

Superior Court

Notice to the Bar & Public

February 24, 2010

ATTENTION Law Office Personnel: Please ensure that ALL staff, attorneys and non-attorneys are aware of the contents of this notice.

Due to the loss of the Calendar Clerk position in the Clerk's office, it is necessary for the Court to adjust the way it manages its caseload. Trial setting will be managed by the assigned Judge's Judicial Assistant.

Changes to Civil Trial Setting Procedures: Starting in April, 2010 the Court will modify its civil Friday **Trial Setting Calendar** procedures. The Court will adopt a practice used in many other Washington courts, wherein a party Notes a matter for Trial Setting, listing unavailable dates. In response, Counsel for the opposing side provides similar unavailable dates. The trial date is then set administratively with a Court order, without appearances by counsel.

Details will follow in a separate bar notice. A new Note for Trial Setting and form for reporting unavailable trial dates will be posted on the court web site at www.whatcomcounty.us/superior

Changes to Criminal Case Management, Effective the week of 3/1/2010

These changes are the results of numerous discussions between the Prosecutor, the Public Defender and representatives of the private criminal defense bar.

1. The Clerk's 8:00 AM Friday Criminal Trial Setting Calendar is abandoned. Note that the Prosecutor and defense bar will continue to meet on Fridays at 8:00 am.
2. The Wednesday Status Calendar will be abandoned as soon as possible, by agreed trial continuances and/or defendant acknowledgement of new "fit for trial" date one week prior to the trial date.
3. A new Fit for Trial Calendar is created, to occur each Monday (or Tuesday following a Monday holiday), at 8:30 AM one week prior to the trial date, in the Presiding Criminal Judge courtroom. Out of custody defendants are required to be present. The requirement of the defendant's presence is waived by the affirmative representation of counsel of record that the defendant has spoken with him or her within three days prior to the Fit for Trial calendar.
4. Any initial **Trial Setting Order or Agreed Trial Setting Continuance Order** shall contain, as appropriate:
 - a. The requirement that the parties shall report for trial at 9:00 AM in the Presiding Criminal Judge courtroom
 - b. The department assigned for trial
 - c. The estimated number of days of trial
 - d. The latest/former trial date to be stricken in favor of the new trial date (for continuances, only)
5. A signed affirmation by the defendant that the defendant is required to be present at the Fit for Trial Calendar or speak to his/her attorney within three business days prior to the **Fit for Trial Calendar** date and that failure to appear or speak to defense counsel may result in the issuance of a Bench Warrant for the arrest of the defendant. The requirement of the defendant's presence is waived by the affirmative representation of counsel of record that the defendant has spoken with him or her within three days prior to the Fit for Trial calendar.

6. New Cases Assigned to Department at time of filing; trials set to assigned department (*Multiple defendant cases shall be assigned to the same department as the first of them filed. Reassignments of later-filed co-defendant cases will be made as appropriate upon written request delivered to the Clerk.*)
 - a. **Prosecutor & Defense Bar:** Will meet Fridays at 8:00 AM to:
 - i. Set **Trial Setting** and **Fit for Trial Calendar** dates for new cases, setting 60 or 90 days out, as appropriate. The **Trial Setting** and **Fit for Trial Calendar Order** will be presented for entry at the Friday Arraignment Calendar. Said Initial **Trial Setting** orders for cases noted for arraignment and case scheduling on the Friday criminal calendar are to be presented as each case is CALLED, not earlier.
 - ii. **Agreed Omnibus Orders** will be presented for entry on the Friday Arraignment Calendar for cases noted thereon, when CALLED.
7. Agreed Orders Continuing Trial Dates and setting Fit for Trial Calendar dates bearing the signature of both counsel and the defendant shall be presented *ex parte*. To be signed, presented and entered by Friday Noon prior to the **Fit for Trial Calendar** (one week prior to trial) and stricken from the next Monday **Fit for Trial Calendar**. The Clerk shall forward all such orders setting or continuing trial dates to the appropriate Judicial Assistant.
 - a. If presented on a **Fit for Trial Calendar**, Agreed Continuances should be presented as each case is CALLED, only. Once the calendar starts, the Clerk is unable to address cases out of order while recording minutes and handling documents.
 - b. **Agreed Orders Continuing Trial Date** shall list the each item detailed in paragraph 4. (above)
 - c. Prosecutor and Public Defender shall monitor pending cases and time-to-trial and confer/report to Court on quarterly basis
8. The new Monday Fit for Trial Calendar is to be equivalent to the former Ready for Trial Calendar and contain only those cases that are fully ready for trial, to be called for trial the following Monday. Second and third-set cases will trail the priority set cases and will go to trial if the higher priority set case is resolved prior to trial. Any agreed continuance orders are to be presented as the case is CALLED, only.
9. Calendar Cut Off: The prior day Noon calendar cut off for all calendars is to be strictly observed. No exceptions except guilty pleas will be added up until 4:00 PM the day prior to the calendar, and no later. Late strikes of cases on the calendar are appreciated.
10. Strikes of Calendar Items: Any strike must be in writing, emailed or delivered to the Clerk, bearing the identity of the person/office striking the matter. The identity of the striking party will be recorded by the Clerk.
11. Cases dismissed after the **Fit for Trial Calendar** will not be released from trial until the Order Dismissing the case is entered and forwarded to the appropriate Judicial Assistant.