

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Comment in opposition to proposed CrR 4.11 and CrRLJ 4.11
Date: Wednesday, April 26, 2023 11:46:45 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

From: Kuper, Marlana <Marlana.Kuper@kingcounty.gov>
Sent: Wednesday, April 26, 2023 11:42 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment in opposition to proposed CrR 4.11 and CrRLJ 4.11

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Hello,

I am writing to comment in opposition to proposed rules CrR 4.11 and CrRLJ 4.11.

First, if there is a concern that requiring a defense attorney to state whether notice of hearing was provided to client violates the RPCs, I encourage the Court to study the issue and receive further analysis. Defense attorneys have long responded to the Court's inquiries about the status of a client – **where** the client is (ie, when the client is running late, changing address, or incarcerated), **what** the client is doing (i.e., whether the client is attending court-ordered treatment or completing other required conditions) and **how** the client is performing (such as when a client has left treatment or alleged to have violated conditions of pretrial electronic home monitoring) without ethical concern. Moreover, criminal defendants must maintain contact with their attorneys in order to appear through counsel under CrR 3.4. The attached authorization, below, demonstrates the defendant's explicit acknowledgement of that requirement and that the privilege to appear through counsel includes a presumption of notice of court hearings when the defendant's attorney is appearing on their behalf. No further information from the defense attorney is required to implicate the client when the defendant fails to appear personally at a required hearing under such authorization.

Second, several commenters have mentioned the impact on victims and witnesses when a defendant fails to appear at a required hearing. The burden of mentally, emotionally, and physically preparing for a court hearing – and the corresponding toll that imposes on victims as a result of their participation in the legal system – cannot be overstated. Already, victims in King County face lack of control and certainty regarding criminal trials. A victim who is preparing to testify against her abuser should not be required to request time off from work, make arrangements for childcare, figure out transportation, and undergo the mental and emotional burden such preparation requires, only to

learn that the abuser failed to show up, but the Court will set the hearing over without consequence. Our constitution requires us to treat victims with “due dignity and respect.” Art. I, sect. 35. Too often, their experiences are ignored and overlooked. The Court should carefully consider the impact of the proposed rule on crime victims.

**SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING**

STATE OF WASHINGTON

Plaintiff,

NO. _____

vs.

AUTHORIZATION FOR APPEARANCE
THROUGH COUNSEL

Defendant.

... In Custody ... Out of Custody

By my signature, I acknowledge that I must appear at all hearings set by the Court. I understand that I may appear in person, remotely, or through counsel for these hearings. I acknowledge that I am required to appear physically in person (or remotely, if the Court permits), for arraignment, trial, sentencing, and any hearings for which the Court finds good cause for me to appear in person. **At this time, I prefer to have counsel appear for me for all hearings where I do not have to appear in person. I understand that I must maintain contact with my attorney to allow my attorney to appear for me at a hearing. I understand that I am presumed to have received notice of hearings if such notice is given to my attorney appearing on my behalf.** I understand that I may revoke this decision at any time and appear in person (or remotely with the Court’s permission).

DATED: _____, 20____.

Date signed by Defendant

Signature of the Defendant

I am fluent in the _____ language, and I have translated this entire document for the Defendant from English into that language. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Interpreter

Date

Thank you,
Marlana

Marlana Kuper | she/her
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