



Whatcom County Superior Court Local Rules

Effective September 1, 2020

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SUPERIOR COURT LOCAL RULES

Notice: Court’s Administrative Orders

The Court’s Local Rules are subject to several Administrative Orders issued by the Court in response to public health considerations related to the COVID19 pandemic. The Court’s Administrative Orders remain in effect until further Order of the Court and will override any contrary provisions in these Local Rules. The Court’s Administrative Orders are available at <http://www.whatcomcounty.us/3437/Covid-19-Administrative-Orders>.

Administrative Rules (WCAR)

WCAR 0.1	Purpose and Citation
WCAR 0.2	Definitions
WCAR 0.3	Organization of the Court
WCAR 0.4	Suspension of Rules
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WCAR 0.1

Purpose and Citation

(a) **Purpose.** Procedure in the Superior Court of the State of Washington for Whatcom County shall comply with Washington statutes, Rules of Court and these rules.

(b) **Citation.** These rules are collectively referred to as "Whatcom County Superior Court Local Rules" or "WCLR". Individual rules are known and cited as "WCAR 0.2", "WCCR 54", etc.

[Effective 6/1/91]

WCAR 0.2

Definitions

A rule applying to an "attorney," "counsel" or "lawyer" shall equally apply to a party pro se. Except where otherwise required by law or court rule, the terms "judge" and "court" include commissioners. The term "clerk" includes deputies and other employees authorized to act on behalf of the Clerk of the Superior Court.

[Effective 6/1/91]

WCAR 0.3
Organization of the Court

(a) The Superior Court of the State of Washington for Whatcom County is organized into four judge's departments, Departments One, Two, Three, and Four. Three court commissioners, mental health commissioners, and a family court commissioner also conduct business of the court.

(b) The judges shall from time to time designate a Presiding Judge who shall also act as Special Inquiry Judge, unless a different judge is designated.

(c) The Presiding Judge shall assign the duties and trial responsibilities of each department and the commissioners.

(d) Court Commissioners shall have authority in all matters allowed by the Constitution of the State of Washington, case law and statutes, including, but not limited to, the authority noted in RCW 2.24.040 to accept guilty pleas.

[Revised 9/1/17]

WCAR 0.4
Suspension of Rules

The court may modify or suspend any WCLR for good cause or upon the court's own motion in order to prevent the failure of justice.

[Effective 6/1/91]

WCAR 0.5
Unsuitable Materials as Exhibits

Whenever there is presented to the clerk for filing in a cause any paper or other material that is deemed by the clerk to be improper or inappropriate for filing, the clerk shall mark the exhibit for the file and may forthwith orally apply to the court for a determination of the propriety of filing the material presented. If the court determines that the paper or material should not be made a part of the file, an order shall be entered to that effect and the clerk shall retain the materials as an exhibit in the cause. The court may order that the unsuitable material be sealed, in which event it shall be available for inspection only to the court, the parties or their attorneys of record or by order of the court.

In appeals from administrative hearings, records of the administrative proceedings and exhibits attached to those records are presumed to be exhibits in the Superior Court file.

[Effective 9/1/17]

General Rules
(Cite as WCGR)

WCGR 16
Recording Court Proceedings

No proceedings of the Court, including remote or telephonic proceedings, may be recorded, by any means, unless the judicial officer conducting the proceedings has authorized the recording. All recordings must be conducted as provided in General Rule 16 of the Washington Court Rules.

[Effective 9/1/20]

WCGR 31
Personal Identifiers – Children

- (1) **Complete names of children, sealed case types:** The complete names of children shall be used in cases that are deemed confidential pursuant to state or federal statutes, including cases filed pursuant to Title 13 RCW (excluding offender cases); Chapter 4.24 RCW, Chapter 26.33 (Adoption) and Chapter 71.34 (Mental Health Services for Minors).
- (2) **Confidential Information Form:** The complete names of children and other identifiers shall be included in the Confidential Information Form or similar document for cases filed under Title 26.
- (3) **Domestic Relations Orders:** Court orders concerning the financial support or the custody or residential schedule of a child (including temporary and permanent parenting plans and similar documents) and orders establishing or disestablishing paternity shall include the full name of the child. The date of birth of a child shall be included in court records only as authorized by GR 22.
- (4) **Child who is alleged to be a victim of a crime:** The complete name of a child who is alleged to be a victim of a crime may be included on subpoenas and in jury instructions. Nothing in this rule requires that subpoenas be routinely filed in the court file.
- (5) **Child who is charged with a crime:** The complete name of a child charged with a crime shall be included in any indictment or information filed with the court pursuant to CrR 2.1 or JuCR 7.2, as part of an affidavit or declaration of probable cause or for any other purpose deemed necessary for the prosecution or defense of the criminal or juvenile offender matter.
- (6) **Orders issued for the protection of or restricting access to a child:** If a child is a person protected by a criminal no contact order issued pursuant to 10.99 RCW, an antiharassment order issued pursuant to 10.14 RCW, an order of protection under issued pursuant to 26.50 RCW; a restraining order or order of protection issued pursuant to 26.09 RCW, 26.10 RCW, 26.26 RCW, RCW 26.52.020, or any other court order entered for the protection of the child, the child's full name and other identifiers shall be included on petitions and orders as necessary for entry of the order into the Judicial Information System (JIS) and/or the Washington Crime Information Center (WACIC). If access to a child is restricted pursuant to CrR 3.2(d) (1), the court may include the full name of the child on the order, if deemed necessary for effective enforcement of the order.
- (7) **Orders restraining child from contacting or harassing others:** Whenever a child is named as a respondent in an order listed in (3) above, the child's full name and other personal identifiers shall be included on the petition and order as necessary for entry of the order in the Judicial Information System (JIS) and/or the Washington Crime Information Center (WACIC).
- (8) **General authority:** Nothing in this rule shall prohibit a court from authorizing or prohibiting the use of a child's full name or date of birth when necessary for the orderly administration of justice, consistent with the requirements of GR 22.
- [Effective 9/1/17]

Civil Rules

(Cite as WCCR)

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WCCR 78	Furnishing Envelope to Clerk

WCCR 4

Order for Service of Summons by Publication

A party must obtain an Order for Service of Summons by Publication in any case where that party serves summons by publication. The party shall file a Declaration for Service by Publication, which shows that the requirements of RCW 4.28.100 have been satisfied and shows specific facts delineating the attempts that were made to locate the other party.
[Effective 9/1/93]

WCCR 7.1

Reapplication for an Order

An order refused in whole or in part (or granted conditionally and the condition has not been performed) shall not be presented to a different judge or commissioner unless authorized by the judge or commissioner who refused or conditionally granted the order.
[Effective 6/1/91]

WCCR 7.2

Necessary Provisions for Civil Bench Warrant, Non-Domestic Relations Cases

No civil bench warrant for failure to appear shall issue without an affidavit by the attorney for the moving party stating that the order requiring attendance:

(a) contained the following caption:

) NO.
) ORDER REQUIRING ATTENDANCE
) OF PARTY IN COURT

(b) contained the following notice:

YOUR FAILURE TO APPEAR AT THE TIME, DATE, AND PLACE REQUIRED MAY CAUSE THIS COURT TO ISSUE A BENCH WARRANT FOR YOUR APPREHENSION AND CONFINEMENT IN JAIL UNTIL SUCH TIME AS THIS MATTER CAN BE HEARD AND/OR UNTIL BAIL IS POSTED. THE RELIEF REQUESTED IN THE MOTION MAY ALSO BE GRANTED.

(c) Was personally served on the date specified in the affidavit;

d) States the time required by law to lapse between service and granting of relief;

(e) States that such time has in fact lapsed.

[Effective 9/1/17]

WCCR 7.3 Motion for Order Shortening Time

The time for notice and hearing of a motion may be shortened only for good cause upon written application to the Court in conformance with this rule.

The motion shortening time must be presented to the judicial officer who will hear the underlying matter.

As soon as the moving party is aware that they will be seeking an order shortening time, that party must contact the opposing party to give notice in the form most likely to result in actual notice of the pending motion to shorten time. The declaration in support of the motion must indicate what efforts have been made to notify the other side.

The Court may deny or grant the motion and impose such conditions as the Court deems reasonable.

The Court may impose terms, including an award of attorney fees, where the Court later finds there was insufficient need for shortening time.

[Adopted 9/1/18; Revised 9/1/19]

WCCR 10.1 Documentary Exhibits

(a) When a documentary exhibit is used at trial during witness examination and reference to the contents of the exhibit is necessary to understand the issues, the attorney or party presenting the exhibit shall provide extra copies of the exhibit for opposing counsel and the Court.

(b) An 8.5 by 11 inch photo-reduction of each large-scale exhibit shall be submitted for marking and filing except with permission of the Court.
[Effective 9/1/17]

WCCR 10.2

Pleading Requirements

The provisions of CR 10 shall apply. Additionally, the following are required:

- (a) Letter-size paper (8.5 by 11 inches) is required, printed on one side only.
- (b) All pleadings and orders shall bear the signature and bar association membership number of the attorney presenting the order or other paper, and shall identify the party or parties represented by the attorney. In the event that an attorney represents some but not all of the petitioners/plaintiffs or the respondents/defendants, the signature block shall bear the names of only those parties represented by the attorney.
- (c) Motions, and the orders granting the relief requested in the motions, shall be Separate documents. For motions and orders made under multiple cause numbers, the parties must submit an original motion and order for each cause number. The Clerk's office will not provide copies for motions and orders made in multiple cases.
- (d) Titles of pleadings, orders, and other papers shall be specific. In cases with multiple parties, titles shall include the names of the parties affected by such documents.
- (e) Orders of default against unnamed "Jane Doe" or "John Doe" spouses may be entered. Judgments against unnamed spouses will not be entered against such unnamed spouses unless the evidence in the record indicates reasonable grounds to believe that the defaulting party is married and that reasonable efforts were made to obtain the complete name of, and service upon, the otherwise unnamed spouse.
- (f) A party appearing pro se shall state on court papers filed by him or her, the telephone number, mailing address, and street address where service of process may be made upon such pro se party.
- (g) No party may file separately or as an attachment or exhibit to a new document a document already filed as part of the court record. New pleadings should refer to already-filed documents when appropriate, including in the reference the date of the referenced filing or the name and date of the referenced pleading to which it was attached.
- (h) In accordance with GR 17, if a document is transmitted to another for filing with the Court, whether by facsimile or email, the person responsible for the filing is required to attach an original affidavit as the last page of the document. The affidavit must bear the name of the court, case caption, case number, the name of the document to be filed, and a statement that the individual signing the affidavit has examined the document, determined that it consists of a stated number of pages including the affidavit page, and that it is complete and legible.

The affidavit shall bear the original signature, the printed name, address, and phone number of the individual who received the document for filing.

[Effective 9/1/17; Revised 9/1/19]

WCCR 10.3

Page Limits

- (a) Motion. Absent prior authorization from the court, no individual document, whether titled as a motion, declaration, affidavit, memorandum or brief, shall exceed fifteen (15) pages, not including exhibits thereto. All such documents shall be double-spaced and typed in a font no smaller than 12 point.
- (b) Response to Motion. Absent prior authorization from the court, no response to any motion, declaration, affidavit, memorandum or brief shall exceed fifteen (15) pages, not including exhibits thereto. No response may include a document or pleading already filed as part of the court record [WCCR 10.2(g)], but instead shall cite to the relevant portion of the pertinent document. All such responses shall be double-spaced and typed in a font no smaller than 12 point.
- (c) Reply to Response. Absent prior authorization from the court, no reply to a response to motion, declaration, affidavit, memorandum or brief shall exceed five (5) pages, not including exhibits thereto. No reply may include a document or pleading already filed as part of the court record, but instead shall cite to the relevant portion of the pertinent document. All such Replies shall be double-spaced and typed in a font no smaller than 12 point.
- (d) Family Law Declarations. Declarations or affidavits in family law cases (whether initial or responsive declarations or affidavits) are limited to a combined total of fifteen (15) pages per party and no single declaration or affidavit may exceed five (5) pages. Replies to responsive declarations or affidavits are limited to a total of five (5) pages.
- (e) Exhibits to Motions, Declarations, etc. Declarations or affidavits of parties or witnesses shall count towards the fifteen page limit. All other exhibits attached to a declaration or affidavit shall not be counted toward the page limit.
- (f) Financial Declarations. Financial Declarations and financial documents in family law cases do not count toward the page limit.
- (g) Expert Reports and Evaluations. Declarations, affidavits, and reports from guardians ad litem and expert witnesses in family law cases do not count toward the page limit but should be properly authenticated and filed as separate documents, under seal if required.
- (h) Previously filed documents. Any document already filed as part of the court record is subject to the provisions of WCCR 10.2(g).
- (i) Miscellaneous Exceptions. Deposition excerpts must be cited to by page and line number. They do not count toward the page limit.
- (j) Failure to Comply with Page Limits. If a filing party exceeds the page limits

set out above, the court may strike the pleadings, continue the hearing and/or impose sanctions.

[Revised 7/1/09 and 9/1/17]

WCCR 17 Unlawful Detainer/Eviction

Complaints for writs of restitution, money judgments, and other orders in unlawful detainer cases will be granted only under the following conditions:

- (a) Plaintiffs who are individual people may represent themselves if they choose not to be represented by a lawyer. Institutional plaintiffs (corporations, limited liability corporations and partnerships) must be represented by an attorney licensed in Washington.
- (b) Owners or lessors of real property, or any person designated as their Representative, may properly be a plaintiff in unlawful detainer actions. All complaints must include the following:
 - (1) A copy of the rental agreement shall be filed with the complaint.
 - (2) Plaintiff owners of the real property must state ownership in their complaint.
 - (3) Plaintiff lessors and sublessors must state their status as lessor or sublessor in their complaint.
 - (4) Representatives of property owners, including property managers, must state their status as representative in the complaint and must file with the complaint a copy of their written designation as representative.
- (c) The Court may order a writ of restitution to a property owner, lessor, sublessor, or representative of the property owner. A plaintiff seeking a writ of restitution must schedule a Show Cause Hearing on the issuance of the writ, with proper notice to the defendant of the hearing and notice that failure to attend may result in a default judgment and writ of restitution. Notice of the hearing must be by an Order to Show Cause, which may be served with the Summons and Complaint or at any time thereafter. The Court will not issue an order of default, or an Order for Writ of Restitution, until the hearing has occurred. A properly served defendant's failure to appear at the hearing will be treated as default.
- (d) The court will grant a money judgment only when:
 - (1) The plaintiff is the owner of the real property, or
 - (2) The plaintiff is a lessor or sublessor and the rental agreement requires payments to be made directly to the lessor or sublessor, or
 - (3) The plaintiff is a representative of the owner, the rental agreement requires payments to be made directly to the representative, and the appointment of the representative filed with the complaint authorizes the representative to collect judgments in their individual capacity.

[Effective 9/1/06; Revised 9/1/19]

WCCR 26
Filing of Discovery Materials

Interrogatories, requests for production or inspection, requests for admissions, and the responses thereto shall not be filed with the court or clerk until required to support an application to the court for relief. The originals of such documents, including answers, shall be maintained by the issuing attorney for production at trial.

[Effective 6/1/91]

WCCR 38
Notice of Jury Waiver

When a jury is waived after being demanded, notice shall be immediately given to the judicial assistant of the assigned judge. Upon violation of this rule, the court may in its discretion assess full costs. A jury demand fee once paid will not be refunded.

[Effective 9/1/17]

WCCR 40.1
Trial Settings

(a) **Note for Trial Setting.** An attorney or party who wishes to schedule a trial must serve and file a Note for Trial Setting form, noting the matter for an informal trial setting with the assigned judge's judicial assistant. The noting pleadings must include:

- (1) The title of the court, clerk's file number, assigned judge or department, and the words "Note for Trial Setting."
- (2) Names and addresses of the all parties' attorneys. For *pro se* parties, name and address of the party.
- (3) The nature of the cause, whether to be tried to a jury or to the court, and the filing attorney's best estimate of the time required for trial.
- (4) The attorney's or party's certification that all issues have been joined, and that all named parties' responsive pleadings have been filed or that proper defaults have been taken.
- (5) A statement that all discovery has been completed, or that the parties have filed (or are filing concurrently) an Agreed Order on Discovery specifying the schedule on which discovery is to be completed and requiring that all discovery be completed at least thirty days before the trial date. A party who seeks a trial date but who cannot satisfy either of the requirements contained herein must note the case for a scheduling conference with the assigned judge.

(b) **Trial Setting Calendars.** Trial setting calendars occur every Friday, except holidays. The Domestic Trial Setting Calendar occurs at 11:00 a.m. and the Civil Trial Setting Calendar at 1:00 p.m. Trial settings for cases on which attorneys and parties are not able to agree to trial or settlement conference dates will be determined by the assigned judge at the 1:30 Civil Motions Calendar that same Friday.

- (c) **Procedure Before Trial Setting Calendar.** Trial settings noted on a Friday Trial Setting Calendar must be confirmed with the assigned judge's judicial assistant no later than noon on Wednesday for that Friday's calendar. Attorneys may file Notices of Conflicts but are not required to do so. In preparation for the Trial Setting Calendar, the parties may consult the Court's online calendar at www.whatcomcounty.us/1733/Trial-Calendar-Information to determine potentially agreeable trial dates.
- (d) **The Trial Setting.** At least one attorney or pro se party must attend the Trial Setting Calendar and submit a signed original Order Setting Trial Date, preferably using the Court's local form available on our website. Non-lawyer staff may do this as long as the attorney has signed the original Order. A properly noted and served party who does not attend the Trial Setting will be held to the trial date set.
- (e) **Factors Affecting Trial Assignments.** When noting civil matters for trial, parties should consider the following:
- (1) The Court's civil trial calendar is updated weekly and posted online at www.whatcomcounty.us/superior, "Trial Calendar Information."
 - (2) Civil trials are generally set to begin the second day of the court work week.
 - (3) One day trials may be set on an available Wednesday or Thursday if approved by the assigned judge.
 - (4) Domestic cases requiring two hours or less in trial time may be set on the monthly Stacked Dissolution Calendar.
 - (5) Trials do not occur on Fridays, as all judges hear a Civil Motions Calendar that day. Juries may deliberate on Fridays, however.
 - (6) Responsibility for the weekly Criminal Motions calendar rotates between Departments. The judge hearing that calendar will not be available for trial on the day of that calendar, generally a Thursday. Because of the reduction in trial days this causes, parties should avoid setting longer jury trials during weeks when the assigned judge is scheduled to hear the Criminal Motions calendar.
 - (7) Parties to cases which will require more than three days of trial may consult the assigned judge's judicial assistant in advance of the Trial Setting Calendar.
 - (8) Trials involving issues of criminal charges, mental commitment, habeas corpus, unlawful detainer, and termination of parental rights have constitutional and/or statutory priority over civil trials. Because these cases can be unpredictable, court staff generally do not know whether a priority matter will "bump" a civil trial until the first day of the Court's trial week. A judicial assistant will contact each party by noon on the first day of the trial week to advise the parties of the trial's status. The parties to a case that is "bumped" from its trial date must note the case for the Trial Setting Calendar as described in this Rule. The prior "bump" may be called to the attention of the judge, who may assign priority to the case as appropriate.
 - (9) While civil cases are usually heard in the department to which they are assigned, department assignments are not final as the Court may reassign cases depending on its schedules and operating considerations.

[Revised 9/1/17 and 9/1/19]

WCCR 40.2

Responsibility to be Ready for Trial, Motions in Limine

(a) Responsibility to be Ready for Trial. Counsel and parties in cases given a second or third setting shall be ready for trial on the date set. It is the obligation of the attorneys to be aware of the status of the trial calendar, keeping in mind WCCR 40.1 which provides that a case may be transferred to a different department for trial. A party is not released from a trial setting until noon of the last judicial day before trial, although the release time may be extended by the assigned judge for good cause.

(b) Motions in Limine. Notice should be given to the assigned judge's judicial assistant as to the nature, number, and expected time required for hearing of motions in limine. Routine motions in limine may be heard the morning of trial. If substantial hearing time is needed for complex or numerous such motions, or in cases in which rulings on motions in limine will affect the framing of issues for trial, a pretrial hearing on motions in limine may be set. Parties to such cases should contact the assigned judge's judicial assistant at least two weeks prior to trial to arrange a special hearing time. The timelines contained in WCCR 77.2 apply.

[Revised 7/1/09 and 9/1/17]

WCCR 40.3

Trial Continuances

When a cause is set for trial, it must be tried or dismissed unless good cause is shown for continuance. No trial continuance will be granted merely upon stipulation of the parties. All motions for continuance shall be in writing and supported by an affidavit. The court may impose terms if a continuance is granted.

[Effective 6/1/91]

WCCR 40.4

Disqualification of Judge and Case Reassignment

Procedures and rules regarding disqualification of a judge are governed by RCW 4.12.040 and .050, CR40, CrR 8.9 and RALJ 3.2. A Notice of Disqualification must be filed with the Clerk's Office with a proposed Order on Notice of Disqualification. A copy must be served on all parties. The Notice will be reviewed by the judge whose disqualification is sought or, in that judge's absence, by another judge. The Court will notify the parties of the disqualification (or denial thereof) and any reassignment.

[Effective 9/1/17; Revised 9/1/19]

WCCR 41.1

Notice of Settlement

When a cause that has been set for trial is settled, notice shall be given immediately to the judicial assistant. The court may assess sanctions for violation of this rule.

A jury demand fee once paid will not be refunded.

[Revised 9/1/17]

WCCR 47.1
Juror Questionnaires

- (a) Proposed questionnaires must be circulated and submitted to the Court for approval by noon on Wednesday preceding trial. In civil cases, questionnaires must be submitted to the judicial assistant for the preassigned judge; in criminal cases, proposed questionnaires should be submitted to all four judicial assistants. Questionnaires received after the noon deadline will not be accepted. Proposed questionnaires may be sent to the judicial assistants using the calendar confirmation email address on the Court's home page at www.whatcomcounty.us/1906. After the court has approved the questionnaire, the party submitting it must prepare sufficient copies for the prospective jurors to complete, and *immediately* deliver said copies to the assigned judge's judicial assistant/bailiff not later than 2:30 p.m. on Friday the week preceding trial.
- (b) Unless otherwise directed, the judicial assistant/bailiff will distribute case-specific questionnaires (including any case description cover sheet) at the conclusion of jury orientation. Once the questionnaires are completed, the judicial assistant/bailiff will direct the jurors to return at a time specific for commencement of voir dire. The juror number on the questionnaire will match the predetermined, randomly selected seating order.
- (c) Unless otherwise approved by the court at the time the proposed questionnaire is approved, and in order to conserve publicly funded juror compensation, the court will commence voir dire the same day as the jurors initially report and complete any questionnaire. If there is known media interest in a specific case, and in such other cases as the assigned judge in his or her discretion deems proper, a judge or commissioner shall administer the jury oath to the jurors and instruct them to avoid the media and otherwise as appropriate.
- (d) Once the judicial assistant/bailiff has finished collecting and sorting the answered questionnaires, the attorney submitting the questionnaire shall retrieve the originals from the judicial assistant/bailiff and prepare and deliver copies to opposing counsel. Copies of the seating order will also be available at this time. The original questionnaires shall then *immediately* be returned to the judicial assistant/bailiff for filing with the Clerk. In the alternative, the answered questionnaires may be scanned for retrieval by both parties.

[Effective 7/1/09; revised 9/1/17]

WCCR 51
Jury Instructions

- (a) Proposed jury instructions must be submitted by the beginning of trial in the following form:
- (1) Prepare at least three paper copies of each instruction for the Court and one copy for each party.
 - (2) The paper copies for the Court will be one set of proposed instructions bearing numbers and citations, to be given to the Court's clerk for the case file, and two

sets of copies for the judge's use. One of these copies should bear numbers and citations. The other copy should have neither numbering nor citations, so that it can be included in the instructions actually given to the jury.

- (3) Assemble the copies into sets of instructions, in the order in which they would be given to the jury. Number the proposed instructions sequentially; e.g. D-1, P-6, in the lower right-hand corner of the first page of each instruction.
 - (4) On the day of trial, file the original set of proposed instructions with the clerk, give the judge the work copy bearing citations and the unnumbered, un-cited set, and distribute the remaining counsel copies.
- (b) In criminal cases, the prosecuting attorney will furnish the proposed instructions for the case; defense counsel need only furnish additional instructions felt to be applicable to the case.
 - (c) All counsel should be prepared to give the Court an electronic copy of proposed instructions, if requested by the Court.

[Effective 12/1/92, revised 9/1/20]

WCCR 53.2 Review of Commissioner Rulings

- (a) All revisions of Commissioner rulings shall be de novo on the record made by the Commissioner, based only on those materials, papers and pleadings that were filed and submitted to the Commissioner.
- (b) Any party seeking a revision of a Commissioner's decision shall, in accordance with CR59, file a Motion for Revision to be heard on the Assigned Judge's civil motion calendar in accordance with WCCR 77.2. Such a motion must be filed within 10 days of the entry of the order, and shall include the following:
 - (1) A statement of the issue or issues sought to be revised
 - (2) A brief statement why the moving party is seeking a revision
 - (3) A transcript of the hearing before the Commissioner
 - (4) Citations to the record where applicable
- (d) Hearing on the Motion to Revise must occur within 30 days of the date the Motion is filed, unless otherwise ordered by the court. Oral arguments shall be limited to ten minutes per side.
- (d) No additional affidavits or other materials shall be filed, other than a brief setting forth the legal issue and argument of the parties. If a brief or legal memorandum was filed by a party before the Commissioner, no new brief or memorandum shall be submitted by that party on the Motion for Revision.

[Revised 7/1/09; Revised 9/1/17]

WCCR 54

Entry of Orders and Judgments

- (a) In civil cases tried to the court, findings, conclusions, and judgments shall be presented to the assigned or ruling judge within 20 days of the court's oral order or memorandum decision. Normally, hearings for presentation of judgments and post-trial motions will all be noted for the same time.
- (b) When no appeal is intended, counsel by stipulation may eliminate findings and conclusions and may present a judgment only for signature, if allowed by CR 52.
- (c) No judgment shall be taken upon a negotiable instrument until the original instrument has been filed.
- (d) No judgment shall be taken upon an assigned cause of action until the written assignment is filed.
- (e) Every judgment providing for payment of money shall include on its first page a judgment summary conforming to RCW 4.64.030.
- (f) Presentation:
 - (1) *Time.* Orders and judgments may be presented pursuant to CR 52 and CR 54.
 - (2) *Conference of Counsel Required.* The court will not entertain any objection to properly served proposed orders, findings, conclusions and judgments unless counsel has conferred with respect to the objection. Counsel for the objecting party shall arrange for a mutually convenient conference in person or by telephone. If the court finds that counsel for any party has willfully refused or failed to confer in good faith, the court may require counsel or client or both to pay the reasonable expenses, including attorney fees, caused by the failure. The court may continue the hearing.
 - (3) *Written Objections.* Though not mandatory, the court urges counsel to prepare written objections so the court can compare paperwork easily. The preferred form is that used in session laws, where undesired language is struck through and new language is underlined.
- (g) The assigned judge may impose sanctions in the case of excessive delay in presenting orders and judgments.

[Revised 7/1/09]

WCCR 77.1

Courtroom Dress and Decorum

Persons who appear in court should dress in a manner appropriate to the dignity of the forum. Counsel should wear business attire; men should be in coat and tie. Counsel and pro se litigants should observe the formality consistent with good courtroom practice. This includes

rising to address the Court, deference to other counsel while speaking, and professional behavior at all times.

[Revised 7/1/09]

WCCR 77.2

Court Calendar Schedule, Pre-Arranged Settings, Motion Calendar Procedures, Confirmation

- (a) **Court Calendar Schedule:** Non-trial matters are scheduled on various calendars before the assigned judge and commissioners. Accompanying these rules as Appendix A is a copy of the current Court Calendar Schedule that contains information about each of the regular court calendars. The Court Calendar Schedule may be modified from time to time (including one-time changes for holidays or judicial conferences) without formal republication. Current calendar information, including a copy of the latest edition of the Court Calendar Schedule, may be obtained from the Clerk of the Superior Court, 311 Grand Avenue, Bellingham, WA 98225, (360) 778-5560, or from the Court's web page at www.whatcomcounty.us/450/Court-Calendars by subject. The Court Calendar Schedule details which matters require pre-arrangement, confirmation, or both.
- (b) **Pre-Arranged Settings:** Counsel must schedule hearing of non-trial special set matters by contacting the judicial assistant for the assigned judge. Special sets do not require confirmation, but must comply with the timelines and page limits of these Rules.
- (c) **Friday Civil Motions:** Motions may be scheduled for hearing on the Friday civil/probate law and motion settings may be made without pre-arrangement subject to judicial unavailability as posted on the court's web page under "calendars." All motions must be confirmed no sooner than five judicial days prior to the hearing and no later than noon two judicial days prior to the hearing. Confirmations must be directed to the assigned judge's judicial assistant and may be made by email or telephonically, as indicated on the court's web page at www.whatcomcounty.us/superior. Motions which are not confirmed will be stricken from the docket.
- (d) **Motion Calendar Procedures:**
- (1) Motions to be noted on the Motion Calendar shall be filed with the court and served on all parties by noon nine (9) court days prior to the hearing. A proposed form of an order, which the court may adopt, modify or reject consistent with its decision shall be filed and served with the motion. Responses shall be filed and served on all parties by noon four (4) court days before hearing. Replies shall be filed and served on all parties no later than noon two (2) days prior to the hearing. Parties should come to the motion calendar with original orders so that they may be entered without an additional hearing or expense wherever possible. Judge's copies must be provided at the time the original documents are filed

- (2) The filing deadlines of this Rule do not apply to summary judgment motions, which are governed by CR 56.. Summary judgment motions shall be served and filed pursuant to CR 56 and should comply with the terms of WCCR 10.3.
- (3) If no one appears in opposition to a motion, upon proof of proper service the moving party may take the order requested unless the court shall deem it manifestly unauthorized. If no party appears, the motion may be deemed waived or stricken. No more than ten minutes will be allowed to each side for argument unless the court otherwise directs.
- (4) Counsel shall immediately notify the assigned judge's judicial assistant when matters are continued or stricken by the parties before hearing. Motions may be continued to a subsequent motion day by filing and serving a "renote" for motion docket or as otherwise ordered by the court. Continuances are only tentative until a judge signs a written order of continuance.
- (5) Counsel who fail to timely file papers, serve papers on opposing counsel or submit bench copies as required by these rules may cause matters to be stricken, sanctions imposed, or terms assessed. Judge's copies of all documents, including proposed orders, are due at the time the motion/response/reply is filed with the court.
- (6) Counsel may request telephonic appearance at a hearing, at the discretion of the assigned judge, by contacting the assigned judge's judicial assistant.

(e) **Reconsideration:** Parties may move for reconsideration in accordance with the provisions of CR 59 and the hearing procedures set forth in these rules.

[Revised 9/1/17 and 9/1/19]

WCCR 78 Furnishing Envelope to Clerk

A person requesting a conformed copy of pleadings or other documents, or photocopies, shall furnish a stamped, self-addressed envelope or an appropriate pre-paid courier service voucher, along with the copies of a document the person wishes to have conformed.

[Revised 7/1/09; Revised 9/1/17]

Special Proceeding Rules (Cite as WCSPR)

Adoption Proceedings

WCSPR 93.04 Pre-Submission of Adoption Documents;

Domestic Relations Proceedings

WCSPR 94.04 Support Modification
 WCSPR 94.05 Domestic Relations Show Cause Hearings and Motion
 WCSPR 94.06 Pretrial Information Form, Financial Affidavit and Trial Brief
 WCSPR 94.07 Entry of Dissolution Decree by Declaration of Jurisdictional Facts
 WCSPR 94.08 Filings in Family Law Cases

Probate and Guardianship Proceedings

WCSPR 98.16 Probate and Guardianship

WCSPR 93.04

Pre-Submission of Adoption Documents

All necessary consents shall be filed and judge copies of the proposed findings, conclusions, and decree of adoption shall be submitted by noon two judicial days prior to the hearing.

[Effective 6/1/91]

WCSPR 94.04

Support Modification

- (a) **Post-decree discovery.** Post-decree formal discovery requests seeking financial information from an opposing party shall be allowed only when a support modification action has been filed unless:
 - (1) A duty to provide the requested information was imposed by a previous court order; or
 - (2) Discovery has been ordered pursuant to a show cause hearing.
- (b) **Service.** A party who serves a child support modification petition or answer shall also serve the following papers:
 - (1) Washington State Child Support Worksheets and a Financial Declaration (Washington Pattern Form DR 01.0550), completed with all information known to the party;
 - (2) Tax returns for the preceding three years, including all schedules, attachments, and W-2 forms;
 - (3) The party's current pay stub; and
 - (3) If a deviation from the standard calculation of child support is requested, additional affidavits to establish the basis for granting or denying the deviation.
- (c) **Filing, tax returns.** Tax returns, schedules, attachments, or W-2 forms shall be filed under seal.
- (d) **Bench copies.** Each party shall provide a bench copy of the following to the commissioner when the original is filed:
 - (1) Pleadings, worksheets, affidavits, tax information, memoranda, wage information, and other information which were served on opposing counsel; and

(2) Washington State Child Support Worksheets for the various reasonably possible scenarios, clearly presented in a form which lends itself to comparison and discussion.

- (e) **Note for Motion Docket.** Child support modification matters are heard by a court commissioner. Child support modification matters shall be noted for any domestic calendar utilizing the court's form for that purpose, in which the filing attorney or party shall certify that the case is ready for hearing, that all issues have been joined, that all responsive pleadings as to all named parties have been filed or proper defaults have been taken, that all outstanding discovery in the case has been completed or that all parties have filed an agreed order on discovery which specifies the order and timing of discovery and terminates discovery 30 days before the hearing date noted.
- (f) **Testimony limited.** Testimony at the hearing will be allowed only upon prior authorization or when deemed necessary by the Court. Only brief argument should be required.

[Revised 9/11/06 and 9/1/17]

WCSPR 94.05

Domestic Relations Show Cause Hearings and Motions

- (a) **Motion Calendar Procedures:** Motions to be noted on the Motion Calendar, including Motions for Show Cause, shall be filed with the court by noon nine (9) court days prior to the hearing. Motions shall be filed and served upon all parties nine (9) court days before hearing. A proposed form of an order, which the Court may adopt, modify or reject consistent with the Decision of the Court, shall be served with the motion. Responses shall be filed and served on all parties by noon four (4) court days before hearing. Replies shall be filed and served on all parties no later than noon two (2) days prior to the hearing. The moving party's affidavits shall be served with the motion; the responding party's affidavits shall be served with the response. All motions shall be in compliance with WCCR 10.3.
- (b) **Confirmation.** A matter noted on the Domestic Relations Calendar must be confirmed with the Court Clerk no sooner than five judicial days prior to the hearing and no later than Noon two judicial days prior to the hearing. Confirmations may be made by email or telephonically, as indicated on the court's web page at www.whatcomcounty.us/superior. Otherwise, the matter will be stricken from the docket.
- (c) **Financial affidavits.** When temporary support, maintenance, attorney fees, or costs are at issue, both parties shall file and serve with their pleadings a Financial Declaration (FL All Family 131).
- (d) **Bench copies.** Parties shall provide bench copies of pleadings in all cases consistent with WCCR 77.2(d)(5).
- (e) **Testimony limited.** Domestic issues will normally be determined by affidavits alone. Where temporary custody is in dispute the court may set a time for taking oral testimony. Oral testimony may be permitted whenever the court feels that unusual circumstances make it necessary or the other party appears in court without counsel.

- (f) Counsel may request telephonic appearance at a hearing, at the discretion of the judicial officer, by contacting the Clerk's Office.

[Revised 9/1/17]

WCSPR 94.06

Pretrial Information Form, Financial Affidavit, and Trial Brief

In all contested trials in domestic relations matters, each party shall prepare a written pretrial information form indicating a proposed division of assets and liabilities in the form set forth in Appendix B. If child support, spousal maintenance, attorney fees, or costs are at issue, each party shall prepare a Financial Declaration (FL All Family 131). Copies of the forms and trial briefs are NOT filed with the Clerk, but submitted to the Settlement Conference Commissioner and/or to the assigned judge, and copies must be served on the opposing counsel or party by noon five judicial days prior to trial. See also the Pro Se Instructions for Setting Settlement Conference and Trial Dates; WCSPR 94.08, and the Family Law Settlement Conference Instructions, all of which can be found on the Whatcom County Superior Court web page under "Local Forms – Domestic."

[Revised 9/1/17 and 9/1/19]

WCSPR 94.07

Entry of Dissolution Decree by Declaration of Jurisdictional Facts

The Court will enter an agreed or default decree of dissolution of marriage without a final hearing or oral testimony when at least one of the parties is represented by an attorney, the petitioner completes a Request for Entry of Decree and Declaration of Jurisdictional Facts in the form set forth in Appendix C, and:

- (a) The respondent or respondent's attorney approves all of the final papers including The Request for Entry of Decree and Declaration of Jurisdictional Facts, or
- (b) if the respondent is in default, the decree provides for only that relief requested in the petition, or
- (c) If the respondent or co-petitioner joined in the petition and is unavailable to sign the final papers, the decree provides for only that relief requested in the petition.

[Effective 12/1/92]

WCSPR 94.08

Filings in Family Law Cases

- (a) **Application of Rule.** This rule shall apply to:

- (1) All family law petitions seeking dissolution of marriage, legal separation, or declaration of invalidity;

(2) Actions brought by parties to non-marital personal relationships involving parenting or distribution of assets/liabilities; and

(3) Actions to modify previously entered parenting plan final orders.

(b) **Court's Automatic Temporary Order.** Upon the filing of a Summons and Petition in any of the actions specified in sections (a) (1) and (2) above, the court on its own motion shall automatically issue a Temporary Order that includes the following provisions:

(1) The parties be restrained from transferring, removing, encumbering, concealing or in any way disposing of any property except in the usual course of business or for the necessities of life or as agreed in writing by the parties. Each party shall notify the other party of any extraordinary expenditure made after the order is issued.

(2) The parties be restrained from assigning, transferring, borrowing, lapsing, surrendering or changing entitlement of any insurance policies of either or both parties whether medical, health, life or auto insurance, except as agreed in writing by the parties.

(3) Each party shall be immediately responsible for his or her own future debts Whether incurred by credit card or loan, security interest or mortgage, except as agreed in writing by the parties.

(4) Both parties must have access to all tax, financial, legal, and household records. Reasonable access to records shall not be denied.

(5) For those actions in which children are involved:

(i) Each parent be restrained from changing the residence of the child(ren) until further court order, except as agreed in writing by the parties. Subsequent orders regarding parenting issues supersede previously issued orders to the extent the orders may be inconsistent.

(ii) Each parent shall insure that the child(ren) not be exposed to negative comments about the other parent. Neither parent shall make negative comments about the other parent in the presence of the child(ren).

(c) **Filing of Parties' Financial Declarations and Verified Statement of Assets and Liabilities.** Within 30 days after the filing of an appearance or answer or other responsive pleading in any of the actions specified in section (a) (1) and (2) above, each party shall serve on the opposing party:

(1) A Financial Declaration (FL All Family 131) (in all cases involving a request for child support, maintenance or attorney fee, the declaration shall also be filed with the court); and

(2) A Verified Statement of Assets and Liabilities including both marital and separate assets and liabilities of any kind in the form set out in Appendix E. T The Verified Statement of Assets and Liabilities shall not be filed with the

court. Each party shall then file with the court a Declaration of Service attesting that the Financial Declaration and Verified Statement of Assets and Liabilities has been provided to the other party within the 30-day time limit. All parties have a duty to supplement the financial information when additional information becomes available.

- (d) **Required Attendance at Parenting Seminar.** Within 30 days after the filing of an appearance or answer or other responsive pleading in any of the actions specified in section (a) above which involves minor children, the parties shall register for a court approved parenting program on the effects of family transitions on children, unless the parties have previously attended such a course. In cases filed pursuant to the Uniform Parentage Act, RCW 26.26, the parenting program is required only if a party petitions for a permanent court-ordered residential schedule when no such schedule currently exists. If domestic violence has occurred in the relationship as evidenced by the criteria set forth in (g) (2)-(4) below, then the parties shall individually attend a court-approved parenting program which includes the effects of family violence on children. Each party shall attend the appropriate seminar within 60 days of registering.
- (e) After completion of the appropriate seminar, each party shall file with the court the seminar completion certificate provided by the sponsoring agency or provider.
- (f) **Failure to Attend Parenting Program.** The court may waive attendance at the parenting program upon motion for good cause shown. Unless waived by the court, failure to attend the appropriate parenting program may result in a finding of contempt and imposition of sanctions.
- (g) **Exchange of Parenting Plans.** Within 14 days of completing the appropriate program as described in (d) above, each parent shall provide the other parent with a Proposed Parenting Plan if they have not already done so. The requirement of a "behavioral evaluation" shall be added as a sub-category to non-emergency health care in the Major Decisions section of the Parenting Plan. Where there is joint decision-making, the following "red flag" behavior provision shall be included in the Parenting Plan:
- (1) The parents shall be responsible to observe and note at-risk behavior of the children, including, but not limited to:
 - (i) Depressed mood or verbalizing suicidal thoughts,
 - (ii) Increase in aggressive behavior or acting out,
 - (iii) Running away from home,
 - (iv) Abnormal amount of physical illness,
 - (v) Changes in sleeping or eating habits,
 - (vi) Undesirable changes in school confirmed by teacher, such as significant drop in grades, missing classes, disciplinary problems, etc.,
 - (vii) Juvenile delinquency problems.
 - (2) If any of the above symptoms or problems occur and last for two weeks or more, the parents shall address the problem with each other and with the child.
 - (3) If the parents see no change in the symptoms or behavior within two weeks, the

child's health care physician shall evaluate the child.

(h) Deadline for Filing Proposed Parenting Plan

Each party must file a proposed permanent parenting plan, and serve a copy on the other party, within thirty days of the date a notice of trial setting is filed with the Court. RCW 26.09.281. This deadline applies regardless of any deadline established in subsection (g), above.

(i) Mediation in Contested Cases. Except as provided in section (j) below, in all cases specified in section (a) having unresolved issues (except child support issues), both parties shall in good faith engage in mediation with a court approved mediator in an effort to resolve the case. The parties may either agree to a mediator from the court approved list or the mediator will be determined by use of a strike list. The cost of mediation shall be paid by the parties in proportion to their incomes. Either party may seek a court apportionment of the cost of mediation.

(j) When Mediation Is Not Required. Mediation shall be except in the following cases:

(1) For good cause shown upon motion and approval by the court; or

(2) Where a domestic violence restraining order or protection order (excluding ex-parte orders) involving the parties has been entered by a court at any time within the previous 12 months;

(3) Where a domestic violence no contact order exists pursuant to RCW 10.99;

(4) Where the court upon motion finds that domestic abuse has occurred between the parties and that such abuse would interfere with arm's length mediation.

(j) Notwithstanding the foregoing, either party may by motion seek a court order requiring mediation in a case where it would not be required otherwise, if the moving party believes that the parties would be able to mediate their dispute and that mediation is reasonably likely to promote or achieve resolution.

(l) Settlement Conferences. If, after mediation in good faith, or where mediation is not required, there remain unresolved issues in any case specified in section (a), the parties shall personally participate in a settlement conference conducted by a judicial officer or, for good cause shown, a person approved by the court in advance. Five days prior to the settlement conference, each party shall submit their list of unresolved issues to the settlement officer. The settlement conference shall take place no later than 2 weeks prior to trial. See also the Pro Se Instructions for Setting Settlement Conference and Trial Dates; WCSPR 94.08, and the Family Law Settlement Conference Instructions, all of which can be found on the Whatcom County Superior Court web page under "Local Forms – Domestic."

(m) Exchange of Settlement Offers. If the settlement conference does not result in complete resolution of the case, each party shall submit to the other a written

settlement proposal addressing all unresolved issues. This offer shall be submitted within 5 days of the settlement conference.

- (n) **Filing Documents for Trial.** At least one court day before the date of the scheduled trial, parties must file copies of their proposed Orders, financial declarations, and other pertinent documents (except that proposed Parenting Plans must be filed as required in section (h) above).
- (o) **Failure to Comply.** A party's compliance with the provisions of this rule may be enforced upon Motion and Order to Show Cause. Unless compliance is waived by the court for good cause shown, the court may order appropriate sanctions including costs, attorney's fees, and adoption of the complying party's proposal.
- (p) **Award of Attorney's Fees.** Requests for fees at the conclusion of trial may be denied unless the settlement proposals required in section (i) are filed with the court. In no event shall the settlement proposals be filed or otherwise communicated to the court until after trial. In awarding fees and costs the court may, in addition to other considerations required by law, consider the settlement proposals.
- (q) **Judicial Information System Background Checks.** Prior to presenting a permanent parenting plan to the court for approval, the party or parties shall submit a completed judicial information service (JIS) background check form to the Whatcom County Clerk. The form must include the names and dates of birth of all persons residing in each residence and must be submitted no fewer than fourteen days prior to the date of presentation of the final parenting plan. Upon receipt of a completed JIS background check form, the Court shall complete a search of the Judicial Information System for the existence of any information and proceedings relevant to the placement of the child.
This search shall be performed no more than 30 days prior to the proposed date of presentation of the permanent parenting plan. The results of such search shall be available to the judicial officer presiding over the entry of the permanent parenting plan at least two court days prior to the proposed presentation date. Both the completed JIS background check form and the results of the search shall be filed under seal in the GR 22 file.

[Revised 7/1/09, 9/1/17 and 9/1/20]

WCSPR 98.16

Probate and Guardianship

- (a) **Probate.** Wills may be admitted and personal representative appointed upon either oral testimony or appropriate affidavits. A copy of the death certificate shall be filed with the Social Security number redacted unless otherwise ordered by the court.
- (b) **Guardianship.**

All interim, periodic and final reports and accountings must be filed with the clerk, along with a proposed order and a judge's copy of the filed documents. Deadlines for approval of periodic reports and accountings are contained in the most recent Order in the case file. Hearings on periodic reports and accountings do not occur

automatically; they must be scheduled consistently with the deadline dates contained in the Order.

- (3) The report must contain a statement of compliance with the Internal Revenue Code.
- (4) All accountings must list the opening balance, receipts, disbursements, and ending balance. Vouchers and receipts must be available for inspection but not be filed unless ordered by the court.
- (5) Time sheets of guardians, guardians ad litem (whether county paid or privately paid) and attorneys are required to assist the court in fixing fees. Judge's copies must be supplied when these documents are filed with the clerk.
- (6) Failure without excuse to file reports as required by law or by this rule may result in sanctions by the court and imposition of terms, including but not limited to denial or reduction of requested fees.

[Revised 9/1/17 and 9/1/19]

Guardian ad Litem Rules **WCGALR 4**

Authority of Guardian ad Litem

In addition to other elements required and contained in any order appointing a guardian ad litem, the following provisions shall be included:

- (a) Guardianship Cases. Orders appointing guardians and guardians ad litem in guardianship matters shall include the following provisions:

IT IS FURTHER ORDERED, that within thirty (30) days of the entry of the order appointing a guardian herein the guardian shall file a receipt for the blocked funds of the guardianship and a bond, if any, as ordered by this court. The guardian or the guardian's attorney shall serve the guardian ad litem with a conformed copy of the receipt and a copy of the filed bond. If no receipt or bond has been filed within thirty days of the entry of the order appointing a guardian, the guardian ad litem shall contact the guardian and determine the reason why the receipt or bond has not been filed. The guardian ad litem shall file a status report about the reason for the delay, and if the guardian ad litem has any cause for concern about the protection of the ward's assets, the guardian ad litem should immediately advise the court that a show cause hearing is warranted. Once the guardian ad litem receives satisfactory proof that the receipt or bond has been filed, the guardian ad litem or petitioner's attorney, if any, shall move the court for an order discharging the guardian ad litem and approving any additional fees and costs to be charged to the guardianship estate which were incurred by the guardian ad litem in monitoring the receipt and bond status. The court may not authorize compensation to the guardian ad litem for any action by the guardian ad litem taken beyond the duties outlined in order.

- (b) All Cases: Orders appointing guardians ad litem in guardianship matters shall include the following provisions:

The guardian ad litem will provide the parties with an itemized accounting of time, billing and costs for services each month. Payment is due within fifteen days after billing each month. Should a party disagree with an amount billed, he or she shall immediately contact the Guardian ad Litem to discuss the billing. If the matter is not resolved, the party shall note the matter upon the court's calendar for review and notify the guardian ad litem of the date and time of the hearing. A party shall be liable to the guardian ad litem for court costs, interest and attorney fees if collection action is required because payment was not made on time.

The parties' obligation to pay guardian ad litem fees and costs is reasonably related to their support obligation and may be enforced by contempt proceedings at any time notwithstanding the entry of a final decree or order of dismissal of this action. At a contempt hearing, the responding party has the burden of establishing a justifiable excuse for non-payment. If non-payment is not excused, the party may be subject to jail time, fines, attorney fees, and other compensatory relief.

[Effective 9/1/06]

Guardian ad Litem Grievance Procedures **(Cite as WCGAL)**

WCGAL 7.1	Guardian ad Litem Advisory Committee
WCGAL 7.2	Submission of Complaints
WCGAL 7.3	Review of Complaint
WCGAL 7.4	Response and Findings
WCGAL 7.5	Confidentiality
WCGAL 7.6	Complaint Processing Time Standards
WCGAL 7.7	Removal from Registry

WCGAL 7.1 **Guardian ad Litem Advisory Committee**

The Court's Guardian ad Litem Advisory Committee hereinafter referred to as the "Committee," will administer complaints about guardians ad litem.

[Effective 9/1/00; Revised 9/1/19]

WCGAL 7.2 **Submission of Complaints**

All complaints must be filed within six (6) months of the Court's discharge of the Guardian ad Litem. Complaints must be in writing and must be submitted to the Superior Court Administrator. All complaints must bear the signature, name and address of the person filing the complaint.

[Effective 9/1/00; Revised 9/1/19]

WCGAL 7.3
Review of Complaint

Upon receipt of a written complaint, the Court Administrator shall convene the Committee to review the complaint. The Committee's investigation begins on the date that the Notice of Complaint is sent to all Committee members, by any electronic or written means. The Chair of the Advisory Committee is the contact person for all parties and no discussion or other contact with other members of the Committee may be had by any party during the investigation except as specifically requested by the Advisory Committee Chair. Upon review of the complaint, the Committee shall either:

- (a) Make a finding that the complaint is with regard to a case then pending in the court and decline to review the complaint and so inform the complainant. In such instances the Committee shall advise the complainant that the complaint may only be addressed in the context of the case at bar, either by seeking the removal of the Guardian ad Litem or by contesting the information or recommendation contained in the Guardian ad Litem's report or testimony. In such cases the Committee and its members shall perform its role in such a manner as to assure that the trial judge remains uninformed as to the complaint; or
- (b) Make a finding that the complaint has no merit on its face, and decline to review the complaint and so inform the complainant; or
- (c) Make a finding that the complaint appears to have merit and request a written Response from the Guardian ad Litem within 10 business days, detailing the specific issues in the complaint to which the Committee desires a response. The Committee shall provide the Guardian ad Litem with a copy of the original complaint. Once the Committee's investigation begins, no additional documents or information will be considered unless specifically requested by the Committee. In considering whether the complaint has merit, the Committee shall consider whether the complaint alleges the Guardian ad Litem has:
 - (1) Violated a code of conduct;
 - (2) Misrepresented his or her qualifications to serve as a Guardian ad Litem;
 - (3) Breached the confidentiality of the parties;
 - (4) Falsified information in a report to the court or in testimony before the court;
 - (5) Failed, when required, to report abuse of a child;
 - (6) Communicated with a judicial officer ex-parte concerning a case for which he or she is serving as a guardian ad litem;
 - (7) Violated state or local laws or court rules; or,
 - (8) Taken or failed to take any other action which would reasonably place the suitability of the person to serve as a Guardian ad Litem in question.

[Effective 9/1/00; Revised 9/1/19]

WCGAL 7.4
Response and Findings

- (a) Upon receipt of a written response to a complaint from the Guardian ad Litem, the Committee shall make a finding as to each of the specific issues in the complaint to which the Committee desires a response, as delineated in the Committee's letter to

the Guardian ad Litem. Such findings shall state that either there is no merit to the issue based upon the Guardian ad Litem's response or that there is merit to the issue.

(b) The Committee shall have the authority to issue a written admonishment, a written reprimand, refer the Guardian ad Litem to additional training, or recommend to the Presiding Judge that the Court suspend or remove the Guardian ad Litem from the registry. In considering a response, the Committee shall take into consideration any prior complaints that resulted in an admonishment, reprimand, referral to training, or suspension or removal from a registry. If a Guardian ad Litem is listed on more than one registry, the suspension or removal may apply to each registry the Guardian ad Litem is listed on, at the discretion of the Committee.

(c) The complainant and the Guardian ad Litem shall be notified in writing of the Committee's decision following receipt of the Guardian ad Litem's response.

[Effective 9/1/00]

WCGAL 7.5 Confidentiality

(a) A complaint shall be deemed confidential for all purposes unless the committee has determined that it has merit under WCGAL 7.4, above.

(b) Any record of complaints filed which are not deemed by the committee to have merit shall be confidential and shall not be disclosed except by court order.

[Effective 9/1/00]

WCGAL 7.6 Complaint Processing Time Standards

(a) Complaints shall be resolved within twenty-five (25) days of the date of receipt of the written complaint if a case is pending.

(b) Complaints shall be resolved within sixty (60) days of the date of receipt of the written complaint if the complaint is filed subsequent to the conclusion of a case.

[Effective 9/1/00]

WCGAL 7.7 Removal from Registry

(a) When a guardian ad litem is removed from the court's registry pursuant to the disposition of a grievance hereunder, the Court Administrator shall send a notice of such removal to the Office of the Administrator for the Courts.

(b) When the Court Administrator receives notice from the Office of the Administrator for the Courts that a Guardian ad Litem on the court's registry has been removed from the registry of any other Washington Superior Court the Administrator shall advise the Presiding Judge of such removal.

[Effective 9/1/00]

Criminal Rules
(Cite as WCCrR)

- WCCrR 3.1 Counsel Fees in Criminal Cases
- WCCrR 6.17 Juror Questionnaires
- WCCrR 6.18 Responsibility to be Ready for Trial, Motions in Limine
- WCCrR 7.2 Criminal Sentence Financial Obligations

WCCrR 3.1
Counsel Fees in Criminal Cases

- (a) Following a two-week period for evaluation, an attorney who agrees to represent a person in a criminal proceeding and/or accepts fees to do so is required to continue representing the client throughout the proceedings.
- (b) A commitment to represent includes an assessment of the expenses of necessary investigation, expert opinions and other trial preparation, and of the client's ability to pay fees and costs. Ordinarily, the court will not order payment for expert and investigation costs at public expense where private representation has been retained. In any event, the county will not pay for expense incurred without prior court order authorizing such expense to be incurred.

[Effective 6/1/91; Revised 9/1/17]

WCCrR 6.17
Juror Questionnaires

Juror questionnaires may be used in accordance with WCCR 47.1.
[Effective 7/1/09]

WCCrR 6.18 Motions and Trials in Criminal Cases

- (a) **Responsibility to Be Ready for Trial**
The parties to a trial are required to be ready to proceed to trial on the scheduled trial date. The only exceptions are:
 - 1. The parties reach a resolution shortly before the trial date, and a plea or other order incorporating that resolution is entered by the court on the trial date.
 - 2. The Court orders a continuance for good cause which was not known or knowable to the parties before the trial date.
 - 3. The charges are dismissed.
- (b) **Trial Assignment; Omnibus Hearing; Rescheduling**
 - 1. Trial dates and status hearing dates are assigned at the arraignment hearing. Once scheduled, a trial date may not be rescheduled except by order of the Court. Motions for continuance must be timely filed for hearing on a criminal motions calendar preceding the trial date; generally, this means that the motion must be filed at least five court days before the motions calendar on which it is to be heard.

2. An omnibus hearing will be held at the status hearing, which shall be scheduled for the Wednesday of the week that is three weeks prior to the trial date. The procedure and format for the omnibus hearing will be consistent with CrR 4.5. If the parties have reached full agreement, without reserving any provision for later resolution, they may submit an agreed proposed Omnibus Order, signed by all counsel and all defendants, in lieu of attendance at the omnibus hearing. Otherwise, all parties including the defendant are required to appear in person at the omnibus hearing. Parties are not permitted to reserve or defer hearing on any portion of the Omnibus Order without specific authorization by the Court. The Omnibus Order shall list any pretrial motions to be heard on or before the trial date. The omnibus hearing may be set over to the Criminal Motions calendar on the following day for an in-custody defendant who wishes to be present at the omnibus hearing.
3. The parties must file a witness list by the end of the day on which the Omnibus Order is entered. Both parties must immediately contact their witnesses to confirm availability for trial. If a witness is not available, the party shall immediately notify the opposing party and file a motion to continue the trial date or make any other arrangement the Court may order, noting the motion for hearing on the next regular motion calendar, or as a special set with leave of the court. The Court will waive the 5-day notice requirement for a motion based on unavailability of a witness.
4. If a case is confirmed ready for trial at the status hearing, the Court will set a final trial confirmation hearing on the Thursday criminal calendar preceding the trial date to address any last minute issues. All witnesses must be confirmed available for trial at the final confirmation hearing. Defendants are required to appear at this final trial confirmation hearing unless appearance is waived by the Court.
5. At the status hearing, the parties may submit an agreed proposed trial setting order with new dates for status and trial. Defendants are not required to appear at the status hearing if a signed trial setting order is presented by an attorney.
6. Parties may argue a motion to continue at the status hearing.
7. A defendant may enter a plea of guilty at a status hearing, or set over the case to the following day for a plea of guilty if defendant is in custody.

(c) Motions

1. Motions must conform to the requirements of CrR 8.1 and 8.2 and the provisions cited in those rules. Motions must be filed and served at least five court days before the hearing date.
2. Every Motion must include a concise statement of the relief sought; a sworn declaration describing the pertinent facts; and, in appropriate cases, a memorandum of applicable law.

(d) Guilty Plea and Sentencing Hearings

1. Guilty Plea and Sentencing hearings involving defendants who are in custody will be heard on the Thursday Criminal Motions Calendar. If victim testimony will be presented or if the hearing will be longer than ten minutes, the attorneys should note the case for hearing as a special set matter before the assigned judge.
2. Guilty Plea and Sentencing hearings involving defendants who are out of custody are heard at the Trial Confirmation and Plea Calendar at 8:30 Wednesday mornings.

(e) Recusals and Disqualifications

A party who files a motion in a case in which the motion calendar judge has recused or has been disqualified must reschedule the hearing on the motion in another Department of the Court. Such requests must be communicated to all judicial assistants, in writing and preferably by email, by the end of the second day preceding the hearing (4:30 Tuesday for hearing on Thursday).

[Revised 9/1/18 and 9/1/19]

WCCrR 7.2

Criminal Sentence Financial Obligations

This rule applies to any fine, assessment, restitution, Court costs, or attorney fees ordered by the Court in a Judgment and Sentence or other Order.

- (a) Interest on restitution is at the rate prescribed by statute, currently 12% per year. The Court will consider a motion to waive or reduce interest in cases of financial hardship. Interest shall not accrue on Court costs and fines.
- (b) **Time Payments.** The ordered financial obligations shall be paid in equal monthly installments sufficient to completely pay the entire amount during the defendant's term of supervision by the Department of Corrections, unless a different rate is set by the court.

The first payment shall be due 30 days after the date of judgment or defendant's release from total confinement, whichever occurs last. Subsequent payments shall be due on the same day of each following month.

- (c) **Petition to Modify.** The defendant may, at any time after release from incarceration, petition the court to adjust the amount of installment payments or adjust the total amount, based on undue hardship or other good cause.

[Effective 6/1/91; Revised 9/1/19]

WCCrR 8.9

Disqualification of Judge

Procedures and rules regarding disqualification of a judge are governed by RCW 4.12.040 and .050, CR40, CrR 8.9 and RALJ 3.2. A Notice of Disqualification must be filed with the Clerk's Office with a proposed Order on Notice of Disqualification. A copy must be served on all parties. The Notice will be reviewed by the judge whose disqualification is sought or, in that judge's absence, by another judge. The Court will notify the parties of the disqualification (or denial thereof) and any reassignment. A Notice of Disqualification is waived if neither party brings it to the attention of the disqualified judge at a subsequent hearing. A Notice of Disqualification is not waived or withdrawn if the disqualified judge signs an Agreed Trial Setting Order. Should a party choose to rescind a Notice of Disqualification previously filed, an Agreed Order Rescinding must be immediately entered.

[Effective 9/1/17; Revised 9/1/19]

Mandatory Arbitration Rules (WCMAR)

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- WCMAR 1.2 Matters Subject to Mandatory Arbitration
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SCOPE AND PURPOSE OF RULES

WCMAR 1.1

Application of Rules - Purpose and Definitions

- (a) **Purpose.** The Whatcom County Mandatory Arbitration Rules (hereinafter referred to as WCMAR) implement RCW 7.06 and the Superior Court Mandatory Arbitration Rules (MAR) adopted by the Supreme Court. Mandatory arbitration provides a simplified and economical procedure for obtaining the prompt and equitable resolution of disputes. Mandatory Arbitration Rules (MAR), as supplemented by these Rules, are not designed to address every question that may arise during the arbitration process, and the rules give considerable discretion to the arbitrator. The arbitrator should not hesitate to exercise that discretion. Arbitration hearings should be informal and expeditious, consistent with the purpose of relevant statutes and rules.
- (b) **"Director" Defined.** In these rules, "Director" means the Director of Arbitration for the Whatcom County Superior Court. The appointment of the director and other administrative matters are addressed in WCMAR 8.6, Administration.
- (c) **Limits.** Effective September 1, 2019, the amount in controversy may be up to one hundred thousand dollars (\$100,000) as authorized in RCW 7.06.020.
- (d) **Discovery.** Any discovery pending when the case enters arbitration must be completed unless the arbitrator orders otherwise. Discovery concerns may be resolved by the appointed arbitrator, who is authorized to order requested discovery as reasonably necessary.

[Effective 9/16/05; Revised 9/1/19]

WCMAR 1.2

Matters Subject to Mandatory Arbitration

Any civil action filed in Whatcom County Superior Court, other than an appeal from a court of limited jurisdiction, is subject to mandatory arbitration under these rules if the sole relief sought is as money judgment (a) in which no party asserts a claim in excess of the amount authorized by RCW 7.06.020 (\$100,000 as of 9/1/19), exclusive of attorney fees, interest, and costs, or, (b) in which all parties for purposes of arbitration waive claims in excess of the amount authorized in RCW 7.06.020, exclusive of attorney fees, interest, and costs. Parties are encouraged to stipulate to the arbitration of any matter in controversy. See WCMAR 8.1.

[Effective 6/1/91; Revised 9/1/19]

WCMAR 1.3

Relationship to Superior Court Jurisdiction and Other Rules - Motions

All motions before the court relating to arbitrability or the assignment of an arbitrator shall be noted on the civil motions calendar in accordance with WCCR 77.2, except as otherwise provided in these arbitration rules. Once cases have been transferred to arbitration, all motions

shall be heard by the arbitrator. In the event that motions concerning arbitrability or the assignment of an arbitrator are filed after a case has been transferred to arbitration but before an arbitrator has been assigned, then such motions may be noted for consideration by the Superior Court or may be noted for consideration by the arbitrator once assigned. See also WCMAR 2.2 and 3.2.

[Effective 6/1/91]

WCMAR 2.1

TRANSFER TO ARBITRATION AND ASSIGNMENT OF ARBITRATOR

Transfer to Arbitration

- (a) **Demand for arbitration.** In every civil case, when any party has determined that the case is ready for trial and that the case is subject to mandatory arbitration, such party shall file with the clerk its Note for Motion Docket and Demand for Arbitration, setting the matter on the Motion Docket not earlier than the next motion calendar after the expiration of 14 days from the date such Demand is filed. At the same time the party demanding arbitration shall submit its proposed order on the form prescribed by the Court. Cases shall be transferred to arbitration only by court order.
- (b) An order of transfer to arbitration may be secured:
- (1) Upon stipulation and order submitted by all the parties;
 - (2) Upon Demand for Arbitration filed by a party, set for hearing on the court's motion docket, when no objection has been filed prior to the hearing;
 - (3) By order of the Court after hearing on the merits.
- (c) **Response to a demand for arbitration.** Within 14 days after the date the Demand for Arbitration, the Note for Motion Docket, and proposed Order have been filed and mailed to all parties or their attorneys, or the latter of such dates, any party disagreeing with the Demand for Arbitration shall serve and file a response to the Demand for Arbitration with the clerk and on all other parties. In the absence of such response, the Demand for Arbitration shall be deemed correct and the non-responding party shall be deemed to have stipulated to arbitration. Responses asserting that the case is not subject to mandatory arbitration shall be heard on the date noted for hearing on the Demand for Arbitration.
- (d) **Failure to file - amendments.** A party failing to serve and file an original response within the time prescribed may later do so only upon leave of court. A party may amend the Demand for Arbitration or response at any time before the hearing on the Demand for Arbitration.
- (e) **Stipulation.** A cause in which all parties file a stipulation to arbitrate under MAR 8.1(b) may be transferred to arbitration by court order presented to the court with the stipulation.

[Effective 9/16/05]

WCMAR 2.2

Hearing to Determine Arbitrability

A motion to establish whether a case is subject to arbitration shall be governed by the state and local rules pertaining to civil motions practice. See WCMAR 2.1(c).
[Effective 6/1/91]

WCMAR 2.3

Assignment of Arbitrator

- (a) **Generally; stipulations.** The parties are encouraged to stipulate to an arbitrator. A master list of arbitrators will be furnished upon request. In the absence of a stipulation, a list of five arbitrators will be provided to the parties and the arbitrator will be chosen from among the five proposed arbitrators in the manner defined by this rule.
- (b) **Response by parties.** Each party may, within 14 days after a list of proposed arbitrators is mailed to the parties, nominate one or two arbitrators and strike two arbitrators from the list. If both parties respond, an arbitrator nominated by both parties will be appointed. If no arbitrator has been nominated by both parties, the Director will appoint an arbitrator from among those not stricken by either party.
- (c) **Response by only one party.** If only one party responds within 14 days, the Director will appoint an arbitrator nominated by that party.
- (d) **No response.** If neither party responds within 14 days, the Director will appoint one of the five proposed arbitrators.
- (e) **Additional arbitrators for additional parties.** If there are more than two adverse parties, such parties may request the Director to include additional proposed arbitrators on the list, with the above principles of selection to be applied. The number of adverse parties and the number of additional proposed arbitrators shall be determined by the Director, subject to review by the Presiding Judge.

[Effective 6/1/91]

WCMAR 3.1

ARBITRATORS

Qualifications

- (a) **Minimum qualifications.** An arbitrator must be a member of the Washington State Bar Association who has been admitted to the Bar for a minimum of five years and who is a current member of the Whatcom County Bar Association, or who is a retired judge. By stipulation, the parties to a case may waive this requirement.
- (b) **Arbitration panel.** There shall be a panel of arbitrators in such numbers as the Administrative Committee may from time to time determine. A person desiring to serve as an arbitrator shall complete an information sheet on the form prescribed by

the court. A list showing the names of arbitrators available to hear cases and the information sheets will be available for public inspection in the Director's office. The oath of office on the form prescribed by the court must be completed and filed prior to an applicant being placed on the panel.

- (b) **Refusal; disqualification.** The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator should notify the Director if his impartiality might reasonably be questioned. Counsel knowing any facts that would raise a reasonable question of the impartiality of the assigned arbitrator shall notify the arbitrator and the Director. In the absence of such notice, the grounds therefore are deemed waived. If disqualified, the arbitrator must immediately return all materials in a case to the Director.

[Effective 9/16/05]

WCMAR 3.2

Authority and Responsibility of Arbitrators

An arbitrator has the authority and the responsibility to:

- (a) Conduct the arbitration in an equitable and impartial manner, in accordance with applicable statutes and rules, and to make awards;
- (b) Determine the time, place, and procedure to present a motion before the arbitrator.
- (c) Require a party or attorney representing such party, or both, to pay the reasonable expenses, including attorney's fees, caused by the failure of such party or attorney, or both, to obey an order of the arbitrator, unless the arbitrator finds that the failure was substantially justified or that other circumstances make an award of expenses unjust. The arbitrator shall make a special award for such expenses and shall file such award with the County Clerk, with proof of service on each party. The aggrieved party shall have 10 days thereafter to appeal the award of such expenses in accordance with the procedures prescribed in RCW 2.24.050. If within 10 days after the award is filed no party appeals, a judgment shall be entered in a manner described generally under MAR 6.3;
- (d) Award attorney's fees as authorized by these rules, by contract or by law, as if the matter were tried in court;
- (e) Issue a subpoena in accordance with MAR 4.3.

[Revised 9/1/95]

WCMAR 4.2

PROCEDURES AFTER ASSIGNMENT

Discovery

- (a) **Generally.** In determining when additional discovery beyond that directly authorized by MAR 4.2 is reasonably necessary, the arbitrator shall balance the benefits of discovery against the burdens and expenses. Authorized discovery shall be

conducted in accordance with the Civil Rules except that motions concerning discovery shall be determined by the arbitrator.

- (b) **Discovery pending at the time arbitrator is assigned.** Discovery pending at the time the case is assigned to an arbitrator is stayed unless reinstated by the arbitrator, except as the parties may stipulate or as authorized by MAR 4.2.
- (c) **Admissibility of discovery.** All discovery admissible under the Civil Rules or Rules of evidence will be admissible at the arbitration hearing, whether or not such discovery was produced before or after the appointment of an arbitrator.

[Effective 6/1/91]

WCMAR 5.1 HEARING

Notice of Hearing - Time and Place – Continuance

An arbitration hearing may be scheduled at any reasonable time and place chosen by the arbitrator. The arbitrator shall give reasonable notice of the hearing date and any continuance to the Director. The parties may stipulate to a continuance without court order. However, no continuance, or combination of continuances, shall be for more than 60 days, without a court order.

[Effective 6/1/91]

WCMAR 5.2 Pre-Hearing Statement of Proof - Documents Filed With Court

In addition to the requirements of MAR 5.2, at least 14 days prior to the date of the arbitration hearing, each party shall furnish the arbitrator with copies of pertinent pleadings previously filed by such party, a list of witnesses whom the party intends to call at the arbitration hearing and any other documents contained in the court file which that party deems relevant. The court file shall remain with the County Clerk.

[Revised 9/1/95]

WCMAR 5.3 Conduct of Hearing - Rules of Evidence

- (a) **Conduct of hearing.** The hearing shall be conducted pursuant to MAR 5.3.
- (b) **Recording.** Any party at the party's expense may record the hearing electronically or otherwise.
- (c) **Rules of evidence, generally.** The Arbitrator shall determine to what extent the Rules of Evidence shall apply.
- (d) **Certain documents presumed admissible.** The documents listed below, if relevant, are presumed admissible at an arbitration hearing, subject to the discretion of the Arbitrator, but only if (1) the party offering the document serves on all parties a notice identifying the documents to be introduced, accompanied by a copy of the document

and the name, address, and telephone number of its author or maker, at least 14 days prior to the hearing in accordance with MAR 5.2; and (2) the party offering the document similarly has furnished all other parties copies of all other related documents from the same author or maker. This rule does not restrict argument or proof relating to the weight of the evidence admitted, nor does it restrict the arbitrator's authority to determine the weight of the evidence after hearing all of the evidence and the arguments of opposing parties. The documents presumed admissible under this rule are:

- (1) A bill, report, chart, or record of a hospital, doctor, dentist, registered nurse, licensed practical nurse, physical therapist, psychiatrist, psychologist, or other health care provider, on a letterhead or billhead;
- (2) A bill for drugs, medical appliances, or other related expenses on a letterhead or billhead;
- (3) A bill for, or an estimate of, property damage on a letterhead or billhead. In the case of a bill for repairs completed, a paid receipt showing that the repairs were made, stating whether the bill represents complete or partial repairs and in the case of partial repairs an estimate of the cost to complete the remaining repairs;
- (4) A police, weather, wage loss, or traffic signal report, generated in the normal course of business, without the need for formal proof of authentication or identification;
- (5) A standard life expectancy table provided in Appendix "B" to the Washington Pattern Instructions (WPI);
- (6) A photograph, x-ray, drawing, map, blueprint, or similar documentary evidence, without the need for formal proof or authentication or identification;
- (7) The written statement of any other witness, including the written report of an expert witness, and including a statement of opinion which the witness would be allowed to express if testifying in person, if it is made by affidavit or by declaration under penalty of perjury;
- (8) A document not specifically covered by any of the foregoing provisions but having equivalent circumstantial guarantees of trustworthiness, the admission of which would serve the interests of justice.

(e) **Opposing party may subpoena author or maker as witness.** Any other party may subpoena the author or maker of a document admissible under this rule, at that party's expense, and examine the author or maker as if under cross examination.

[Effective 6/1/91]

**WCMAR 6.1
AWARD**

Form and Content of Award

- (a) **Form.** The award shall be prepared on the form prescribed by the court.
- (b) **Return of exhibits.** When an award is filed, the arbitrator shall return all exhibits to the parties who offered them during the hearing, after allowing opportunity for opposing counsel to make copies, when requested.

[Effective 6/1/91]

**WCMAR 6.2
Filing of Award**

A request by an arbitrator for an extension of time for the filing of an award under MAR 6.2 may be presented to the Director, ex parte. The Director may grant or deny the request, subject to review by the Presiding Judge. The arbitrator shall give the parties notice of any extension granted.

[Effective 6/1/91]

**WCMAR 6.3
Judgment on Award**

- (a) **Presentation.** Any party may note the arbitration award on any civil law and motion calendar, on five days' notice in accordance with MAR 6.3.
- (b) **Modification or correction of award.** Any application for the modification or Correction of any award permitted by statute shall be made in accordance with RCW 7.04.090.

[Effective 6/1/91]

**WCMAR 7.1
TRIAL DE NOVO**

Request for Trial De Novo – Calendar

When a trial de novo is requested as provided in MAR 7.1, the party requesting the trial de novo shall simultaneously file with the clerk its note for trial setting, its jury demand and jury fee, if appropriate.

[Effective 6/1/91]

**WCMAR 7.2
Procedure at Trial**

The clerk shall seal any award if a trial de novo is requested.

[Effective 6/1/91]

WCMAR 7.3
Costs and Attorney Fees

MAR 7.3 shall apply only to costs and reasonable attorney's fees incurred since the filing of the request for a trial de novo.
[Effective 6/1/91]

WCMAR 8.1
Stipulations - Effect on Relief Granted

If a case not otherwise subject to mandatory arbitration is transferred to arbitration by stipulation, the arbitrator may grant any relief that could have been granted if the case were determined by a judge.
[Effective 6/1/91]

WCMAR 8.4
Title and Citation

These rules are known and cited as the Whatcom County Superior Court Local Mandatory Arbitration Rules. "WCMAR" is the official abbreviation.
[Effective 6/1/91]

WCMAR 8.5
Compensation of Arbitrator

- (a) **Generally.** Arbitrators shall be compensated in the same amount and manner as judges pro tempore of the Superior Court. Hearing time and reasonable preparation time are compensable, and reasonable costs incurred by the arbitrator are reimbursable.
- (b) **Form.** When the award is filed, the arbitrator shall submit to the Director a request for payment on a form prescribed by the court. The Director shall determine the amount of compensation and costs, if any, to be paid. The decision of the Director will be reviewed by the Presiding Judge at the request of the arbitrator. Compensation to the arbitrator and costs reimbursement shall not exceed amounts set by statute, in any case, without special approval by the Presiding Judge.

[Effective 6/1/91]

WCMAR 8.6
Administration

- (a) The Presiding Judge shall designate a person to serve as Director of Arbitration. The Director, under the supervision of the Presiding Judge, shall supervise arbitration under these rules, and perform any additional duties which may be delegated by the Presiding Judge.
- (b) There shall be an Administrative Committee composed of the Presiding Judge, the Assistant to the Superior Court, and three members of the Whatcom County Bar Association. The members of the Whatcom County Bar Association shall be appointed by said Association and shall serve for staggered three year terms during

which terms they shall not be eligible to serve as an arbitrator hereunder. They may be reappointed.

(c) The Administrative Committee shall have the power and duty to:

- (1) Appoint the panel of arbitrators provided in Local Mandatory Arbitration Rule 23.1(b);
- (2) Remove a person from a panel of arbitrators;
- (3) Establish procedures for selecting arbitrators not inconsistent with the Mandatory Arbitration Rules or these rules; and
- (4) Review the administration and operation of the arbitration program at least annually and make recommendations, as it deems appropriate to improve the program.

[Effective 6/1/91]

Juvenile Court Rules, Juvenile Offense Proceedings
(Cite as WCJCrR)

WCJCrR 6.0	Referral of Matters to Diversion or Filing in Juvenile Court
WCJCrR 6.2	Right to Counsel
WCJCrR 7.0	Release from Detention
WCJCrR 7.12	Dispositional Hearing – Offender Proceedings
WCJCrR 7.15	Violation of Community Supervision
WCJCrR 7.16	Court Forms
WCJCrR 7.4	Violation of Pre-Trial Release Conditions
WCJCrR 7.5	Issuance and Service of Notice/Summons
WCJCrR 7.6	Arraignment
WCJCrR 7.6.1	Notice and Advisement, Juvenile Offender Records
WCJCrR 7.7	Guilty Pleas
WCJCrR 7.8	Motions, Juvenile Offender Proceedings
WCJCrR 8.2	Declining Juvenile Court Jurisdiction Over an Alleged Juvenile Offender
WCJCrR 10.2	Recording Juvenile Court Proceedings
WCJCrR 77.1	Attire and Decorum

WCJCrR 6.0

Referral of Matters to Diversion or Filing in Juvenile Court

Consistent with the purposes of RCW 13.40.010, the Whatcom County Juvenile Court shall encourage the prompt referral and resolution of juvenile offense matters at all stages of the proceedings and shall discourage delays in the processing of said matters at all stages of the proceedings. To affect these purposes, the court shall require that:

- (a) Referral of matters to diversion. The Prosecuting Attorney's Office shall refer appropriate misdemeanor, gross misdemeanor and Class C felony matters to diversion promptly after receiving the completed law enforcement reports regarding juvenile offenses.

- (b) Filing of Informations. If, in the Prosecuting Attorney's discretion charges are to be filed, the Prosecuting Attorney's Office shall file charges against an alleged juvenile respondent promptly after receiving the completed law enforcement report of investigation of the offense. Failure to promptly file charges may be grounds for dismissal of the charges.

[Effective 9/1/06]

WCJCrR 6.2 Right to Counsel

- (a) Notice of Appearance. Attorneys, representing parties in juvenile matters, except for appointed attorneys, must serve prompt written notice of their appearance upon all other parties or their counsel of record, the legal process unit of the court and file the same with the Clerk of the Court.
- (b) Recovery of County Expense for Appointed Counsel. Nothing in this rule shall prevent the court from ordering, as a condition of community supervision, that a juvenile offender pay court costs and fees for court-appointed counsel.

[Effective 9/1/06]

WCJCrR 7.0 Release from Detention

- (a) Generally. All juveniles held on probable cause or charged with an offense by information in Whatcom County shall have the right to post a bond and be released from detention. The court may impose additional conditions of release pursuant to RCW 13.40.040(4).
- (b) Procedure. The following steps shall be followed:
 - (1) The issue of bail shall be first addressed at the probable cause or detention hearing;
 - (2) The court may adjust the amount of bail originally set in the arrest warrant based on the particular facts and circumstances of each case;
 - (3) All bonds shall be reviewed and approved by the Prosecuting Attorney or his deputy;
 - (4) If approved by the Prosecuting Attorney, bail shall be posted or filed in the Office of the Clerk of the Court;
 - (5) The Clerk of the Court shall issue a written notice indicating the bail or bond has been posted or filed;
- (c) Release on Bail from Detention. Pre-Disposition Detainees: In the absence of an order setting bail a youth held in detention on probable cause may be released by detention staff only with physical possession of an order from the Court or telephonic approval by the Court or Prosecuting Attorney .

- (d) Post-Disposition Detainees and Youth From Other Jurisdictions: No juvenile offender from this Court's jurisdiction or any other Court's jurisdiction will be released from detention unless a written Order to that effect has been signed by a Court Commissioner or Superior Court Judge.

[Effective 9/1/06]

WCJCrR 7.12

Dispositional Hearing – Offender Proceedings

- (a) Who must be present. The prosecuting attorney, the respondent, defense counsel, respondent's parent/ guardian and juvenile court probation staff shall be present at all disposition hearings. The court may excuse a parent's presence at the disposition hearing upon good cause shown.
- (b) Time. If the respondent pleads guilty or is found guilty of the allegations in the information, the court shall enter its findings upon the record and proceed immediately to the disposition unless:
- (1) The court believes additional information is necessary, or
 - (2) The court believes additional time is needed to determine an appropriate custody or living situation, or
 - (3) Commitment is to be considered and additional time is necessary to seek alternatives, or
 - (4) The court deems a continuance is otherwise necessary.
- (c) Sources. Pre-dispositional reports may be ordered by the court from one or more of the following sources:
- (1) The Whatcom County Juvenile court staff;
 - (2) Any other source that can provide relevant and material information on the issue of an appropriate disposition.
- (d) Form. All pre-dispositional reports shall address the various factors required by RCW 13.40.150. All pre-dispositional reports should present potential alternatives, if any, to commitment in those cases in which it may appear that public safety can be assured and the offender's behavior improved by such an alternative. All reports shall be provided to the court and counsel no later than one (1) day prior to the dispositional hearing.
- (e) Community Diagnostic Evaluation. A diagnostic evaluation may be ordered by the court if a showing is made that such evaluation is necessary to aid the court to reach an appropriate disposition.
- (f) Restitution. The court shall fix the amount of restitution at the dispositional hearing or shall set a hearing to determine the restitution amount.

- (g) Manifest Injustice Findings. If the court imposes a sentence based upon a finding of manifest injustice, the court shall set forth those portions of the record material to the disposition.

[Effective 9/1/06]

WCJCrR 7.15
Violation of Community Supervision

- (a) Generally. Juvenile Probation officers shall make referrals to the court alleging Violations of community supervision pursuant to RCW 13.04.040 (1) (2) and (5). After review of the referral, the court may on its own motion issue a summons or warrant to compel the respondent's appearance at a hearing to review the terms of community supervision. Juvenile Probation shall provide copies of the summons and referral to all appropriate parties.
- (b) If the referral includes allegation(s) on which the prosecutor elects to file an information charging a new offense per 13.40.070 (3), the prosecutor may move to strike said allegation(s) from the referral at any time before or at the hearing on the referral. Upon hearing on the motion, the Court shall strike said allegation(s).
- (c) Nothing in this rule shall prohibit or limit the Prosecutor's Office from filing and noting a motion to modify the terms of community supervision pursuant to RCW 13.40.070 (3) or RCW 13.40.200(1). Prosecutors shall serve copies of the summons, motions and affidavits to all appropriate parties, and juvenile court probation.
- (d) Hearing.
 - (1) The juvenile probation department shall be present at such hearing to respond to questions and make recommendations concerning the matter.
 - (2) If the offender denies the allegations of the petition, the matter may be continued for a reasonable period of time for a contested hearing.
- (e) Absconding From Placement. A juvenile respondent's voluntary absence from his/her placement pursuant to the terms of community supervision is sufficient grounds for a warrant of arrest to be issued.
- (f) Warrants. Upon a showing of the reasons therefore, by declaration, or testimony upon the record, the court may order a warrant for the arrest of a juvenile respondent who violates conditions of community supervision and whose whereabouts are unknown or who is likely to fail to appear for a review hearing. A warrant may be served by law enforcement or a juvenile probation officer.

[Revised 7/1/09]

WCJCrR 7.16
Court Forms

- (a) Generally. It shall be the policy of the court to use standardized court forms whenever possible.

(b) Review. All court forms shall be reviewed and approved by the Judges and Court Commissioners

[Effective 9/1/06]

WCJCrR 7.4

Violation of Pre-Trial Release Conditions

Juvenile Court Probation Officers shall make referrals to the court regarding a respondent's non-compliance with pre-trial release conditions ordered pursuant to RCW 13.40.040(6) and make recommendations to the court regarding the need for detention pursuant to RCW 13.04.040(2). The court on its own motion may require the youth to appear at a hearing to review modification or release conditions.

At the court's direction, juvenile probation shall notify all appropriate parties of the time set by the court for the youth to appear. Nothing in this rule shall prevent the prosecutor or respondent from noting up a motion to review release conditions upon notice to all parties, the respondent's parent/guardian, and juvenile probation.

At the hearing to review release conditions the court shall hear from the state, respondent's counsel, parent/guardian, juvenile probation and others with information pertinent to the court's review regarding the need for detention or modification of release conditions.

[Effective 9/1/06]

WCJCrR 7.5

Issuance and Service of Notice/Summons

(a) Generally. Juvenile offenders and their parent(s), guardian(s), or custodian(s) may be served by mail, postage prepaid. The Court or Prosecuting Attorney's Office shall be responsible for the preparation and mailing of the necessary pre-adjudication documents including an Affidavit of Service. Juvenile Court Administration shall be responsible for the preparation and mailing of the necessary post-disposition documents including an Affidavit of Service.

(b) Failure to Appear on Summons. If a respondent fails to appear in response to a Notice/Summons, or if service is not affected within a reasonable time, a warrant for arrest may be issued. A reasonable time to effect service shall be defined as service within ten (10) days of the filing of the information.

[Effective 9/1/06]

WCJCrR 7.6

Arraignment

(a) Procedure. The juvenile and his/her counsel shall prepare, review, and complete the following forms and present them to the court at the hearing:

(1) Juvenile's Acknowledgement of Advisement of Rights; and

(2) Juvenile's Notice/Advisement of Records.

(b) Name and Date of Birth. The juvenile respondent shall be asked his/her true name and date of birth. If the juvenile alleges that his/her true name and/or date of birth is other than indicated on the information, it shall be entered in the minutes of the court.

(c) At arraignment, the court shall:

- (1) Confirm that respondent is represented by counsel or that counsel is waived;
- (2) Confirm the respondent is aware of his/her rights and the record provisions of RCW 13.50;
- (3) Read the information to respondent, unless the reading is waived, and confirm that a copy has been provided to the respondent and his/her counsel;
- (4) Take a plea from the juvenile of guilty, not guilty or not guilty by reason of insanity;
- (5) Determine if discovery has been given; and
- (6) Set the next appropriate court date and conditions of release after hearing from the parties, juvenile probation and the juvenile's parent(s)/guardian(s);
- (7) If the matter has been returned from diversion for failure to complete a Diversion contract, the court shall set a diversion termination hearing no later than two (2) weeks after the arraignment.
- (8) Group Arraignments. The court may advise juvenile respondents of their rights and explain the record provisions of RCW 13.50 in a group proceeding. All other portions of the arraignment shall be accomplished individually.

[Effective 9/1/06]

WCJCrR 7.6.1

Notice and Advisement Juvenile Offender Records

(a) Generally. Any juvenile to whom the record provisions of RCW 13.50.050 may apply shall be given written notice of his or her rights under the referenced statute.

(b) Procedure. The following procedure shall be followed:

- (1) In the case of a juvenile offender, a written form signed by the juvenile in which a juvenile is advised of rights pursuant to RCW 13.50.050 and acknowledges being so advised shall be filed with the Clerk of the Court at the time of his or her arraignment.
- (2) In the case of a juvenile referred to a diversion unit, a similar written form as in the above paragraph shall be signed by the juvenile and filed as part of the diversion agreement.

[Effective 9/1/06]

WCJCrR 7.7
Guilty Pleas

- (a) Hearing. The parties, the juvenile's parent/ guardian and Juvenile Court Probation shall be given timely notice of the guilty plea hearing. Juvenile Court Probation staff shall be present at all guilty pleas.
- (b) Procedure. The juvenile respondent and his/her counsel shall prepare and complete a Statement of Juvenile on Plea of Guilty before appearing in court. The juvenile respondent and his/her counsel shall present the completed statement to the court. After receiving the completed statement, the court shall conduct a detailed inquiry addressing:
 - (1) The meaning and effect of a plea of guilty;
 - (2) The elements of the offense alleged;
 - (3) The juvenile's acknowledgement of his/her guilt to the offense
 - (4) The standard sentencing range and the maximum punishment for the offense alleged;
 - (5) Any other appropriate matters. Upon acceptance of the plea, the statement shall be filed with the Clerk of the Court.
- (c) Withdrawal of Plea of Guilty. A motion to withdraw a plea of guilty may be made only before sentence is imposed and upon a showing of good cause. The court may set aside an Order of Disposition and permit a juvenile respondent to withdraw his/her plea of guilty to correct an injustice.
- (d) Form. The Statement of Juvenile on Plea of Guilty will conform substantially with JuCr7.7.

[Effective 9/1/06]

WCJCrR 7.8
Motions, Juvenile Offender Proceedings

- (a) Generally. Unless otherwise provided in the Civil Rules, Criminal Rules and these rules, all motions, including motions to suppress evidence, motions regarding statements, confessions and any other motion requiring testimony, shall be heard at the time of trial unless otherwise set by the Court. All motions together with a brief which shall include a summary of the facts upon which the motions are based, shall be filed and served not later than five (5) days before the adjudicatory hearing. Reply briefs shall be served and filed with the Court no later than noon of the Court day before the hearing.
- (b) Continuances. Motions for continuance may be granted only as follows:
 - (1) All motions for continuance by parties shall be by written motion and affidavit,

noted and served on the other party and juvenile court probation at least 5 days before the motion day that precedes the adjudicatory hearing.

- (2) All motions for continuance of a trial date shall be presented in open court by the moving party.
- (3) On the motion of a party, the court may continue a juvenile offender matter when required in the due administration of justice and none of the parties to the action will be substantially prejudiced in the presentation of their case.
- (4) The court must state its reasons on the record for granting a motion for a continuance.
- (5) All continuances shall be to a date certain and confirmed by written order.

(c) To dismiss for Delay in Referral of Offense. The Court may dismiss an information if it is established that there has been an unreasonable delay in referral of the offense to the Court and the delay results in prejudice to a party. Upon a prima facie showing of unreasonable delay, the Court shall then determine whether or not dismissal or other appropriate sanction will be imposed. Among those factors otherwise considered, the Court shall consider the following:

- (1) The length of the delay;
- (2) The reason for the delay;
- (3) The impact of the delay on ability to defend against the charge; and
- (4) The seriousness of the alleged offense.

(d) Unreasonable delay shall constitute an affirmative defense that must be raised by motion not later than one (1) week after arraignment. Such motion may be considered by affidavit.

(e) Revisions: Motions for revision of a Commissioner's ruling shall be made by prearranged special set through a Judicial Assistant pursuant to WCCR77.2(b) and shall be in accordance with the provisions of WCCCR 53.2.

[Revised 7/1/09]

WCJCrR 8.2

Declining Juvenile Court Jurisdiction over an Alleged Juvenile Offender

- (a) Generally. In accordance with RCW 13.40.110, any party may file an appropriate motion and supporting affidavit to decline jurisdiction with the Clerk of the Court.
- (b) Report. A declination investigation report shall be prepared by the juvenile court staff. The report shall:
 - (1) Address the following factors:
 - (i) The seriousness of the alleged offense to the community and whether the protection of the community requires waiver of juvenile court jurisdiction;

- (ii) Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
 - (iii) Whether the alleged offense was against persons or against property;
 - (iv) The prosecutorial merit of the complaint;
 - (v) The desirability of trial and disposition of the entire offense in one court;
 - (vi) The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude and pattern of living;
 - (vii) The record and previous history of the juvenile, including previous contacts with law enforcement agencies, juvenile courts and other jurisdictions, prior periods of probation/community supervision, or prior commitments to juvenile institutions;
 - (viii) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile (if he is found to have committed the alleged offense) by the use of procedures, services and facilities currently available to the juvenile court.
- (2) Address any other factors relevant to the motion; and
- (3) Make a recommendation to the court as to the motion.

(c) Hearing. The author of the declination investigation report shall be present at the declination hearing to testify, if so requested.

[Effective 9/1/06]

WCJCrR 10.2 Recording Juvenile Court Proceedings

Generally. All proceedings in the Whatcom County Superior Court Juvenile Division shall be recorded unless waived pursuant to statute. The electronic recording device approved by the court is approved for all hearings and for all purposes.

[Effective 9/1/06]

WCJCrR 77.1 Attire and Decorum

Attire. All people who appear in Court should dress in a manner appropriate to the dignity of the forum.

- (a) Legal Counsel, Probation Officers and court staff should wear appropriate business attire in the courtroom.

(b) Members of the public should wear appropriate business or casual attire that is not excessively tight or otherwise revealing. Inappropriate attire includes shorts, tank tops, ripped or torn jeans, hats, thong sandals, shirts with lewd language or alcohol/drug slogans, or any gang-related attire.

(c) Shirts and shoes are required. Bare midriffs are inappropriate.

(c) All electronic equipment such as personal music players, cell phones and pagers must be turned off during court, and may be forfeited to the court for at least the remainder of the court day if they are used during court or if they interfere with the operation of the court in any way. No proceeding may be recorded without prior permission from the presiding judicial officer.

[Effective 9/1/06]

Appendices

The Whatcom County Superior Court Local Rules and appendices are available in print and on the Whatcom County web site at <http://www.whatcomcounty.us/superior/> under the **FORMS** link.

Appendix A: Court Calendar Schedule

Appendix B: Domestic Relations Pre-Trial Information

Appendix C: Request for Entry of Decree and Declaration of Jurisdictional Facts

Appendix D: Sample Arbitration Forms:

Demand for Arbitration & Note for Motion Docket

Response to Demand for Arbitration

Amendment to Demand for Arbitration or Response

Order on Demand for Arbitration

Order Transferring to Arbitration (on Stipulation)

Stipulation to Arbitrator

Arbitration Award

Appendix E: Verified Statement of Assets and Liabilities