

MODIFICATION REQUEST COVER SHEET

Name of Filer	IAN BIRK
Reporting Period	<input checked="" type="checkbox"/> Annual report (calendar year 2022) <input type="checkbox"/> Appointee report
Type of Request	<input type="checkbox"/> New <input checked="" type="checkbox"/> Renewal with No Change <input type="checkbox"/> Full Commission Approval <input type="checkbox"/> Renewal with Change
Office Held & Term	Judge, Court of Appeals Division 1 - Appointed May 9, 2022 Current Term expires December 2028
Application Rule(s)	<input checked="" type="checkbox"/> Income & Ownership Interest: WAC 390-28-100(1)(b) <input type="checkbox"/> Personal Residence: WAC 390-28-100(1)(d) <input type="checkbox"/> Attorney: WAC 390-28-100(1)(e)(i) <input checked="" type="checkbox"/> Judge / Judicial Candidate: WAC 390-28-100(1)(e)(ii) <input type="checkbox"/> Spousal: WAC 390-28-100(1)(e)(iv) <input type="checkbox"/> Other: WAC 390-28-100(1)(a)(c)
Explanation of Rules(s)	<p>Income and ownership interests. An applicant may be exempted from reporting the information otherwise required by RCW 42.17A.710 (1)(f) and (g), if:</p> <p>(i) Public disclosure would violate any legally recognized confidential relationship that serves a legitimate business interest;</p> <p>(ii) The information does not relate to a business entity which would be subject to the regulatory authority of the office sought or held by the applicant in whole or in part;</p> <p>(iii) Such reporting would present a manifestly unreasonable hardship to the applicant including but not limited to adversely affecting the competitive position of an entity in which the applicant had an interest of ten percent or more as described in RCW 42.17A.120; and</p> <p>(iv) The interest in question would present no actual or potential conflict with the performance of the duties of the office sought or held.</p> <p>Judges and former law firms. An applicant may be allowed to satisfy the reporting requirements of RCW 42.17A.710 (1)(g)(ii) and WAC 390-24-020 by disclosing any required information of which the applicant is aware, provided the applicant certifies that the applicant is no longer able to access or has been denied access to the former law firm's client information. The commission may apply (e)(i) of this subsection when the applicant is a nonincumbent judicial candidate who practiced law during the reporting period and who seeks a modification regarding reportable business clients of the law firm.</p>

Supporting Documents (attached)	<input checked="" type="checkbox"/> Current F-1 (filed March 18, 2023) <input checked="" type="checkbox"/> Modification Application <input checked="" type="checkbox"/> Modification Order (2022)
Reason(s) for Modification (as stated by filer)	<p><u>OTHER INCOME/OWNERSHIP INTEREST</u></p> <p>Judge Birk is requesting a partial reporting modification that would exempt him from disclosing the business and other governmental customers that paid \$12,000 or more during the reporting period to American Association for Justice (AAJ) and the Washington State Association for Justice (WSAJ) where he served as on the board of governors during the reporting period.</p> <ul style="list-style-type: none">• Judge Birk stated that AAJ and WSAJ are national and state nonprofit professional associations for lawyers primarily representing plaintiffs in civil cases. They generally do not engage in sales of goods and services but do present continuing legal education seminars attended by individual lawyers.• Judge Birk stated that prior to his judicial appointment he has asked both organizations if there were any reportable customers. He did not learn of any as a board member and believes that information to still be accurate.• In addition, Judge Birk attests that he no longer has access to any customer lists of AAJ or WSAJ and stated that it is exceedingly rare for these entities to be involved in any type of legal proceedings that would come before the Court of Appeals. <p><u>FORMER LAW FIRM CLIENTS</u></p> <p>Judge Birk is requesting a partial reporting modification that would exempt his from disclosing the business customers or clients that paid \$12,000 or more during the reporting period to his former law firm, Keller Rohrback L.L.P for the period of January through May 2022.</p> <ul style="list-style-type: none">• Judge Birk was an attorney with Keller Rohrback L.L.P. prior to his appointment to the Court of Appeals.• Keller Rohrback L.L.P. has approximately 60 lawyers in offices in Seattle, Phoenix, Santa Barbara, Oakland, and New York.• Judge Birk stated that it would be both a hardship and likely impinge confidential information to disclose the purpose of the legal representations. He further stated that he had knowledge of and worked on matters for only two of the reportable clients of the firm. In

	<p>addition, he attests that he no longer has access to the client names or payment information.</p> <ul style="list-style-type: none">• Judge Birk stated that clients are listed publicly in class action cases, litigation documents and on the firm’s website. He also stated that he does not believe that any of these clients are reportable.• Judge Birk states that some payments were made with a confidentiality agreement due to personal insurance involvement.• Judge Birk has listed other governmental customer, City of Seattle, and business customers that he is aware of, on his F-1 report.• Judge Birk states that his position terminated May 7, 2022.
Other Issues	<p>Judge Birk has agreed to recuse himself if a matter came before him involving a conflict of interest between his former law firm, Keller Rohrback L.L.P., and the organizations, AAJ and WSAJ, and the Court of Appeals, Division One.</p> <p>Judge Birk has reviewed his initial reporting modification request and has certified that there are no other changes to the facts related to his request.</p> <p>Judge Birk’s request could be granted through his current term of office as allowed in RCW 42.17A.120(1) and WAC 390-28-090.</p>