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April 30, 2010

The Honorable Douglass North
Chair, Local Rules Committee
King County Superior Court
516 Third Avenue
Seattle, WA 98104

RE: Court's Proposed Amendments to King County Local Rules

Dear Judge North:

In response to the Court's request for comments, the King County Bar Association offers the following comments to the proposed local rules changes published on March 26, 2010.

Founded in 1886, KCBA is the largest voluntary bar association in the state of Washington, representing over 14,000 attorneys in King County including attorneys, judges, and law professors. Our mission is to support our diverse membership by promoting a just, collegial, and accessible legal system and profession; working with the judiciary to achieve excellence in the administration of justice; and serving our local community through organized pro bono legal services.

1. We disagree with the Court's selective interpretation of the suggested local rules moratorium. On April 15, 2009, KCBA transmitted a comprehensive package of local rules improvements for the Court's consideration. In the months that followed, in multiple meetings with the Court, KCBA understood that many of its ideas had been received favorably and we were engaged in productive discussions together to address the ideas proposed. Then in an unexpected February 9, 2010 joint letter on behalf of the Supreme Court Rules Committee and the Superior Court Judges Association, Justice Charles Johnson and Spokane Superior Court Judge Tari Eitzen asked local courts across the state to impose an indefinite moratorium on any new additional local rules.

King County Superior Court, in its March 26, 2010 publication of proposed rules, appears to be selectively interpreting this request for a moratorium. A small number of our original suggestions have been deemed appropriate to publish, despite the moratorium request, while the vast majority of our ideas, despite progress in our joint discussions, have been deemed somewhat unilaterally subject to the moratorium on new rules proposals. By making only a few changes at this time and subjecting all other long pending initiatives for improvements to an indefinite moratorium, the Court inadvertently undermines the many hours of collaborative hard work put into this effort by both the bench and bar.

Instead of a selective application of the suggested moratorium, KCBA requests that the Court modify the proposed rule changes and complete work on the pending request made by the bar a year ago, incorporating all acceptable changes into our King County local rules at this time. Application of the moratorium would then be reserved for new efforts, not those that were already underway when the request was made.

2. The change from six to five days' notice for civil motions under LCR 7 should not be adopted. If the Court is unable to adopt our recommended approach of including more changes into the proposed rule, KCBA strongly requests that the change in notice for civil motions not be included in the package finally adopted. When KCBA initially proposed this change to the Court last year, it was part of twenty-one suggested improvements to King County Superior Court local rules. These improvements included issues related to discovery cutoff, disclosure of rebuttal witnesses, motions on page limits, and increased flexibility for parties to agree to changes in deadline without Court pro forma approval, among others. We would not have suggested a civil motion notice period change independent of the entire package of improvements relating to various calendaring issues.

Taken alone, the civil motion notice would impose a new burden on the local bar that is not required. The state rule on this matter requires at least five days, not a maximum of five days. A local court, especially one in which complex litigation is the norm, could justifiably add time to that five day rule as has long been our practice in King County, so long as the minimum five day notice was observed. Simply moving the notice period from six days to five does not find independent support in the bar at this time, and we accordingly respectfully ask that the current notice period remain in effect.

We greatly appreciate the Court's request for the bar's comments on these proposed rules, and stand ready to work with the bench to address our concerns. We are most grateful for the strong relationship that exists between the bar and bench in our county, and look forward to working cooperatively with our judicial colleagues in adopting comprehensive improvements to our local rules. Thank you for your consideration of our concerns.

Sincerely,

KING COUNTY BAR ASSOCIATION

cc: Honorable Bruce Hilyer, Presiding Judge
Honorable Paris Kallas, Immediate Past Chair
Barbara Miner, Clerk of the Court