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April 29, 2016

Ms. Barbara Miner
Clerk of the Superior Court
ATTN: Local Rules
516 Third Ave., Room E609
Seattle WA 98104

**Re: Proposed Rule Changes from Page Limits to Word Limits –
KCBA Judiciary and Litigation Committee Response**

Dear Ms. Miner:

This letter responds to your March 1, 2016 letter to the King County Bar Association requesting comments on the proposed changes to the Superior Court Local Rules. The question was referred to the KCBA Judiciary and Litigation Committee for consideration. Since the other suggested changes did not cause our Committee any concern, our sole focus was on the proposed changes to Local Rules 7 and 56, specifically with respect to replacing the current page limits with word limits.

It is our understanding that a number of judges have expressed frustration with the number of briefs being submitted that honor the current page number limits only in the breach. Anecdotal evidence in the Committee bears this out – one member noted that he had just received a 24-page summary judgment motion that included 72 footnotes, the majority of which were substantive as opposed to case citations or marginal notes.

Committee members were generally in favor of the rule changes, and noted that the Ninth Circuit has adopted a similar rule change. The Committee was of the opinion that in order to avoid confusion the rule should clarify that “word limits” includes footnotes, but not tables of authorities or contents.

While the Committee is supportive of the change, we request that the new word-limit rules be changed in two respects. First, the new rules should not only require a certification of compliance, but also a statement of the specific number of words in the brief. In other words, instead of the proposed rule stating that signature constitutes a certification that the brief complies with the rule, it would require instead a statement such as, “I certify that this memorandum contains _____ words, in compliance with the Local Rules.” Ninth Circuit rules requires this. *See* FRAP 32(a)(7)(C) (“The certificate must state either: the number of words in the brief; or the number of lines of monospaced type in the brief.”).

We feel a requirement to state the number of words is an important part of implementing this change. The goal of the new rule is to encourage compliance by the filing party. If a party or

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counsel is required to state a specific word number, that would require them to either comply with the rule, admit they are over the word count, or make a false statement. This choice should encourage compliance as the more attractive alternative to the other two options.

The second request is that the Court consider increasing the word count. Committee members have analyzed briefs that are within the page limits and found many examples of 24-page briefs with more than 7,000 words and 12-page briefs with more than 3,500 words. Since we understand that this change is not intended to substantively reduce the current page limit, we suggest that the limits be changed to 7,500 and 4,000 words.

Thank you for allowing King County Bar Association to respond to your request for comments. We hope that our responses and input are helpful to the Court. Please contact us if you have any questions.

Very truly yours,

KCBA Judiciary and Litigation Committee

Lafcadio Darling – Co-chair

Tim Moran - Member

cc: Andrew J. Prazuch, KCBA Executive Director