

WSR 25-09-114
RULES OF COURT
STATE SUPREME COURT
[April 2, 2025]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO CR) NO. 25700-A-1626
55—DEFAULT AND JUDGMENT)
AND CRLJ 55—DEFAULT)

The Superior Court Judges' Association (SCJA), having recommended the suggested amendment to CR 55—Default and Judgment, and the Court's Rules Committee having recommended the suggested amendments to CRLJ 55—Default to conform with the SCJA's suggested amendment to CR 55, and the Court having approved the suggested amendments for publication for comment on an expedited basis;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as shown below are to be published expeditiously for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites.

(b) The purpose statement as required by GR 9(e) is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than 60 days after the date of this order. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 2nd day of April, 2025.

For the Court

Stephens, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET

Suggested Amendments to
WASHINGTON STATE CIVIL RULE 55

A. Name of Proponent:

Washington Superior Court Judges Association (SCJA)

B. Spokesperson:

Judge Kristin Ferrera, Superior Court Judges' Association President

C. Purpose:

CR 55 (a) (3) essentially provides that non-appearing parties who have been properly served with original process are not entitled to notice before a default may be entered "except as provided in rule 55 (f) (2) (A)." However, while that quoted language suggests that there are instances when prior notice is required, the subsection referenced in (a) (3) does not address when a party is entitled to such notice but rather how such notice is to be given (i.e. by service on the attorney

of record). Thus, the subsection cited in subsection (a)(3) appears misplaced.

Additionally, the seemingly errant subsection reference appears to create an internal conflict within the rule. Subsection (f)(1) requires prior notice to a non-appearing party in default if more than 1 year has elapsed between when they are served with original process and when default is sought, and (f)(2) provides three methods for serving such notice. However, the subsection cited in (a)(3) provides only one method for effecting such service (i.e. by service on the attorney of record). Thus, the citation in (a)(3) appears inconsistent with (f)(2) in terms of the number of available methods of service. Moreover, as (a)(3) currently provides only for service on the attorney of record, it also appears inconsistent with (f)(1) which requires notice be given to the party in default; as while serving the attorney may be fine if the party is represented, how does one serve notice on a party in default who is pro se if (a)(3) only provides for service on an attorney of record?

In our view, the above issues could be resolved by simply changing the subsection referenced in the final clause of (a)(3) from "55 (f)(2)(A)" to "55(f)." Note too that while this GR 9 is limited to suggested changes to CR 55 (a)(3), a comparable issue also appears in CRLJ 55 (a)(3).

D. Hearing:

A hearing is not requested.

E. Expedited Consideration:

Yes. Proponent believes it appropriate to consider this proposal expeditiously with the change effective immediately upon publication if adopted as (a) the suggested amendment is merely a technical adjustment to add clarity and consistency to the rule and to make it consistent with historic and common practice, and (b) proponent does not anticipate the suggested amendment to be particularly controversial.

F. Supporting Materials:

Not Applicable.

*SUPERIOR COURT JUDGES' ASSOCIATION'S
SUGGESTED AMENDMENT TO CR 55*

**CR 55
DEFAULT AND JUDGMENT**

(a) Entry of Default.

(1)-(2) [Unchanged.]

(3) *Notice.* Any party who has appeared in the action for any purpose shall be served with a written notice of motion for default and the supporting affidavit at least 5 days before the hearing on the motion. Any party who has not appeared before the motion for default and supporting affidavit are filed is not entitled to a notice of the motion, except as provided in rule 55(f) ~~(2)(A)~~.

(4) [Unchanged.]

(b)-(e) [Unchanged.]

(f) How Made After Elapse of Year.

(1) *Notice.* When more than 1 year has elapsed after service of summons with no appearance being made, the court shall not sign an order of default or enter a judgment until a notice of the time and place of the application for the order or judgment is served on the party in default, not less than 10 days prior to the entry. Proof by

affidavit of the service of the notice shall be filed before entry of the judgment.

(2) *Service*. Service of notice of the time and place on the application for the order of default or default judgment shall be made as follows:

(A) by service upon the attorney of record;

(B) if there is no attorney of record, then by service upon the defendant by certified mail with return receipt of said service to be attached to the affidavit in support of the application; or

(C) by a personal service upon the defendant in the same manner provided for service of process.

(D) If service of notice cannot be made under subsections (A) and (C), the notice may be given by publication in a newspaper of general circulation in the county in which the action is pending for one publication, and by mailing a copy to the last known address of each defendant. Both the publication and mailing shall be done 10 days prior to the hearing.

*SUPREME COURT RULES COMMITTEE'S
SUGGESTED AMENDMENTS TO CRLJ 55*

CRLJ 55

DEFAULT

(a) Entry of Default.

(1)-(2) [Unchanged.]

(3) *Notice*. Any party who has appeared in the action for any purpose shall be served with a written notice of motion for default and the supporting affidavit at least 5 days before the hearing on the motion. Any party who has not appeared before the motion for default and supporting affidavit are filed is not entitled to a notice of the motion, except as provided in subsection (f) ~~(2)(i)~~.

(4) [Unchanged.]

(b)-(e) [Unchanged.]

(f) How Made After Elapse of Year.

(1) *Notice*. When more than 1 year has elapsed after service of summons with no appearance being made, the court shall not sign an order of default or enter a judgment until a notice of the time and place of the hearing on the application for the order or judgment is served on the party in default, not less than 10 days prior to the entry. Proof by affidavit of the service of the notice shall be filed before entry of the judgment.

(2) *Service*. Service of notice of the time and place on the application for the order of default or default judgment shall be made as follows:

~~(A)~~ by service upon the attorney of record;

~~(B)~~ if there is no attorney of record, then by service upon the defendant by certified mail with return receipt of said service to be attached to the affidavit in support of the application; or

~~(C)~~ by a personal service upon the defendant in the same manner provided for service of process.

~~(D)~~ If service of notice cannot be made under subsections ~~(A)~~ and ~~(C)~~, the notice may be given by publication in a newspaper of general circulation in the county in which the action is pending for one publication, and by mailing a copy to the last known address of each defendant. Both the publication and mailing shall be done 10 days prior to the hearing.