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To: Stakeholders and Interested Parties

From: Jane Morrow, Civil Litigation Rules Drafting Task Force

Re: Draft Proposals to Amend Civil Rule 1, Civil Rule of Limited Jurisdiction 1, Civil Rule 11, Civil Rule of Limited Jurisdiction 11, Civil Rule 26, Civil Rule of Limited Jurisdiction 26 and Civil Rule 37

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Please find enclosed for your review and comment draft proposals to amend Civil Rule 1, Civil Rule of Limited Jurisdiction 1, Civil Rule 11, Civil Rule of Limited Jurisdiction 11, Civil Rule 26, Civil Rule of Limited Jurisdiction 26 and Civil Rule 37 to address the principle of cooperation in civil litigation. These draft proposals are not final, and your input is important and welcome.

These draft proposals come 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 that language regarding cooperation be added to Civil Rules. The Board of Governors adopted that recommendation.

In addressing the principle of cooperation in the Civil Rules, the ECCL recommended that the scope of the Civil Rules be amended to specify that the courts and all parties jointly share the responsibility of using the rules to achieve the aspirational ends of the civil justice system: "They [the Civil Rules] shall be construed, administered and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action." Although there appears to be a general consensus that cooperation is an essential element to just, speedy and inexpensive civil litigation, there is no provision expressly requiring the cooperation of parties in the Civil Rules.

The attached draft proposals attempt to inculcate a duty of cooperation into the civil rules by making cooperation an underlying principle of the civil rules and by making cooperation an enforceable requirement during discovery.

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 Sherry Linder at [CLTF@wsba.org](mailto:CLTF@wsba.org) by **May 25, 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>

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Please note that these proposals are 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 will vet each proposal with you in the coming months.