

WASHINGTON STATE
BAR ASSOCIATION

To: Stakeholders and Interested Parties
From: Hillary Graber, Civil Litigation Rules Drafting Task Force
Re: Draft Proposal to Amend Civil Rule 16

Please find enclosed for your review and comment a draft proposal to amend Civil Rule 16. The proposal would add a section mandating the parties confer about and submit a pretrial report to the court. The pretrial report would cover a certain list of subjects, including material issues in dispute, agreed material facts, a list of lay and expert witnesses, exhibit index, and most importantly, ways to shorten the trial. The proposal would also modify and add to the topics the trial judge should consider at any pretrial conference.

This draft proposal is not final, and your input is important and welcome.

This draft proposal comes from the WSBA's Civil Litigation Rules Drafting Task Force. The Civil Litigation Rules Drafting Task Force was formed to draft the language to implement the WSBA Board of Governors' recommendations coming out of the 2015 Final Report to the WSBA Board of Governors from the Task Force on the Escalating Cost of Civil Litigation ("ECCL"). The ECCL recommended the addition of mandatory pretrial reports and pretrial conferences in advance of trial. The Board of Governors adopted that recommendation.

The ECCL believed that requiring the parties to consider these issues and then meet to discuss them with the trial judge before trial would encourage the parties to prepare for trial earlier and would result in shorter, less costly trials.

The attached draft proposal attempts to implement these recommendations.

As part of the drafting process, the Civil Litigation Rules Drafting Task Force seeks feedback about the draft language. Please feel free to distribute these materials within your organization or firms, or to other people or groups who may have an interest in weighing in. Stakeholder input is crucially important in the rulemaking process and assists the Civil Litigation Rules Drafting Task Force in making an informed decision.

Please provide any comments to Hillary Graber at CLTF@wsba.org by May 28, 2018.

For more information about the Civil Litigation Rules Drafting Task Force, please visit: <https://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Civil-Litigation-Rules-Drafting-Task-Force> .

Please note that this proposal is part of several proposed rule changes arising out of the WSBA Board of Governors' recommendations based on the ECCL's work. The Civil Litigation Rules Drafting Task Force has begun vetting proposals with stakeholders and will continue to reach out to you about other proposals in the coming months.