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Subject: FW: Proposed CR 39 changes
Date: Wednesday, December 15, 2021 10:48:48 AM

From: Law office of Chris Van Vechten [mailto:chris@soundlawyering.com]
Sent: Wednesday, December 15, 2021 10:36 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed CR 39 changes

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If court can effectively be conducted remotely, and if a virtual courtroom actually constitutes a “courtroom” in a “jurisdiction” as guaranteed by the constitution, then there is absolutely no reason not to outsource both lawyers and judges to countries like India where clients can access attorneys for 1/7th the cost and where the community can retain judges who – presumably – would be less likely to be affected by familiarity with the parties involved and could thus operate in a more neutral fashion.

But I for one do not believe court can be effectively conducted remotely without eroding the ideals of this system and without diminishing the quality of representation, the interpretation of the law and the trier of facts' ability to assess the situation. **My belief is rooted in the fact that I have been doing the remote practice of law for 10 years now.**

These include remote DOL hearings which are conducted over the phone and always have been in my time as an attorney, though I understand they were previously done in person and when the switch to remote telephonic hearings were made there was a noticeable diminishment in outcomes for the accused.

Thurston County has long employed the use of remote hearings for those held in jail (though with the attorneys being present with the incarcerated) and we have all seen severe discrepancies in the Court's rulings as a result.

Since the pandemic began, I have participated in remote hearings of all kinds, including contested hearings where testimony was taken where a third party who was alleging her father had raped her suddenly was instructed by a family member who was in the room but not visible on camera how to answer one of my cross examination questions. The Commissioner who was deciding whether or not to impose a DV NCO took note of the incident but we were all powerless to do anything about it.

I am also deeply concerned by the growing belief that a virtual courtroom is an actual courtroom which the Court actually has a say over and thus can instruct both myself and my clients how to dress and behave in their own house. One client of mine was found to be in contempt of court because he appeared in his own dining room wearing a tshirt for a pretrial hearing. When the Judge chastised him for his attire, my client – being mentally ill and not in the same room as me – began talking back at the judge. The court clerk muted me and before I was able to get control of the situation my client had sworn at the judge, turned off the camera in violation of his commands, logged out of the zoom meeting and was consequently sentenced to 120 days in jail for contempt

(later rescinded by the Court after I filed a motion and apologized on behalf of my client).

I do not believe the court has a right to demand to be able to see my clients in their own house, vehicle, or place of work; nor to dictate how they dress in those places; nor to order they not smoke, drink, eat or basically have any control over their own conduct in their own home because these are private spaces that the court is intruding on by failing to demand court be conducted in the spaces specifically designed for these purposes.

There is a fraction of attorneys who really hate working with clients. They love the intricacies of the law, but they hate the people they work for, and remote court has given them a barrier they previously did not enjoy. There are also lawyers who view these changes as an opportunity to move to more glamorous locations and that is largely driving their positions in these cases.

But for my part, I can testify I am a less effective attorney in these forums, which is why I continue to object at every opportunity.

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