

## SCLCrR 4.5 OMNIBUS HEARING

### Comments

**Commenter:** Snohomish County Prosecutor's Office

**Date Received:** 6/8/2021

**Comment:**

Subsection 4 indicates that if no agreed omnibus order is entered by the time of the second omnibus hearing, the parties must appear... And do what? What is the Court's plan? Presumably, if the case is still on the calendar the parties have not reached an agreement. That means argument, push-back, or objections from one party forcing the Court to make rulings on a calendar that doesn't have the time or space for contested issues. It might make more sense that, if the parties are not in agreement/not asking for good cause for a third omni, they attend the omnibus hearing and, at that time, get assigned to a motions calendar the following week?

**Commenter:** Snohomish County Prosecutor's Office

**Date Received:** 6/8/2021

**Comment:**

I understand what the Court is trying to achieve, but I think that limiting a case to two Omnibus Hearings is a mistake. We've proven during the pandemic the parties are in the best place to manage their cases. So given that we aren't going to be showing up in most cases and MTCs are going to be taking place ex parte, why limit it to two Omnibus Hearings?

- a. **Also how do you define two hearings?** Two hearings where we actually show up and argue? Ok that's a fair limit. But, if we are just continuing then the hearing is being stricken anyway. So, I would have them strike that from the rule.
- b. The state rules require the court to schedule a 3.5 hearing when an Omnibus Hearing takes place. I would add to the new rule that if a 3.5 hearing is needed that it shall be included in the Omnibus Order when signed by the parties.

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**Comment:**

Given the new rules for a Defendant's appearance, is the Court's intent to make a Defendant's appearance (via Zoom or in person) required at an Omnibus hearing under the new rule for omnibus if it cannot be stricken beforehand? It's not clear to me if 4.5(a)(4) is intended to be a finding that a Defendant must appear in person. If that's the intent, I foresee issues with this language and arguments raised by defense that they are appearing for their clients.

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**Comment:**

I see that the rules create an omnibus order with a requirement that we submit it to the court in advance of the omnibus date. I think this is very likely a good idea but I would like to see the order in advance to know if we can actually accommodate that checklist. I know previously the defense would list a discovery deadline on the omnibus order and in their mind anything disclosed after the deadline was suppressed. This was problematic if we later submitted something like a map, or if a witness during trial preparation made a statement that we are required to disclose. Further, the defense often believe they are under no obligation to provide their trial exhibits, transcripts, etc. until the very moment they want to use those things. Sometimes we don't get a

witness list or summary of the witness's testimony until a couple days before trial. I'm hopeful that the omnibus order will be a tool for both sides to know that our case is ready to proceed.

**Commenter:** Kathleen Kyle

**Date Received:** 6/11/2021

**Comment:**

SCPDA would propose the court continues to set omnibus hearings as scheduled by the parties. This is similar to the King County local practice and is the most efficient use of the court hearings.

This rule simply complicates the docket by failing to recognize the obvious differences in the complexity of cases. The two-omnibus rule may be fine for a 'C' felony property offense, but it is utterly unworkable in most major felony cases. This is especially true when the first omnibus date is set with the initial trial setting period, and the second omnibus hearing is required to be set at the time that first omnibus date is continued. With a major felony case where the defendant is held in custody, the first omnibus hearing date would be at most 5 weeks after arraignment. There exists zero chance that an omnibus order could be entered at that date. With the additional requirement that a new omnibus date be set immediately from the date of the first scheduled omnibus date, the two omnibus hearing dates allowed by the rule are exhausted long before the discovery is complete or the motions contemplated by the omnibus order are truly ripe for consideration. If the rule were to require strict enforcement of the discovery deadline such that discovery would be cut off after the omnibus order was entered, that would be a step in making this rule more workable. But as it is written, it essentially creates a bureaucracy of impractical and unhelpful deadlines.