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February 28, 2022

RE: Opposition of DMCJA's Proposed Change to CrRLJ 3.4

Dear Washington Supreme Court Justices:

Please accept this letter as my comment in opposition of the proposed rules changes to CrRLJ 3.4

Our firm has focused on misdemeanor public defense for the last three decades. We have provided public defense services in both municipal and district courts, for many cities throughout the Eastside of King County, currently serving the cities of Bellevue, Redmond & Sammamish. The changes proposed by the Municipal & District Court Judges Association (DMCJA) is simply an effort to allow unbridled discretion by judges to determine which defendants are required to appear in person and which individuals have the opportunity to appear through alternative means. This type of discretion is subject to the systemic biases of the judges, and may well result in a disproportionate number of minorities, the disabled, and the unhoused being required to appear in person more often than their counterparts. The current rule does not give this broad discretion to the judges, while allowing defendants to appear through counsel and remotely. There is no need to change the current well-functioning rule.

The overwhelming number of defendants accused of misdemeanors are poor or marginalized in some manner. Though not everyone accused meets this criterion, based on the numbers, all rules should contemplate their impact on the marginalized since that is the largest group represented amongst the accused in district and municipal courts. This makes accessibility to the hearing a critical part of not imposing more pretrial punishment on the accused. I strongly disagree that this rule is a necessary change. It is instead a reaction by DMCJA to obtain unnecessary control over the parties and the process. This is not needed under the current rule.

CrRLJ 3.4 in its current form functions effectively to allow accused individuals to appear in a manner that works for both them and their attorneys. Making in person appearances the standard as the proposed rule attempts to do is both unnecessary and punitive to those who do not drive, have childcare responsibilities, or who have day time employment. Getting around in the King County area is a challenge if you drive, but for the many accused individuals who rely

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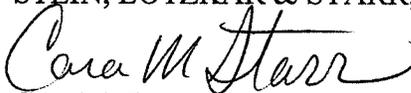
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on public transportation, a trip to the court may take the better part of a day, and an entire day off work. Many courthouses are not on bus lines and do not have good access to public transportation.

The DMCJA indicates in section E of their cover sheet, that the rule should be expedited to facilitate continued video proceedings. This is at best misleading, and at worst simply false. There is nothing about the current rule that prohibits the appearance by video. In fact, CrRLJ 3.4(d) specifically authorizes appearances by video, but the new rule seeks to strike that portion of the rule. It is clear that the proposal of the rule is meant to take all discretion away from the defendant and their counsel to appear in a manner that is effective and efficient, and to put the power in the hands of the individual judge to determine who must appear in person. The newly proposed rule makes in-person appearance mandatory, unless in the discretion of the individual judge they deem an alternative is appropriate. That discretion is far too broad and is fraught with systemic biases and prejudices held by the judges making the decision of who may appear in an alternative manner.

For the foregoing reasons the proposed rule should not be adopted, or at a minimum should have to go through the usual and useful process of hearing and public comment. There is no basis to expedite this rule change as the court continues to function with the current rule. The reliance on the claim the change is necessary due to a change in the law is also not accurate. The rule has remained the same but a proper interpretation of the rule in 2020 by the Washington Supreme Court in Gelinas has motivated this proposal by DMCJA. I strongly oppose the unnecessary amendments to be CrLJ 3.4.

Very truly yours,
STEIN, LOTZKAR & STARR, P.S.



Cara M. Starr
Attorney at Law

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Attached please find my comment on the proposed change to CrRLJ 3.4.

Thank you,

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