From: OFFICE RECEPTIONIST, CLERK
To: Linford, Tera
Subject: FW: Proposed Changes to CR Rule 71
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From: David Law [mailto:david@dadkp.com]
Sent: Thursday, April 22, 2021 11:58 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed Changes to CR Rule 71

I am providing my comments on the proposed amendment to CR 71. While the amendment's purpose is to avoid disruption to court calendars and reduce pro se litigants in trial, I believe the most likely outcome of this rule change would be the opposite effect.

My court and trial practice most often involves family law. However, I also work on other civil litigation matters to which this amendment will also be applicable. In both cases, but especially in family law matters, most often a settlement of a case occurs with less than 90 days left before trial. In Chelan County where I practice the most, local rule sets mandatory settlement conferences in family law matters. These are scheduled usually four to six weeks before trial. Those settlement conferences are mandatory because they have a good success rate. They either settle a whole case or limit the issues considerably in most cases that I handle.

In my practice I require a trial deposit to be made by my clients before trial. If I am unable to withdraw from a case without court permission when there is still three months before trial, I will likely be withdrawing on nearly every family law case that I have unless the trial deposit is paid more than 90 days out from trial. The same problem would apply to non-family law cases. My family law clients especially have issues paying the trial deposit so far in advance because many of them are below the median household income in my county. For many of those clients, I can be flexible with the timing of paying the trial deposit and help them get a good settlement of their divorce in the weeks leading up to trial. But this rule amendment would take away my flexibility and I would likely be withdrawing earlier to protect myself from working too much without getting paid. I believe many of my colleagues in the area would be forced to take this same approach if the rule were changed. And in my county, there is already a dearth of attorneys willing to take on family law cases and become proficient family law attorneys.

Because attorneys would be forced to withdraw earlier in cases, this would lead to more disruption of court schedules, not less. These pro se litigants would have the ability to go to court and obtain a continuance of the trial date based on their attorneys having withdrawn only a few months before trial. Or even if they get a new attorney within the 90 days before trial, the new

attorney may need to get a new trial date because of existing conflicts with the trial date set based on the former attorney's schedule. In my geographic area, it would also result in more clients being forced to find representation from attorneys who practice far from Chelan and Douglas counties, thus increasing costs to those clients. We all know a local attorney can generally do work at a lower cost than an out-of-area attorney.

There is already a way for clients, opposing parties, and even the court to prevent a withdrawal in the rare circumstance that withdrawal should be prevented. While I understand that judges and court staff are inconvenienced by pro se litigants and attorneys sometimes needing to withdraw from a case, they all continue to be paid regardless of what happens with the court calendar. Their salaries are not dependent on whether a trial happens on schedule or is continued for some reason. But an attorney who is forced to go to trial knowing that payment is unlikely is at the greater disadvantage in this scenario.

Because the proposed rule is likely to result in more of the problems that it is trying to avoid, not less, and because attorneys are more likely to be forced to work without bring paid under this proposed rule, it should not be adopted.

Sincerely,

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