



The Denny Building
2200 Sixth Avenue, Suite 1250
Seattle, Washington 98121

Phone: (206) 623-2373
www.nwattorney.net

Mary T. Swift
swiftm@nwattorney.net

April 30, 2025

Washington State Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

Re: Proposed Changes to CrR 3.1, CrRLJ 3.1, and JuCR 9.2 (Appellate Caseloads)

Dear Justices of the Supreme Court:

I write to ask this Court to adopt the proposed interim caseload reduction for appellate defenders.

I have worked at Nielsen Koch and Grannis, PLLC, for almost 11 years, handling exclusively indigent appeals, approximately 250 in total during my tenure. Before that, I clerked for the Honorable Marlin J. Appelwick at Division One for two years. The current caseload standard of 36 appeals per year with an average transcript length of 350 pages has been in effect since I started working as an appellate defender. Put simply, it has never been attainable for me.

Since the beginning, I have consistently needed numerous extensions of time beyond the deadlines set forth in the Rules of Appellate Procedure. I have been frequently threatened with sanctions for these extension requests, and was even sanctioned \$250 in State v. Yeck, No. 77914-1-I, in October of 2018. In the preceding three months, I had filed eight opening briefs, one supplemental supreme court brief, four reply briefs, and three petitions for review. Many of these briefs resulted in published or negotiated reversals.

Our caseloads decreased during the COVID-19 pandemic due to the pause in many court operations and criminal trials. This provided some much-needed relief from the barrage of case assignments, sanctions and sanction threats, long hours, and hard choices to complete work and fulfill our constitutionally mandated duty to our clients instead of spending valuable time with loved ones.

However, data collected by our firm shows that case assignments have come roaring back since the pandemic and have increased in length, seriousness, complexity, and urgency (see firmwide comment from Nielsen Koch & Grannis). This has made a previously untenable caseload even more so. Sanctions and sanction threats have resumed. For instance, I was sanctioned \$250 in State v. Curtis, 59396-3-II, in January of 2025, despite frequently working nights and weekends to try to stay afloat.

Burnout and triage are constant topics of conversation among my colleagues. Our own colleague and friend Kevin March, a brilliant and passionate appellate defender, left the firm due to the ever-increasing unmanageability of the workload. When an appellate defender leaves, the impact on the remaining attorneys is tremendous. They have to absorb the departing attorney's caseload and clients. A less experienced attorney usually fills the departing attorney's position. Junior attorneys need more supervision and mentorship, as well as a reduction in caseload. With the current caseload standard, the resulting strain on senior attorneys is immense and the detriment to junior attorneys who do not get the mentorship they need is significant. Put plainly, everyone suffers, including our clients.

The incredibly long hours, sanction threats, and emotional toll of the current caseloads have real impacts on our lives. Many of us, myself included, have dealt with stress-related illnesses in recent years.

By now this Court is well aware of the software error that resulted in a significant overassignment of cases to our office. This overassignment has certainly exacerbated the strain on attorneys at Nielsen Koch & Grannis. But, as discussed, the caseload has been unattainable for me since I started this job in 2014. Regardless, the overassignment increases the need for this Court to adopt the proposed interim standard, to provide some immediate relief and hopefully help attorneys here avoid imminent burnout while the caseload study is conducted.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary T. Swift", with a stylized flourish at the end.

Mary T. Swift
Attorney at Law

From: [OFFICE RECEPTIONIST, CLERK](#)
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Subject: FW: Comments for CrR 3.1/CrRLJ 3.1/JuCR 9.2 - appellate caseloads
Date: Wednesday, April 30, 2025 8:43:26 AM
Attachments: [Swift Caseload Comment.pdf](#)

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Sent: Wednesday, April 30, 2025 8:42 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
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Hello,

Please find my attached comment to the proposed interim change to appellate caseloads in CrR 3.1/CrRLJ 3.1/JuCR 9.2. Thank you.

Mary Swift

Nielsen Koch & Grannis, PLLC

2200 6th Avenue, Suite 1250

Seattle, WA 98121-1820

206-623-2373

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