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**Subject:** FW: Proposed Changes to CR 71 (Withdrawal of Attorney)  
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**From:** David Ruzumna [mailto:druzumna@gmail.com]  
**Sent:** Thursday, April 22, 2021 12:30 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Proposed Changes to CR 71 (Withdrawal of Attorney)

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I oppose the proposed change to CR 71 insofar as it restricts an attorney's ability to withdraw from a case within 90 days of trial. My opposition is based on my belief that the rule change is not necessary, and will have the unintended consequence of acting as an additional financial barrier for certain communities to access justice.

The RPC's already prohibit an attorney from withdrawing from representation in a manner that is unfairly prejudicial to the client, i.e., on the eve of trial. One of the three problems that the rule purports to address is to reduce prejudice to the former client which would be occasioned by a withdrawal so close to the trial date. Given the attorney's preexisting obligation to abide by the RPC's, amending CR 71 to achieve the purpose of reducing prejudice is redundant and unnecessary.

However, by far my main objection is that the proposed change would simply make legal services less accessible. Any competent attorney will need to structure their fee agreements to

ramp up the balance of their trust account as trial approaches. For example, an attorney might rationally insist that the client maintain, say, a \$10,000.00 balance in the attorney's trust account no later than 100 days prior to trial. If the client cannot tender funds for the trust account 100 days prior to trial, the attorney would then preserve for himself or herself the ability to "timely" withdraw. The burdens of incentivizing such "prophylactic withdrawals" will necessarily fall exclusively on the shoulders of the most impecunious litigants. Attorneys' fees already naturally tend to increase as trial approaches, given the increased time an attorney must devote to preparation. Sometimes the prospect of funding continuing representation serves as an incentive for a client to reach a compromise/settlement with the opponent. A client who knows he can hold the attorney hostage and get 'free' representation once trial is less than 90 days away would not have as much of an incentive to settle.

It makes perfect sense that in criminal cases, where liberty is at stake, leave of court is required for an attorney to withdraw, even if the attorney has not been paid. In criminal cases, we understand and accept that an attorney's financial wellbeing is outweighed by the defendant's interest in liberty and being able to counter prosecution efforts by the government. In civil matters, where money is what is at stake for the client, there is no inherent reason for the attorney's financial needs to yield to the client's financial needs. It is also the case that the restriction on an attorney's ability to withdraw in criminal cases has made it almost universal that criminal defense attorneys insist on being paid in full prior to filing a notice of appearance.

Very truly yours,

**David Ruzumna**

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