From: OFFICE RECEPTIONIST, CLERK
To: Linford, Tera
Subject: FW: Comment to proposed rule change for CrRLJ 4.8
Date: Tuesday, April 26, 2022 3:47:28 PM

From: Kelly Canary [mailto:kelly@laurashaverlaw.com]
Sent: Tuesday, April 26, 2022 3:02 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment to proposed rule change for CrRLJ 4.8

Dear Rules Committee,

I write in support of the Washington Defender Association's proposed amendments to CrRLJ 4.8. As the former misdemeanor supervisor at the Snohomish County Public Defender's Association, the proposed amendments to CrRLJ 4.8 will have the effect of increasing efficiency and will result in fairer and more just outcomes for criminal defendants and decreased workloads for the courts.

As it stands today, the district and municipal courts have the most criminal filings. This volume is almost entirely borne by the Judges who rarely have law clerks to assist in reviewing motions and subpoenas.

Furthermore, the courts of limited jurisdiction I have worked in have issues with attaching documents to emails because the public records act requires attachments be preserved. This creates a barrier to having a judge sign a subpoena duces tecum in a timely manner because many times an attorney will have to wait until their next court appearance in order to present to the judge with the subpoena. Even if the attorney does wait for a break in the proceedings to ask the judge to sign an SDT, the Judge may not have time to address the matter then and there. Some courts have circumvented the public records issues by having attorneys fax their subpoenas to the court. However, this process can sometimes take days before an attorney can get their subpoena signed. In some courts where the practice is faxing over an SDT for signature, the attorney must still wait until they are in court again to pick up a copy of the signed SDT.

Requiring Judges to sign a subpoena duces tecum, as is required by the current rule for courts of limited jurisdiction, is cumbersome and inefficient. As officers of the court, lawyers are bound by the rules and are required to follow the rules. Allowing attorneys who practice in Superior Court to sign their own SDTs but requiring practitioners to seek judicial approval in

courts of limited jurisdiction has a chilling effect on effective client representation since sometimes the information contained in an SDT could reveal a lawyer's trial strategy or other work product considerations.

There are numerous fail-safe measures in place to ensure that the attorney who practices in a court of limited jurisdiction only requests those documents that the attorney is entitled to. First, all offices who hold public defense contracts must abide by standards on indigent defense. Those standards require one supervisor for every ten lawyers. The supervisor must be qualified to try class A felonies. It is presumed that the supervisor knows and understands the application of the rules. Further, newer attorneys must still abide the rules of professional conduct as well as the court rules in all matters.

Many practitioners in courts of limited jurisdiction are experienced practitioners and practice in both district/municipal courts and superior courts. For these practitioners, the different rules stand to frustrate speedy dispositions and raise the costs of client representation.

The amendments to CrRLJ 4.8 will help facilitate speedier resolutions, ensure attorney client privilege as well as work product protections as well as save clients money who hire private counsel by circumventing the sometimes long process of having busy district/municipal court judges sign subpoena duces tecum.

Regards,

Kelly Canary

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