From:	OFFICE RECEPTIONIST, CLERK
To:	Linford, Tera
Cc:	Tracy, Mary
Subject:	FW: Proposed CrR/CrRLJ 3.4
Date:	Tuesday, September 29, 2020 11:35:59 AM

From: David Hammerstad [mailto:david@hammerstadlaw.com]
Sent: Tuesday, September 29, 2020 11:35 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed CrR/CrRLJ 3.4

I write in support of the proposed change to CrR/CrRLJ 3.4.

I have practiced criminal defense for 22 years and have practiced in King County Superior Court for the past 17 years. In King County, the rule would primarily affect the "case scheduling" calendar. The vast majority of criminal motions in King County are litigated at trial (only those that do not require witness testimony are argued on the motions calendar), so it would have a small effect on attendance for criminal motions. My expectation is that most criminal defendants would choose, after consultation with counsel, to attend such motion hearings.

The case scheduling calendar does not exist in most counties and was created by the prosecutor's office to reduce its burden of trial preparation by reducing the number of cases on the trial calendar and promote resolving cases by plea. It is typical for there to be three or more of these case scheduling hearings before a case is set for trial or resolves by plea. For most out-of-custody clients, the burden of appearing at these pro-forma "hearings," where papers are signed and submitted to continue the defendant's case to a future date, without the defendant even appearing in front of the court, far outweigh any benefits of personal appearance. No "justice" occurs at the these hearings such that a defendant's appearance meaningfully furthers the cause of transparency. For most clients, appearing at such "hearings" is a dispiriting inconvenience that promotes an image of the justice system as an inefficient bureaucracy where scores of working people are forced to interrupt their lives to pack into a crowded courtroom for little apparent purpose. Some face an untenable choice between risking their job, losing needed income, or leaving a child unattended, and getting a warrant for failing to appear. It is my experience that, after agreeing to quash such warrants after a defendant voluntarily appears at a subsequent court date, the prosecution will often later use that non-appearance as a "bail jump" charge to leverage the defendant into a guilty plea (most of these out-of-custody clients tend to be facing less serious charges that they might want to otherwise contest).

The experience of the pandemic, in which most defendants have been allowed to waive their presence at these hearings, confirms that lawyers and clients can continue to maintain fruitful communications about their cases without appearing at the case scheduling calendar (in King County, the area outside the presiding courtroom is a less than ideal place to meet with a client, as it has no confidential meeting rooms, and the gallery and corridor outside the courtroom are typically cramped with other lawyers and defendants), and that clients are capable of understanding that there are still essential hearings at which their presence is required.

Please adopt proposed CrR/CrRLJ 3.4.

Sincerely,

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