

ISLAND COUNTY DISTRICT & MUNICIPAL COURT

Local Rules of the District Court of Island County and the Municipal Courts of the City of Oak Harbor, the Town of Coupeville and the City of Langley

CIVIL RULES

LCRLJ 40(g). MANDATORY MEDIATION FOR SMALL CLAIMS COURT.

Mediation is mandatory before a trial is allowed in Small Claims Court. Mediation is held at the first scheduled appearance date unless continued by the court for good cause. Both parties must attend the mediation . If the plaintiff fails to appear, a dismissal may be entered. If the defendant fails to appear, defendant's answer, if one was filed, may be stricken and default judgment entered. Parties may bring their evidence to the mediation; however, no witnesses are allowed. The purpose of mediation is to settle the case if possible; if no settlement is reached at mediation, the case will be set for trial. Attorneys and paralegals may not represent parties at mediation.

[Adopted effective September 1, 2016.]

CRIMINAL RULES

LCrRLJ 1.1 SCOPE

These rules apply to all criminal hearings in Island County District Court, Oak Harbor Municipal Court, Coupeville Municipal Court and Langley Municipal Court.

[Adopted effective September 1, 2000; amended effective September 1, 2001, September 1, 2008.]

LCrRLJ 3.1 APPEARANCE OF COUNSEL

(d) Assignment of Lawyer.

(5) For indigent persons who request counsel and are charged with a crime in this court and who are in the custody of the Department of Corrections, and who are therefore presumed to be indigent, the Office of Public Defense shall immediately appoint counsel to represent the defendant in the matter in this court.

(e) A notice of appearance by counsel is considered effective through the first disposition of the case. Once a dismissal is entered, the defendant is sentenced without appeal being taken, or the defendant enters into a deferred prosecution or sentence program counsel may withdraw without further formality. A new notice of appearance must be filed prior to appearing at any subsequent hearing such as a probation violation or show cause hearing.

[Adopted effective September 1, 2000; amended effective September 1, 2001.]

LCrRLJ 3.2 BAIL

- 1. Bail is to be set at the first appearance for all domestic violence offenses when a defendant has been arrested and**

confined pursuant to RCW 10.31.100 (2) (c).

- 2. Law enforcement and the Court Clerk may receive bail in the form of cash, cashier's check, certified check, money order, traveler's check, credit card charge, checks drawn on a trust account or bail bond. Recognizance bonds must be approved by the prosecuting attorney or by the Court.**

[Adopted effective September 1, 2000; amended effective September 1, 2001, September 2, 2014, September 1, 2020]

LCrRLJ 3.3 TRIAL SCHEDULING

- (f) When the defendant pleads not guilty either personally or through a notice of appearance by counsel, the Clerk will schedule a pretrial hearing. All parties shall be expected to have exchanged discovery. Parties shall discuss the need for hearing any motions, including but not limited to 3.5, 3.6, Hamrick and 404 (b) motions. At the pre trial hearing, parties must resolve the case or advise that the case is ready for trial, at which time, a readiness hearing and trial date will be set. The defendant's presence at a readiness hearing is required unless excused by the Court. If an attorney has had no contact with his/her client by the date of the readiness hearing, a warrant shall issue. At the readiness conference,**

cases declared ready for trial will be assigned for trial. Juries will be called based on trial assignments at the Readiness Calendar. If a case settles after readiness, and a jury is called but not used, statutory costs and terms may be assessed to the responsible party. Juries may be called off by notifying the Court Administrator by 4:30 PM on the afternoon immediately preceding the assigned trial date.

(g) Continuances:

- (1) By stipulation.** Prior to the pretrial hearing the parties may agree in writing to reset the next hearing or hearings. The defendant shall consent in writing to the change in dates. Notice of the new dates will be provided to the parties. All continuances on or after the pre-trial hearing must be approved by the trial judge.
- (2) By motion.** On motion of any party or the court, the court may continue the case when required in the interest of justice if the defendant will not be substantially prejudiced in the presentation of defenses. The motion must be filed on or before the date of the next scheduled hearing.

(3) The court will not continue a trial date or other disposition beyond the applicable final day for speedy trial under CrRLJ 3.3 without a speedy trial waiver signed by the defendant.

(4) Requests for additional hearings such as bail reviews; requests to change previously scheduled hearings to new dates or to change the nature of the hearing must be requested in writing. Notice shall be given to the opposing party or counsel not less than twenty four hours prior to the new hearing. The clerk will then set the hearing at the requested time or notify the parties if the date set by the court is different than the requested date.

(h) Motions Calendar:

- (1) Motions which will require more than five minutes for disposition will be heard on the criminal motion calendars. The Municipal Courts motions will be set at 9:30 AM Monday mornings; the State motions will be set at 2:00 PM Monday afternoon, unless otherwise scheduled by the Court.**
- (2) Motions which will require less than five minutes for disposition may be heard during the arraignment**

calendar, the pretrial hearing, or during any regularly scheduled hearing with the court's approval and by agreement of the parties.

(I) Disposition Calendar:

(1) Guilty pleas may be entered at arraignment and pretrial hearings or may be noted for the 1:30 PM disposition calendar each Tuesday afternoon.

[Adopted effective September 1, 2000; amended effective September 1, 2001, September 1, 2008, September 1, 2009, September 2, 2014, September 1, 2016.]

LCrRLJ 3.4 Personal Appearance Required

A defendant who has signed a promise to appear for a hearing or trial must personally appear or submit a signed acknowledgment for the next agreed date. Failure to personally appear or submit such a signed acknowledgment is grounds to issue a warrant for the defendant's arrest and to strike all further hearings until the defendant next appears in person before the court. Represented defendants may file a waiver of attendance permitting their attorney to appear on their behalf. The form attached to these rules may be used for waiver of appearance. **The defendant must personally appear at readiness, at trial, for any evidentiary hearings, at arraignments for all domestic violence offenses, and for preliminary appearances following an arrest for driving under the influence or physical control charges.**

[Adopted effective September 1, 2000; amended effective September 1, 2001; September 2, 2014; September 1, 2016.]

LCrRLJ 3.7 Presence of the Prosecutor and Public Defender

In all criminal cases, a representative of the Prosecuting Attorney's Office or the Office of City Attorney responsible for the case shall be present to conduct the case for the plaintiff. This rule applies to bail modifications, arraignments, pretrial hearings, motions, trials, other dispositions and **post conviction review when requested by the court.**

(1) Presence of the Public Defender.

A representative of the Public Defender's Office must be present for all hearings unless excused by the Court.

[Adopted effective September 1, 2000; amended September 2, 2014, September 1, 2016.]

LCrRLJ 4.1

(a) The filing of any notice of appearance shall eliminate the need for further arraignment, pursuant to CrRLJ 4.1. Upon the filing of any notice of appearance, the Court shall enter a Not Guilty plea on behalf of the defendant and will set the case for a pretrial hearing. Notwithstanding this provision, the defendant shall appear on the originally scheduled arraignment date for all hearings at which the review of

conditions of release or protection orders is mandatory. See RCW 100.99.050 and 46.61.50571.
[Adopted effective September 1, 2000; amended effective September 1, 2009, September 1, 2016.]

CrRLJ 6.1.1 JURY TERM

(e) Criminal cases will be tried before a jury if jail is a possible sentence unless the defendant waives a jury in writing and the court consents to the waiver. Any defendant who files a waiver of jury and wishes to withdraw the waiver must file a request to withdraw the waiver within 10 days as provided by the rules or before the pretrial hearing, whichever first occurs.

(f) Trial terms are generally set on the first Thursday/Friday of each month for the Municipal Courts; the second, third and fourth Thursday and Friday for District Court and the fifth Thursday/Friday for civil trials. Cases will be assigned for trial at the readiness hearing. When two or more cases are ready they will go to trial in the order assigned by the Court at the Readiness Hearing or thereafter.

[Adopted effective September 1, 2000; amended September 1, 2001, September 1, 2013, September 1, 2008, September 2, 2014, September 1, 2016.]

LCrRLJ 7.6 PROBATION FEES

(b) Defendants placed on probation may be ordered to pay a monthly probation fee in an amount set by the Court according to the defendant's ability to pay.
[Adopted effective September 1, 2000; amended effective September 1, 2001, September 1, 2003, September 1, 2008, September 2, 2014, September 1, 2016.]

LCrRLJ 8.2 DEFERRED PROSECUTIONS

(a) No order deferring prosecution will be approved and signed unless the defendant is actually in a treatment program or is to begin treatment on a date certain within 15 days of the date the order is signed.

(b) No final order deferring prosecution shall be approved and signed unless the defendant has either obtained an ignition interlock driver's license as required by law or a waiver of that requirement. See RCW 10.05.140, 46.61.720 and RCW 46.30.385.

(c) Motions and orders for deferred prosecutions must be submitted in conformity with the model forms available in probation and at the front counter of the clerk's office. The qualifying evaluation, treatment plan and recommendation from probation must accompany the order. The statutory fees for the administration of the deferred prosecution must be

paid before the order will be signed by the Judge unless otherwise ordered by the Court after determination of ability to pay.

(d) [Adopted effective September 1, 2000; amended effective September 1, 2008, September 1, 2009, September 2, 2014, September 1, 2016.]

INFRACTION RULES

LIRLJ 3.1 PROCEDURE AT CONTESTED HEARING

(b) **Representation by Lawyer.** At a contested hearing the plaintiff *may* be represented by a lawyer for the prosecuting authority. The defendant may be represented by a lawyer.

(c) [Repealed effective September 1, 2016.]

(a) If a lawyer appears for the defendant at a regular scheduled contested hearing without previously filing a notice of appearance, the matter may be rescheduled to the Wednesday, 2 PM calendar to permit appearance by a lawyer representing the plaintiff.

(b) **Witness fees:** Each party is responsible for costs incurred by that party as set forth in RCW 46.63.151. Subpoenas may be issued by the Court or a party's lawyer with a copy filed

at the Court. Out of county witnesses must be approved by the Judge.

(c) Speed measuring device experts may appear by telephone, video conference call, or in person.

LIRLJ 3.5 DECISION ON WRITTEN STATEMENTS

(a) The court will consider requests for contested or mitigation traffic hearings by mail.

(b) To contest a hearing by mail the individual requesting the hearing must:

- 1) submit full payment with their request unless payment in advance is waived by the court based upon a determination of financial inability to pay;
- 2) include a statement that they understand that there is no appeal for a decision based on written statements;
- 3) include a sworn statement of the circumstances of the incident and any other evidence they wish the judge to consider;
- 4) include a brief justification for the need for a hearing by mail rather than a personal hearing.

Once these items are submitted, the court will examine the officer's report and matters submitted by the individual requesting the hearing. This examination may be done in chambers and will take place within 120 days after the individual submits

the required information and tenders payment. The hearing is not governed by the rules of evidence. The court will determine whether the plaintiff has proved by a preponderance of all evidence submitted that the infraction was committed. If the court determines that it was committed it may assess a penalty in accordance with IRLJ 3.3. The court will notify the parties in writing whether an infraction was found to have been committed and what penalty, if any, was imposed.

(c) To request a mitigation hearing by mail, the individual requesting the hearing must:

- 1) submit full payment with their request unless payment in advance is waived by the court upon a determination of financial inability to pay;
- 2) include a statement of the circumstances of the incident and any other evidence they wish the judge to consider;
- 3) include a brief justification of the need for a hearing by mail rather than a personal hearing.

Once these items are submitted, the court will review the submission and the individual's driving record. This review will be done in chambers and will take place within 120 days after the individual submits the required information. If the court believes that mitigation is proper it will mitigate the penalty and return the amount tendered in excess of the penalty.

(d) No Appeal Permitted. No appeal may be taken from a decision on written statements on either contested or mitigated traffic infractions.

LIRLJ 3.6 Deferred Findings

- (a) This rule is repealed effective September, 1, 2016.
- (b) (b) Limit. A person may not receive more than one deferral within a seven-year period for moving violations and one deferral within a seven-year period for nonmoving violations.
- (c) Conditions. For moving violations the conditions *shall* include attendance at traffic safety school, payment of the presumptive fine and an administrative fee. For nonmoving violations the conditions *shall* include payment of the presumptive fine and an administrative fee.
- (d) Administrative Fee. The administrative fee shall be \$25.
- (e) Dismissal: After the end of the deferral period, the court will dismiss the infraction if the person has met all the conditions of deferral and has not committed another traffic infraction during the period.

LOCAL GENERAL RULE 1

VIDEO CONFERENCE PROCEDURES

(d) Criminal. Preliminary
appearances, arraignments, bail hearings, pretrial hearings and readiness conferences may be conducted by video conference in which all participants can simultaneously see, hear and speak with each other. Upon a showing of special circumstances, a party may also be permitted to introduce the testimony of a witness at trial or other evidentiary hearing by telephonic, video, or other means as provided by law. See CR 43; *State v. Cayetano-Jaimes*, No. 70547-4-I, Filed Sept. 21, 2015. All video conferences are public, and the public must be able to see all participants and be able to speak when permitted by the judge.

(e) Any party may request an in person hearing, which may be granted in the trial judge's discretion.

(f) Other trial court proceedings including the entry of a guilty plea may be conducted by video conference only by agreement of the parties, either in writing or on the record.

(g) Standards. The judge, counsel, all parties, and the public must be able to see and hear each other during proceedings and be able to speak when permitted by the Judge. Video conference facilities must provide for confidential communication between attorney and client. Normally public access will be provided in the courtroom. Confidential communications will be provided to counsel and interpreters, if any being present with the defendant in the conference room at the secure facility.

[Adopted effective September 1, 2000; amended effective September 1, 2001; September 1, 2008; September 1, 2009; September 1, 2016.]

LOCAL GENERAL RULE 2
ELECTRONIC FILING AND SERVICE

(a) Electronic filing (“eFile”) authorization, charges, exceptions, and waiver

- (1) *Mandatory Electronic Filing.* a) Effective 30 days after the eFiling program is activated on September 1, 2021 or shortly thereafter, attorneys shall electronically file (eFile) all documents except the initial criminal citation, prosecutor’s complaint, probable cause, or notice of infraction, using the court’s designated eFiling service, Odyssey File and Serve, unless this rule provides otherwise. b) eFiling is optional but encouraged for public filers (prosecutor, public defense) and self-represented litigants. c) Following case initiation, eFiling subsequent documents for criminal cases by private counsel and pro-se defendants is optional, but if documents are eFiled fees shall be charged. d) Following case initiation, eFiling by public filers (prosecutors, public defenders) is mandatory, but at no cost to the filer. e) The eFiling fees will be waived for filers determined to be indigent and for their court appointed counsel, and in protection order cases and other cases for which fees are statutorily prohibited.
- (2) *eFiling service charges.* An eFiling charge will be assessed each time a group of documents (sometimes referred to as an “envelope”) is filed on a case, as provided in this rule. The eFiling service fee is \$5.00 per envelope per case, plus a processing fee of 2.89% for credit card payments or \$0.25 for eChecks will be charged to all filers except those who are exempt or for whom the requirement is waived as provided in this rule.
- (3) *Documents That Shall Not Be e-Filed.* The following documents must be filed in paper form rather than e-Filed:
 - (a) A document that is required by law to be filed in non-electronic format, for example, original wills, certified records of proceedings for purposes of appeal, negotiable instruments, and documents of foreign governments under official seal;
 - (b) Documents incapable of legible conversion to an electronic format by scanning, imaging, or any other means;
 - (c) Documents larger than permitted in the User Agreement.
- (4) *Working Copies. Persons who* eFile documents under this rule are not required to provide duplicate paper copies of those documents as “working copies” for judicial officers. **The court may require that a party provide a working copies of documents that are not eFiled.**

(5) and provide a written approval or denial to the attorney. Attorneys *Waiver of the Requirement to eFile for attorneys*.

(a) If an attorney is unable to eFile documents **required by this rule**, the attorney may request a waiver from the court. The attorney must make a showing of good cause and explain why paper document(s) must be filed in that particular case. The court will consider each application who receive a waiver shall file a copy of the waiver in each case in which they file documents. Attorneys who receive a waiver shall place the words “Exempt from eFiling per waiver filed on (date)” in the caption of all paper documents filed for the duration of the waiver.

(b) Upon a showing of good cause the court may waive the requirement as to a specific document or documents on a case by case basis.

(6) Non-Compliance with this Rule. If an attorney files a document in paper form

And does not have an approved waive from eFiling, the court may assess a fee against the attorney for each paper document filed.

(b) Electronic Service. If a party eFiles documents with the court or serves another party electronically or via email, that party must likewise accept service from the other parties electronically or via email.

FORMS

The following forms are approved for use in Island County District Court:

- (1) Waiver of Jury Trial**
- (2) Waiver of Speedy Trial**
- (3) Waiver of Attendance of Represented Defendant**

ISLAND COUNTY DISTRICT COURT
OAK HARBOR MUNICIPAL COURT
COUPEVILLE MUNICIPAL COURT
ANGLEY MUNICIPAL COURT

Plaintiff, ,
vs. ,
Defendant _____

)
) Case No. _____
) WAIVER OF JURY TRIAL
)
) (Clerk's Action Required)
)

WAIVER OF JURY TRIAL

1. I understand that I have a right to a trial by jury.
2. I do not want a jury trial. I want my case tried by a judge without a jury.
3. I understand that I may change my mind and request a jury trial within 10 days from today, or this waiver becomes final.

Date: _____
Defendant

ISLAND COUNTY DISTRICT COURT
OAK HARBOR MUNICIPAL COURT
COUPEVILLE MUNICIPAL COURT
LANGLEY MUNICIPAL COURT

Plaintiff, ,
vs. ,
Defendant

)
) CASE NO. _____
) WAIVER OF SPEEDY TRIAL
)
) (Clerk's Action Required)
)

1. I understand that I have a right to have a trial in this matter within:

(a) [] 90 days following the date of my arraignment
(b) [] 60 days following the date of my arraignment because I am in custody on this charge.

2. I wish to give up this right and agree that this matter may be tried no later than

_____.
Month Day Year

Date: _____

Defendant

3. [] I am the lawyer for the above defendant. I waive application on behalf of my client and represent that I have express authority from my client to execute this waiver. On behalf of my client I agree that this matter may be tried no later than

_____.
Month Day Year

Date: _____

Attorney for Defendant

Bar Number

ISLAND COUNTY DISTRICT COURT
OAK HARBOR MUNICIPAL COURT
COUPEVILLE MUNICIPAL COURT
LANGLEY MUNICIPAL COURT

Plaintiff, ,
vs. ,
Defendant ,
)
) CASE NO. _____
) WAIVER OF ATTENDANCE OF REPRESENTED
) DEFENDANT
)
)

COMES NOW the above named Defendant, by and through counsel of record,
_____, and does hereby submit the Waiver of Attendance for
the hearing on _____.

Dated this _____ day of _____, 20_____.

Attorney for Defendant

DECLARATION OF DEFENDANT

1. I am the defendant in the above-entitled matter.
2. I understand that I have a right to be present at all court proceedings involving my case.
3. I understand that I have a right to have hearings set to a date certain by the court and be notified of those dates by the court.
4. I am represented by the above named attorney who is presenting this Waiver to the court.
5. I do hereby waive my right to be present at any pretrial hearings, readiness hearings, trial assignment hearings or other hearings on various motions which may be brought before the court.
6. I do further waive the right to have hearings set to a date certain by the court and be notified by the court of those future dates. By waiving this right, I fully understand that it will be the responsibility of my attorney to keep me informed of any court dates which my attendance is required, such as any trial dates. I understand that a failure of my attorney to keep me informed of any hearing dates where my presence is required, could result in a warrant being issued for my arrest.
7. I also understand that I have a continuing obligation to my attorney to keep my attorney at all times informed of my mailing address and telephone numbers where I may be reached.

I declare under penalties of perjury under the Laws of the State of Washington that I have read the forgoing Declaration and that the contents thereof are true and correct to the best of my knowledge and information.

Dated this _____ day of _____, 20_____.

Defendant
