

**WHATCOM COUNTY
DISTRICT COURT**
Whatcom County Courthouse
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Bellingham, WA 98225-4081

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ANGELA ANDERSON
Judge

JONATHAN RANDS
Judge

ANTHONY PARISE
Commissioner

June 9, 2023

NOTICE OF PROPOSED AMENDMENTS TO DISTRICT COURT LOCAL RULES

On May 19, 2023 the court distributed proposed new and amended local court rules for Whatcom County District Court. District Court will be accepting written comments on the proposals until June 20, 2023 (deadline extended). Please send comments to the court via email to districtcourtservices@co.whatcom.wa.us or via regular mail to District Court, 311 Grand Avenue, Suite 401, Bellingham WA 98225. If you comment via email, please refer to the 'Proposed Local Rules' in the subject line of your message.

Regards,

Angela Anderson
Presiding Judge

WHATCOM COUNTY DISTRICT COURT
LOCAL COURT RULES

WCDCLCR 1-Scope Of Rules

Preamble. Whatcom County District Court is committed to access to justice for all. Every rule herein has been amended, or created to ensure access and remain within the scope of State Court Rules.

Promulgation. These rules shall be known as Whatcom County District Court Local Court Rules (WCDCLCR). The provisions of these rules are supplemental to the rules adopted by the Supreme Court of the State of Washington for courts of limited jurisdiction and shall not be construed in conflict with them.

Authorization. These rules are authorized by GR 7, CRLJ 83, CrRLJ 1.7 and IRLJ 1.3. They may be amended at the discretion of the Whatcom County District Court. Any of these rules may be suspended or modified, upon good cause shown, and by written stipulation of the parties approved by the Court, or by the Court upon its own motion.

Effective Date. Pursuant to GR 7, these local rules are effective September 1, 2023 and either amend or supersede all prior local rules of the court.

WCDCLCR 2-Definitions

“**Judge**” means a current appointed or elected Whatcom County District Court Judge.
“**Judicial Officer**” means Judge as defined herein, Whatcom County District Court Commissioners, and Whatcom County District Court Judges Pro Tempore.

WCDCLCR 3-Courtroom Photography And Recording Of Proceedings

3(a) Video and audio recording and still photography by the news media are allowed in the courtroom during and between sessions, provided that: permission shall have first been expressly granted by the judge; and media personnel do not, by their appearance or conduct, distract participants in the proceedings or otherwise adversely affect the dignity and fairness of the proceedings.

3(b) The recording or dissemination of the broadcast of any court proceedings through audio and/or video conferencing is not permitted without written permission of the Judicial Officer conducting the hearing.

3(c) Still photography during Name Change proceedings is allowed with permission of the judge.

WHATCOM COUNTY DISTRICT COURT
LOCAL COURT RULES - CIVIL

WCDCCvICR 1-Authorization.

1(a) These rules are authorized by GR 7, CRLJ 83, CrRLJ 1.7 and IRLJ 1.3 and are to be known as Whatcom County District Court Civil Court Rules and cited as WCDCCvICR.

WCDCCvICR 2-Pre-Trial Appearances, Motions, Civil Protection Order Proceedings, Small Claims, and Traffic Infractions.

2(a) Court Participants who are not required to appear in person may appear remotely, and those who appear remotely must follow the procedures posted on Whatcom County District Court Webpage/District Court Calendar/Remote Hearing Info.

WDCDvICR 3-Trials

3(a) Taking of Testimony: Video and Telephonic Proceedings. Any party seeking to appear before or present testimony to the Court for trial, via video or telephonic means must contact the Clerk of the Court at least ten (10) business days before the hearing to obtain permission for such appearance from the judicial officer presiding and make necessary conferencing arrangements, including providing the court with a working telephone number and/or email address as required to facilitate the conference, and to coordinate appropriate arrangements for such appearance. The ten-day notification period can be waived by the Court or the presiding judicial officer for good cause.

3(b) Evidence, Photographs, Exhibits For Trial. Upon approval of Video or Telephonic participation per WCDCCvICR 3(a) any video, photography, other documents, or any exhibits, must be submitted to the court no less than five (5) business days prior to hearing date. Any exhibit may be submitted by reliable electronic means (i.e. USB storage devices) along with a declaration that the same was served upon the other party.

WHATCOM COUNTY DISTRICT COURT
LOCAL COURT RULES-INFRACTIONS

WDCDvICR 1-Adoption and Citation.

1(a) These Rules are adopted pursuant to GR 7 and IRLJ 1.3, and are known as Whatcom County District Court Local Court Rules Infractions and are to be cited as WDCDvICR.

WDCDvICR 2-Procedures At Hearings.

2(a) The procedures codified in RCW 46.63 and those authorized in IRLJ 2.6(c) are adopted by this court. A defendant can make payments on infractions, request a payment

plan, request a contested hearing, request deferred finding, or request a mitigation hearing by visiting Whatcom County District Court Webpage, and choose Tickets/Payments link.

2(b) Decisions on Written Statements-Mitigation.

The procedure authorized in IRLJ 3.5(a)(2) and (3), and (4) – Mitigation Hearings is adopted by this court. Mitigation decisions on written and/or e-mail statements are authorized as permitted by IRLJ 3.5(a), and scheduled pursuant to IRLJ 2.6, and no appeal from such decision is permitted.

2(c) Telephonic or Video Conference Mitigation Hearings

Whatcom County District Court authorizes the use of telephonic, virtual platform video conference hearings pursuant to IRLJ 3.5(b) as previously adopted, in current use, or hereafter amended. The party seeking a telephonic (non-virtual) appearance must contact the Clerk of the Court at least three (3) business days before the hearing to make necessary telephone conferencing arrangements, including providing the court with a working telephone number and/or email address as required to facilitate the conference and coordinate appropriate arrangements for such appearance. The three-day notification period can be waived by the Court or the presiding judicial officer for good cause.

WCDCIRLJ 3-Procedures For Failure To Respond or Appear

3(a) When a defendant, against whom a judgment for a traffic infraction has been entered as a result of the defendant's "Failure To Respond" to a notice of traffic infraction or a judgment for a traffic infraction has been entered as a result of the defendant's "Failure To Appear" at Contested Hearing, the court shall find the matter committed and enter an appropriate order assessing the monetary penalty authorized, and any other penalty authorized. The court may set a payment plan for fine repayment pursuant to RCW 46.63.

3(b) When a defendant fails to appear at hearing requested mitigation hearing, the court shall find the matter committed, enter appropriate order assessing the monetary penalty authorized by statute. The court may set a payment plan for fine repayment pursuant to RCW 46.63.

WCDCIRLJ 4-Relief From Judgment, Motion For Vacation Of Judgement

4(a) A defendant, against whom a judgment for a traffic infraction has been entered as a result of the defendant's "Failure To Respond" or "Failure To Appear" for Contested Infraction, may file a motion in writing requesting that said judgment be set aside. The motion will then be presented to a Judicial Officer, ex parte, for determination. The motion will be evaluated in conformity with CRLJ 60(b). If, upon review, the court determines a hearing should be granted the matter shall be set for hearing and a notice will be sent to the defendant.

**WHATCOM COUNTY DISTRICT COURT LOCAL COURT RULES –
CRIMINAL MOTIONS, PRETRIAL AND TRIAL PROCEDURES**

WCDCCrR 1-Adoption and Citation

1(a) These Rules are adopted pursuant to GR 7 and CrRLJ 1.7, and are to be known as Whatcom County District Court Local Rules – Criminal Rules, and cited as WCDCCrR.

1(b) Applicability

Any of these Rules may be suspended or modified, upon good cause shown, by written stipulation of the parties approved by the Court, or by the Court upon its own motion.

WCDCCrR 2-Pretrial Conference Hearing

2(a) The procedure previously codified under previous rule WDCrR 2, *et seq.*- Omnibus is now Pretrial Conference Hearing, and Procedures therein set forth under this rule WCDCCrR.

2(b) Pretrial Conference Hearing And Procedures

At or about the time of arraignment, all criminal cases shall be scheduled for a pretrial hearing, as permitted by CrRLJ 4.5. A Monday trial date shall also be set by the Court. Trial dates should be three (3) weeks from pretrial hearing date, but may be less or more. Upon confirmation of Trial at a pretrial conference, the Court will set a Trial Status hearing for a Thursday at 130 PM. The purpose of the Trial Status hearing is to confirm the parties are ready for trial on assigned trial date.

2(c) The State, Defense Counsel and the Defendant shall appear at the Pretrial Conference Hearing, subject to waiver of defense counsel and defendant presence in as set forth in 2(d) of this rule, or by permission of the court, or by and not in violation of other rules regarding presence herein.

At pretrial conference hearings, a defendant may move to enter a change of plea and proceed with sentencing. Any and all motions may be filed and scheduled for testimony and argument at this hearing. Motions to continue pretrial conference hearing, and jury trial may also be filed prior to the hearing in accordance with these rules, as well such motions may be presented and heard at the hearing.

The purpose of Pretrial Conference Hearing is to present the court with information pertaining any matters that will promote a fair and expeditious procedure leading to trial. This includes, but is not limited to, ongoing or unresolved issues including, but not limited to, further investigation needs of the case, completion of discovery, continued plea negotiations, witness lists and witness availability, advise the court on trial matters such as the estimated length of trial, and otherwise engage in pretrial procedures that ensure procedural fairness, actual due process of law, access to justice by appraising the court of any matters related to the fair and just administration of the law and justice.

2(d) Motions To Continue Pretrial Conference Hearing And Trial

Motions to continue pretrial conference and Trial, that are filed in accordance to these rules, that are: agreed to by the State; not older than six (6) months from Arraignment date; and signed by defense counsel and Defendant [if unsigned by the Defendant the motion contains defense counsel's averment of having Defendant's express permission per CrRLJ 3.4(a)] will excuse the presence of Defendant and Defense counsel from appearing.

The form titled "Motion For Continuance, Order On Motion and Notice Of Hearing" found on Whatcom County District Court / Motion for Continuance Form – Criminal Case (<https://www.whatcomcounty.us/420/District-Court>) should be used and filed by the parties.

The moving party shall ensure that all fields of information necessary for the court to rule is contained on the form. In cases with multiple case number a sperate form shall be used. Failure to submit the form in accordance with these local rules, may, result in the motion being denied and set to the next weeks pretrial conference.

Matters older than six (6) months from Arraignment date, or matters where the State is not agreed, will require the presence of Defense counsel to argue the motion.

If Defendant has outstanding warrants in any jurisdiction, the presence of Defense counsel and Defendant is required, unless waiver of presence was/is previously authorized by a judicial officer.

The Court will not allow unreasonable delay in bringing a case to trial, and the Court shall make the determination of whether a case shall be ordered to proceed to trial or be reset to a new pretrial conference and trial date.

2(e) Motions To Continue Pretrial Conference Hearing With Interpreters

In any case where interpreters are scheduled to appear, the presence of Defense counsel is not excused, by compliance with WDCCrR 2(d) *unless* the moving party notifies the court via email districtcourtservices@co.whatcom.wa.us advising the court that interpreter services will not be required. This notice must be given at least 2 business days prior to the hearing sought to be continued by agreed order. Failure to follow this procedure will require Defense counsel presence and may result in sanctions, or costs, or both to the moving party.

WDCCrR 3-Trial Status Hearing, Procedures, Motions In *Limine*, And Trial Briefs

3(a) Following the pretrial conference hearing when a case/s is/are confirmed for trial, a "Status" hearing shall be set on a Thursday, and it shall be no later than the Thursday prior to trial. Trial status hearings may be set on special set date, in the discretion of the Judicial officer, but no later than the Thursday prior to Monday trial, unless stacking trials is required and ordered by the trial judge.

All cases that have been confirmed for trial will be prioritized by the Court, and will be published, via email to the parties associated with the cases as a courtesy, as well as posted at Whatcom County District Court Clerk's office.

3(b) Any case previously confirmed and ready for trial, that comes on for Status that does not proceed to trial for good cause, or other reason/s, shall be discussed on the record, and a new trial date assigned in accordance with CrRLJ 3.3-Time For Trial, and will be given appropriate priority, unless otherwise agreed to by the parties.

3(c) Motions in *limine*, may be submitted by either party. Motions in *limine*, if filed, shall be filed either before, or at Thursday Status hearing immediately prior to Monday Trial. Motions in *limine* will be argued the morning of trial at a time to be determined at the discretion of the trial Judge. The filing party shall file a Judges copy with original and all parties are encouraged to submit judge copies electronically to the Trial Judge.

3(d) Motions in *limine* filed shall contain spaces and indicators for the Judge's ruling in the form of, but not limited to "Granted, Denied, Reserved," for each motion presented, as well as, contain a date and signature bar for the Judicial signature at the end of the document.

3(e) Failure to file motions in *limine*, prior to, or at the required time, is not grounds for a trial continuance for a particular case. A party may seek leave of the presiding trial judge assigned to show good cause as to modifying this rule. Failure to file motions in *limine* pursuant to this rule may waive being heard prior to the start of the trial and may require motion to be brought during trial.

3(f) Trial briefs, if submitted, shall be submitted no later than Friday 4pm before trial. Parties are encouraged to submit bench copies electronically to the Trial Judge.

WDCCrR 4-Jury Trial Jury Instructions

4(a) Proposed Jury Instructions and Verdict forms shall be submitted pursuant to CrRLJ 6.15, with modifications as set forth in this rule.

(4)(b) Instructions shall be submitted by the parties at the close of the State's case. Two sets of instructions, one with and one without citations, shall be submitted to the Court, with an appropriate cover sheet for each. One additional set with citations shall be served upon opposing counsel (or the opposing party if such party is unrepresented).

(4)(c) Any proposed Jury Instructions, excluding cover sheet of each party, shall be written in Times New Roman font, 12 point, with spacing at space and a half.

(4)(d) Parties are encouraged to submit bench copies of instructions electronically to the Trial Judge, in word format.

WDCrR 5-Notice, Jury Costs, And Witness Fees

5(a) When a case docketed for trial or other hearing, is settled, or will not otherwise proceed to hearing, the parties shall immediately give written notice of that fact to the Court. The Court will not pay witness fees to witnesses who appear for a case that has

been continued or settled without trial or hearing. Such costs shall be assessed upon the party, or attorney, who called, subpoenaed or requested a subpoena for the witness.

5(b) Jury Costs, or terms, or both, may be imposed by the Court, in the event that a party fails to provide written notice to the Court by 3:30 PM on the last business day prior to trial that a case will not be tried to a Jury on the date set.

5(c) Any party requesting a continuance or other delay of a case confirmed as ready for trial shall make proper application to the Court with proper Notice to all Parties.

5(d) Court clerks shall not call off a jury panel until confirmed and assured by both parties that the case will, in fact, not be proceeding to trial by jury.

WCDCCrR 6-Motions, Briefs, Memoranda, And Other Pleadings

6(a) Whenever any Memorandum Of Law, or Brief, or Motion, or other such pleading or document is filed with the Court Clerk in person, a copy clearly marked "Judge's Copy" must also be filed. The Judge's copy shall clearly state the day and time the case is set for hearing on the first page of the document. If the Memorandum Of Law, or Brief, or Motion, or other such pleading or document has been filed and submitted electronically to District Court clerk via Email, the assigned judge should be cc'd on the email filing, in order to provide a "Judge's" copy, or the filing party can request the Court Clerk to have the document forwarded to the assigned judge by placing the request in the subject line along with case name and case number. Trial briefs are excluded from this rule.

6(b) Motions, filed pursuant to CrRLJ 3.5, or CrRLJ 3.6, or other substantive motions may be filed at pretrial conference when the case is called, and shall also be served upon non-moving/opposing party in open court. Upon such a filing, the parties shall select the date the motion is to be heard and the court shall determine whether an evidentiary hearing is required. The court shall set a briefing schedule, at the filing parties request, and in compliance with this this rule.

6(c) All motions, and supportive documents filed, including those pursuant to CrRLJ 3.5, or CrRLJ 3.6, not filed in open court at pretrial conference, shall be filed with the court clerk in accordance with these local rules and if silent, State Court Rules. Such documents shall be served upon opposing counsel, or the opposing party if such party is unrepresented, no later than ten (10) court days before the hearing on the motion. The aforementioned pleadings shall be filed with a separate "Note for Calendar/Docket," which shall contain a clear statement of purpose of hearing as well as clearly setting for the date and time to be heard.

The party responding, may, file responsive briefing and documents, and they shall be filed at least five (5) business day before the hearing date and time. The moving party may, file a final reply and supporting documents to non-moving party's response, and it shall be filed no later than two (2) business days. Failure to follow this rule is not a reason to continue the hearing. Failure to follow this rule shall not be a reason refuse the

filing, nor grounds to strike the pleading. However, the Court may impose costs, or terms, or both, payable to the opposing party, or the court, or both.

6(d) GR 14 “Format For Pleadings and Other Papers” shall be followed whenever filing any pleading or form. Whenever any pleading or form is available at Washington Courts form webpage, <https://www.courts.wa.gov/forms/?fa=forms.static&staticID=14>, that form should be used for submission to this court.

6(e) Forms posted and available on Whatcom County District Court Webpage shall be used for their stated and intended purpose (i.e. Motion To Continue Pretrial Conference And Trial Date).

Any motions or petitions, or forms, or pleadings, submitted to Whatcom County District Court, that are not found on the District Court’s webpage, should be formatted in conformance with, those formats and forms approved by Administrative Office of the Courts available on Washington Courts webpage, under “Forms.” Those included here, but not limited to; Statement on Defendant On Plea Of Guilty; Deferred Prosecution Petition; Behavioral Health Motions and Orders; Petitions, Declarations and Orders RE: Vacating Misdemeanor Convictions. These forms are updated and a court participant so check both the Whatcom County District Court Website and the Washington Courts Website frequently.

6(f) A party’s failure to use forms as required or suggested herein, shall not be a reason to dismiss a case, refuse a filing, motion, or petition, or strike a pleading. The Court may at its discretion require the filing party to submit a corrected pleading, or may impose costs, or terms, or both, payable to the court, or the opposing party, or both.

WCDCCrR 7-VIDEO CONFERENCE PROCEEDINGS

7(a) The appearance of the defendant is required at all hearings set by the court as set forth in CrRLJ 3.4(c). Waiver of Defendant’s presence shall be in accordance with CrRLJ 3.4, and these rules.

7(b) Whatcom County District Court authorizes the use of video conference proceedings pursuant to CrRLJ 3.4(d) and (e).

7(c) A defendant shall physically appear in person, and shall not be permitted to appear at hearing either remotely, nor through counsel, unless granted permission by a judicial officer in advance, in any instance where:.

- (i) A judicial officer has previously found good cause on the record to require Defendant’s physical presence; or
- (ii) The Defendant has active warrants for their arrest anywhere in Washington State; or
- (iii) The case is post-conviction, the Defendant is being supervised by probation on an “active” level, and the Defendant is alleged to have violated the terms of their probation;

- (iv) The Defendant is on pretrial supervision and being monitored for compliance by the probation department, and is alleged to have violated their pretrial release conditions and a hearing is set.

WCDCrR 8-Warrant Quash, Defendant Appearance, And Procedure

8(a) Physical appearance is required at hearings to quash a warrant.

8(b) A warrant may be quashed by contacting the contacting clerk, or filing a “Note For Calendar / Note For Docket” with the court clerk, scheduling the hearing no later than 12 PM noon, the day prior to the hearing. Hearings on warrant quash occur Tuesday, Wednesday, Thursday, and Friday at 230 PM.

8(c) Warrants may be quashed at other times, and the physical appearance may be waived, when approved by the Judge in advance of the hearing.