

WSR 25-09-117
RULES OF COURT
STATE SUPREME COURT
[April 2, 2025]

IN THE MATTER OF AMENDMENTS ) ORDER
TO CrR 4.7—DISCOVERY AND ) NO. 25700-A-1629
CrRLJ 4.7—DISCOVERY )

On September 5, 2024, the Court issued Order No. 25700-A-1593 adopting proposed amendments to CrR 4.7 (h) (3) and CrRLJ 4.7 (g) (3) regarding redaction of discovery. These amendments were effective upon publication in Washington Reports, which occurred on October 1, 2024. See 3 Wn.3d 1253-55 (Official Advance Sheets No. 9, October 1, 2024). The amendments included a requirement that each Superior, District, and Municipal Court shall, through the local rule-making process, "publish guidelines for redactions within three months of adoption of this rule." Id.

At the request of the District and Municipal Court Judges' Association (DMCJA) and the Superior Court Judges' Association (SCJA), the Court issued an order on December 5, 2024, that stayed until April 30, 2025, the requirements under CrR 4.7 (h) (3) and CrRLJ 4.7 (g) (3) that each Superior, District, and Municipal Court shall, through the local rule-making process, publish guidelines for redactions. See Order No. 25700-A-1624. Following the entry of that order, a group of stakeholders that included defense attorneys, prosecuting attorneys, and representatives of the DMCJA and SCJA attempted to reach consensus on a possible uniform state court rule regarding redaction of discovery under CrR 4.7 and CrRLJ 4.7. However, the stakeholder group was not able to reach consensus on all issues.

The Court finds that a developing a uniform state court rule for redaction of discovery under CrR 4.7 and CrRLJ 4.7 would be preferable to requiring each Superior, District, and Municipal Court to adopt local rules regarding redaction, as provided by Order No. 25700-A-1593. Therefore, the Court rescinds Order No. 25700-A-1593 in its entirety because nearly all of the amendments adopted by the order relate to the establishment of local rules regarding redaction. The Court's Rules Committee intends to draft a uniform state court rule for redaction of discovery which shall be published for comment.

Now, therefore, pursuant to the Court's authority to administer justice and the Court's authority to take emergency action with respect to rules pursuant to GR 9 (j) (1),

IT IS HEREBY ORDERED:

(a) That Order No. 25700-A-1593 is hereby rescinded.

(b) That the amendments to CrR 4.7 (h) (3) and CrRLJ (g) (3) adopted by Order No. 25700-A-1593 are stricken and CrR 4.7 (h) (3) and CrRLJ (g) (3) shall revert to the language in the rules that existed before the adoption of Order No. 25700-A-1593, as set forth in the attached materials.

(c) That pursuant to the emergency provisions of GR 9 (j) (1), this Order will be expeditiously published in the Washington Reports and will become effective upon publication.

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

Stephens, C.J.
Johnson, J. Yu, J.
Madsen, J. Montoya-Lewis, J.

Gonzalez, J.

Whitener, J.

Gordon McCloud, J.

Mungia, J.

CrR 4.7

DISCOVERY

(a) - (g) [Unchanged]

(h) Regulation of Discovery.

(1) - (2) [Unchanged]

(3) *Custody of Materials.* Any materials furnished to an ~~a~~ defendant and/or attorney pursuant to these rules shall remain in the exclusive custody of the ~~defendant and/or~~ attorney and be used only for the purposes of conducting the party's side of the case, unless otherwise agreed by the parties or ordered by the court, and shall be subject to such other terms and conditions as the parties may agree or the court may provide. Further, a defense lawyer shall be permitted to provide a copy of the materials to the defendant after making appropriate redactions which are approved by the prosecuting authority or order of the court. ~~Further, each Superior Court shall, through the local rule-making process, publish guidelines for redaction within three months of adoption of this rule. Defense counsel may redact discovery consistent with these guidelines and provide a copy of the discovery to the accused and shall provide a copy of the redacted discovery to the prosecutor. Each defense attorney shall maintain a duplicate copy of discovery furnished to the represented defendant that shows the redactions made in accordance with this court rule. The duplicate copy of discovery with redactions shall be kept in the defendant's case file for the duration of the case.~~

~~(A) A prosecuting attorney may move the court for an order to modify redactions beyond the court's published guidelines by scheduling a hearing within seven days of the discovery being provided to defense counsel to address what additional redactions beyond their guidelines are required.~~

~~(B) A defense attorney may move the court for an order to modify redaction conditions.~~

(4) - (7) [Unchanged.]

CrRLJ 4.7

DISCOVERY

(a) - (f) [Unchanged.]

(g) Regulation of Discovery.

(1) - (2) [Unchanged.]

(3) *Custody of Materials.* Any materials furnished to a lawyer ~~defendant and/or~~ attorney pursuant to these rules shall remain in the exclusive custody of the lawyer ~~defendant and/or~~ attorney and be used only for the purposes of conducting the party's side of the case, unless otherwise agreed by the parties or ordered by the court, and shall be subject to such other terms and conditions as the parties may agree or the court may provide. Further, a defense lawyer shall be permitted to provide a copy of the materials to the defendant after making appropriate redactions which are approved by the prosecuting authority or order of the court. ~~Further, each Municipal and District Court shall, through the local rule-making process under CrRLJ 1.7, publish guidelines for redactions within three months of adoption of this rule. Defense counsel may redact discovery consistent with these guidelines and provide a copy of the discovery to the accused and~~

~~shall provide a copy of the redacted discovery to the prosecutor. Each defense attorney shall maintain a duplicate copy of the discovery furnished to the represented defendant that shows the redactions made in accordance with this court rule. The duplicate copy of discovery with redactions shall be kept in the defendant's case file for the duration of the case.~~

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