide guidance in the administration of these regulations and APR 11. The MCLE Board will notify the Board of Governors of any policies that it adopts. Unless the Board of Governors objects, such policies will become effective 60 days after promulgation by the MCLE Board.~~

~~**(c)** Subject to approval by the WSBA Board of Governors, the MCLE Board may adopt and assess any fees that may be required to timely and appropriately administer APR 11 and these regulations, as well as to offset the reasonably necessary costs of all functions under APR 11 and these regulations that are performed by the MCLE Board and its designees.~~

~~**Regulation 111. Confidentiality.**~~

~~The files and records of the MCLE Board and/or the WSBA relating to or arising out of a lawyer's failure to comply with the requirements of APR 11 and these regulations are confidential. Such records shall not be disclosed except in furtherance of the MCLE Board's or WSBA's duties, or upon the affected lawyer's request, the Supreme Court's direction, or pursuant to a proper subpoena duces tecum.~~

~~**Regulation 112. Out-of-State Compliance**~~

~~**(a)** The MCLE Board has determined that the Mandatory Continuing Legal Education requirements in Oregon, Idaho, and Utah substantially meet Washington's continuing legal education requirements. These states are designated as comity states.~~

~~**(b)** A lawyer whose principal place of business is not in Washington may comply with these rules and regulations by filing a certificate of compliance from a comity state MCLE office that certifies that the lawyer is subject to the MCLE requirements of that other jurisdiction and that the lawyer has complied with that other jurisdiction's MCLE requirements during the lawyer's reporting period.~~

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 15-10-001
TRANSPORTATION COMMISSION

[Filed April 22, 2015, 12:21 p.m.]

Summary of Tacoma Narrows Bridge Toll Setting Policy

The Washington state transportation commission (WSTC) adopted a policy on March 17, 2010, and amended February 20, 2013, titled "Tacoma Narrows Bridge (TNB) Toll Setting Policy." The policy is a nonbinding description of the WSTC's current approach to implementing toll setting statues [statutes] to ensure consistent understanding and application by the WSTC, and to provide guidance, understanding and assistance to the public.

The policy sets forth general assumptions and principles, summarized below:

- The TNB has a unique financing structure.
- The TNB has an insurance policy which provides adequate protection for damage to the structure, but does not apply to losses in toll revenue due to decreases in traffic volumes.
- The WSTC preference is to make toll rate changes via the regular rule-making process which takes approximately sixty days to complete (from the time the CR-102 is filed).
- The WSTC will set rates in a manner so as to maintain an established sufficient minimum balance (SMB) that is equivalent to forty-five days of working capital.

The policy establishes that the SMB shall not be less than 12.5 percent of annual total TNB costs, measured on a retrospective three month rolling average fund balance. The purpose of the SMB is to cover revenue shortfalls and legitimate cost increases. If there is significant risk that the SMB will fall below the established target, the rate setting process will be triggered.

WSR 15-10-007
NOTICE OF PUBLIC MEETINGS
COUNTY ROAD ADMINISTRATION BOARD

[Filed April 23, 2015, 8:08 a.m.]

MEETING NOTICE: July 16, 2015
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
1:00 p.m. to 5:00 p.m.

PUBLIC HEARING: July 16, 2015
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
2:00 p.m.

MEETING NOTICE: July 17, 2015
County Road Administration Board
2404 Chandler Court S.W.
Suite 240
Olympia, WA 98504
8:30 a.m. - noon

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton at (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

If you have questions, please contact Karen Pendleton at (360) 753-5989.

WSR 15-10-012
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
[Filed April 23, 2015, 1:08 p.m.]

The following date is for the May 28, 2015, commission meeting: Revised commission meeting, on May 28, 2015, at 9:30 a.m., conference call, 711 South Capitol Way, Suite 402, Olympia, WA 98504.

WSR 15-10-016
NOTICE OF PUBLIC MEETINGS
LIFE SCIENCES DISCOVERY FUND AUTHORITY
[Filed April 23, 2015, 5:01 p.m.]

Please note Life Sciences Discovery Fund's (LSDF) 2015 scheduled board meeting information below. Note as well that we will post our public meeting agenda as appropriate on our web site http://www.lsdfa.org/about/staff/meetings.html prior to each meeting.

2015 Public Board Meeting Dates

(*times are approximate and subject to change)*

Monday May 11	8:30 a.m.-**3**:30 p.m.	LSDF Office 1551 Eastlake Avenue East Seattle, WA 98102 (first floor Agora Conference Room)
Monday **May 18**	**9:00 a.m.-approximately 9:30 a.m.**	**LSDF Office** **1551 Eastlake Avenue East** **Suite 325** **Seattle, WA 98102**
Monday July 27	8:30 a.m.-4:30 p.m.	LSDF Office 1551 Eastlake Avenue East Seattle, WA 98102 (first floor Agora Conference Room)
Monday September 28	8:30 a.m.-4:30 p.m.	LSDF Office 1551 Eastlake Avenue East Seattle, WA 98102 (first floor Agora Conference Room)
Monday December 14	8:30 a.m.-4:30 p.m.	LSDF Office 1551 Eastlake Avenue East Seattle, WA 98102 (first floor Agora Conference Room)

WSR 15-10-017
NOTICE OF PUBLIC MEETINGS
INDETERMINATE SENTENCE REVIEW BOARD
[Filed April 24, 2015, 8:59 a.m.]

The indeterminate sentence review board has changed the following regular board meeting scheduled for Monday, April 27, 2015:

From: Full meeting (half day).

To: Closed session only for community concerns meetings.

If you need further information contact Robin Riley, P.O. Box 40907, Olympia, WA 98504-0907, (360) 407-2400, (360) 493-9287, isrb@doc1.wa.gov, doc.wa.gov/isrb.

WSR 15-10-024
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
[Filed April 27, 2015, 10:35 a.m.]

Following is a revision to the 2015 regular meeting schedule of the Edmonds Community College board of trustees.

Two meetings have been added to the schedule.

Board executive session, on April 30, 2015, at 11:00 a.m. to 12:00 noon, Gateway Hall 334, 6600 196th Street S.W., Lynnwood, WA.

Board joint meeting with the Edmonds School board of directors, on May 4, 2015, at 5:00 p.m. to 7:00 p.m., Edmonds School District Board Room, 20420 68th Avenue West, Lynnwood, WA.

If you have any questions, please feel free to contact Patty Michajla at (425) 640-1516.

WSR 15-10-036
NOTICE OF PUBLIC MEETINGS
RENTON TECHNICAL COLLEGE
[Filed April 28, 2015, 4:10 p.m.]

Pursuant to RCW 42.30.075, the Renton Technical College board of trustees' regular meetings during 2015 will be held as follows: The third Tuesday of each month, except for the months of July and August. Meetings will be held at 7:30 a.m., at the Roberts Campus Center Board Room, Room I-

202, Renton Technical College, 3000 N.E. 4th Street, Renton, WA 98056-4195.

	January 20, 2015	
	February 17, 2015	
	March 25, 2015	
	April 21, 2015	
	May 19, 2015	
Revised	June 23, 2015	
	July/August	No regularly scheduled meetings
	September 15, 2015	
	October 20, 2015	
	November 17, 2015	
	December 15, 2015	

If you need further information, please contact Di Beers at (425) 235-2426.

WSR 15-10-037
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE

[Filed April 29, 2015, 8:19 a.m.]

The Bellingham Technical College presidential search advisory committee will hold a special meeting, on Thursday, April 30, 2015, and Friday, May 1, 2015, 8:00 - 4:00 p.m., in Haskell Center on the Bellingham Technical College campus. The special meeting will be conducted in executive session to evaluate the qualifications of an applicant for public employment. (RCW 42.30.110 (1)(g).) Call 752-8334 for information.

WSR 15-10-052
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON

[Filed April 30, 2015, 11:11 a.m.]

OPEN PUBLIC MEETINGS 2015
Third ADDENDUM

Meeting Name	Meeting Date	Location	Time
Design Faculty Meeting	May 8	Art 247D	12:00-2:00
Design Faculty Meeting	June 8	Art 247D	10:00-12:00
Nursing All Faculty Meeting	May 18	Health Sciences Building T661	10:00-11:50
Nursing All Faculty Meeting	June 8	Health Sciences Building T661	12:30-2:20
Nursing All Faculty Meeting	October 26	Health Sciences Building T661	12:30-2:20
Nursing All Faculty Meeting	November 23	Health Sciences Building T661	12:30-2:20
Nursing All Faculty Meeting	December 28	Health Sciences Building T661	12:30-2:20
Tacoma Academic Policy and Curriculum Committee	September 23	West Coast Grocery 322	12:30-2:00
Tacoma Academic Policy and Curriculum Committee	October 14	West Coast Grocery 322	12:30-2:00
Tacoma Academic Policy and Curriculum Committee	November 18	West Coast Grocery 322	12:30-2:00
Tacoma Academic Policy and Curriculum Committee	December 9	West Coast Grocery 322	12:30-2:00
Tacoma Academic Policy and Curriculum Committee	January 13, 2016	West Coast Grocery 322	12:30-2:00
Tacoma Academic Policy and Curriculum Committee	February 10, 2016	West Coast Grocery 322	12:30-2:00
Tacoma Academic Policy and Curriculum Committee	March 9, 2016	West Coast Grocery 322	12:30-2:00
Tacoma Academic Policy and Curriculum Committee	April 13, 2016	West Coast Grocery 322	12:30-2:00
Tacoma Academic Policy and Curriculum Committee	May 11, 2016	West Coast Grocery 322	12:30-2:00
Tacoma Academic Policy and Curriculum Committee	June 8, 2016	West Coast Grocery 322	12:30-2:00
Tacoma Academic Policy and Curriculum Committee	July 27, 2016	West Coast Grocery 322	12:30-2:00
Tacoma Faculty Assembly	September 21	William W. Philip Hall Milgard	9:00-12:00
Tacoma Faculty Assembly	January 22, 2016	William W. Philip Hall Milgard	1:00-3:00
Tacoma Faculty Assembly	April 22, 2016	William W. Philip Hall Milgard	1:00-3:00
Tacoma Executive Council	October 7	Cherry Parkes 206C	12:30-1:25
Tacoma Executive Council	October 16	Cherry Parkes 206C	1:00-3:00
Tacoma Executive Council	November 4	Cherry Parkes 206C	12:30-1:25
Tacoma Executive Council	November 20	Cherry Parkes 206C	1:00-3:00

Meeting Name	Meeting Date	Location	Time
Tacoma Executive Council	December 2	Cherry Parkes 206C	12:30-1:25
Tacoma Executive Council	January 6, 2016	Cherry Parkes 206C	
Tacoma Executive Council	January 15, 2016	Cherry Parkes 206C	1:00-3:00
Tacoma Executive Council	February 3, 2016	Cherry Parkes 206C	12:30-1:25
Tacoma Executive Council	February 19, 2016	Cherry Parkes 206C	1:00-3:00
Tacoma Executive Council	March 2, 2016	Cherry Parkes 206C	12:30-1:25
Tacoma Executive Council	March 18, 2016	Cherry Parkes 206C	1:00-3:00
Tacoma Executive Council	April 6, 2016	Cherry Parkes 206C	12:30-1:25
Tacoma Executive Council	April 15, 2016	Cherry Parkes 206C	1:00-3:00
Tacoma Executive Council	May 4, 2016	Cherry Parkes 206C	12:30-1:25
Tacoma Executive Council	May 20, 2016	Cherry Parkes 206C	1:00-3:00
Tacoma Executive Council	June 1, 2016	Cherry Parkes 206C	12:30-1:25
Tacoma Urban Studies Faculty	May 13	Pinkerton 212	12:30-1:30
Tacoma Urban Studies Faculty	May 27	Pinkerton 212	12:30-1:30
Tacoma Urban Studies Faculty	June 10	Pinkerton 212	12:30-1:30

WSR 15-10-060

INTERPRETIVE STATEMENT

DEPARTMENT OF REVENUE

[Filed May 1, 2015, 7:49 a.m.]

INTERPRETIVE STATEMENT ISSUED

The department of revenue has issued the following excise tax advisory (ETA):

ETA 3196.2015 - B&O Deduction for Affiliated Qualified Employers of Record

This ETA clarifies when a person is a qualified employer of record eligible for a business and occupation (B&O) tax deduction from gross income for employee costs under RCW 82.04.43393 when the person is providing paymaster services. The ETA includes related examples.

A copy of this document is available via the internet at Recent Rule and Interpretive Statements, Adoptions, and Repeals.

Kevin Dixon
Tax Policy Manager
ETAs and Special Projects

WSR 15-10-062

NOTICE OF PUBLIC MEETINGS

WASHINGTON STATE UNIVERSITY

[Filed May 1, 2015, 12:00 p.m.]

BOARD OF REGENTS MEETING NOTICE

May 7-8, 2015

The Washington State University board of regents will hold its next official meetings on Thursday and Friday, May 7-8, 2015, in Pullman, Washington, pursuant to the schedule below.

All meetings will take place at the Compton Union Building, Room 204, as outlined in the schedule below, unless noted otherwise.

The meetings will begin at 1:00 p.m. on Thursday. Unless otherwise indicated, committee meetings also are board of regents meetings and will run consecutively throughout the afternoon; starting times following the first committee meeting are estimates only. If a session ends earlier than expected, the next scheduled session may convene immediately. Committee meetings may be attended by all members of the board of regents and all members may participate.

Thursday, May 7, 2015		**Location**
12:00 p.m.	Board of Regents Lunch	CUB 208
1:00 p.m.*	Special Meeting of the Trustees/Shareholders Students Book Corporation	CUB 204
1:15 p.m.*	Executive Committee	CUB 204
1:30 p.m.*	Finance and Audit Committee	CUB 204
2:30 p.m.*	Academic and Student Affairs Committee	CUB 204
4:00 p.m.*	External Affairs Committee	CUB 204
5:00 p.m.*	Executive Session, is [if] needed	CUB 204
6:00 p.m.	Board of Regents Dinner	755 N.E. Campus Avenue Pullman

**or upon conclusion of previous session*

Friday, May 8, 2015		**Location**
7:00 a.m.	Board of Regents Breakfast	CUB 208
8:00 a.m.	Board of Regents Meeting	CUB 204

In addition, on Friday, May 8 and Saturday May 9, the regents will participate in ceremonies and activities associated with commencement for the Spokane and Pullman campuses.

Questions about the board of regents meeting and schedule may be directed to Desiree Jacobsen, (509) 335-6662.

WSR 15-10-064
ATTORNEY GENERAL'S OFFICE

[Filed May 1, 2015, 12:17 p.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION WASHINGTON ATTORNEY GENERAL

The Washington attorney general issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the attorney general's office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the attorney general's office of your interest by May 27, 2015. This is not the due date by which comments must be received. However, if you do not notify the attorney general's office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the attorney general's office of your intention to comment by e-mail to jeff.even@atg.wa.gov or by writing to the Office of the Attorney General, Solicitor General Division, Attention Jeff Even, Deputy Solicitor General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you may be provided with a copy of the opinion request in which you are interested, information about the attorney general's opinion process, information on how to submit your comments, and a due date by which your comments must be received to ensure that they are fully considered.

If you are interested in receiving notice of new formal opinion requests via e-mail, you may visit the attorney general's web site at www.atg.wa.gov/AGOOpinions/default.aspx for more information on how to join our AGO opinions list.

The attorney general's office seeks public input on the following opinion request(s):

Opinion Docket No. 15-04-02
Request by The Honorable Mark Nichols
Clallam County Prosecuting Attorney

QUESTION(S):

May a county operating under the home rule form of government convert the Office of County Prosecuting Attorney from partisan to nonpartisan by charter?

WSR 15-10-071
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY

[Filed May 1, 2015, 3:58 p.m.]

BOARD OF REGENTS MEETING NOTICE
May 7-8, 2015

The Washington State University board of regents will hold its next official meetings on Thursday and Friday, May 7-8, 2015, in Pullman, Washington, pursuant to the schedule below.

All meetings will take place at the Compton Union Building, Room 204, as outlined in the schedule below, unless noted otherwise.

The meetings will begin at 1:00 p.m. on Thursday. Unless otherwise indicated, committee meetings also are board of regents meetings and will run consecutively throughout the afternoon; starting times following the first committee meeting are estimates only. If a session ends earlier than expected, the next scheduled session may convene immediately. Committee meetings may be attended by all members of the board of regents and all members may participate.

Thursday, May 7, 2015		**Location**
12:00 p.m.	Board of Regents Lunch	CUB 208
1:00 p.m.*	Special Meeting of the Trustees/Shareholders Students Book Corporation	CUB 204
1:15 p.m.*	Executive Committee	CUB 204
1:30 p.m.*	Finance and Audit Committee	CUB 204
2:30 p.m.*	Academic and Student Affairs Committee	CUB 204
4:00 p.m.*	External Affairs Committee	CUB 204
5:00 p.m.*	Executive Session, is [if] needed	CUB 204
5:30 p.m.*	Research Findings	CUB 204
6:30 p.m.	Board of Regents Dinner	755 N.E. Campus Avenue Pullman

**or upon conclusion of previous session*

Friday, May 8, 2015		**Location**
7:00 a.m.	Board of Regents Breakfast	CUB 208
8:00 a.m.	Board of Regents Meeting	CUB 204

In addition, on Friday, May 8 and Saturday May 9, the regents will participate in ceremonies and activities associated with commencement for the Spokane and Pullman campuses.

Questions about the board of regents meeting and schedule may be directed to Desiree Jacobsen, (509) 335-6662.

WSR 15-10-072
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE

[Filed May 4, 2015, 8:12 a.m.]

The Bellingham Technical College board of trustees will meet in a special meeting on Tuesday, May 5, 2015, 11:30 - 1:00 p.m., in the college services board room on the Bellingham Technical College campus. The special meeting will be conducted in executive session to evaluate the qualifications of an applicant for public employment. (RCW 42.30.110 (1)(g).) Action may be taken in open session as a result of items discussed in the executive session. Call 752-8334 for information.

WSR 15-10-081
CLEMENCY AND PARDONS BOARD

[Filed May 4, 2015, 4:14 p.m.]

The Washington state clemency and pardons board hereby gives notice of its quarterly hearing scheduled for June 12, 2015, at 10:00 a.m., in Senate Hearing Room 3, of the John A. Cherberg Building, Olympia, Washington[1]. The following petitions will be considered by the board[2]:

Petitioner:	Relief Requested:
Raymond, Andrew A.	Commutation
Knight, Alyssa C.	Commutation
Jaquez, Pepe	Commutation
Anderson, Kenny B.	Pardon
Wright, Reagon R.	Pardon
Hunt, Daniel L.	Pardon
Bounthong, Aisen	Pardon
Muratalla, Marco	Pardon

[1] Please note that all board hearings are recorded by a court reporter, open to the public, and broadcast on the state public affairs network, TVW.

[2] At the board's discretion, the order of the petitions to be called for hearing is subject to change.

WSR 15-10-082
NOTICE OF PUBLIC MEETINGS
WASHINGTON STATE UNIVERSITY

[Filed May 5, 2015, 8:13 a.m.]

BOARD OF REGENTS MEETING NOTICE

May 7-8, 2015

The Washington State University board of regents will hold its next official meetings on Thursday and Friday, May 7-8, 2015, in Pullman, Washington, pursuant to the schedule below.

All meetings will take place at the Compton Union Building, Room 204, as outlined in the schedule below, unless noted otherwise.

The meetings will begin at 1:00 p.m. on Thursday. Unless otherwise indicated, committee meetings also are board of regents meetings and will run consecutively throughout the afternoon; starting times following the first committee meeting are estimates only. If a session ends earlier than expected, the next scheduled session may convene immediately. Committee meetings may be attended by all members of the board of regents and all members may participate.

Thursday, May 7, 2015		**Location**
12:00 p.m.	Board of Regents Lunch	CUB 208
1:00 p.m.*	Special Meeting of the Trustees/Shareholders Students Book Corporation	CUB 204
1:15 p.m.*	Executive Committee	CUB 204
1:30 p.m.*	Finance and Audit Committee	CUB 204
2:30 p.m.*	Academic and Student Affairs Committee	CUB 204
4:00 p.m.*	External Affairs Committee	CUB 204
5:00 p.m.*	Executive Session, is [if] needed	CUB 204
6:00 p.m.	Board of Regents Dinner	755 N.E. Campus Avenue Pullman

**or upon conclusion of previous session*

Friday, May 8, 2015		**Location**
7:00 a.m.	Board of Regents Breakfast	CUB 208
8:00 a.m.	Board of Regents Meeting	CUB 204

In addition, on Friday, May 8, and Saturday, May 9, the regents will participate in ceremonies and activities associated with commencement for the Spokane and Pullman campuses.

Questions about the board of regents meeting and schedule may be directed to Desiree Jacobsen, (509) 335-6662.

WSR 15-10-085
NOTICE OF PUBLIC MEETINGS
WALLA WALLA
COMMUNITY COLLEGE

[Filed May 5, 2015, 12:08 p.m.]

The board of trustees of Walla Walla Community College, District Number Twenty, has made the following change to its regular June meeting:

From: Wednesday, June 24, 2015.

To: Monday, June 29, 2015.

Please direct any questions to Jerri Ramsey at jerri.ramsey @wwcc.edu or by phone (509) 527-4274.

WSR 15-10-086
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
FISH AND WILDLIFE

(Fish and Wildlife Commission)

[Filed May 5, 2015, 1:06 p.m.]

The Washington fish and wildlife commission changed the following regular meeting:

From: September 25 - 26, 2015.

To: September 18 - 19, 2015.

If you need further information contact Tami Lininger, 600 Capitol Way North, Olympia, WA 98501, (360) 902-2267, tami.lininger@dfw.wa.gov.

WSR 15-10-099

DEPARTMENT OF ECOLOGY

[Filed May 6, 2015, 9:29 a.m.]

PUBLIC NOTICE

Announcing the Reissuance of the Aquatic Mosquito Control General Permit

Permit: The Washington state department of ecology (ecology) will reissue a general permit to regulate the use of adulticides and larvicides for management of mosquitoes in and around surface waters of Washington state.

Washington's water quality statutes and regulations do not allow the discharge of pollutants to waters of the state without permit coverage. Adulticides and larvicides used for management of mosquitoes are potential pollutants, and therefore require a discharge permit before application to surface waters. Ecology issues general permits in place of a series of individual permits when the permitted activities are similar.

Purpose of the Permit: This permit allows for the management of vector and nuisance mosquitoes in and around waters of the state. Mosquitoes are potential vectors of disease and form nuisance populations that impact human health, animal health and recreation. Those wishing to manage mosquito populations in and around water must apply for coverage under this permit prior to implementing mosquito control activities.

Permit and Supporting Documents: Ecology has made a determination to issue the aquatic mosquito control NPDES general permit on May 20, 2015. A public comment period for the draft permit and supporting documents was held from March 4 through April 17, 2015. You may download copies of the permit, fact sheet, SEPA determination, and economic impact analysis, beginning May 20, 2015, from the following web site: http://www.ecy.wa.gov/programs/wq/pesticides/final_pesticide_permits/mosquito/index.html.

Ecology Contact: Nathan Lubliner, Washington State Department of Ecology, P.O. Box 47696, Olympia, WA 98504-7696, phone (360) 407-6563, e-mail nathan.lubliner@ecy.wa.gov.

Appeals: This permit may be appealed to the pollution control hearings board (PCHB) within thirty days of the date of receipt of the final permit. The appeal process is governed by chapters 43.21B RCW and 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2) (also see glossary).

To appeal, the following must be done within thirty days of receipt of this permit:

- File the appeal and a copy of this permit with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of the appeal and this permit on ecology in paper form - by mail or in person (see addresses below). **E-mail is not accepted**.

The appeal must also comply with other applicable requirements in chapters 43.21B RCW and 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive S.E. Lacey, WA 98503	**Department of Ecology** Attn: Appeals Processing Desk P.O. Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road S.W. Suite 301 Tumwater, WA 98501	**Pollution Control Hearings Board** P.O. Box 40903 Olympia, WA 98504-0903

WSR 15-10-101

NOTICE OF PUBLIC MEETINGS

DEPARTMENT OF LICENSING

(Board of Registration for Professional Engineers and Land Surveyors)

[Filed May 6, 2015, 9:44 a.m.]

Following is the schedule of the annual meeting for the board of registration for professional engineers and land surveyors for 2015:

Date	Time	Location
June 16, 2015	8:00 a.m.	Davenport Hotel Early Bird Ballroom 10 South Post Street Spokane, WA 99201

If you need further information contact Cassandra Fewell, cfewell@dol.wa.gov, (360) 664-1564, P.O. Box 9025, Olympia, WA 98507-9025.

For more information, go to http://www.dol.wa.gov/business/engineerslandsurveyors/meetings.html.

WSR 15-10-103

HEALTH CARE AUTHORITY

[Filed May 6, 2015, 10:04 a.m.]

NOTICE

Title or Subject: Medicaid State Plan Amendment (SPA) 15-0023 for Pharmacy Services.

Effective Date: July 1, 2015.

Description: The health care authority intends to submit Medicaid SPA 15-0023 to update language in pharmacy services reimbursement section of the medicaid state plan. The updated language will clarify the definition of reimbursement methodologies for claims paid under the fee-for-service prescription drug program, and describe the reimbursement methodology for drugs paid under the physician services program.

Updating the language is anticipated to have no effect on aggregate expenditures.

For additional information, please contact Mary Sam, Professional Rates, 626 8th Avenue S.E., Olympia, WA 98501, phone (360) 725-0469, TDD/TTY 1-800-848-5429, fax (360) 584-6554, e-mail mary.sam@hca.wa.gov.