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March 30, 2016

VIA EMAIL: [eccl@wsba.org](mailto:eccl@wsba.org)

Board of Governors  
Washington State Bar Association

Dear Governors:

The King County Bar Association Judiciary and Litigation Committee is charged with reviewing the impact of proposed rule changes on the practice of law and the administration of civil justice. We are pleased that the Task Force on the Escalating Costs of Civil Litigation ("Task Force") has made several changes we have proposed in the past, but we believe that the present report requires modifications before being presented to the Supreme Court. To that end, we are providing this letter and plan to attend your deliberations and, with your permission, provide additional input.

We object to one specific proposal that will be addressed during your April 15, 2016 meeting: the Task Force's suggested (11) District Court proposal. The Task Force recommends that "District court jurisdiction should also expand, concurrent with superior court jurisdiction, to include unlawful detainer proceedings..."

While there may be a litigation cost savings aspect to such a change, we believe that the access to justice implications far outweigh any savings. As many of you are aware, several bar associations in our state maintain "Housing Justice Project" clinics in Superior Courts to assist the unrepresented indigent with their eviction cases. In King County, the bar organizes hundreds of volunteers at the two Superior Court locations to assist almost 1,000 clients each year with pro bono service. If these matters could be filed in limited jurisdiction courts, our ability to provide this important legal safety net service would be severely undermined due to limited staff and volunteer attorney resources.

Staff attorneys from our Housing Justice Project have prepared a memo explaining this situation in more detail; a copy is attached to this letter for your consideration.

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Thank you for soliciting our feedback.

Very respectfully yours,

**KCBA Judiciary & Litigation Committee**

Lafcadio H. Darling, Co-Chair

Brett M. Hill, Co-Chair

cc: Andrew J. Prazuch, KCBA Executive Director

DATE: March 15, 2016

TO: Judiciary & Litigation Committee

FROM: King County Bar Association, Housing Justice Project

Re: Comments on the Escalating Costs of Civil Litigation Report, Recommendation for District Court Concurrent Jurisdiction over Unlawful Detainer Actions

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The Task Force recommendation that the District Court should have concurrent jurisdiction over unlawful detainer proceedings would prevent most tenant defendants in unlawful detainer actions from obtaining any representation in court or for negotiation because of the practical and logistical difficulties it would impose upon pro-bono legal service providers. Legal representation is the most important factor for improving the outcome for indigent defendants facing eviction. The vast majority of unlawful detainer actions result from non-payment of rent by indigent defendants. These tenants are unable to afford their housing. Spending money on legal services is impossible for households that cannot even pay the rent. The result of concurrent jurisdiction for the District Court would be more physical evictions taking place in Washington, fewer settled cases, more cases being argued by pro-se litigants outmatched by experienced plaintiff's attorneys, and more households rendered homeless as a result of an inability to enforce their rights, identify legal defenses, or to bargain for sufficient time to get new housing.

The Housing Justice Project of the King County Bar Association is able to provide representation to almost all income qualified defendants in unlawful detainer actions. In 2014, HJP's volunteer attorneys represented 990 defendants with hearings, and an equivalent number in 2015. Most of these cases were resolved by settlement after negotiation. The HJP is able to provide representation to these extraordinary numbers of clients because it has clinics located adjacent to the ex parte department of the King County Superior Court in both the Seattle and Kent courthouses. Signage and the court clerks direct the tenants/defendants to the clinics. The volunteer attorneys are able to provide limited representation in person at the clinics because the HJP takes care of all the overhead and support work, providing legal assistants, computers and office supplies, and knowledgeable staff attorneys.

Without the ability to make the in person connection to volunteer attorneys at the in courthouse clinics, these defendants would be completely unrepresented. It would not be financially nor physically possible for HJP to expand its operations to all of the district courts. It is not feasible to hire more staff attorneys, nor is it possible to locate clinics in every possible court. Thus, giving concurrent jurisdiction to other courts would render the services that HJP provides practically impossible. It would vastly decrease the percentage of defendants in unlawful detainer that were able to obtain representation. It would increase the amount of tenant defendants forced to argue their cases pro-se, which would clog up the docket of the courts and leave the tenants with little hope of prevailing or remaining housed.

It should also be noted that, Since Article IV, Section 6 of the Washington State Constitution grants original jurisdiction in matters involving possession of real property, the proposal to give jurisdiction to the district courts would require a constitutional amendment. .