WSR 12-13-026
RULES OF COURT
STATE SUPREME COURT
[June 7, 2012]

IN THE MATTER OF THE ADOPTION OF THE AMENDMENTS TO CrR 4.2(g), STATEMENT OF DEFENDANT ON PLEA OF GUILTY TO NON-SEX OFFENSE; CrR 4.2(g), STATEMENT OF DEFENDANT ON PLEA OF GUILTY TO SEX OFFENSE; JuCR 7.7-STATEMENT ON PLEA OF GUILTY; CrRLJ 4.2(g)-STATEMENT OF DEFENDANT ON PLEA OF GUILTY; CrRLJ 4.2(g)-"DUI" ATTACHMENT) ORDER NO. 25700-A-1002

The Washington State Pattern Forms Committee having recommended the adoption of the proposed amendment to CrR 4.2(g)-Statement of Defendant on Plea of Guilty to Non-Sex Offense; CrR 4.2(g)-Statement of Defendant on Plea of Guilty to Sex Offense; JuCR 7.7-Statement on Plea of Guilty; CrRLJ 4.2(g)-Statement of Defendant on Plea of Guilty; CrRLJ 4.2(g)-"DUI" Attachment, and the Court having determined that the proposed amendment will aid in the prompt and orderly administration of justice and further determined that an emergency exists which necessitates an early adoption;

Now, therefore, it is hereby

ORDERED:

(a) That the amendment as shown below hereto is adopted.

(b) That pursuant to the emergency provisions of GR 9 (j)(1), the amendment will be published expeditiously and become effective upon publication.

DATED at Olympia, Washington this 7th day of June, 2012.

Madsen, C.J.

C. Johnson, J. J. M. Johnson, J.

Owens, J. Stephens, J.

Wiggins, J.

Gonzalez, J.

Superior Court of Washington for	
State of Washington ________, Plaintiff vs. ________________________. Defendant	**No.** **Statement of Defendant on Plea of Guilty to Non-Sex Offense (Felony) (STTDFG)**

1. My true name is: ________________.

2. My age is: ________.

3. The last level of education I completed was _______.

4. **I Have Been Informed and Fully Understand That:**

(a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me.

(b) I am charged with: _______________.

The elements are: ______________________________

____.

5. **I Understand I Have the Following Important Rights, and I Give Them Up by Pleading Guilty:**

(a) The right to a speedy and public trial by an impartial jury in the county where the crime was allegedly committed;

(b) The right to remain silent before and during trial, and the right to refuse to testify against myself;

(c) The right at trial to hear and question the witnesses who testify against me;

(d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;

(e) The right to be presumed innocent unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty;

(f) The right to appeal a finding of guilt after a trial.

6. **In Considering the Consequences of my Guilty Plea, I Understand That:**

(a) Each crime with which I am charged carries a maximum sentence, a fine, and a ***Standard Sentence Range*** as follows:

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	COMMUNITY CUSTODY	MAXIMUM TERM AND FINE
1					
2					
3					

*Each sentencing enhancement will run consecutively to all other parts of my entire sentence, including other enhancements and other counts. The enhancement codes are: (F) Firearm, (D) Other deadly weapon, (V) VUCSA in protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude, (P16) Passenger(s) under age 16.

(b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.

(e) In addition to sentencing me to confinement, the judge will order me to pay $500.00 as a victim's compensation fund assessment and any mandatory fines or penalties that apply to my case. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.

(f) For crimes committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the total period of confinement is more than 12 months, and if this crime is a drug offense, assault in the second degree, assault of a child in the second degree, or any crime against a person in which a specific finding was made that I or an accomplice was armed with a deadly weapon, the judge will order me to serve at least one year of community custody. If this crime is a vehicular homicide, vehicular assault, or a serious violent offense, the judge will order me to serve at least two years of community custody. The actual period of community custody may be longer than my earned early release period. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

[ ] For offenses committed after July 1, 2000 but prior to July 26, 2009, the court may impose a community custody range as follows: for serious violent offenses, 24 to 36 months; for crimes against persons, 9 to 12 months; for offenses under 69.50 and 69.52, 9 to 12 months.

For crimes committed on or after July 1, 2000: In addition to sentencing me to confinement, under certain circumstances the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months, but only if the crime I have been convicted of falls into one of the offense types listed in the following chart. For the offense of failure to register as a sex offender, regardless of the length of confinement, the judge will sentence me for up to 12 months of community custody. If the total period of confinement ordered is more than 12 months, and if the crime I have been convicted of falls into one of the offense types listed in the following chart, the court will sentence me to community custody for the term established for that offense type unless the judge finds substantial and compelling reasons not to do so. If the period of earned release awarded per RCW 9.94A.728 is longer, that will be the term of my community custody. If the crime I have been convicted of falls into more than one category of offense types listed in the following chart, then the community custody term will be based on the offense type that dictates the longest term of community custody.

OFFENSE TYPE	COMMUNITY CUSTODY TERM
Serious Violent Offenses	36 months
Violent Offenses	18 months
Crimes Against Persons as defined by RCW 9.94A.411(2)	12 months
Offenses under Chapter 69.50 or 69.52 RCW (not sentenced under RCW 9.94A.660)	12 months
Offenses involving the unlawful possession of a firearm where the offender is a criminal street gang member or associate	12 months

Certain sentencing alternatives may also include community custody.

During the period of community custody I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me, including additional conditions of community custody that may be imposed by the Department of Corrections. My failure to comply with these conditions will render me ineligible for general assistance, RCW 74.04.005 (6)(h), and may result in the Department of Corrections transferring me to a more restrictive confinement status or other sanctions.

If I violate the conditions of my community custody, the Department of Corrections may sanction me up to 60 days confinement per violation and/or revoke my earned early release, or the Department of Corrections may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation.

(g) The prosecuting attorney will make the following recommendation to the judge: ________________________
____
____.

[ ] The prosecutor will recommend as stated in the plea agreement, which is incorporated by reference.

(h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial

and compelling reasons not to do so. I understand the following regarding exceptional sentences:

(*i*) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence.

(*ii*) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine.

(*iii*) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act.

(*iv*) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

If the court imposes a standard range sentence, then no one may appeal the sentence. If the court imposes an exceptional sentence after a hearing, either the State or I can appeal the sentence.

(i) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

(j) I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.

(k) I will be ineligible to vote until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A.04.079, 29A.08.520.

(l) Government assistance may be suspended during any period of confinement.

(m) I will be required to have a biological sample collected for purposes of DNA identification analysis. I will be required to pay a $100.00 DNA collection fee.

Notification Relating to Specific Crimes: ***If any of the following paragraphs DO NOT APPLY, counsel and the defendant shall strike them out. The defendant and the judge shall initial all paragraphs that DO APPLY.***

__ (n) This offense is a most serious offense or "strike" as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.

__ (o) The judge may sentence me as a first-time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030. This sentence could include as much as 90 days' confinement and up to one year of community custody plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training.

__ (p) The judge may sentence me under the Parenting Sentencing Alternative if I qualify under RCW 9.94A.655. If I am eligible, the judge may order DOC to complete either a risk assessment report or a chemical dependency screening report, or both. If the judge decides to impose the Parenting Sentencing Alternative, the sentence will consist of 12 months of community custody and I will be required to comply with the conditions imposed by the court and by DOC. At any time during community custody, the court may schedule a hearing to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. The court may modify the conditions of community custody or impose sanctions. If the court finds I violated the conditions or requirements of the sentence or I failed to make satisfactory progress in treatment, the court may order me to serve a term of total confinement within the standard range for my offense.

__ (q) If this crime involves kidnapping involving a minor, including unlawful imprisonment involving a minor who is not my child, I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Offender Registration" Attachment.

__ (r) If this is a crime of domestic violence, I may be ordered to pay a domestic violence assessment of up to $100.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

__ (s) If this crime involves prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.

__ (t) The judge may sentence me under the drug offender sentencing alternative (DOSA) if I qualify under RCW 9.94A.660. If I qualify and the judge is considering a residential chemical dependency treatment-based alternative, the judge may order that I be examined by DOC before deciding to impose a DOSA sentence. If the judge decides to impose a DOSA sentence, it could be either a prison-based alternative or a residential chemical dependency treatment-based alternative.

If the judge imposes the **prison-based alternative**, the sentence will consist of a period of total confinement in a state facility for one-half of the midpoint of the standard range, or 12 months, whichever is greater. During confinement, I will be required to undergo a comprehensive substance abuse assessment and to participate in treatment. The judge will also impose a term of community custody of one-half of the midpoint of the standard range.

If the judge imposes the **residential chemical dependency treatment-based alternative**, the sentence will consist of a term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, and I will have to enter and remain in a certified residential chemical dependency treatment program for a period of ***three to six months***, as set by the court.

As part of this sentencing alternative, the court is required to schedule a progress hearing during the period of residential chemical dependency treatment and a treatment termination hearing scheduled three months before the expiration of the term of community custody. At either hearing, based upon reports by my treatment provider and the department of corrections on my compliance with treatment and monitoring requirements and recommendations regarding termination from treatment, the judge may modify the conditions of my community custody or order me to serve a term of total confinement equal to one-half of the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.701.

During the term of community custody for either sentencing alternative, the judge could prohibit me from using alcohol or controlled substances, require me to submit to urinalysis or other testing to monitor that status, require me to devote time to a specific employment or training, stay out of certain areas, pay $30.00 per month to offset the cost of monitoring and require other conditions, such as affirmative conditions, and the conditions described in paragraph 6(e). The judge, on his or her own initiative, may order me to appear in court at any time during the period of community custody to evaluate my progress in treatment or to determine if I have violated the conditions of the sentence. If the court finds that I have violated the conditions of the sentence or that I have failed to make satisfactory progress in treatment, the court may modify the terms of my community custody or order me to serve a term of total confinement within the standard range.

__ (u) If I am subject to community custody and the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.

__ (v) If this crime involves the manufacture, delivery, or possession with the intent to deliver methamphetamine, including its salts, isomers, and salts of isomers, or amphetamine, including its salts, isomers, and salts of isomers, and if a fine is imposed, $3,000 of the fine may not be suspended. RCW 69.50.401 (2)(b).

__ (w) If this crime involves a violation of the state drug laws, my eligibility for state and federal food stamps, welfare, and education benefits may be affected. 20 U.S.C. § 1091(r) and 21 U.S.C. § 862a.

__ (x) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the judge finds I used a motor vehicle in the commission of this felony.

__ (y) If this crime involves the offense of vehicular homicide while under the influence of intoxicating liquor, or any drug, as defined by RCW 46.61.502, committed on or after January 1, 1999, an additional two years shall be added to the presumptive sentence for vehicular homicide for each prior offense as defined in RCW 46.61.5055(14).

__ (z) If I am pleading guilty to felony driving under the influence of intoxicating liquor, or any drugs, or felony actual physical control of a motor vehicle while under the influence of intoxicating liquor, or any drug, in addition to the provisions of chapter 9.94A RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked or denied. Following the period of suspension, revocation or denial, I must comply with the Department of Licensing ignition interlock device requirements. In addition to any other costs of the ignition interlock device, I will be required to pay an additional fee of $20 per month.

__ (aa) For the crimes of vehicular homicide committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)), or felony physical control under the influence (RCW 46.61.504(6)), the court shall add 12 months to the standard sentence range for each child passenger under the age of 16 who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions.

__ (bb) For the crimes of felony driving under the influence of intoxicating liquor, or any drug, for vehicular homicide while under the influence of intoxicating liquor, or any drug, or vehicular assault while under the influence of intoxicating liquor, or any drug, the court may order me to reimburse reasonable emergency response costs up to $2,500 per incident.

__ (cc) The crime of _________ has a mandatory minimum sentence of at least ___ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6[n].

__ (dd) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.

__ (ee) The offense(s) I am pleading guilty to include(s) a Violation of the Uniform Controlled Substances Act in a protected zone enhancement or manufacture of methamphetamine when a juvenile was present in or upon the premises of manufacture enhancement. I understand these enhancements are mandatory and that they must run consecutively to all other sentencing provisions.

__ (ff) The offense(s) I am pleading guilty to include(s) a deadly weapon, firearm, or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.

__ (gg) If I am pleading guilty to (1) unlawful possession of a firearm(s) in the first or second degree and (2) felony theft of a firearm or possession of a stolen firearm, I am required to serve the sentences for these crimes consecutively

to one another. If I am pleading guilty to unlawful possession of more than one firearm, I must serve each of the sentences for unlawful possession consecutively to each other.

__ (hh) If I am pleading guilty to the crime of unlawful practices in obtaining assistance as defined in RCW 74.08.331, no assistance payment shall be made for at least six months if this is my first conviction and for at least 12 months if this is my second or subsequent conviction. This suspension of benefits will apply even if I am not incarcerated. RCW 74.08.290.

__ (ii) The judge may authorize work ethic camp. To qualify for work ethic authorization my term of total confinement must be more than twelve months and less than thirty-six months, I cannot currently be either pending prosecution or serving a sentence for violation of the uniform controlled substance act and I cannot have a current or prior conviction for a sex or violent offense.

7. I plead guilty to:

count ____

count ____

count ____

in the ________________________ Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement:

____

____

____

____

____

____

____.

[ ] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment, if applicable. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

____

Defendant

I have read and discussed this statement with the defendant. I believe that the defendant is competent and fully understands the statement.

______________________________	______________________________
Prosecuting Attorney	Defendant's Lawyer
______________________________	______________________________
Print Name WSBA No.	Print Name WSBA No.

The defendant signed the foregoing statement in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

☐ (a) The defendant had previously read the entire statement above and that the defendant understood it in full;

☐ (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or

☐ (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is included below.

Interpreter's Declaration: I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret in the ________________________________ language, which the defendant understands. I have interpreted this document for the defendant from English into that language. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) ______________________, (state) ______________, on (date) __________________.

______________________________	______________________________
Interpreter	Print Name

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: ______________________ ______________________

Judge

Superior Court of Washington for	
State of Washington ______, Plaintiff vs. ______________________. Defendant	No. **Statement of Defendant on Plea of Guilty to Sex Offense (Felony) (STTDFG)**

1. My true name is: ____________.

2. My age is: ________.

3. The last level of education I completed was ____.

4. **I Have Been Informed and Fully Understand That:**

(a) I have the right to representation by a lawyer and if I cannot afford to pay for a lawyer, one will be provided at no expense to me.

(b) I am charged with: ____________.

The elements are: ______________________

______________________________________.

5. **I Understand I Have the Following Important Rights, and I Give Them Up by Pleading Guilty:**

(a) The right to a speedy and public trial by an impartial jury in the county where the crime was allegedly committed;

(b) The right to remain silent before and during trial, and the right to refuse to testify against myself;

(c) The right at trial to hear and question the witnesses who testify against me;

(d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;

(e) The right to be presumed innocent unless the State proves the charge beyond a reasonable doubt or I enter a plea of guilty;

(f) The right to appeal a finding of guilt after a trial.

6. **In Considering the Consequences of My Guilty Plea, I Understand That:**

(a) Each crime with which I am charged carries a maximum sentence, a fine, and a ***Standard Sentence Range*** as follows:

COUNT NO.	OFFENDER SCORE	STANDARD RANGE ACTUAL CONFINEMENT (not including enhancements)	PLUS Enhancements*	COMMUNITY CUSTODY	MAXIMUM TERM AND FINE
1					
2					
3					

*Each sentencing enhancement will run consecutively to all other parts of my entire sentence, including other enhancements and other counts. The enhancement codes are: (F) Firearm, (D) Other deadly weapon, (SM) Sexual Motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee, RCW 9.94A.533(9), (CSG) Criminal street gang involving minor, (AE) Endangerment while attempting to elude, (P16) Passenger(s) under age 16.

(b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions and juvenile adjudications or convictions, whether in this state, in federal court, or elsewhere.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase or a mandatory sentence of life imprisonment without the possibility of parole is required by law.

(e) In addition to sentencing me to confinement, the judge will order me to pay $500.00 as a victim's compensation fund assessment and any mandatory fines, fees, assessments, or penalties that apply to my case. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The amount of restitution may be up to double my gain or double the victim's loss. The judge may also order that I pay a fine, court costs, attorney fees and the costs of incarceration.

(f) For sex offenses committed prior to July 1, 2000: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is more than one year, the judge will order me to serve three years of community custody or up to the period of earned early release, whichever

is longer. During the period of community custody, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

For sex offenses committed on or after July 1, 2000 but prior to September 1, 2001: In addition to sentencing me to confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, the judge will sentence me to community custody for 36 months or up to the period of earned release, whichever is longer. During the period of community custody to which I am sentenced, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me.

For sex offenses committed on or after September 1, 2001: (i) Sentencing under RCW 9.94A.507: If this offense is any of the offenses listed in subsections (aa) or (bb), below, the judge will impose a maximum term of confinement consisting of the statutory maximum sentence of the offense and a minimum term of confinement either within the standard range for the offense or outside the standard range if an exceptional sentence is appropriate. The minimum term of confinement that is imposed may be increased by the Indeterminate Sentence Review Board if the Board determines by a preponderance of the evidence that it is more likely than not that I will commit sex offenses if released from custody. In addition to the period of confinement, I will be sentenced to community custody for any period of time I am released from total confinement before the expiration of the maximum sentence. During the period of community custody I will be under the supervision of the Department of Corrections and I will have restrictions and requirements placed upon me, which may include electronic monitoring, and I may be required to participate in rehabilitative programs.

(aa) If the current offense is any of these offenses or attempt to commit any of these offenses:

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree committed when I was at least 18 years old	Rape of a child in the second degree committed when I was at least 18 years old
Child molestation in the first degree committed when I was at least 18 years old	Indecent liberties by forcible compulsion
Any of the following offenses with a finding of sexual motivation:	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Kidnapping in the second degree	Assault in the first degree
Assault in the second degree	Assault of a child in the first degree
Assault of a child in the second degree	Burglary in the first degree

(bb) If the current offense is any sex offense and I have a prior conviction for any of these offenses or attempt to commit any of these offenses:

Rape in the first degree	Rape in the second degree
Rape of a child in the first degree	Rape of a child in the second degree
Child molestation in the first degree	Indecent liberties by forcible compulsion
Any of the following offenses with a finding of sexual motivation:	
Murder in the first degree	Murder in the second degree
Homicide by abuse	Kidnapping in the first degree
Kidnapping in the second degree	Assault in the first degree
Assault in the second degree	Assault of a child in the first degree
Assault of a child in the second degree	Burglary in the first degree

(ii) If this offense is a sex offense that is not listed in paragraph 6 (f)(i), then in addition to sentencing me to a term of confinement, the judge may order me to serve up to one year of community custody if the total period of confinement ordered is not more than 12 months. If the period of confinement is over one year, or if my crime is failure to register as a sex offender, and this is my second or subsequent conviction of that crime, the judge will sentence me to community custody for 36 months or up to the period of earned release, whichever is longer. During the period of community custody to which I am sentenced, I will be under the supervision of the Department of Corrections, and I will have restrictions and requirements placed upon me, which may include electronic monitoring.

For sex offenses committed on or after March 20, 2006: For the following offenses and special allegations, the minimum term shall be either the maximum of the standard sentence range for the offense or 25 years, whichever is greater:

1) If the offense is rape of a child in the first degree, rape of a child in the second degree or child molestation in the first degree and the offense includes a special allegation that the offense was predatory.

2) If the offense is rape in the first degree, rape in the second decree, indecent liberties by forcible compulsion, or kidnapping in the first degree with sexual motivation and the offense includes special allegation that the victim of the offense was under 15 years of age at the time of the offense.

3) If the offense is rape in the first degree, rape in the second degree with forcible compulsion, indecent liberties with forcible compulsion, or kidnapping in the first degree with sexual motivation and this offense includes a special allegation that the victim of the offense was, at the time of the offense, developmentally disabled, mentally disordered, or a frail elder or vulnerable adult.

Community Custody Violation: If I violate the conditions of my community custody, the Department of Corrections may sanction me up to 60 days confinement per viola-

tion and/or revoke my earned early release, or the Department of Corrections may impose additional conditions or other stipulated penalties. The court also has the authority to impose sanctions for any violation.

(g) The prosecuting attorney will make the following recommendation to the judge: ______________________

____

____

____.

[ ] The prosecutor will recommend as stated in the plea agreement, which is incorporated by reference.

(h) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so (except as provided in paragraph 6(f)). I understand the following regarding exceptional sentences:

(*i*) The judge may impose an exceptional sentence below the standard range if the judge finds mitigating circumstances supporting an exceptional sentence.

(*ii*) The judge may impose an exceptional sentence above the standard range if I am being sentenced for more than one crime and I have an offender score of more than nine.

(*iii*) The judge may also impose an exceptional sentence above the standard range if the State and I stipulate that justice is best served by imposition of an exceptional sentence and the judge agrees that an exceptional sentence is consistent with and in furtherance of the interests of justice and the purposes of the Sentencing Reform Act.

(*iv*) The judge may also impose an exceptional sentence above the standard range if the State has given notice that it will seek an exceptional sentence, the notice states aggravating circumstances upon which the requested sentence will be based, and facts supporting an exceptional sentence are proven beyond a reasonable doubt to a unanimous jury, to a judge if I waive a jury, or by stipulated facts.

If the court imposes a standard range sentence, then no one may appeal the sentence. If the court imposes an exceptional sentence after a hearing, either the State or I can appeal the sentence.

(i) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

(j) I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court in which I am convicted or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.

(k) I will be ineligible to vote until that right is restored in a manner provided by law. If I am registered to vote, my voter registration will be cancelled. Wash. Const. art. VI, § 3, RCW 29A.04.079, 29A.08.520.

(l) Government assistance may be suspended during any period of confinement.

(m) I will be required to register where I reside, study or work. The specific registration requirements are described in the "Offender Registration" Attachment.

(n) I will be required to have a biological sample collected for purposes of DNA identification analysis, unless it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense. I will be required to pay a $100.00 DNA collection fee.

(o) I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.

Notification Relating to Specific Crimes: If any of the following paragraphs *DO NOT APPLY*, counsel and the defendant shall strike them out. The defendant and the judge shall initial all paragraphs that *DO APPLY*.

__ (p) This offense is a most serious offense or "strike" as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses, whether in this state, in federal court, or elsewhere, the offense for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. In addition, if this offense is (i) rape in the first degree, rape of a child in the first degree, rape in the second degree, rape of a child in the second degree, indecent liberties by forcible compulsion, or child molestation in the first degree, or (ii) murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree, with a finding of sexual motivation, or (iii) any attempt to commit any of the offenses listed in this sentence and I have at least one prior conviction for one of these listed offenses in this state, in federal court, or elsewhere, the offense for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole.

__ (q) **Special sex offender sentencing alternative**: In addition to other eligibility requirements under RCW 9.94A.-670, to be eligible for the special sex offender sentencing alternative, I understand that I must voluntarily and affirmatively admit that I committed all of the elements of the crime(s) to which I am pleading guilty. I make my voluntary and affirmative admission in my statement in paragraph 11.

<u>For offenses committed before September 1, 2001</u>: The judge may suspend execution of the standard range term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under former RCW 9.94A.120(8) (for offenses committed before July 1, 2001) or RCW 9.94A.670 (for offenses committed on or after July 1, 2001). If the judge suspends execution of the standard range term of confinement, I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater; I will be ordered to serve up to 180 days of total confinement; I will be ordered to participate in sex offender treatment; I will have restrictions and requirements placed upon me; and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

For offenses committed on or after September 1, 2001: The judge may suspend execution of the standard range term of confinement or the minimum term of confinement under the special sex offender sentencing alternative (SSOSA) if I qualify under RCW 9.94A.670. If the judge suspends execution of the standard range term of confinement for a sex offense that is not listed in paragraph 6 (f)(i), I will be placed on community custody for the length of the suspended sentence or three years, whichever is greater. If the judge suspends execution of the minimum term of confinement for a sex offense listed in paragraph 6 (f)(i), I will be placed on community custody for the length of the statutory maximum sentence of the offense. In addition to the term of community custody, I will be ordered to serve up to 180 days of total confinement if I committed the crime prior to July 1, 2005, or up to 12 months with no early release if I committed the crime on or after July 1, 2005; I will be ordered to participate in sex offender treatment; I will have restrictions and requirements placed upon me, which may include electronic monitoring; and I will be subject to all of the conditions described in paragraph 6(e). Additionally, the judge could require me to devote time to a specific occupation and to pursue a prescribed course of study or occupational training. If a violation of the sentence occurs during community custody, the judge may revoke the suspended sentence.

__ (r) If this is a crime of domestic violence, the court may order me to pay a domestic violence assessment of up to $100.00. If I, or the victim of the offense, have a minor child, the court may order me to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

__ (s) If I am subject to community custody and the judge finds that I have a chemical dependency that has contributed to the offense, the judge may order me to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which I am pleading guilty.

__ (t) I understand that RCW 46.20.285(4) requires that my driver's license be revoked if the judge finds I used a motor vehicle in the commission of this felony.

__ (u) If I am pleading guilty to felony driving under the influence of intoxicating liquor, or any drugs, or felony actual physical control of a motor vehicle while under the influence of intoxicating liquor, or any drug, in addition to the provisions of chapter 9.94A RCW, I will be required to undergo alcohol or chemical dependency treatment services during incarceration. I will be required to pay the costs of treatment unless the court finds that I am indigent. My driving privileges will be suspended, revoked, or denied. Following the period of suspension, revocation, or denial, I must comply with the Department of Licensing ignition interlock device requirements. In addition to any other costs of the ignition interlock device, I will be required to pay an additional fee of $20 per month.

__ (v) For the crimes of vehicular homicide committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor, or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)), or felony physical control under the influence (RCW 46.61.504(6)), the court shall add 12 months to the standard sentence range for each child passenger under the age of 16 who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions.

(w) For the crimes of felony driving under the influence of intoxicating liquor, or any drug, for vehicular homicide while under the influence of intoxicating liquor, or any drug, or vehicular assault while under the influence of intoxicating liquor, or any drug, the court may order me to reimburse reasonable emergency response costs up to $2,500 per incident.

__ (x) The crime of ___________ has a mandatory minimum sentence of at least ____ years of total confinement. This law does not apply to crimes committed on or after July 24, 2005, by a juvenile who was tried as an adult after decline of juvenile court jurisdiction. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6[p].

__ (y) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise.

__ (z) The offense(s) I am pleading guilty to include a deadly weapon, firearm or sexual motivation enhancement. Deadly weapon, firearm, or sexual motivation enhancements are mandatory, they must be served in total confinement, and they must run consecutively to any other sentence and to any other deadly weapon, firearm, or sexual motivation enhancements.

__ (aa) For crimes committed on or after July 22, 2007: If I am pleading guilty to rape of a child in the first, second, or third degree or child molestation in the first, second or third degree, and I engaged, agreed or offered to engage the victim in sexual intercourse or sexual contact for a fee, or if I attempted, solicited another, or conspired to engage, agree or offer to engage the victim in sexual intercourse or sexual contact for a fee, then a one-year enhancement shall be added to the standard sentence range. If I am pleading guilty to more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement.

__ (bb) If I am pleading guilty to patronizing a prostitute or commercial sexual abuse of a minor, and this is my first offense, the court will order me to attend a program designed to educate me about the negative costs of prostitution.

7. I plead guilty to:

count

____

count

____

count

____

count

____

in the ________________________ Information. I have received a copy of that Information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. The judge has asked me to state what I did in my own words that makes me guilty of this crime. This is my statement:

____
____
____
____
____.

[ ] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs and the "Offender Registration" Attachment. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

____
Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

________________________________	________________________________
Prosecuting Attorney	Defendant's Lawyer
________________________________	________________________________
Print Name WSBA No.	Print Name WSBA No.

The defendant signed the foregoing statement in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

☐ (a) The defendant had previously read the entire statement above and that the defendant understood it in full;

☐ (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or

☐ (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is attached.

Interpreter's Declaration: I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret, in the ________________________________ language, which the defendant understands. I have interpreted this document for the defendant from English into that language. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) ______________________, (state) ______________, on (date) __________________.

________________________________	________________________________
Interpreter	Print Name

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: ________________________________ ________________________________

Judge

SUPERIOR COURT OF WASHINGTON COUNTY OF ______________ JUVENILE COURT	NO:
STATE OF WASHINGTON vs. Respondent	STATEMENT ON PLEA OF GUILTY (STJOPG)

1. My true name is: _________________.
I am also known as: ___________________________.
2. My age is ____. Date of Birth: _________________.
3. I have been informed and fully understand that I have the right to a lawyer, and that if I cannot afford to pay for a lawyer, the judge will provide me with one at no cost. I understand that a lawyer can look at the social and legal files in my case, talk to the police, probation counselor and prosecuting attorney, tell me about the law, help me understand my rights, and help me at trial.
4. I understand that I am charged with Count 1 _______ ____,
the elements of which are ________________________ ____ ____;
Count 2 ______________________________________ ____,
the elements of which are ________________________ ____ ____.
And I have been given a copy of the charge(s).

5. *I UNDERSTAND I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:*

a. I have the right to a speedy and public trial in the county where the offense(s) allegedly occurred.

b. I have the right to remain silent before and during trial, and I need not testify against myself.

c. I have the right to hear and question witnesses who might testify against me.

d. I have the right to testify and to have witnesses testify for me. These witnesses may be required to appear at no cost to me.

e. I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty.

f. I have the right to appeal a finding of guilt after trial.

6. I have been informed that in order to determine an appropriate sentence regarding the charges to which I plead guilty in this matter, the judge will take into consideration my criminal history, which is as follows:

a. __________________________
b. __________________________
c. __________________________
d. __________________________
e. __________________________
f. __________________________

7. The Standard Sentencing Range, which was calculated using my criminal history as referenced in Paragraph 6, above, is as follows:

[ ] LOCAL SANCTIONS:

COUNT	SUPERVISION	COMMUNITY RESTITUTION	FINE	DETENTION	CVC	RESTITUTION
[ ] 1	0 to 12 months	0 to 150 hours	$0 to $500	0 to 30 Days	$75/$100	[ ] As required [ ] ____
[ ] 2	0 to 12 months	0 to 150 hours	$0 to $500	0 to 30 Days	$75/$100	[ ] As required [ ] ____
[ ] 3	0 to 12 months	0 to 150 hours	$0 to $500	0 to 30 Days	$75/$100	[ ] As required [ ] ____

I understand that, if community supervision is imposed, I will be required to comply with various rules, which could include school attendance, curfew, law abiding behavior, associational restrictions, counseling, treatment, urinalysis, and/or other conditions deemed appropriate by the judge. Failure to comply with the conditions of supervision could result in a violation being found and further confinement imposed for the violation up to 30 days.

[ ] JUVENILE REHABILITATION ADMINISTRATION (JRA) COMMITMENT:

COUNT	WEEKS AT JUVENILE REHABILITATION ADMINISTRATION (JRA) FACILITY	CVC	RESTITUTION
[ ] 1	[ ] 15 - 36 [ ] 30 - 40 [ ] 52 - 65 [ ] 80 - 100 [ ] 103 - 129 [ ] 180 - Age 21	$75/$100	[ ] As required [ ] ___
[ ] 2	[ ] 15 - 36 [ ] 30 - 40 [ ] 52 - 65 [ ] 80 - 100 [ ] 103 - 129 [ ] 180 - Age 21	$75/$100	[ ] As required [ ] ___
[ ] 3	[ ] 15 - 36 [ ] 30 - 40 [ ] 52 - 65 [ ] 80 - 100 [ ] 103 - 129 [ ] 180 - Age 21	$75/$100	[ ] As required [ ] ___

I understand that, if I am committed to a Juvenile Rehabilitation Administration (JRA) facility, following my release I may be required to comply with a program of parole for a number of months. I understand that if placed on parole, I will be under the supervision of a parole officer. The conditions of parole will restrict my actions and may require me to participate in activities and programs including, but not limited to, evaluation, treatment, education, employment, community restitution, electronic monitoring, and urinalysis. Failure to comply with the conditions of parole may result in parole revocation and further confinement. If the offense to which I am pleading guilty is a sex offense, failure to comply with the conditions of parole may result in further confinement of up to 24 weeks.

I understand that if I am pleading guilty to two or more offenses, the disposition terms shall run consecutively (one term after the other) subject to the limitations in RCW 13.40.180.

I understand that if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding.

8. RIGHT TO APPEAL SENTENCE: I understand, that the judge must impose a sentence within the standard range,

unless the judge finds by clear and convincing evidence that the standard range sentence would amount to a manifest injustice. If the judge goes outside the standard range, either the state or I can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

9. MAXIMUM PUNISHMENT: I have been informed, and fully understand, that the maximum punishment I can receive is commitment until I am 21 years old, but that I may be incarcerated for no longer than the adult maximum sentence for this offense.

10. COUNTS AS CRIMINAL HISTORY: I understand that my plea of guilty and the judge's acceptance of my plea will become part of my criminal history. I understand that if I am pleading guilty to two or more offenses that arise out of the same course of conduct, only the most serious offense will count as an offense in my criminal history. I understand that my guilty plea will remain part of my criminal history when I am an adult and may affect my ability to remain in the Juvenile Justice System should I re-offend. I understand that the judge will consider my criminal history when sentencing me for any offense that I commit in the future as an adult or juvenile.

11. GROUNDS FOR DEPORTATION: If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law may be grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

12. *NOTIFICATION RELATING TO SPECIFIC CRIMES: IF ANY OF THE FOLLOWING PARAGRAPHS DO NOT APPLY, THEY SHOULD BE STRICKEN AND INITIALED BY THE DEFENDANT AND THE JUDGE.*

[A] SUSPENSION/REVOCATION OF DRIVING PRIVILEGE FOR FIREARMS OR DRUGS: I have been informed that if the offense that I am pleading guilty to involves a finding that I was armed with a firearm when I committed the offense or if the offense was a violation of RCW 9.41.040 (2)(a)(iii) or chapters 66.44, 69.41, 69.50 or 69.52 and I was 13 years of age or older when I committed the offense, then the plea will result in the suspension or revocation of my privilege to drive.

[B] SUSPENSION/REVOCATION OF DRIVING PRIVILEGE FOR DRIVING OFFENSES: I have been informed that if the offense that I am pleading guilty to is any felony in the commission of which a motor vehicle was used, reckless driving, driving or being in physical control of a motor vehicle while under the influence of intoxicants, driving while license suspended or revoked, vehicular assault, vehicular homicide, hit and run, theft of motor vehicle fuel, or attempting to elude a pursuing police vehicle, the plea will result in the suspension or revocation of my privilege to drive.

[C] OFFENDER REGISTRATION FOR SEX OFFENSE OR KIDNAPPING OFFENSE: Because this crime involves a sex offense, or a kidnapping offense involving a minor, or sexual misconduct with a minor in the second degree, communication with a minor for immoral purposes, or attempt, solicitation, or conspiracy to commit a sex offense or a kidnapping offense involving a minor, as defined in RCW 9A.44.128, I will be required to register where I reside, study or work. The specific registration requirements are set forth in the "Offender Registration" Attachment.

[D] DNA TESTING: Pursuant to RCW 43.43.754, if this crime involves a felony, or an offense which requires sex or kidnapping offender registration, or any of the following offenses: stalking, harassment, communication with a minor for immoral purposes, assault in the fourth degree with sexual motivation, custodial sexual misconduct in the second degree, failure to register as a sex or kidnapping offender, patronizing a prostitute, sexual misconduct with a minor in the second degree, or violation of a sexual assault protection order, I will be required to have a biological sample collected for purposes of DNA identification analysis. This paragraph does not apply if it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense.

[E] HIV TESTING: If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus. RCW 70.24.340.

[F] DOMESTIC VIOLENCE ASSESSMENT: If this offense involves domestic violence, I may be required to pay a domestic violence assessment of up to $100.

[G] CRIME LAB FEES: If this offense involves a controlled substance, I will be required to pay $100 for the State Patrol Crime Lab fees to test the substance.

[H] MANDATORY PROSTITUTION/INDECENT EXPOSURE/COMMERCIAL SEXUAL ABUSE OF A MINOR/ TRAFFICKING ASSESSMENTS: I have been informed that the court will order me to pay a mandatory assessment as required under RCW 9A.88.120, RCW 9.68A.105, or RCW 9A.40.100. The court may reduce up to two-thirds of this assessment if the court finds that I am not able to pay the assessment.

[I] SCHOOL NOTIFICATION: If I am enrolled in a common school, the court will notify the principal of my plea of guilty if the offense for which I am pleading guilty is a violent offense as defined in RCW 9.94A.030; a sex offense as defined in RCW 9.94A.030; inhaling toxic fumes under chapter 9.47A RCW; a controlled substance violation under chapter 69.50 RCW; a liquor violation under RCW 66.44.270; or any crime under chapters 9.41, 9A.36, 9A.40, 9A.46, and 9A.48 RCW. RCW 13.04.155.

[J] SCHOOL ATTENDANCE WITH VICTIM PROHIBITED: I understand that if I am pleading guilty to a sex offense, I will not be allowed to attend the school attended by the victim or victim's siblings. RCW 13.40.160.

[K] FEDERAL BENEFITS: I understand that if I am pleading guilty to a felony drug offense, my eligibility for state and federal food stamps and welfare will be affected. 21 U.S.C. § 862a.

[L] MANDATORY MINIMUM SENTENCE: The crime of has a mandatory minimum sentence of at least ___ weeks of total confinement. The law does not allow any reduction of this sentence.

[M] RIGHT TO POSSESS FIREARMS: [JUDGE MUST READ THE FOLLOWING TO OFFENDER] I have been informed that if I am pleading guilty to any offense that is classified as a felony or any of the following crimes when committed by one family or household member against another: assault in the fourth degree, coercion, stalking, reckless endangerment, criminal trespass in the first degree, or violation of the provisions of a protection order or no-contact order restraining the

person or excluding the person from a residence; that I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so has been restored by the court in which I am adjudicated or the superior court in Washington State where I live, and by a federal court if required.

[N] FIREARMS POSSESSION OR COMMISSION WHILE ARMED:

[i] Minimum 10 Days for Possession Under Age 18: I understand that the offense I am pleading guilty to includes possession of a firearm in violation of RCW 9.41.040 (2)(a)(iii), and pursuant to RCW 13.40.193, the judge will impose a mandatory minimum disposition of 10 days of confinement, which must be served in total confinement without possibility of release until a minimum of 10 days has been served.

[ii] Unlawful Possession with Stolen Firearm: I understand that if the offenses I am pleading guilty to include both a conviction under RCW 9.41.040 for unlawful possession of a firearm in the first or second degree and one or more convictions for the felony crimes of theft of a firearm or possession of a stolen firearm, that the sentences imposed for these crimes shall be served consecutively to each other. A consecutive sentence will also be imposed for each firearm unlawfully possessed.

[iii] Armed During Commission of Any Offense: I understand that if the offense I am pleading guilty to includes a finding that either I or my accomplice was armed with a firearm during the commission of the offense, that the standard range disposition shall be determined pursuant to RCW 13.40.160, unless the judge finds a manifest injustice, in which case the disposition shall be determined pursuant to RCW 13.40.193(3). Such confinement will run consecutive to any other sentence that may be imposed.

[iv] Armed During Commission of a Felony: I further understand that the offense I am pleading guilty to includes a finding that either myself or my accomplice was armed with a firearm during the commission of a felony (other than possession of a machine gun, possession of a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first or second degree, or use of a machine gun in a felony) and, therefore, the following mandatory periods of total confinement will be added to my sentence: For a class A felony, six (6) months; for a class B felony, four (4) months; and for a class C felony, two (2) months. Such confinement will run consecutive to any other sentence that may be imposed.

13. I understand that the prosecuting attorney will make the following recommendation to the judge: ____________
____
____
____.

14. I understand that the probation counselor will make the following recommendation to the judge: ____________
____
____
____
____.

15. Although the judge will consider recommendations of the prosecuting attorney and the probation officer, the judge may impose any sentence he or she feels is appropriate, up to the maximum allowed by law.

16. The judge has asked me to state in my own words what I did that makes me guilty of this crime. This is my statement:
____
____
____.

[ ] Instead of making a statement, I agree that the judge may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

17. I plead guilty to count ______________ in the ____________________________ Information. I have received a copy of that Information.

18. I make this plea freely. No one has threatened to harm me or anyone else to get me to plead guilty.

19. No one has made any promises to make me plead guilty, except as written in this statement.

20. I have read or someone has read to me everything printed above, and in Attachment "A," if applicable, and I understand it in full. I have been given a copy of this statement. I have no more questions to ask the judge.

Dated: ______________________ ______________________

Respondent

I have read and discussed this statement with the respondent and believe that the respondent is competent and fully understands the statement.

______________________ ______________________

Deputy Prosecuting Attorney WSBA No. Attorney for Respondent WSBA No.

______________________ ______________________

Type or Print Name Type or Print Name

JUDGE'S CERTIFICATE

The foregoing statement was signed by the respondent in open court in the presence of his or her lawyer and the undersigned judge. The respondent asserted that [check appropriate box]:

☐ (a) The respondent had previously read the entire statement above and that the respondent understood it in full;

☐ (b) The respondent's lawyer had previously read to him or her the entire statement above and that the respondent understood it in full; or

☐ (c) An interpreter had previously read to the respondent the entire statement above and that the defendant understood it in full. The Interpreter's Declaration is attached.

INTERPRETER'S DECLARATION: I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret, in the ________________ language, which the respondent understands. I have interpreted this document for the respondent from English into that language. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) ____________, (state) ________, on (date) __________.

________________________ ________________________

Interpreter Print Name

I find the respondent's plea of guilty is knowingly, intelligently, and voluntarily made. Respondent understands the charge and the consequences of the plea. There is a factual basis for the plea. The respondent is guilty as charged.

Dated: ________________________ ________________________

Judge/Commissioner

Court of Washington
for

____
Plaintiff,
vs.
____
Defendant.

No.
Statement of Defendant on Plea of Guilty

1. My true name is ______________.
2. My age is ________________.
3. I went through the _______ grade.
4. ***I Have Been Informed and Fully Understand that:***

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me.

(b) I am charged with:

Count	Crime	RCW or Ordinance (with subsection)
1.		
2.		
3.		
4.		

[ ] In count(s) _________, the defendant committed the offense against another family or household member as defined in RCW 10.99.020.

The elements are:

[ ] as set out in the charging document.

[ ] as follows: ________________________
____
____
____
________________________.

5. ***I Understand That I Have the Following Important Rights, and I Give Them All Up by Pleading Guilty:***

(a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;

(b) The right to remain silent before and during trial, and the right to refuse to testify against myself;

(c) The right at trial to hear and question the witnesses who testify against me;

(d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;

(e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;

(f) The right to appeal a finding of guilt after a trial.

6. ***In Considering the Consequences of my Guilty Plea, I Understand That:***

(a) The crime with which I am charged carries a maximum sentence of ____ days in jail and a $_______ fine.

(b) The prosecuting authority will make the following recommendation to the judge: ________________________
____
________________________.

(c) The judge does not have to follow anyone's recommendation as to sentence. The judge can give me any sen-

tence up to the maximum authorized by law no matter what the prosecuting authority or anyone else recommends.

(d) The judge may place me on probation for up to five (5) years if I am sentenced for a domestic violence offense or under RCW 46.61.5055, or up to two (2) years for all other offenses and impose conditions of probation. If the court orders me to appear at a hearing regarding my compliance with probation and I fail to attend the hearing, the term of probation will be tolled until I appear before the court on the record.

(e) The judge may require me to pay costs, fees and assessments authorized by law. The judge may also order me to make restitution to any victims who lost money or property as a result of crimes I committed. The maximum amount of restitution is double the amount of the loss of all victims or double the amount of my gain.

(f) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law may be grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

Notification Relating to Specific Crimes: If any of the Following Paragraphs Apply, the Box Should Be Checked and the Paragraph Initialed by the Defendant.

[ ] (g) The crime of __________________ has a mandatory minimum sentence of ____________________ days in jail and $_______ fine plus costs and assessments. The law does not allow any reduction of this sentence.

[ ] (h) The crime of prostitution, indecent exposure, permitting prostitution and patronizing a prostitute has a mandatory assessment of $____________. The court may reduce up to two-thirds of this assessment if the court finds that I am not able to pay the assessment. RCW 9A.88.120.

[ ] (i) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.

[ ] (j) This plea of guilty will result in suspension or revocation of my driving license or privilege by the Department of Licensing for a minimum period of _________, or longer based upon my record of conviction. This period may not include suspension or revocation based on other matters.

[ ] (k) I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court of record that ordered the prohibition on possession of a firearm or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.

[ ] (l) If this crime involves a violation of Title 77 RCW, the Department of Fish and Wildlife may, and in some cases shall, suspend or revoke my privileges under Fish and Wildlife licensing.

[ ] (m) If this crime involves a drug offense, my eligibility for state and federal education benefits will be affected. 20 U.S.C. § 1091(r).

[ ] (n) This plea of guilty is considered a conviction under RCW 46.25.010 and I will be disqualified from driving a commercial motor vehicle. RCW 46.25.090. I am required to notify the Department of Licensing and my employer of this guilty plea within 30 days after the judge signs this document. RCW 46.25.030.

[ ] (o) If this case involves driving while under the influence of alcohol and/or being in actual physical control of a vehicle while under the influence of alcohol and/or drugs, I have been informed and understand that I will be subject to:

[ ] the penalties described in the "DUI" Attachment.

OR

[ ] these penalties: The mandatory minimum sentence of ______ days in jail, ______ days of electronic home monitoring and $________ monetary penalty. The court shall require me to apply for an ignition interlock driver's license and to drive only with a functioning ignition interlock device or, if the court waives those requirements, to submit to alcohol monitoring, for ____ year(s). I may also be required to drive only motor vehicles equipped with an ignition interlock device as imposed by the Department of Licensing and/or the court. My driving privilege will be suspended or revoked by the Department of Licensing for the period of time stated in paragraph 6(j). In lieu of the minimum jail term, the judge may order me to serve ______ days in electronic home monitoring. If I do not have a dwelling, telephone service, or any other necessity to operate electronic home monitoring, if I live out of state, or if the judge determines I would violate the terms of electronic home monitoring, the judge may waive electronic home monitoring and impose an alternative sentence which may include additional jail time, work crew or work camp.

[ ] (p) If this case involves reckless driving and the original charge was driving while under the influence of alcohol and/or being in actual physical control of a vehicle while under the influence of alcohol and/or drugs and I have one or more prior offenses, as defined in RCW 46.61.5055(14), within 7 years; or if the original charge was vehicular homicide (RCW 46.61.520) or vehicular assault (RCW 46.61.522) committed while under the influence of intoxicating liquor or any drug, I have been informed and understand that I will be subject to the penalties for Reckless Driving described in the "DUI" Attachment.

[ ] (q) If this case involves negligent driving in the first degree, and I have one or more prior offenses, as defined in RCW 46.61.5055(14), within 7 years, I have been informed and understand that I will be subject to the penalties for Negligent Driving - 1st Degree described in the "DUI" Attachment.

[ ] (r) If this crime involves sexual misconduct with a minor in the second degree, communication with a minor for immoral purposes, or attempt, solicitation or conspiracy to commit a sex offense, or a kidnapping offense involving a minor, as defined in RCW 9A.44.128, I will be required to register with the county sheriff as described in the "Offender Registration" Attachment.

[ ] (s) Pursuant to RCW 43.43.754, if this crime is an offense which requires sex or kidnapping offender registration, or is one of the following offenses: assault in the fourth degree with sexual motivation, communication with a minor for immoral purposes, custodial sexual misconduct in the second degree, failure to register, harassment, patronizing a prostitute, sexual misconduct with a minor in the second

degree, stalking, or violation of a sexual assault protection order granted under chapter 7.90 RCW, I will be required to have a biological sample collected for purposes of DNA identification analysis, unless it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense.

[ ] (t) ***Travel Restrictions:*** I will be required to contact my probation officer, the probation director or designee, or the court if there is no probation department, to request permission to travel or transfer to another state if I am placed on probation for one (1) year or more and this crime involves: (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; (iv) a sexual offense that requires the offender to register as a sex offender in the sending state. I understand that I will be required to pay an application fee with my travel or transfer request.

7. I plead guilty to the crime(s) of ________________ as charged in the complaint(s) or citation(s) and notice. I have received a copy of that complaint or citation and notice. [] The compliant or citation and notice was orally amended and I waive filing of a written amended compliant or citation and notice.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.

11. ***Statement of Facts:*** The judge has asked me to state in my own words what I did that makes me guilty of the crime(s). This is my statement (state the specific facts that support each element of the crime(s)):

____
____
____
____.

[ ] I committed this crime against a family or household member as defined in RCW 10.99.020.

[ ] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

Date: ____________ ________________________

Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

________________________ ________________________

Prosecuting Authority | Defendant's Lawyer

________________________ ________________________

Type or Print Name WSBA No. | Type or Print Name WSBA No.

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that (check the appropriate box):

[ ] (a) The defendant had previously read; or

[ ] (b) The defendant's lawyer had previously read to him or her; or

[ ] (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

Interpreter Declaration: I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret in the ________________________ language, which the defendant understands. I have translated this document for the defendant from English into that language. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) __________ , (state)______, on (date) _______.

________________________ ________________________

Interpreter | Print Name

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: ____________ ________________________

Judge

Case Name: ____________________________ **Cause No.: ____________________________**

"DUI" Attachment: Driving under the influence of alcohol and/or actual physical control of a vehicle while under the influence of alcohol and/or drugs. (If required, attach to Statement of Defendant on Plea of Guilty.)

Court - DUI Sentencing Grid (RCW 46.61.5055 as amended through August 1, 2012)

BAC Result < .15 or No Test Result	***No Prior Offense[1]***	***One Prior Offense[1]***	***Two or Three Prior Offenses[1]***
Mandatory Minimum/ Maximum Jail Time[2]	24 Consecutive Hours/364 Days	30/364 Days	90/364 Days
EHM/Jail Alternative[2]	15 Days in Lieu of Jail	60 Days Mandatory/4 Days Jail Min.	120 Days Mandatory/8 Days Jail Min.

BAC Result < .15 or No Test Result	*No Prior Offense*[1]	*One Prior Offense*[1]	*Two or Three Prior Offenses*[1]
Mandatory Minimum/ Maximum Fine[3]	$940.50/$5,000	$1,195.50/$5,000	$2,045.50/$5,000
If Passenger Under 16 Minimum/ Maximum[4]	$1,000/$1,000-$5,000+assessments	$1,000/$2,000-$5,000+assessments	$1, 000/ $3,000-$10,000+assessments
Driver's License	90-Day Suspension	2-Year Revocation	3-Year Revocation
II Driver's License* II Device	DOL imposed	DOL imposed	DOL imposed.
If Passenger Under 16 II Device	6 Months	6 Months	6 Months
Alcohol/Drug Ed./Victim Impact or Treatment	As Ordered	As Ordered	As Ordered

BAC Result ≥ .15 or Test Refusal	*No Prior Offense*[1]	*One Prior Offense*[1]	*Two or Three Prior Offenses*[1]
Mandatory Minimum/ Maximum Jail Time[2]	2 Consecutive/364 Days	45/364 Days	120/364 Days
EHM/Jail Alternative[2]	30 Days in Lieu of Jail	90 Days Mandatory/6 Days Jail Min.	150 Days Mandatory/10 Days Jail Min.
Mandatory Minimum/ Maximum Fine[3]	$1,195.50/$5,000	$1,620.50/$5,000	$2,895.50/$5,000
If Passenger Under 16 Minimum/ Maximum[4]	$1, 000/ $1,000-$5,000+assessments	$1, 000/ $2,000-$5,000+assessments	$1, 000/ $3,000-$10,000+assessments
Driver's License	1-Year Revocation 2 Years if BAC refused	900-Days Revocation 3 Years if BAC refused	4-Year Revocation
II Driver's License* II Device	DOL imposed	DOL imposed	DOL imposed
If Passenger Under 16 II Device	6 Months	6 Months	6 Months
Alcohol/Drug Ed./Victim Impact or Treatment	As Ordered	As Ordered	As Ordered

Department of Licensing Required Ignition Interlock Device Requirements, RCW 46.20.720 (3)(4) January 1, 2011*			
Requirement	No Previous Restriction no less than:	Previous 1-Year Restriction no less than:	Previous 5-Year Restriction no less than:
II Device	1 Year	5 Years	10 Years
Restriction effective, until IID vendor certifies to DOL that none of the following occurred within four months prior to date of release: an attempt to start the vehicle with a BAC of .04 or more; failure to take or pass any required retest; failure of the person to appear at the IID vendor when required.			

*See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 4.

[1]**Prior Offenses**: Count all prior offenses where the arrest date of the prior offense occurred within seven years before or after the arrest date on the current offense. RCW 46.61.5055 (14)(b). "Prior offense" is defined by RCW 46.61.5055 (14)(a) to include-

⇒ **Original Convictions for the following:** (1) DUI (RCW 46.61.502) (or an equivalent local ordinance); (2) Phys. Cont. (RCW 46.61.504) (or an equivalent local ordinance); (3) Veh. Homicide (RCW 46.61.520) or Veh. Assault (RCW 46.61.522) if either committed while under the influence; (4) Equiv. out-of-state statute for any of the above offenses.

⇒ **Deferred Prosecution Granted for the following:** (1) DUI (RCW 46.61.502) (or equivalent local ordinance); (2) Phys. Cont. (RCW 46.61.504) (or equiv. local ordinance); (3) Neg. Driving 1st (RCW 46.61.5249, or equiv. local ord.), *if the person was originally charged with DUI or Phys. Cont. (or an equiv. local ord.), or Veh. Hom. (RCW 46.61.520) or Veh. Assault (RCW 46.61.522).* An equivalent out-of-state deferred prosecution for DUI or Phys. Contr., including a chemical dependency treatment program. If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in RCW 46.61.5055 (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing.

⇒ **Amended Convictions for the following:** *If originally charged with DUI or Phys. Cont. or an equivalent local ordinance, or Veh. Hom. (RCW 46.61.-520) or Veh. Assault (RCW 46.61.522)*; but convicted of (1) Neg. Driving 1st (RCW 46.61.5249), (2) Reckless Driving (RCW 46.61.500), (3) Reckless Endangerment (RCW 9A.36.050), (4) Equiv. out-of-state or local ordinance for the above offenses. *If originally charged with Veh. Hom. (RCW 46.61.520) or Veh. Assault (RCW 46.61.522) committed while under the influence of intoxicating liquor or any drug*; but convicted of Veh. Hom. or Veh. Assault committed in a reckless manner or with the disregard for the safety of others.

[2]**Mandatory Jail and Electronic Home Monitoring (EHM):** If there are prior offenses within seven years before or after the arrest date of the current offense, the mandatory

jail shall be served by imprisonment for the minimum statutory term and may not be suspended or deferred unless the court finds that imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. The mandatory statutory term may not be converted to EHM. *Bremerton v. Bradshaw*, 121 Wn.App. 410, 88 P.3d 438 (Div. Two 2004). Where there are no prior offenses within seven years, the court may grant EHM instead of mandatory minimum jail. If there are prior offenses, the mandatory EHM may not be suspended or deferred unless the court finds that imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Instead of mandatory EHM, the court may order additional jail time. RCW 46.61.5055 (1), (2), (3).

Mandatory Conditions of Probation for any Suspended Jail Time: The individual is not to: (i) drive a motor vehicle without a valid license to drive and proof of financial responsibility (SR 22), (ii) drive while having an alcohol concentration of .08 or more within two hours after driving, (iii) refuse to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor. Except for ignition interlock driver's license and device or alcohol monitoring requirements under RCW 46.61.5055(5), violation of **any** mandatory condition requires a minimum penalty of 30 days' confinement, which may not be suspended or deferred, and an additional 30-day license suspension. RCW 46.61.5055(11). Courts are required to report violations of mandatory conditions requiring confinement or license suspension to DOL. RCW 46.61.5055.

[3]**Mandatory Monetary Penalty:** PSEA 1, RCW 3.62.-090(1); Alcohol Violators Fee, RCW 46.61.5054; Criminal Justice Funding (CJF) Penalty, RCW 46.64.055 (Note: RCW 3.62.090 (1) and (2) apply to CJF penalty); Criminal Conviction Fee, RCW 3.62.085.

[4]**If Passenger Under 16:** The interpretation of RCW 46.61.5055(6) is unsettled. Some interpret it as setting a new mandatory minimum and maximum fine, replacing a fine in RCW 46.61.5055 (1) - (3). Some interpret it as a fine that is in addition to one of those fines. Apply applicable assessments.

Felony DUI and Felony Physical Control: A current offense is a Class C felony punished under Ch. 9.94A RCW if the defendant has (a) four prior convictions within ten years, or (b) one prior conviction of Veh. Homicide or Veh. Assault, or (c) a prior Class C felony resulting from (a) or (b). "Within ten years" means that the arrest for the prior offense occurred within ten years before or after the arrest for the current offense. RCW 46.61.5055 (14)(c).

Jurisdiction: Court has five years jurisdiction.

Department of Licensing - DUI Administrative Sanctions and Reinstatement Provisions (As amended through August 1, 2012)

Administrative Sanctions - RCW 46.20.3101		
REFUSED TEST	**First Refusal Within 7 Years <u>And</u> No Prior Administrative Action Within Past 7 Years***	**Second or Subsequent Refusal Within Past 7 Years OR First Refusal <u>And</u> At Least One Prior Administrative Action Within Past 7 Years***
Adult	1-Year License Revocation	2-Year License Revocation
Minor	1-Year License Revocation	2-Year License Revocation Or Until Age 21 Whichever Is Longer
BAC RESULT	**First Administrative Action**	**Second or Subsequent Administrative Action**
Adults ≥ 0.08	90-Day License Suspension	2-Year License Revocation
Minors ≥ 0.02	90-Day License Suspension	1-Year License Revocation Or Until Age 21 Whichever Is Longer

*Day for day credit for revocation period already served under suspension, revocation, or denial imposed under RCW 46.61.5055 and arising out of the same incident. RCW 46.20.3101(4).

Ignition Interlock Driver's License, RCW 46.20.385 (amended through August 1, 2012)
May apply for an Ignition Interlock Driver's License upon receiving RCW 46.20.308 notice or upon suspension or revocation. See "Court and Department of Licensing Ignition Interlock Requirements, page 4."

Note: An individual convicted of DUI or physical control will have his/her driving privilege placed in probationary status for five years from the date he/she is eligible to reinstate his/her driver's license (see RCW 46.61.5055 and 46.20.-355). An individual granted a deferred prosecution under RCW 10.05.060 will have his/her driving privilege placed on probationary status for five years from the date of the incident, which was the basis for the deferred prosecution (see RCW 46.20.355 and 10.05.060).

Requirements for Reinstatement of Driving Privilege	
Suspended License* (RCW 46.20.311)	***Revoked License* (RCW 46.20.311)***
• File and maintain proof of financial responsibility for the future with the Department of Licensing as provided in chapter 46.29 RCW (SR 22)	• File and maintain proof of financial responsibility for the future with the Department of Licensing as provided in chapter 46.29 RCW (SR 22)

Suspended License (RCW 46.20.311)*	*Revoked License* (RCW 46.20.311)*
• Present written verification by a company that it has installed the required ignition interlock device on a vehicle owned and/or operated by the person seeking reinstatement • Pay $150 driver's license reissue fee • Driver's ability test NOT required	• Present written verification by a company that it has installed the required ignition interlock device on a vehicle owned and/or operated by the person seeking reinstatement • Pay $150 driver's license reissue fee • Satisfactorily complete a driver's ability test

*If suspension or revocation is the result of a criminal conviction, the driver must also show proof of either (1) enrollment and satisfactory participation in an approved alcohol treatment program or (2) completion of an alcohol information school, as determined by the court and/or treatment agency.

Court and Department of Licensing (DOL) Ignition Interlock Requirements, RCW 46.20.380, 46.20.385

Ignition Interlock Driver's License, RCW 46.20.380, 46.20.385	
Eligible to Apply	• Conviction of violation of RCW 46.61.502, 46.61.504, or an equivalent local or out-of-state statute or ordinance, 46.61.520 (1)(a), or 46.61.522 (1)(b) involving alcohol. • License suspended, revoked, or denied under RCW 46.20.3101. • Proof of installed functioning ignition interlock device.
Requirements	• Proof of financial responsibility (SR 22).
Financial Obligations	• $100 mandatory fee to DOL. • Costs to install, remove, and lease the ignition interlock device, and $20 fee per month, unless waived.
Duration	Extends through the remaining portion of any concurrent or consecutive suspension or revocation imposed as the result of administrative action and criminal conviction arising from the same incident.
Operation with Other Requirements	The time period during which the person is licensed under RCW 46.20.385 shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720.

Court Ordered to Comply with Rules and Requirements of DOL: The court orders the person to comply with the rules and requirements of DOL regarding the installation and use of a functioning II device on all motor vehicles operated by the person. If the court orders the person to refrain from consuming any alcohol, the court may order the person to submit to alcohol monitoring and to pay for the monitoring unless the court specifies the cost will be paid with funds available from an alternative source identified by the court. RCW 46.61.5055(5).

Court Ordered Discretionary Ignition Interlock (II) Device: The court may order discretionary II device requirements that last up to the five years jurisdictional limit of the court. The court sets the duration and calibration level. Discretionary II device restrictions begin after any applicable period of suspension, revocation, or denial of driving privileges and after any DOL mandated II device restriction. The court sets the calibration level. RCW 46.20.720(1).

Passenger Under Age 16: The Court shall order the installation and use of an II device for an additional six months.

Deferred Prosecution: For application in DUI Deferred Prosecution, see RCW 46.20.720 and RCW 10.05.-140, which require II device in a deferred prosecution of any alcohol-dependency based case.

DOL Imposed Ignition Interlock (II) Device - RCW 46.20.720: For all offenses occurring June 10, 2004 or later, DOL shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning II device if the person is convicted of "an alcohol-related" violation of DUI or Physical Control. The DOL required II device is not required on vehicles owned, leased, or rented by a person's employer or on those vehicles whose care and/or maintenance is the temporary responsibility of the employer and driven at the direction of a person's employer as a requirement of employment during business hours upon proof to DOL of employment affidavit. However, when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment, the employer exemption does not apply. The person must pay a $20 fee per month in addition to costs to install, remove, and lease the ignition interlock device. DOL may waive requirement if the device is not reasonably available in the local area. DOL will give day-for-day credit as allowed by law.

Court - Reckless Driving/Negligent Driving - 1st Degree Sentencing Grid (RCW 46.61.500, RCW 64.61.5249, RCW 46.20.720 as amended through August 1, 2012)

Reckless Driving	
Conviction	**Qualifications**
Reckless Driving (RCW 46.61.500 (3)(a))	• Original charge: Violation of DUI (RCW 46.61.502) or Phys. Control (RCW 46.61.504) or equivalent local ordinance. • One or More Prior Offenses within 7 years as defined above.
Reckless Driving (RCW 46.61.500 (3)(b))	• Original charge; Violation of Veh. Homicide (RCW 46.61.520) or Veh. Assault (RCW 46.61.522) committed while under the influence of intoxicating liquor or any drug.
Consequences	
II Device	• 6 Months. • Restriction remains in effect, until IID vendor certifies to DOL that none of the following incidents occurred within four months before date of release: an attempt to start the vehicle with a BAC of .04 or more; failure to take or pass any required retest; failure of the person to appear at the IID vendor when required. • DOL will give day-for-day credit as allowed by law. • Costs to install, remove, and lease the ignition interlock device, and $20 fee per month.
Maximum Jail Time	• 364 Days if convicted of reckless driving.
Maximum Fine	• $5,000 if convicted of reckless driving.
EHM	• As ordered.
II Driver's License	• As imposed by DOL. May apply for II driver's license if original charge was violation of DUI (RCW 46.61.502) or Phys. Control (RCW 46.61.504) or equivalent local ordinance. If the Defendant is eligible to apply; but does not have a Washington driver's license, the defendant may apply for an II license. DOL may require the defendant to take a licensing examination and apply and qualify for a temporary restricted driver's license. • During any period of suspension, revocation or denial, a person who has obtained an II driver's license under RCW 46.20.385 may continue to drive without getting a separate temporary restricted driver's license.
Alcohol/Drug Ed./Victim Impact or Treatment	• As ordered.

Negligent Driving - 1st Degree	
Conviction	**Qualifications**
Negligent Driving - 1st Degree (RCW 46.61.5249)	• One or More Prior Offenses within 7 years as defined above.
Consequences	
II Device	• 6 Months. • Restriction remains in effect, until IID vendor certifies to DOL that none of the following incidents occurred within four months before date of release: an attempt to start the vehicle with a BAC of .04 or more; failure to take or pass any required retest; failure of the person to appear at the IID vendor when required.
Maximum Jail Time	• 90 days if convicted of negligent driving in the 1st degree.
Maximum Fine	• $1,000 if convicted of negligent driving in the 1st degree.
EHM	• As ordered.
Driver's License	• As imposed by DOL.
Alcohol/Drug Ed./Victim Impact or Treatment	• As ordered.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the state supreme court and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 12-13-027
RULES OF COURT
STATE SUPREME COURT
[June 7, 2012]

IN THE MATTER OF THE ADOPTION OF THE REVISED NEW SET OF FAMILY LAW CIVIL RULES	)))	ORDER NO. 25700-A-1003

The Washington State Bar Association having recommended the adoption of the Revised New Set of Family Law Civil Rules, and the Court having approved the proposed amendments for publication;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the proposed amendments as shown below hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2013.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2013. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or Camilla.Faulk@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 7th day of June, 2012.

For the Court

Madsen, C.J.
CHIEF JUSTICE

GR 9 COVER SHEET

Suggested New Rules
SUPERIOR COURT FAMILY LAW CIVIL RULES (FLCR)

(Creating new Family Law Civil Rules)

Submitted by the Board of Governors of the Washington State Bar Association
As Revised 04/28/2012

Purpose:

In 2006, a coalition of eight Washington State Bar Association sections asked the WSBA Court Rules and Procedures Committee to consider the impact of the proliferation of local rules on litigants and their counsel. The coalition recommended abolishment of all local rules with the exception of those rules governing docket management. The Court Rules and Procedures Committee suggested to the Board of Governors that a special task force be convened to evaluate this issue. In the fall of 2006 the WSBA created and chartered the Local Rules Task Force ("the Task Force") and by early winter 2007 appointed its co-chairs and members.

The Task Force consists of representatives of various stakeholders concerned with the proper promulgation, amendment, and application of the local rules of Superior Courts, including court administrators, judges, and lawyer-practitioners. The practitioner group has been augmented by representatives of the family law bar, whose procedures have given rise to a distinct body of rules. Practitioners include members of the trial bar from both the public and private sectors. Jurists include both current and former members of the bench. The Task Force is co-chaired by Supreme Court Justice Charles W. Johnson and attorney Lish Whitson.

The Task Force was created to review the purpose and function of local rules; the impact of local rules on courts, litigants (both pro se and represented) and the trial bar; and possible means to mitigate the detrimental effects of the ever-increasing number of local rules. The Task Force was charged with reviewing the model local rules and practices in other states with non-unified court systems to develop recommendations on possible improvements or modifications to Washington's local rulemaking process and authorizations, in addition to looking at the work product of the earlier efforts in this state to stem the proliferation of local rules. In discharging its mission under this Charter, the Task Force was mindful of the directive in Rule 1 of the Superior Court Civil Rules that the court rules "shall be construed and administered to secure the just, speedy, and inexpensive determination of every action."

The Task Force spent 18 months reviewing every Superior Court local rule from all 39 counties, and unearthed numerous problems which have contributed to the proliferation of local rules. Some of the concerns that were studied include:

- Local rules vary greatly from county to county, both in terms of content and numbering.
- Local rules are often created in reaction to specific incidents. They commonly persist long after their usefulness, without being reviewed or repealed.
- Often, civil, criminal, and family law rules are commingled in a single set of local rules.
- The sheer number of local rules, combined with commingling and lack of uniformity, causes problems for litigants by making the rules more difficult to understand and follow, creating traps for the unwary.
- The burden and cost placed upon counsel and litigants required to comply with different local rules in each county increases the cost of litigation, which has the effect of reducing access to equal justice.
- In some counties, failure to follow local rules can result in the loss of substantive rights.
- Some individual judges have established "procedures" for their courts that are not even codified as local rules, such as different colored paper for different pleadings.
- Some local rules, rather than being purely procedural in nature, contain matters of substantive law. Worse, some local rules may be best described as "legislating via court rule."
- Some counties include statewide rules, statutes, and even case law in their local rules.

- Some local rules are outdated, referencing obsolete technology and procedures, or have not been modified to reflect changes in the law or statewide rules.
- Some local rules are outright contradictory to statewide rules.
- Local rules differ with regard to the format of pleadings, forms, page limitations, and brief requirements—some with procedurally significant impacts—and do not comply with GR 14.
- There is currently no mechanism for assuring the uniformity of the local rules or for the systematic approval, review, or elimination of local rules from county to county.

During its work, the Task Force became especially concerned about the complex issues and procedures surrounding family law cases. The Task Force learned that family law is a distinct area of law with its own special problems, and that many counties had enacted both civil and family law local rules in an effort to accommodate the special nature of family law cases. The Task Force's review revealed there is often cross-over between family law rules and civil rules at both the state and local levels, because family law cases are also civil law cases. This forces family law practitioners and pro se litigants to not only be cognizant of local rules that are clearly identified as family law local rules, but also of local civil rules containing provisions applicable to family law cases. At the same time, both practitioners and pro se litigants must also keep in mind state Civil Rules in order to find all the rules that may apply to their family law case.

The Task Force created a family law subcommittee with special expertise in family law issues. All local rules as they related to family law matters were separately reviewed by this subcommittee. The subcommittee reported serious access to justice issues, such as the practice of some courts to adopt local rules making court services both mandatory and with required service fees. In addition, the subcommittee found that a number of family law related local rules, rather than being purely procedural in nature, contained matters of substantive law or were substantive with no corresponding authority in law. Finally, there are also specific topic areas of interest to family law practitioners and litigants with no counterpart in the Civil Rules.

As the first step in its ongoing efforts to curb the proliferation of local rules, eliminate sources of confusion and traps for the unwary, and promote and facilitate access to justice, the Task Force promulgated a proposed set of Superior Court Family Law Civil Rules ("FLCR") to both complement and enhance the Superior Court Civil Rules. The Court ordered that the suggested FLCR be published for comment, with a comment period ending April 30, 2010. In response to the comments received, the Task Force formed a workgroup with SCJA representatives. During 2010 and 2011 members of the Task Force met with the SCJA representatives numerous times; these workgroup meetings resulted in a revised set of FLCR.

The revised FLCR incorporate the language of the FLCR as originally suggested, with a few modifications; however, the revised FLCR also include language from key provisions of the Civil Rules and the General Rules. The revised FLCR are intended to secure the just, speedy, and inexpensive determination of family law matters. The revised proposed FLCR parallel the Superior Court Civil Rules ("CR") and are intended to provide the framework for general management of family law cases.

Key components of the FLCR include:

- Specific provisions for timing and scheduling of motions, as well as delivery of responses and replies (FLCR 6(d));
- Specific language allowing for presentation of telephonic oral argument, at the court's discretion, and imposing page limits and other restrictions on motions (FLCR 7);
- Format requirements (FLCR 10(d));
- Provision for information exchange/automatic discovery of documents commonly required for family law actions (FLCR 16(c));
- Entry of automatic temporary orders to preserve the status quo on petitions to dissolve marriages, relationships, or meretricious relationships (FLCR 16(d));
- Discussion of tribal court exclusive and concurrent jurisdiction (FLCR 82.5);
- Provisions addressing the use of courthouse facilitators (FLCR 101); and
- Authority to require participation in extra-judicial services/parenting seminars (FLCR 102).

The Task Force anticipates that the FLCR will eliminate the need for many counties' local rules; however, the Task Force also recognizes that different counties have different needs. "Placeholder designations" have therefore been included in the revised FLCR, so that counties can ensure their local rules follow the same numbering sequence as the statewide rules.

SUPERIOR COURT FAMILY LAW CIVIL RULES (FLCR)

TABLE OF RULES

1. INTRODUCTORY (Rules 1-2A)

FLCR

1 Scope of Rules
2 One Form of Action
2A Stipulations

2. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS (Rules 3-6)

3 Commencement of Action
4 Process
5 Service and Filing of Pleadings and Other Papers
6 Time

3. PLEADINGS AND MOTIONS (Rules 7-16)

7 Pleadings Allowed; Form of Motions
8 General Rules of Pleading
9 Pleading Special Matters
10 Form of Pleadings and Other Papers

11 Signing and Drafting of Pleadings, Motions, and Legal Memoranda: Sanctions
12 Defenses and Objections
13 Counterclaim and Cross Claim
14 Third Party Practice
15 Amended and Supplemental Pleadings
16 Pretrial Procedure and Formulating Issues

4. PARTIES (Rules 17-25)

17 Parties Petitioner and Respondent; Capacity
18 Joinder of Claims and Remedies
19 Joinder of Persons Needed for Just Adjudication
20 Permissive Joinder of Parties
21 Misjoinder and Nonjoinder of Parties
22 [Reserved.]
23 [Reserved.]
23.1 [Reserved.]
23.2 [Reserved.]
24 Intervention
25 Substitution of Parties

5. DEPOSITIONS AND DISCOVERY (Rules 26-37)

26 General Provisions Governing Discovery
27 Perpetuation of Testimony
28 Persons Before Whom Depositions May Be Taken
29 Stipulations Regarding Discovery Procedure
30 Depositions Upon Oral Examination
31 Depositions Upon Written Questions
32 Use of Depositions in Court Proceedings
33 Interrogatories to Parties
34 Production of Documents and Things and Entry Upon Land for Inspection and Other Purposes
35 Physical and Mental Examination of Persons
36 Requests for Admission
37 Failure To Make Discovery: Sanctions

6. TRIALS (Rules 38-53.4)

38 Jury Trial By Right [Reserved.]
39 Trial by the Court
40 Assignment of Cases
41 Dismissal of Actions
42 Consolidation; Separate Trials
43 Taking of Testimony
44 Proof of Official Record
44.1 Determination of Foreign Law
45 Subpoena
46 Exceptions Unnecessary
47 [Reserved.]
48 [Reserved.]
49 [Reserved.]
50 [Reserved.]
51 [Reserved.]
52 Decisions, Findings and Conclusions
53 Masters [Reserved)
53.1 Referees
53.2 Court Commissioners
53.3 Appointment Of Masters In Discovery Matters
53.4 [Reserved.]

7. JUDGMENT (Rules 54-63)

54 Judgments and Costs
55 Default and Judgment
56 Summary Judgment
57 Declaratory Judgments
58 Entry of Judgment
59 New Trial, Reconsideration, and Amendment of Judgments
60 Relief From Judgment or Order
61 Harmless Error [Reserved]
62 Stay of Proceedings To Enforce a Judgment
63 Judges

8. PROVISIONAL AND FINAL REMEDIES (Rules 64-71)

64 Seizure of Person or Property
65 Injunctions
65.1 Security—Proceedings Against Sureties
66 Receivership Proceedings
67 Deposit in Court
68 Offer of Judgment
69 Execution
70 Judgment for Specific Acts; Vesting Title
70.1 Appearance by Attorney
71 Withdrawal by Attorney

9. APPEALS (Rules 72-76) [Reserved]

10. SUPERIOR COURTS AND CLERKS (Rules 77-80)

77 Superior Courts and Judicial Officers
78 Clerks
79 Books and Records Kept by the Clerk
80 Court Reporters

11. GENERAL PROVISIONS (Rules 81-99)

81 Applicability in General
82 Venue
82.5 Tribal Court Jurisdiction
83 Local Rules of Court
84 Forms [Reserved)
85 Title of Rules
86 Effective Dates

12. OTHER FAMILY LAW PROVISIONS (Rules 100-114)

100 Alternative Dispute Resolution in Family Law Matters
101 Courthouse Facilitators
102 Parenting Seminars and Other Informational Services
103 Adoption Proceedings
104 Access to Court Records [Reserved. See GR 22 and 37]
105 Financial Provisions [Reserved.]
106 Parenting Plan and Nonparental Custody Provisions [Reserved.]
107 Protection Orders [Reserved.]
108 Marriage Age Waivers [Reserved.]
109 Emancipation of Minors [Reserved.]

110 Unified Family Courts [Reserved.]

111 Title 26 RCW Guardians Ad Litem [Reserved. See GALR 1-7.]

112 Parenting and Psychological Evaluations [Reserved.]

113 Bankruptcy

114 Relocation [Reserved.]

1. INTRODUCTORY (Rules 1-2A)

RULE 1 SCOPE OF RULES

These rules govern the procedure in the superior court in all Title 26 RCW actions subject to exceptions specifically stated hereunder. They shall be construed and administered to secure the just, speedy, and inexpensive determination of every action governed by these rules. The numbering of these rules is intended to be consistent with the Superior Court Civil Rules (CR).

All references in these rules are intended to be gender neutral and therefore any reference through the use of either a male or female pronoun should be considered to apply equally to the other.

Except where the context clearly provides a distinction such as in rules 4, 5, and 71, all reference in these rules to the terms attorney or counsel also applies to self represented persons.

RULE 2 ONE FORM OF ACTION

There shall be one form of action to be known as "family law civil action."

RULE 2A STIPULATIONS

No agreement or consent between parties or attorneys in respect to the proceedings in a cause, the purport of which is disputed, will be regarded by the court unless the same shall have been made and assented to in open court on the record, or entered in the minutes, or unless the evidence thereof shall be in writing and subscribed by the attorneys denying the same.

2. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS (Rules 3-6)

RULE 3 COMMENCEMENT OF ACTION

(a) Methods. A family law civil action is commenced by service of a copy of a summons together with a copy of a petition, or by filing a petition. Upon written demand by any other party, the petitioner instituting the action shall pay the filing fee and file the summons and petition within 14 days after service of the demand or the service shall be void. An action shall not be deemed commenced for the purpose of tolling any statute of limitations except as provided in RCW 4.16.170.

(b) Tolling Statute. [Reserved. See RCW 4.16.170.]

(c) Obtaining Jurisdiction. [Reserved. See RCW 4.28.020.]

(d) Lis Pendens. [Reserved. See RCW 4.28.320 and 4.28.160.]

RULE 4 PROCESS

(a) Summons—General. Actions authorized by Title 26 RCW, with the exception of actions governed by RCW 26.09.060(3) and 26.50, shall be commenced by filing a petition or by personal service of a copy of a summons together with a copy of the petition on respondent as provided in these rules. Upon written demand by the respondent, the petitioner shall pay the filing fee and file the summons and petition within 14 days after service of the demand or the service shall be void. No summons is necessary if both parties sign a joint petition or if the respondent files a written joinder in the proceeding.

(1) The summons must be signed and dated by the petitioner or his attorney, and directed to the respondent requiring him to defend the action and to mail or otherwise deliver a copy of his appearance or defense to the person whose name is signed on the summons.

(2) Unless a statute or rule provides for a different time requirement, the summons shall require the respondent to serve a copy of his defense within 20 days after the service of summons, exclusive of the day of service. If a statute or rule other than this rule provides for a different time to serve a defense, that time shall be stated in the summons.

(3) A notice of appearance, if made, shall be in writing, shall be signed by the respondent or his attorney, and shall be mailed or otherwise provided to the person whose name is signed on the summons.

(4) No summons is necessary for a counterclaim or cross claim for any person who previously has been made a party. Counterclaims and cross claims against an existing party may be served as provided in rule 5.

(b) Summons—Content, Form.

(1) *Content.* The summons shall contain the title of the action, the name of the county and the court in which the action is brought, the names of the parties, as petitioner and respondent, a direction to the respondent to mail or otherwise provide a copy of his or her response ~~on~~to the person who has signed the summons, the time limit within which the copy of the response must be delivered, notice that failure to deliver a copy of the response within the stated time may result in a judgment by default, the signature and address of the petitioner or petitioner's attorney, and the date.

(2) *Form.* The summons for personal service in actions subject to this rule and within this State shall be substantially in the form provided in the pattern forms approved by the Administrative Office of the Courts whose website address is http://www.courts.wa.gov/forms/. The summons for personal service out of state should be adapted from this form and must include the modifications required by statute. See RCW 4.28.180.

(c) By Whom Served. Service of summons and process, except when service is by publication, shall be by the sheriff of the county wherein the service is made, or by his deputy, or by any person over 18 years of age who is competent to be a witness in the action, other than a party. Subpoenas may be served as provided in RULE 45.

(d) Service.

(1) *Of Summons and Petition.* The summons and petition shall be served together.

(2) *Personal in State.* Personal service of summons and other process shall be as provided in RCW 4.28.080 and other statutes which provide for personal service.

(3) *By Publication.* Service of summons and other process by publication shall be as provided in RCW 4.28.100,

26.33.310, and other statutes which provide for service by publication.

(4) *Alternative to Service by Publication.* In circumstances justifying service by publication, if the serving party files a declaration or an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication, the court may order that service be made by any person over 18 years of age, who is competent to be a witness, other than a party, by mailing copies of the summons and other process to the party to be served at his last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender. The summons shall contain the date it was deposited in the mail and shall require the respondent to appear and answer the petition within 90 days from the date of mailing. Service under this subsection has the same jurisdictional effect as service by publication.

(5) *Appearance.* A voluntary appearance of a respondent does not preclude his right to challenge lack of jurisdiction over his person, insufficiency of process, or insufficiency of service of process pursuant to rule 12(b).

(e) Other Service.

(1) *Generally.* Whenever a statute or an order of court there under provides for service of a summons, or of a notice, or of an order in lieu of summons upon a party not an inhabitant of or not found within the state, service may be made under the circumstances and in the manner prescribed by the statute or order, or if there is no provision prescribing the manner of service, in a manner prescribed by this rule.

(2) *Personal Service Out of State—Generally.* Although rule 4 does not generally apply to personal service out of state, the prescribed form of summons may, with the modifications required by statute, be used for that purpose. See RCW 4.28.180.

(3) *Personal Service Out of State—Acts Submitting Person to Jurisdiction of Courts.* [Reserved. See RCW 4.28.-185.]

(4) *Nonresident Motorists.* [Reserved. Does not apply to Family Law.]

(f) Territorial Limits of Effective Service. All process other than a subpoena may be served anywhere within the territorial limits of the state, and when a statute or these rules so provide beyond the territorial limits of the state. A subpoena may be served within the territorial limits as provided in RULE 45 and RCW 5.56.010.

(g) Return of Service. Proof of service shall be as follows:

(1) If served by the sheriff or his deputy, the return of the sheriff or his deputy endorsed upon or attached to the summons;

(2) If served by any other person, his affidavit or declaration-of service endorsed upon or attached to the summons; or

(3) If served by publication, the affidavit or declaration of the publisher, foreman, principal clerk, or business manager of the newspaper showing the same, together with a printed copy of the summons as published; or

(4) If served as provided in subsection (d)(4), the affidavit or declaration of the serving party stating that copies of the summons and other process were sent by mail in accordance with the rule and directions by the court, and stating to whom, and when, the envelopes were mailed.

(5) The written acceptance or admission of the respondent his agent or attorney;

(6) In case of personal service out of the state, the affidavit or declaration of the person making the service, sworn to before a notary public, with a seal attached, or before a clerk of a court of record.

(7) In case of service otherwise than by publication, the return, acceptance, admission, or affidavit or declaration must state the time, place, and manner of service. Failure to make proof of service does not affect the validity of the service.

(h) Amendment of Process. At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

(i) Alternative Provisions for Service in a Foreign Country.

(1) *Manner.* When a statute or rule authorizes service upon a party not an inhabitant of or found within the state, and service is to be effected upon the party in a foreign country, it is also sufficient if service of the summons and petition is made: (A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or (B) as directed by the foreign authority in response to a letter rogatory or a letter of request; or (C) upon an individual, by delivery to him personally, and upon a corporation or partnership or association, by delivery to an officer, a managing or general agent; or (D) by any form of mail, requiring a signed receipt, to be addressed and mailed to the party to be served; or (E) pursuant to the means and terms of any applicable treaty or convention; or (F) by diplomatic or consular officers when authorized by the United States Department of State; or (G) as directed by order of the court. Service under (C) or (G) above may be made by any person who is not a party and is not less than 21 years of age or who is designated by order of the court or by the foreign court. The method for service of process in a foreign country must comply with applicable treaties, if any, and must be reasonably calculated, under all the circumstances, to give actual notice.

(2) *Return.* Proof of service may be made as prescribed by section (g) of this rule, or by the law of the foreign country, or by a method provided in any applicable treaty or convention, or by order of the court. When service is made pursuant to subsection (1)(D) of this section, proof of service shall include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court.

(j) Other Process. These rules do not exclude the use of other forms of process authorized by law.

(k) Process - Limited Representation.

(1) An attorney may undertake to provide limited representation in accordance with RPC 1.2 to a person involved in a court proceeding.

(2) Providing limited representation of a person under these rules shall not constitute an entry of appearance by the attorney for purposes of rule 5(b) and does not authorize or require the service or delivery of pleadings, papers or other documents upon the attorney under rule 5(b). Representation of the person by the attorney at any proceeding before a judge, magistrate, or other judicial officer on behalf of the person constitutes an entry of appearance pursuant to RCW 4.28.210 and rule 4 (a)(3), except to the extent that a limited notice of appearance as provided for under rule 70.1 is filed and served prior to or simultaneous with the actual appearance. The attorney's violation of this Rule may subject the attorney to the sanctions provided in rule 11(a).

RULE 5 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(a) Service—When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original petition unless the court otherwise orders because of numerous respondents, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in rule 4.

(b) Service—How Made.

(1) *On Attorney or Party.* Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, filing with the clerk of the court a affidavit or declaration of attempt to serve. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service on an attorney is subject to the restrictions in subsections (b)(4) and (5) of this rule and in rule 71, Withdrawal by Attorneys.

(2) *Service by Mail.*

(A) How Made. If service is made by mail, the papers shall be deposited in the post office addressed to the person on whom they are being served, with the postage prepaid. The service shall be deemed complete upon the third day following the day upon which they are placed in the mail, unless the third day falls on a Saturday, Sunday or legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday or legal holiday, following the third day.

(B) Proof of Service by Mail. Proof of service of all papers permitted to be mailed may be by written acknowledgment of service, by affidavit or declaration of the person who mailed the papers, or by certificate of an attorney. The certificate of an attorney may be in form substantially as follows:

CERTIFICATE

I certify that I mailed a copy of the foregoing _______________ to (John Smith), (petitioner's) attorney, at (office address or residence), and to (Joseph Doe), an additional (respondent's) attorney (or attorneys) at (office address or residence), postage prepaid, on (date).

____

(John Brown)
Attorney for (Respondent) William Noe

(3) *Service on Nonresidents.* Where a petitioner or respondent who has appeared resides outside the state and has no attorney in the action, the service may be made by mail if his residence is known; if not known, on the clerk of the court for him. Where a party, whether resident or nonresident, has an attorney in the action, the service of papers shall be upon the attorney instead of the party. If the attorney does not have an office within the state or has removed his residence from the state, the service may be upon him personally either within or without the state, or by mail to him at either his place of residence or his office, if either is known, and if not known, then by mail upon the party, if his residence is known, whether within or without the state. If the residence of neither the party nor his attorney, nor the office address of the attorney is known, a declaration or an affidavit of the attempt to serve shall be filed with the clerk of the court.

(4) *Service on Attorney Restricted After Final Judgment.* A party, rather than the party's attorney, must be served if the final judgment or decree has been entered and the time for filing an appeal has expired, or if an appeal has been taken (i) after the final judgment or decree upon remand has been entered or (ii) after the mandate has been issued affirming the judgment or decree or disposing of the case in a manner calling for no further action by the trial court. This rule is subject to the exceptions defined in subsection (b)(6).

(5) *Required Notice to Party.* If a party is served under circumstances described in subsection (b)(4), the paper shall (i) include a notice to the party of the right to file written opposition or a response, the time within which such opposition or response must be filed, and the place where it must be filed; (ii) state that failure to respond may result in the requested relief being granted; and (iii) state that the paper has not been served on that party's lawyer.

(6) *Exceptions.* An attorney may be served notwithstanding subsection (b)(4) of this rule if (i) fewer than 63 days have elapsed since the filing of any paper or the issuance of any process in the action or proceeding or (ii) if the attorney has filed a notice of continuing representation.

(7) *Service by Other Means.* Service under this rule may be made by delivering a copy by any other means, including facsimile or electronic means, consented to in writing by the person served. Service by facsimile or electronic means is complete on transmission when made prior to 5:00 p.m. on a judicial day. Service made on a Saturday, Sunday, holiday or after 5:00 p.m. on any other day shall be deemed complete at

9:00 a.m. on the first judicial day thereafter service by other consented means is complete when the person making service delivers the copy to the agency designated to make delivery. Service under this subsection is not effective if the party making service learns that the attempted service did not reach the person to be served.

(c) Service—Numerous Respondents. In any action in which there are unusually large numbers of respondents, the court, upon motion or of its own initiative, may order that service of the pleadings of the respondents and replies thereto need not be made as between the respondents and that any cross claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the petitioner constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) Filing.

(1) *Time.* Petitions shall be filed as provided in rule 3(a). Except as provided for discovery materials in section (i) of this rule and for documents accompanying a notice under ER 904(b), all pleadings and other papers after the petition required to be served upon a party shall be filed with the court either before service or promptly thereafter.

(2) *Sanctions.* The effect of failing to file a petition is governed by rule 3. If a party fails to file any other pleading or paper under this rule, the court upon 5 days' notice of motion for sanctions may dismiss the action or strike the pleading or other paper and grant judgment against the defaulting party for costs and terms including a reasonable attorney fee unless good cause is shown for, or justice requires, the granting of an extension of time.

(3) *Limitation.* No sanction shall be imposed if prior to the hearing the pleading or paper other than the petition is filed.

(4) *Nonpayment.* No further action shall be taken in the pending action and no subsequent pleading or other paper shall be filed until the judgment is paid. No subsequent action shall be commenced upon the same subject matter until the judgment has been paid.

(e) Filing With the Court Defined. The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him or her, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk. Papers may be filed by facsimile transmission if permitted elsewhere in these or other rules of court, or if authorized by the clerk of the receiving court. The clerk may refuse to accept for filing any paper presented for that purpose because it is not presented in proper form as required by these rules or any local rules or practices.

(f) Other Methods of Service. Service of all papers other than the summons and other process may also be made as authorized by statute.

(g) Certified Mail. Whenever the use of "registered" mail is authorized by statutes relating to judicial proceedings or by rule of court, "certified" mail, with return receipt requested, may be used.

(h) Service of Papers by Telegraph. [Rescinded.]

(i) Discovery Material Not To Be Filed; Exceptions. Depositions upon oral examinations, depositions upon written questions, interrogatories and responses thereto, requests for production or inspection and responses thereto, requests for admission and responses thereto, and other discovery requests and responses thereto shall not be filed with the court unless for use in a proceeding or trial or on order of the court.

(j) Filing by Facsimile. [Reserved. See GR 17—Facsimile Transmission.]

RULE 6 TIME

(a) Computation. In computing any period of time prescribed or allowed by these rules, by the local rules of any superior court, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a legal holiday. Legal holidays are prescribed in RCW 1.16.050. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(b) Enlargement. When by these rules or by a notice given there under or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion, (1) with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or, (2) upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under rules 50(b), 52(b), 59(b), 59(d), and 60(b).

(c) Proceeding Not to Fail for Want of Judge or Session of Court. No proceeding in a court of justice in any action, suit, or proceeding pending therein, is affected by a vacancy in the office of any or all of the judges or by the failure of a session of the court.

(d) For Motions - Declarations or Affidavits. A written motion, motion other than one which may be heard ex parte, and notice of the hearing thereof, shall be served not later than 5 days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause be made on ex parte application. When a motion is supported by affidavits or declarations the affidavits or declarations shall be served with the motion; and, except as otherwise provided in rule 59(c), opposing affidavits may be served not later than 1 day before the hearing, unless the court permits them to be served at some other time. Any county may expand the time frames set forth herein to allow for additional time of up to fourteen (14) days for the original notice as well as for responsive and reply documents.

(1) *Motion to Shorten Time.* For good cause shown by motion of a party, the court may alter the time periods set forth in this rule to allow for the hearing of an emergent matter. All such motions shall be supported by a written affidavit

or declaration setting forth the basis for the good cause and emergent nature of the matter justifying the waiver of time to allow the granting of the motion to shorten time and setting forth the efforts to provide advance notice to the opposing party. Local courts pursuant to rule 83 may impose procedural requirements associated with such motions, such as before whom the motion must be presented. As soon as the moving party is aware that he or she will be seeking an order shortening time, that party must make reasonable efforts to contact all opposing parties to give notice in the form most likely to provide actual notice.

(e) Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

3. PLEADINGS AND MOTIONS (Rules 7-16)

RULE 7 PLEADINGS ALLOWED; FORM OF MOTIONS

(a) Pleadings. There shall be a Petition and a Response and such other pattern forms as approved by the Administrative Office of the Courts and available online at http://www.courts.wa.gov/forms.

(b) Motions and Other Papers.

(1) *How Made.* An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

(2) *Form.* The rules applicable to captions and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

(3) *Signing.* All motions shall be signed in accordance with rule 11.

(4) *Identification of Evidence.* When a motion is supported by declarations or affidavits-or other papers, it shall specify the papers to be used by the moving party.

(5) *Telephonic Argument.* Oral argument on motions, may be heard by telephone call in the discretion of the court. The expense of the call shall be shared equally by the parties unless the court directs otherwise in the ruling or decision on the motion. For testimonial proceedings, see rule 43.

(6) *Oral Arguments on Motions.* Local rules adopted pursuant to rule 83 may establish a method for the timely and efficient scheduling of oral arguments on motions in cases governed by these rules. Acceptable methods may include: (a) a reasonable limit on the time allocated for oral argument (b) regular calendars with pre-set time slots assigned to the parties for oral argument; and (c) special calendars for oral arguments requiring more time.

(c) Demurrers, Pleas, etc. Abolished. [Reserved. Does not apply to Family Law.]

(d) Security for Costs. [Reserved. Does not apply to Family Law.]

(e) Page Limits. Local rules adopted pursuant to rule 83 may establish page limits for motions in cases governed by these rules. Such rules shall substantially conform to subsections (e)(1) through (5) as follows:

(1) *Issues To Be Decided Without Oral Testimony.* In matters where the court will decide an issue or motion for relief without oral testimony, the motion and reply pleadings of the moving party shall be limited to a total of 25 pages, and the responsive pleadings of the responding party shall be limited to a total of 20 pages, including all declarations or affidavits of non-expert witnesses.

(2) *Issues To Be Decided With Oral Testimony.* In matters where the court will decide an issue or motion for relief only after oral testimony, the motion and reply pleadings of the moving party and the responsive pleadings of the responding party shall be limited to a total of 10 pages per party, including all declarations or affidavits of non-expert witnesses.

(3) *Increasing Page Limits.* A party may move the court for leave to increase the page limits set forth herein. In addition, local rules adopted pursuant to rule 83 may increase the number of pages allowed but all such increases shall be applied equally to all parties.

(4) *Exception to Page Limits.* This page limit rule does not apply to trial briefs, memorandums of law, guardian ad litem reports, expert reports and evaluations, excerpts from transcripts, emails, text messages, depositions, other previously filed documents, exhibits other than declarations or affidavits, financial declarations, or any financial or medical documents filed under seal.

(5) *Materials Submitted In Support or Opposition to Motions.* Materials that are lengthy or voluminous, such as emails or text messages, shall be marked on all copies so as to indicate the relevant information and the motion or supporting declaration shall indicate how these materials are relevant.

(f) Use of Pattern Forms. All pleadings shall be on pattern forms approved by the Administrative Office of the Courts or on substantially similar forms. The pattern forms can be found online at http://www.courts.wa.gov/forms/. A party may delete unnecessary portions of the forms according to the rules established by the Administrative Office of the Courts. A party may supplement the mandatory forms with additional material. A party's failure to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. However, the court may require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both.

RULE 8 GENERAL RULES OF PLEADING

(a) Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross claim, or third party claim, shall contain (1) a short and plain statement of the claim showing that the pleader is entitled to relief and (2) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded.

(b) Defense/Responses; Form of Denials. A party shall state in short and plain terms his defenses/responses to each claim asserted and shall admit or deny the allegations. If he is without knowledge or information sufficient to form a belief as to the truth of an allegation, he shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the allegations denied. When a pleader intends in

good faith to deny only a part or a qualification of an allegation, he shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the allegations of the preceding pleading, he may make his denials as specific denials of designated allegations or paragraphs, or he may generally deny all the allegations except such designated allegations or paragraphs as he expressly admits; but, when he does so intend to controvert all its allegations, he may do so by general denial subject to the obligations set forth in rule 11.

(c) Affirmative Defenses. In pleading to a preceding pleading, a party shall set forth affirmatively any matter constituting an avoidance or affirmative defense.

(d) Effect of Failure to Deny. Allegations in a pleading to which a responsive pleading is required, are admitted when not denied in the responsive pleading. Allegation in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

(e) Pleading to Be Concise and Direct.

(1) Each allegation of a pleading shall be simple, concise, and direct. No technical forms of pleadings or motions are required.

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as he has regardless of consistency and whether based on legal or on equitable grounds or on both. All statements shall be made subject to the obligations set forth in rule 11.

(f) Construction of Pleadings. All pleadings shall be so construed as to do substantial justice.

(g) Affidavits/Declarations. Whenever, under any law of this state or under any rule herein, any matter is required or permitted to be supported, evidenced, established, or proved by a person's sworn written statement, declaration, verification, certificate, oath, or affidavit, the matter may be supported by an unsworn written statement, declaration, verification, or certificate which recites that it is certified or declared by the person to be true under penalty of perjury, is subscribed by the person, states the date and place of its execution, and states that it is so certified or declared under the laws of the state of Washington. The certification or declaration may be in substantially the following form:

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed at (City, State) on (Date) ________________

(Signature)

This rule does not apply to writings requiring an acknowledgement, depositions, or oaths required to be taken before a special official other than a notary public.

RULE 9 PLEADING SPECIAL MATTERS

(a) Capacity. It is not necessary to allege the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, he shall do so by specific negative allegation which shall include such supporting particulars as are peculiarly within the pleader's knowledge.

(b) Fraud, Mistake, Condition of the Mind. In all allegation of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be alleged generally.

(c) Condition Precedent. In pleading the performance or occurrence of conditions precedent, it is sufficient to allege generally that all conditions precedent have been performed or have occurred. A denial of performance or occurrence shall be made specifically and with particularity.

(d) Official Document or Act. In pleading an official document or official act, it is sufficient to allege that the document was issued or the act done in compliance with law.

(e) Judgment. In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to allege the judgment or decision without setting forth matter showing jurisdiction to render it.

(f) Time and Place. For the purpose of testing the sufficiency of a pleading, allegations of time and place are material and shall be considered like all other allegations of material matter.

(g) Special Damage. [Reserved. Does not apply to Family Law.]

(h) Pleading Existence of City or Town. [Reserved. Does not apply to Family Law.]

(i) Pleading Ordinance. [Reserved. Does not apply to Family Law.]

(j) Pleading Private Statutes. [Reserved. Does not apply to Family Law.]

(k) Foreign Law.

(1) *United States Jurisdictions.* A party who intends to raise an issue concerning the law of a state, territory, or other jurisdiction of the United States shall set forth in his pleading facts which show that the law of another United States jurisdiction may be applicable, or shall state in his pleading or serve other reasonable written notice that the law of another United States jurisdiction may be relied upon.

(2) *Other Jurisdictions.* A party who intends to raise an issue concerning the law of a jurisdiction other than a state, territory or other jurisdiction of the United States shall give notice in his pleading of the foreign jurisdiction whose law he contends may be applicable to the facts of the case. The following matters need not be pleaded, but may be discovered pursuant to rule 26:

(i) the party's contentions as to which issues of law are governed by the foreign law;

(ii) the substance of such foreign law;

(iii) the expected effect of such foreign law on the legal issues and on the outcome of the case being tried;

(iv) the specific foreign statutes, regulations, judicial and administrative decisions, documents and other nonprivileged written materials and translations thereof upon which the party intends to rely.

(3) *Application of Foreign Law.* Issues of foreign law may be simplified pursuant to rule 16 and determined in advance of trial pursuant to rule 56.

(4) *Failure to Plead Foreign Law.* If no party has requested in his pleadings application of the law of a jurisdiction other than a state, territory or other jurisdiction of the United States, the court at time of trial shall apply the law of the State of Washington unless such application would result in manifest injustice.

(l) Burden of Proof. Nothing in this rule shall be construed to shift or alter the burden of proof.

RULE 10 FORM OF PLEADINGS AND OTHER PAPERS

(a) Caption. Every pleading shall contain a caption setting forth the name of the court, the title of the action, the file number if known to the person signing it, and an identification as to the nature of the pleading or other paper.

(1) *Names of Parties.* In the petition the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

(2) *Unknown Names.* When the petitioner is ignorant of the name of the respondent, it shall be so stated in his pleading, and such respondent may be designated in any pleading or proceeding by any name, and when his true name shall be discovered, the pleading or proceeding may be amended accordingly.

(b) Paragraphs; Separate Statements. All allegations of claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances; and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence, and each defense other than denials, shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

(c) Adoption by Reference; Exhibits. Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

(d) Format Requirements.

(1) *General Requirements.* All pleadings, motions, and other papers filed with the court shall be legibly written or printed. The use of letter-size paper (8-1/2 by 11 inches) is mandatory. The writing or printing shall appear on only one side of the page. The top margin of the first page shall be a minimum of three inches, the bottom margin shall be a minimum of one inch and the side margins shall be a minimum of one inch. All subsequent pages shall have a minimum of one inch margins. Papers filed shall not include any colored pages. This rule applies to attachments unless the nature of the attachment makes compliance impractical.

(2) *Handwritten Documents.* To ensure access to the courts for any party appearing pro se, all courts shall allow the submission of pleadings that are legibly handwritten in black or blue ink using only one side of each page. Declarations shall be appropriately verified and formatted.

(3) *Font Size for Typed or Computer Generated Documents.* Except for footnotes and citations from other documents inserted into the pleading, all typed or computer generated documents shall be prepared using a minimum of 11-point fonts and shall be double-spaced. Local rules adopted pursuant to rule 83 may allow or indicate a non-mandatory preference for a larger sized printing but documents prepared using the minimum size set forth herein shall not be disallowed.

(4) *Paper Color.* All pleadings and bench copies shall be prepared on white paper.

(5) *Exception for Trial or Hearing Exhibits.* This rule is not mandatory for trial or hearing exhibits, but the use of trial or hearing exhibits that comply with this rule is encouraged if it does not impair legibility.

(6) *Citation Format.* Citations shall conform with the format prescribed by the Reporter of Decisions. (See GR 14 Appendix 1.]

(e) Format Recommendations. It is recommended that all pleadings and other papers include or provide for the following:

(1) *Service and Filing.* Space should be left at the top of the first page to provide on the right half space for the clerk's filing stamp, and space at the left half for acknowledging the receipt of copies.

(2) *Title.* All pleadings under the space under the docket number should contain a title indicating their purpose and party presenting them. For example:

USE	DO NOT USE
Petition for Dissolution	Petition
Respondent's Motion for Support, etc.	Motion
Order for Support Order	Order
Petitioner's Trial Brief	Trial Brief

(3) *Bottom Notation.* At the left side of the bottom of each page of all pleadings and other papers an abbreviated name of the pleading or other paper should be repeated, followed by the page number. At the right side of the bottom of the first page of each pleading or other paper the name, mailing address and telephone number of the attorney or firm preparing the paper should be printed or typed.

(4) *Typed Names.* The names of all persons signing a pleading or other paper should be typed under their signatures.

(5) *Headings and Subheadings.* Headings and subheadings should be used for all paragraphs which shall be numbered with roman and/or arabic numerals.

(6) *Numbered Paper.* Use numbered paper.

(f) Personal Identifiers Prohibited.

(1) *Personal Identifiers Omitted or Redacted from Court Records.*

(a) Except for sealed financial source documents, Confidential Information Forms, Domestic Violence Information Forms, Notices of Intent to Relocate, Vital Statistics Fors, Law Enforcement Information Forms, Foreign Protection Order Information Forms, and any Personal Information Sheet necessary for JIS purposes, parties shall not include, and if present shall redact, the following personal identifiers from all documents filed with the court, whether filed electronically or in paper, unless necessary or otherwise ordered by the Court.

(i) Social Security Numbers. If the Social Security Number of an individual must be included in a document, only the last four digits of that number shall be used.

(ii) Financial Account Numbers. If financial account numbers are relevant, only the last four digits shall be recited in the document.

(iii) Driver's License Numbers.

(b) The responsibility for redacting personal identifiers rests solely with counsel and the parties. The Court or the Clerk will not review each pleading for compliance with this rule. If a pleading is filed without redaction, the opposing party or identified person may move the Court to order redaction. The court may award the prevailing party reasonable expenses, including attorney fees and court costs, incurred in making or opposing the motion. This rule does not require any party, attorney, clerk, or judicial officer to redact information from a court record that was filed prior to the adoption of this rule.

(g) Unpublished Opinions.

(1) *Washington Court of Appeals.* A party may not cite as an authority an unpublished opinion of the Court of Appeals. Unpublished opinions of the Court of Appeals are those opinions not published in the Washington Appellate Reports.

(2) *Other Jurisdictions.* A party may cite as an authority an opinion designated "unpublished," "not for publication," "non-precedential," "not precedent," or the like that has been issued by any court from a jurisdiction other than Washington state, only if citation to that opinion is permitted under the law of the jurisdiction of the issuing court. The party citing the opinion shall file and serve a copy of the opinion with the brief or other paper in which the opinion is cited.

(h) Electronic or Facsimile Filing. [Reserved.]

RULE 11 SIGNING AND DRAFTING OF PLEADINGS, MOTIONS, AND LEGAL MEMORANDA; SANCTIONS

(a) Every pleading, motion, and legal memorandum of a party represented by an attorney shall be dated and signed by at least one attorney of record in the attorney's individual name, whose address and Washington State Bar Association membership number shall be stated. A party who is not represented by an attorney shall sign and date the party's pleading, motion, or legal memorandum and state the party's address. Petitions for dissolution of marriage, separation, declarations concerning the validity of a marriage, custody, and modification of decrees issued as a result of any of the foregoing petitions shall be verified. Other pleadings need not, but may be, verified or accompanied by declaration or affidavit. The signature of a party or of an attorney constitutes a certificate by the party or attorney that the party or attorney has read the pleading, motion, or legal memorandum, and that to the best of the party's or attorney's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is well grounded in fact; (2) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law; (3) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief. If a pleading, motion, or legal memorandum is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or legal memorandum is signed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or legal memorandum, including a reasonable attorney fee.

(b) In helping to draft a pleading, motion or document filed by the otherwise self-represented person, the attorney certifies that the attorney has read the pleading, motion, or legal memorandum, and that to the best of the attorney's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is well grounded in fact, (2) it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, (3) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief. The attorney in providing such drafting assistance may rely on the otherwise self-represented person's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts.

RULE 12 DEFENSES & OBJECTIONS

(a) When Presented. A respondent shall serve his response within the following periods:

(1) Within 20 days, exclusive of the day of service, after the service of the summons and petition upon him pursuant to rule 4, or within 90 days after service of a summons and petition by mail;

(2) Within 60 days from the date of the first publication of the summons if the summons is served by publication in accordance with rule 4 (d)(3);

(3) Within 60 days after the service of the summons upon him if the summons is served upon him personally out of the state in accordance with RCW 4.28.180 and 4.28.185 or on the Secretary of State as provided by RCW 46.64.040.

(4) Within the period fixed by any other applicable statutes or rules. A party served with a pleading stating a cross claim against him shall serve an answer thereto within 20 days after the service upon him. The petitioner shall serve his reply to a counterclaim in the answer within 20 days after service of the answer or, if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs. The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court.

(A) If the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 days after notice of the court's action.

(B) If the court grants a motion for a more definite statement, the responsive pleading shall be served within 10 days after the service of the more definite statement.

(b) How Presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross claim, or third party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted, (7) failure to join a party under rule 19. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, he may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by rule 56.

(c) Motion for Judgment on the Pleadings. [Reserved. Does not apply to Family Law.]

(d) Preliminary Hearings. The defenses specifically enumerated (1)-(7) in section (b) of this rule, whether made in a pleading or by motion, shall be heard and determined before trial on application of any party, unless the court orders that the hearing and determination thereof be deferred until the trial.

(e) Motion for More Definite Statement. If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, or if more particularity in that pleading will further the efficient economical disposition of the action, he may move for a more definite statement before interposing his responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after the notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

(f) Motion To Strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 20 days after the service of the pleading upon him or upon the court's own initiative at any time, the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

(g) Consolidation of Defenses in Motion. A party who makes a motion under this rule may join with it any other motions herein provided for and then available to him. If a party makes a motion under this rule but omits there from any defense or objection then available to him which this rule permits to be raised by motion, he shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in subsection (h)(2) hereof on any of the grounds there stated.

(h) Waiver or Preservation of Certain Defenses.

(1) A defense of lack of jurisdiction over the person, improper venue, insufficiency of process, or insufficiency of service of process is waived (A) if omitted from a motion in the circumstances described in section (g), or (B) if it is neither made by motion under this rule nor included in a responsive pleading or an amendment thereof permitted by rule 15(a) to be made as a matter of course.

(2) A defense of failure to state a claim upon which relief can be granted, a defense of failure to join a party indispensable under rule 19, and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered under rule 7(a), or by motion for judgment on the pleadings, or at the trial on the merits.

(3) Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.

RULE 13 COUNTERCLAIM AND CROSS CLAIMS

(a) Compulsory Counterclaims. A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. But the pleader need not state the claim if (1) at the time the action was commenced the claim was the subject of another pending action, or (2) the opposing party brought suit upon his claim by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim, and the pleader is not stating any counterclaim under this rule.

(b) Permissive Counterclaims. A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim.

(c) Counterclaim Exceeding Opposing Claim. A counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding in amount or different in kind from that sought in the pleading of the opposing party.

(d) Counterclaim Against the State. These rules shall not be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims, or to claim credits against the State or an officer or agency thereof.

(e) Counterclaim Maturing or Acquired After Pleading. A claim which either matured or was acquired by the pleader after serving his pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleading.

(f) Omitted Counterclaim. When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, he may by leave of court set up the counterclaim by amendment.

(g) Cross Claim Against Coparty. A pleading may state as a cross claim any claim by one party against a coparty arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross claim may include a claim that the party against whom it is asserted is or may be liable to the cross claimant for all or part of a claim asserted in the action against the cross claimant.

(h) Joinder of Additional Parties. Persons other than those made parties to the original action may be made parties to a counterclaim or cross claim in accordance with the provisions of rules 19 and 20.

(i) Separate Trials; Separate Judgment. If the court orders separate trials as provided in rule 42(b), judgment on a counterclaim or cross claim may be rendered in accordance with the terms of rule 54(b), even if the claims of the opposing party have been dismissed or otherwise disposed of.

(j) Setoff Against Assignee. [Reserved. Does not apply to Family Law.]

(k) Other Setoff Rules. [Reserved. Does not apply to Family Law.]

RULE 14 THIRD PARTY PRACTICE

(a) When Respondent May Bring in Third Party. At any time after commencement of the action a defending party, as a third party petitioner, may cause a summons and petition to be served upon a person not a party to the action who is or may be liable to him for all or part of the petitioner's claim against him. The third party petitioner need not obtain leave to make the service if he files the third party petition not later than 10 days after he serves his original response. Otherwise he must obtain leave on motion upon notice to all parties to the action. The person served with the summons and third party petition, hereinafter called the third party respondent, shall make his defenses to the third party petitioner's claim as provided in rule 12 and his counterclaims against the third party petitioner and cross claims against other third party respondents as provided in rule 13. The third party respondent may assert against the petitioner any defenses which the third party petitioner has to the petitioner's claim. The third party respondent may also assert any claim against the petitioner arising out of the transaction or occurrence that is the subject matter of the petitioner's claim against the third party petitioner. The petitioner may assert any claim against the third party respondent arising out of the transaction or occurrence that is the subject matter of the petitioner's claim against the third party petitioner, and the third party respondent thereupon shall assert his defenses as provided in rule 12 and his counterclaims and cross claims as provided in rule 13. Any party may move to strike the third party claim, or for its severance or separate trial. A third party respondent may proceed under this rule against any person not a party to the action who is or may be liable to him for all or part of the claim made in the action against the third party respondent.

(b) When Petitioner May Bring in Third Party. When a counterclaim is asserted against a petitioner, he may cause a third party to be brought in under circumstances which under this rule would entitle a respondent to do so.

RULE 15 AMENDED & SUPPLEMENTAL PLEADINGS

(a) Amendments. A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise, a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. If a party moves to amend a pleading, a copy of the proposed amended pleading, denominated "proposed" and unsigned, shall be attached to the motion. If a motion to amend is granted, the moving party shall thereafter file the amended pleading and, pursuant to rule 5, serve a copy thereof on all other parties. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

(b) Amendments to Conform to the Evidence. When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

(c) Relation Back of Amendments. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against him, the party to be brought in by amendment (1) has received such notice of the institution of the action that he will not be prejudiced in maintaining his defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against him.

(d) Supplemental Pleadings. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the court deems it advisable that the adverse party plead to the supplemental pleading, it shall so order, specifying the time therefor.

(e) Interlineations. No amendments shall be made to any pleading by erasing or adding words to the original on file, without first obtaining leave of court.

RULE 16 PRETRIAL PROCEDURE & FORMULATING ISSUES

(a) Hearing Matters Considered. By order, or on the motion of any party, the court may in its discretion direct the attorneys for the parties to appear before it for a conference to consider:

(1) The simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings;

(3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

(4) The limitation of the number of expert witnesses;

(5) Such other matters as may aid in the disposition of the action.

(b) Pretrial Order. The court shall make an order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for trial to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice. The court in its discretion may establish by rule a pretrial calendar on which actions may be placed for consideration as above provided.

(c) Information Exchange/Automatic Discovery. At least fourteen days prior to settlement conference or thirty days prior to trial, whichever is sooner, for any case involving a dissolution of marriage or domestic partnership or the setting of child support, the parties shall exchange to the extent such records exist, are reasonably available, and are relevant to the pending proceedings:

(1) Complete individual and business tax returns with all schedules and applicable W-2 and 1099 forms for the past two years;

(2) Pay stubs for the last six months;

(3) Balance statements for mortgages, installment purchase contracts, credit cards or other debts from the date of separation to the current date;

(4) Statements for retirement accounts, bank accounts, brokerage or investment accounts or other accounts of assets from the date of separation to the current date;

(5) Appraisals of real or personal property;

(6) Blue book valuations or appraisals of automotive and recreational vehicles;

(7) Summary of tracing of separate property;

(8) Life insurance documents;

(9) Business valuations;

(10) Disclosure of expert witnesses; and

(11) Any other documents required by the local court or similar documentation, if any, including financial declarations wherever any request for monetary relief is present.

(d) Automatic Temporary Orders Preserving Status Quo. Upon the filing of any petition under Title 26 RCW to dissolve a marriage or domestic partnership, the court may upon its own initiative issue a temporary order that includes any or all of the following non-exclusive provisions:

(1) Restrains the parties from transferring or disposing of any property except in the usual course of business or for necessities of life absent written agreement or court order;

(2) Restrains the parties from changing any automobile, health or other insurance absent written agreement or court order;

(3) Makes each party responsible for his/her debts incurred subsequent to the filing of the petition;

(4) Requires notification of extraordinary expenditures or liabilities incurred after issuance of the automatic temporary order;

(5) Requires each party to grant the opposing party access to all tax, financial, legal and household records;

(6) Authorizes each parent to have full access to the children's education and medical records absent a court order to the contrary; and

(7) Restrains parents from exposing the children to negative or derogatory commentary about the other parent.

4. PARTIES (Rules 17-25)

RULE 17 Parties Petitioner & Respondent; Capacity

(-) Designation of Parties. The party commencing the action shall be known as the petitioner and the opposite party as the respondent.

(a) Real Party in Interest. Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in his own name without joining with him the party for whose benefit the action is brought. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

(b) Capacity to Sue or Be Sued. [Reserved.]

(c) Infants, or Incompetent Persons. [Reserved.]

(1) *Scope.* Generally this rule does not affect statutes and rules concerning the capacity of infants and incompetents to sue or be sued. This rule only addresses representation for minors who are named as a party to an action.

(2) *Guardian ad Litem for Infant.* [Reserved. See RCW 4.08.050.]

(3) *Guardian ad Litem for Incompetents.* [Reserved. See RCW 4.08.060.]

(d) Actions on Assigned Choses in Action. [Reserved. Does not apply to Family Law.]

(e) Public Corporations. [Reserved. Does not apply to Family Law.]

(f) Tort Actions Against State. [Reserved. Does not apply to Family Law.]

RULE 18 JOINDER OF CLAIMS & REMEDIES [Reserved. Does not apply to Family Law.]

RULE 19 JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION

(a) Persons To Be Joined if Feasible. A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties, or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (A) as a practical matter impair or impede his ability to protect that interest or (B) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party. If he should join as a petitioner but refuses to do so, he may be made a respondent, or, in a proper case, an involuntary petitioner. If the joined party objects to venue and his joinder would render the venue of the action improper, he shall be dismissed from the action.

(b) Determination by Court Whenever Joinder Not Feasible. If a person joinable under (1) or (2) of section (a) hereof cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include: (1) to what extent a judgment rendered in the person's absence might be prejudicial to him or those already parties; (2) the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; (3) whether a judgment rendered in the persons absence will be adequate; (4) whether the petitioner will have an adequate remedy if the action is dismissed for nonjoinder.

(c) Pleading Reasons for Nonjoinder. A pleading asserting a claim for relief shall state the names, if known to the pleader, of any persons joinable under (1) or (2) of section (a) hereof who are not joined, and the reasons why they are not joined.

(d) Exception of Class Actions. [Reserved. Does not apply to Family Law.]

(e) Husband and Wife Must Join—Exceptions. [Reserved. See RCW 4.08.030.]

RULE 20 PERMISSIVE JOINDER OF PARTIES

(a) Permissive Joinder. All persons may join in one action as petitioners if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of these persons will arise in the action. All persons may be joined in one action as respondents if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all respondents will arise in the action. A petitioner or respondent need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the petitioners according to their respective rights to relief, and against one or more respondents according to their respective liabilities.

(b) Separate Trials. The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him, and may order separate trials or make other orders to prevent delay or prejudice.

(c) When Husband and Wife May Join. [Reserved. See RCW 4.08.040.]

(d) Service on Joint Respondents; Procedure After Service. When the action is against two or more respondents and the summons is served on one or more but not on all of them, the petitioner may proceed as follows:

(1) If the action is against the respondents jointly indebted upon a contract, he may proceed against the respondents served unless the court otherwise directs; and if he recovers judgment it may be entered against all the respondents thus jointly indebted so far only as it may be enforced against the joint property of all and the separate property of the respondents served.

(2) If the action is against respondents severally liable, he may proceed against the respondents served in the same manner as if they were the only respondents.

(3) Though all the respondents may have been served with the summons, judgment may be taken against any of them severally, when the petitioner would be entitled to judgment against such respondents if the action had been against them alone.

(e) Procedure To Bind Joint Debtor. [Reserved. See RCW 4.68.]

RULE 21 MISJOINDER AND NONJOINDER OF PARTIES

Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

RULE 22 [Reserved.]

RULE 23 [Reserved.]

RULE 23.1 [Reserved.]

RULE 23.2 [Reserved.]

RULE 24 INTERVENTION

(a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(b) Permissive Intervention. Upon timely application, anyone may be permitted to intervene in an action:

(1) When a statute confers a conditional right to intervene; or

(2) When an applicant's claim or defense and the main action have a question of law or fact in common. When a

party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirements, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(c) Procedure. A person desiring to intervene shall serve a motion to intervene upon all the parties as provided in rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

RULE 25 SUBSTITUTION OF PARTIES

(a) Death.

(1) *Procedure.* If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by the successors or representatives of the deceased party or by any party and, together with the notice of hearing, shall be served on the parties as provided by rule 5 for service of notices, and upon persons not parties in the manner provided by statute or by rule for the service of a summons. If substitution is not made within the time authorized by law, the action may be dismissed as to the deceased party.

(2) *Partial Abatement.* In the event of the death of one or more of the petitioners or of one or more of the respondents in an action in which the right sought to be enforced survives only to the surviving petitioners or only against the surviving respondents, the action does not abate. The death shall be suggested upon the record and the action shall proceed in favor of or against the surviving parties.

(b) Incompetency. If a party becomes incompetent, the court upon motion served as provided in section (a) of this rule may allow the action to be continued by or against his representative.

(c) Transfer of Interest. In case of any transfer of interest, the action may be continued by or against the original party unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party. Service of the motion shall be made as provided in section (a) of this rule.

(d) [Reserved.]

5. DEPOSITIONS AND DISCOVERY (Rules 26-37)

RULE 26 GENERAL PROVISIONS GOVERNING DISCOVERY

(a) Discovery Methods. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission.

(b) Discovery Scope and Limits. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) *In General.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. The frequency or extent of use of the discovery methods set forth in section (a) shall be limited by the court if it determines that: (A) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (B) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (C) the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties' resources, and the importance of the issues at stake in the litigation. The court may act upon its own initiative after reasonable notice or pursuant to a motion under section (c).

(2) *Insurance Agreements.* A party may obtain discovery and production of: (i) the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment; and (ii) any documents affecting coverage (such as denying coverage, extending coverage, or reserving rights) from or on behalf of such person to the covered person or the covered person's representative. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this section, an application for insurance shall not be treated as part of an insurance agreement.

(3) *Structured Settlements and Awards.* In a case where a settlement or final award provides for all or part of the recovery to be paid in the future, a party entitled to such payments may obtain disclosure of the actual cost to the respondent of making such payments. This disclosure may be obtained during settlement negotiations upon written demand by a party entitled to such payments. If disclosure of cost is demanded, the respondent may withdraw the offer of a structured settlement at any time before the offer is accepted.

(4) *Trial Preparation: Materials.* Subject to the provisions of subsection (b)(5) of this rule, a party may obtain discovery of documents and tangible things otherwise discoverable under subsection (b)(1) of this rule and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including his attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation. A party may obtain without the required showing a

statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order. The provisions of rule 37 (a)(4) apply to the award of expenses incurred in relation to the motion. For purposes of this section, a statement previously made is: (A) a written statement signed or otherwise adopted or approved by the person making it; or (B) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(5) *Trial Preparation: Experts.* Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of subsection (b)(1) of this rule and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(A)(i) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at trial, to state the subject matter on which the expert is expected to testify, to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion, and to state such other information about the expert as may be discoverable under these rules. (ii) A party may, subject to the provisions of this rule and of rules 30 and 31, depose each person whom any other party expects to call as an expert witness at trial.

(B) A party may discover facts known or opinions held by an expert who is not expected to be called as a witness at trial, only as provided in rule 35(b) or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(C) Unless manifest injustice would result, (i) the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subsections (b)(5)(A)(ii) and (b)(5)(B) of this rule; and (ii) with respect to discovery obtained under subsection (b)(5)(A)(ii) of this rule the court may require, and with respect to discovery obtained under subsection (b)(5)(B) of this rule the court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

(6) *Claims of Privilege or Protection as Trial-Preparation Materials for Information Produced.* If information produced in discovery is subject to a claim of privilege or of protection as trial-preparation material, the party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; and must take reasonable steps to retrieve the information if the party disclosed it before being notified. Either party may promptly present the information in camera to the court for a determination of the claim. The producing party must preserve the information until the claim is resolved.

(7) *Discovery From Treating Health Care Providers.* The party seeking discovery from a treating health care provider shall pay a reasonable fee for the reasonable time spent in responding to the discovery. If no agreement for the amount of the fee is reached in advance, absent an order to the contrary under section (c), the discovery shall occur and the health care provider or any party may later seek an order setting the amount of the fee to be paid by the party who sought the discovery. This subsection shall not apply to the provision of records under RCW 70.02 or any similar statute, nor to discovery authorized under any rules for criminal matters.

(8) *Treaties or Conventions.* If the methods of discovery provided by applicable treaty or convention are inadequate or inequitable and additional discovery is not prohibited by the treaty or convention, a party may employ the discovery methods described in these rules to supplement the discovery method provided by such treaty or convention.

(c) Protective Orders. Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending or alternatively, on matters relating to a deposition, the court in the county where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) that the discovery not be had;

(2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(5) that discovery be conducted with no one present except persons designated by the court;

(6) that the contents of a deposition not be disclosed or be disclosed only in a designated way;

(7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;

(8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of rule 37 (a)(4) apply to the award of expenses incurred in relation to the motion.

(d) Sequence and Timing of Discovery. Unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

(e) Supplementation of Responses. A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his

response to include information thereafter acquired, except as follows:

(1) A party is under a duty seasonably to supplement his response with respect to any question directly addressed to: (A) the identity and location of persons having knowledge of discoverable matters; and (B) the identity of each person expected to be called as an expert witness at trial, the subject matter on which he is expected to testify, and the substance of his testimony.

(2) A party is under a duty seasonably to amend a prior response if he obtains information upon the basis of which: (A) he knows that the response was incorrect when made; or (B) he knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the court, agreement of the parties, or at any time prior to trial through new requests for supplementation of prior responses.

(4) Failure to seasonably supplement in accordance with this rule will subject the party to such terms and conditions as the trial court may deem appropriate.

(f) Discovery Conference. At any time after commencement of an action the court may direct the attorneys for the parties to appear before it for a conference on the subject of discovery. The court shall do so upon motion by the attorney for any party if the motion includes:

(1) A statement of the issues as they then appear;

(2) A proposed plan and schedule of discovery;

(3) Any limitations proposed to be placed on discovery;

(4) Any other proposed orders with respect to discovery; and

(5) A statement showing that the attorney making the motion has made a reasonable effort to reach agreement with opposing attorneys on the matters set forth in the motion.

Each party and his attorney are under a duty to participate in good faith in the framing of a discovery plan if a plan is proposed by the attorney for any party. Notice of the motion shall be served on all parties. Objections or additions to matters set forth in the motion shall be served not later than 10 days after service of the motion. Following the discovery conference, the court shall enter an order tentatively identifying the issues for discovery purposes, establishing a plan and schedule for discovery, setting limitations on discovery, if any, and determining such other matters, including the allocation of expenses, as are necessary for the proper management of discovery in the action. An order may be altered or amended whenever justice so requires. Subject to the right of a party who properly moves for a discovery conference to prompt convening of the conference, the court may combine the discovery conference with a pretrial conference authorized by rule 16.

(g) Signing of Discovery Requests, Responses, and Objections. Every request for discovery or response or objection thereto made by a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the request, response, or objection and state his address. The signature of the attorney or party constitutes a certification that he has read the request, response, or objection, and that to the best of his knowledge, information, and belief formed after a reasonable inquiry it is:

(1) consistent with these rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

(2) not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and

(3) not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation. If a request, response, or objection is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the party making the request, response, or objection and a party shall not be obligated to take any action with respect to it until it is signed.

If a certification is made in violation of the rule, the court, upon motion or upon its own initiative, shall impose upon the person who made the certification, the party on whose behalf the request, response, or objection is made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including a reasonable attorney fee.

(h) Use of Discovery Materials. A party filing discovery materials on order of the court or for use in a proceeding or trial shall file only those portions upon which the party relies and may file a copy in lieu of the original.

(i) Motions; Conference of Counsel Required. The court will not entertain any motion or objection with respect to rules 26 through 37 unless counsel have conferred with respect to the motion or objection. Counsel for the moving or objecting party shall arrange for a mutually convenient conference in person or by telephone. If the court finds that counsel for any party, upon whom a motion or objection in respect to matters covered by such rules has been served, has willfully refused or failed to confer in good faith, the court may apply the sanctions provided under rule 37(b). Any motion seeking an order to compel discovery or obtain protection shall include counsel's certification that the conference requirements of this rule have been met.

(j) Access to Discovery Materials Under RCW 4.24 [Reserved. Does not Apply to Family Law.]

(k) Information Exchange/Automatic Discovery. The parties shall comply with FLCR 16(c) with respect to exchanging information prior to a settlement conference or trial.

RULE 27 PERPETUATION OF TESTIMONY

(a) Perpetuation Before Action.

(1) *Petition.* A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable in any superior court may file a verified petition in the superior court in the county of the residence of any expected adverse party. The petition shall be entitled in the name of the petitioner and shall show:

(A) that the petitioner expects to be a party to an action cognizable in a superior court but is presently unable to bring it or cause it to be brought;

(B) the subject matter of the expected action and his interest therein;

(C) the facts which he desires to establish by the proposed testimony and his reasons for desiring to perpetuate it;

(D) the names or a description of the persons he expects will be adverse parties and their addresses so far as known; and

(E) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

(2) *Notice and Service.* The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least 20 days before the date of hearing the notice shall be served in the manner provided by law for service of summons; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the court may make such order as is just for service by publication or otherwise, and shall appoint, for persons not served personally in the manner provided by law, an attorney who shall represent them and, in case they are not otherwise represented, shall cross-examine the deponent. If any expected adverse party is a minor or incompetent, the court shall make such order as deemed appropriate for the protection of the minor or incompetent as provided in RCW 4.08.050 and 4.08.060.

(3) *Order and Examination.* If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with these rules; and the court may make orders of the character provided for by rules 34 and 35. For the purpose of applying these rules to depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed.

(4) *Use of Deposition.* If a deposition to perpetuate testimony is taken under these rules or if, although not so taken, it would be admissible in evidence in the courts of the state in which it is taken, it may be used in any action involving the same subject matter subsequently brought in a superior court of this state, in accordance with the provisions of rule 32(a).

(b) Perpetuation Pending Appeal. If an appeal has been taken from a judgment of a superior court or before the taking of an appeal if the time therefor has not expired, the superior court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the superior court. In such case the party who desires to perpetuate the testimony may make a motion in the superior court for leave to take the depositions, upon the same notice and service thereof as if the action was pending in the superior court. The motion shall show (1) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each; (2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken and may make orders of the character provided for by rules 34 and 35, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the superior court.

(c) Perpetuation by Action. This rule does not limit the power of a court to entertain an action to perpetuate testimony.

RULE 28 PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN

(-) Within the State. Depositions within the state may be taken before the following officers:

(1) *Court Commissioners.* [Reserved. See RCW 2.24.040 (9) and (10).]

(2) *Superior Courts.* [Reserved. See RCW 2.28.010(7).]

(3) *Judicial Officers.* [Reserved. See RCW 2.28.060.]

(4) *Judges of Supreme and Superior Courts.* [Reserved. See RCW 2.28.080(3).]

(5) *Judicial Officers of Courts of Limited Jurisdiction.* [Reserved. See RCW 2.28.090.]

(6) *Notaries Public.* [Reserved. See RCW 5.28.010 and 42.44.010.]

(7) *Special Commissions.* [Reserved. See RCW 11.20-.030.]

(a) Within the United States. Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held, or before a person appointed by the court in which the action is pending. A person so appointed has power to administer oaths and take testimony. The term "officer" as used in rules 30, 31, and 32 includes a person appointed by the court or designated by the parties under rule 29.

(b) In Foreign Countries. In a foreign country, depositions may be taken (1) on notice before a person authorized to administer oaths in the place in which the examination is held, either by the law thereof or by the law of the United States, or (2) before a person commissioned by the court, and the person so commissioned shall have the power by virtue of his commission to administer any necessary oath and take testimony, or (3) pursuant to a letter rogatory or a letter of request, or (4) pursuant to the means and terms of any applicable treaty or convention. A commission, a letter rogatory, or a letter of request shall be issued on application and notice, and on terms that are just and appropriate. It is not requisite to the issuance of a commission, a letter rogatory, or a letter of request that the taking of the deposition in any other manner is impracticable or inconvenient; and a commission, a letter rogatory, and a letter of request may all be issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or by descriptive title. A letter rogatory may be addressed "To the Appropriate Authority in (here name the country)." A let-

ter of request or any other device permitted by any applicable treaty or convention shall be styled in the form prescribed by that treaty or convention. Evidence obtained in response to a letter rogatory or a letter of request need not be excluded merely for the reason that it is not a verbatim transcript or that the testimony was not taken under oath or for any similar departure from the requirements for depositions taken within the United States under these rules.

(c) Disqualification for Interest. No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action.

(d) Equal Terms Required. Any arrangement concerning court reporting services or fees in a case shall be offered to all parties on equal terms. This rule applies to any arrangement or agreement between the person before whom a deposition is taken or a court reporting firm, consortium or other organization providing a court reporter, and any party or any person arranging or paying for court reporting services in the case, including any attorney, law firm, person or entity with a financial interest in the outcome of the litigation, or person or entity paying for court reporting services in the case.

RULE 29 STIPULATIONS REGARDING DISCOVERY PROCEDURE

Unless the court orders otherwise, the parties may by written stipulation (1) provide that depositions may be taken before any person, at any time or place, upon any notice and in any manner and when so taken may be used like other depositions, and (2) modify the procedures provided by these rules for other methods of discovery.

RULE 30 DEPOSITIONS UPON ORAL EXAMINATION

(a) When Depositions May Be Taken. After the summons and a copy of the petition are served, or the petition is filed, whichever shall first occur, any party may take the testimony of any person, including a party, by deposition upon oral examination. Leave of court, granted with or without notice, must be obtained only if the petitioner seeks to take a deposition prior to the expiration of 30 days after service of the summons and petition upon any respondent or service made under rule 4(e), except that leave is not required (1) if a respondent has served a notice of taking deposition or otherwise sought discovery, or (2) if special notice is given as provided in subsection (b)(2) of this rule. The attendance of witnesses may be compelled by subpoena as provided in Rule 45. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

(b) Notice of Examination: General Requirements; Special Notice; Nonstenographic Recording; Production of Documents and Things; Deposition of Organization; Video Tape Recording.

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing of not less than 5 days (exclusive of the day of service, Saturdays, Sundays and court holidays) to every other party to the action and to the deponent, if not a party or a managing agent of a party. Notice to a deponent who is not a party or a managing agent of a party may be given by mail or by any means reasonably likely to provide actual notice. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice. A party seeking to compel the attendance of a deponent who is not a party or a managing agent of a party must serve a subpoena on that deponent in accordance with rule 45. Failure to give 5 days notice to a deponent who is not a party or a managing agent of a party may be grounds for the imposition of sanctions in favor of the deponent, but shall not constitute grounds for quashing the subpoena.

(2) Leave of court is not required for the taking of a deposition by petitioner if the notice (A) states that the person to be examined is about to go out of the state and will be unavailable for examination unless his deposition is taken before expiration of the 30-day period, and (B) sets forth facts to support the statement. The petitioner's attorney shall sign the notice, and his signature constitutes a certification by him that to the best of his knowledge, information, and belief the statement and supporting facts are true. The sanctions provided by rule 11 are applicable to the certification. If a party shows that when he was served with notice under this subsection (b)(2) he was unable through the exercise of diligence to obtain counsel to represent him at the taking of the deposition, the deposition may not be used against him.

(3) The court may for cause shown enlarge or shorten the time for taking the deposition.

(4) The parties may stipulate in writing or the court may upon motion order that the testimony at a deposition be recorded by other than stenographic means. The stipulation or the order shall designate the person before whom the deposition shall be taken, the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. A party may arrange to have a stenographic transcription made at his own expense. Any objections under section (c), any changes made by the witness, his signature identifying the deposition as his own or the statement of the officer that is required if the witness does not sign, as provided in section (e), and the certification of the officer required by section (f) shall be set forth in a writing to accompany a deposition recorded by nonstenographic means.

(5) The notice to a party deponent may be accompanied by a request made in compliance with rule 34 for the production of documents and tangible things at the taking of the deposition. The procedure of rule 34 shall apply to the request, including the time established by rule 34(b) for the party to respond to the request.

(6) A party may in his notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and designate with reasonable particularity the matters on which examination is requested. In that event the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters known on

which he will testify. A subpoena shall advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to the matters known or reasonably available to the organization. This subsection (b)(6) does not preclude taking a deposition by any other procedure authorized in these rules.

(7) The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone or by other electronic means. For the purposes of this rule and rules 28(a), 37 (a)(1), 37 (b)(1), and 45(d), a deposition taken by telephone or by other electronic means is taken at the place where the deponent is to answer questions propounded to him.

(8) *Videotaping of depositions.*

(A) Any party may videotape the deposition of any party or witness without leave of court provided that written notice is served on all parties not less than 20 days before the deposition date, and specifically states that the deposition will be recorded on videotape. Failure to so state shall preclude the use of videotape equipment at the deposition, absent agreement of the parties or court order.

(B) No party may videotape a deposition within 120 days of the later of the date of filing or service of the lawsuit, absent agreement of the parties or court order.

(C) On motion of a party made prior to the deposition, the court shall order that a videotape deposition be postponed or begun subject to being continued, on such terms as are just, if the court finds that the deposition is to be taken before the moving party has had an adequate opportunity to prepare, by discovery deposition of the deponent or other means, for cross examination of the deponent.

(D) Unless otherwise stipulated to by the parties, the expense of videotaping shall be borne by the noting party and shall not be taxed as costs. Any party, at that party's expense, may obtain a copy of the videotape.

(E) A stenographic record of the deposition shall be made simultaneously with the videotape at the expense of the noting party.

(F) The area to be used for videotaping testimony shall be suitable in size, have adequate lighting and be reasonably quiet. The physical arrangements shall be fair to all parties. The deposition shall begin by a statement on the record of: (a) the operators name, address and telephone number, (b) the name and address of the operator's employer, (c) the date, time and place of the deposition, (d) the caption of the case, (e) the name of the deponent, and (f) the name of the party giving notice of the deposition. The officer before whom the deposition is taken shall be identified and swear the deponent on camera. At the conclusion of the deposition, it shall be stated on the record that the deposition is concluded. When more than one tape is used, the operator shall announce on camera the end of each tape and the beginning of the next tape.

(G) Absent agreement of the parties or court order, if all or any part of the videotape will be offered at trial, the party offering it must order the stenographic record to be fully transcribed at that party's expense. A party intending to offer a videotaped recording of a deposition in evidence shall notify all parties in writing of that intent and the parts of the deposition to be offered within sufficient time for a stenographic transcript to be prepared, and for objections to be made and ruled on before the trial or hearing. Objections to all or part of the deposition shall be made in writing within sufficient time to allow for rulings on them and for editing of the tape. The court shall permit further designations of testimony and objections as fairness may require. In excluding objectionable testimony or comments or objections of counsel, the court may order that an edited copy of the videotape be made, or that the person playing the tape at trial suppress the objectionable portions of the tape. In no event, however, shall the original videotape be affected by any editing process.

(H) After the deposition has been taken, the operator of the videotape equipment shall attach to the videotape a certificate that the recording is a correct and complete record of the testimony by the deponent. Unless otherwise agreed by the parties on the record, the operator shall retain custody of the original videotape. The custodian shall store it under conditions that will protect it against loss or destruction or tampering, and shall preserve as far as practicable the quality of the tape and the technical integrity of the testimony and images it contains. The custodian of the original videotape shall retain custody of it until 6 months after final disposition of the action, unless the court, on motion of any party and for good cause shown, orders that the tape be preserved for a longer period.

(I) The use of videotaped depositions shall be subject to rule 32.

(c) Examination and Cross Examination; Record of Examination; Oath; Objections. Examination and cross examination of witnesses may proceed as permitted at the trial under the provisions of the Washington Rules of Evidence (ER). The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other means ordered in accordance with subsection (b)(4) of this rule. If requested by one of the parties, the testimony shall be transcribed. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. A judge of the superior court, or a special master if one is appointed pursuant to rule 53.3, may make telephone rulings on objections made during depositions. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and he shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(d) Motion To Terminate or Limit Examination. At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the court in the county where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of

the taking of the deposition as provided in rule 26(c). If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of rule 37 (a)(4) apply to the award of expenses incurred in relation to the motion.

(e) Submission to Witness; Changes; Signing. When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under rule 32 (d)(4) the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) Certification and Service by Officer; Exhibits; Copies; Notice.

(1) The officer shall certify on the deposition transcript that the witness was duly sworn and that the transcript is a true record of the testimony given by the witness. The officer shall then secure the transcript in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly serve it on the person who ordered the transcript, unless the court orders otherwise. Documents and things produced for inspection during the examination of the witness, shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that (A) the person producing the materials may substitute copies to be marked for identification, if the person affords to all parties fair opportunity to verify the copies by comparison with the originals, and (B) if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them, and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to the deposition transcript and filed with the court, pending final disposition of the case.

(2) Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition transcript to any party or the deponent.

(3) The officer serving or filing the deposition transcript shall give prompt notice of such action to all parties and file such notice with the clerk of the court.

(g) Failure To Attend or To Serve Subpoena; Expenses.

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him and the witness because of such failure does not attend, and if another party attends in person or by attorney because he expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney fees.

(h) Conduct of Depositions. The following shall govern deposition practice:

(1) *Conduct of Examining Counsel.* Examining counsel will refrain from asking questions he or she knows to be beyond the legitimate scope of discovery, and from undue repetition.

(2) *Objections.* Only objections which are not reserved for time of trial by these rules or which are based on privileges or raised to questions seeking information beyond the scope of discovery may be made during the course of the deposition. All objections shall be concise and must not suggest or coach answers from the deponent. Argumentative interruptions by counsel shall not be permitted.

(3) *Instructions Not To Answer.* Instructions to the deponent not to answer questions are improper, except when based upon privilege or pursuant to rule 30(d). When a privilege is claimed the deponent shall nevertheless answer questions related to the existence, extent, or waiver of the privilege, such as the date of communication, identity of the declarant, and in whose presence the statement was made.

(4) *Responsiveness.* Witnesses shall be instructed to answer all questions directly and without evasion to the extent of their testimonial knowledge, unless properly instructed by counsel not to answer.

(5) *Private Consultation.* Except where agreed to, attorneys shall not privately confer with deponents during the deposition between a question and an answer except for the purpose of determining the existence of privilege. Conferences with attorneys during normal recesses and at adjournment are permissible unless prohibited by the court.

(6) *Courtroom Standard.* All counsel and parties shall conduct themselves in depositions with the same courtesy and respect for the rules that are required in the courtroom during trial.

RULE 31 DEPOSITIONS UPON WRITTEN QUESTIONS

(a) Serving Questions; Notice. After the summons and a copy of the petition are served, or the petition is filed, whichever shall first occur, any party may take the testimony of any person, including a party, by deposition upon written questions. The attendance of witnesses may be compelled by the use of subpoena as provided in rule 45. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes. A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating (1) the name and address of the person who is to answer them, if known, and if

the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and (2) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of rule 30 (b)(6). Within 15 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 10 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within 10 days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

(b) Officer To Take Responses and Prepare Record. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by rule 30 (c), (e), and (f), to take the testimony of the witness in response to the questions and to prepare, certify, and serve the deposition transcript, attaching thereto the copy of the notice and the questions received by the officer, on the party taking the deposition, unless the court orders otherwise.

(c) Notice of Service. When the deposition has been served, the officer shall promptly give notice of its service to all other parties and file such notice with the clerk of the court.

RULE 32 USE OF DEPOSITIONS IN COURT PROCEEDINGS

(a) Use of Depositions. At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the Rules of Evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness or for any purpose permitted by the Rules of Evidence.

(2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or a person designated under rule 30 (b)(6) or 31(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: (A) that the witness is dead; or (B) that the witness resides out of the county and more than 20 miles from the place of trial, unless it appears that the absence of the witness was procured by the party offering the deposition or unless the witness is an out-of-state expert subject to subsection (a)(5)(A) of this rule; or (C) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (D) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (E) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

(5) The deposition of an expert witness may be used as follows:

(A) The discovery deposition of an opposing party's rule 26 (b)(5) expert witness, who resides outside the state of Washington, may be used if reasonable notice before the trial date is provided to all parties and any party against whom the deposition is intended to be used is given a reasonable opportunity to depose the expert again.

(B) The deposition of a health care professional, even though available to testify at trial, taken with the expressly stated purpose of preserving the deponents testimony for trial, may be used if, before the taking of the deposition, there has been compliance with discovery requests made pursuant to rules 26 (b)(5)(A)(i), 33, 34, and 35 (as applicable) and if the opposing party is afforded an adequate opportunity to prepare, by discovery deposition of the deponent or other means, for cross examination of the deponent. Substitution of parties pursuant to rule 25 does not affect the right to use depositions previously taken; and, when an action has been brought in any court of the United States or of any state and another action involving the same issues and subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor. A deposition previously taken may also be used as permitted by the Rules of Evidence.

(b) Objections to Admissibility. Subject to the provisions of rule 28(b) and subsection (d)(3) of this rule, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(c) Effect of Taking or Using Depositions. A party does not make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by an adverse party of a deposition under subsection (a)(2) of this rule. At the trial or hearing any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party.

(d) Effect of Errors and Irregularities in Depositions.

(1) *As to Notice.* All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(2) *As to Disqualification of Officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(3) *As to Taking of Deposition.*

(A) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(B) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(C) Objections to the form of written questions submitted under rule 31 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other questions and within 5 days after service of the last questions authorized.

(4) *As to Completion and Return of Deposition.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed, or otherwise dealt with by the officer under rules 30 and 31 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

RULE 33 INTERROGATORIES TO PARTIES

(a) Availability; Procedures for Use. Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may, without leave of court, be served upon the petitioner after the summons and a copy of the petition are served upon the respondent, or the petition is filed, whichever shall first occur, and upon any other party with or after service of the summons and petition upon that party.

Interrogatories shall be so arranged that after each separate question there shall appear a blank space reasonably calculated to enable the answering party to place the written response. In the event the responding party either chooses to place the response on a separate page or pages or must do so in order to complete the response, the responding party shall clearly denote the number of the question to which the response relates, including the subpart thereof if applicable. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories, except that a respondent may serve answers or objections within 40 days after service of the summons and petition upon that respondent. The parties may stipulate or any party may move for an order under rule 37(a) with respect to any objection to or other failure to answer an interrogatory.

(b) Scope; Use at Trial. Interrogatories may relate to any matters which can be inquired into under rule 26(b), and the answers may be used to the extent permitted by the Rules of Evidence. An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the court may order that such an interrogatory need not be answered until after designated discovery has been completed or until a pretrial conference or other later time. An interrogatory otherwise proper is not objectionable merely because the propounding party may have other access to the requested information or has the burden of proof on the subject matter of the interrogatory at trial.

(c) Option To Produce Business Records. Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. A specification shall be in sufficient detail to permit the interrogating party to locate and to identify, as readily as can the party served, the records from which the answer may be ascertained.

RULE 34 PRODUCTION OF DOCUMENTS & THINGS AND ENTRY UPON LAND FOR INSPECTION AND OTHER PURPOSES

(a) Scope. Any party may serve on any other party a request (1) to produce and permit the party making the request, or someone acting on his behalf, to inspect and copy, any designated documents (including writings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of rule 26(b) and which are in the possession, custody or control of the party upon whom the request is served; or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of rule 26(b).

(b) Procedure. The request may, without leave of court, be served upon the petitioner after the summons and a copy of the petition are served upon the respondent, or the petition is filed, whichever shall first occur, and upon any other party with or after service of the summons and petition upon that party. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place and manner of making the inspection and performing the related acts.

The party upon whom the request is served shall serve a written response within 30 days after the service of the request, except that a respondent may serve a response within 40 days after service of the summons and petition upon that respondent. The parties may stipulate or the court may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

(c) Persons Not Parties. This rule does not preclude an independent action against a person not a party for production of documents and things and permission to enter upon land.

RULE 35 PHYSICAL AND MENTAL EXAMINATION OF PERSONS

(a) Examination.

(1) *Order for Examination.* When the mental or physical condition (including the blood group) of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical examination by a physician, or mental examination by a physician or psychologist or to produce for examination the person in the party's custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

(2) *Representative at Examination.* The party being examined may have a representative present at the examination, who may observe but not interfere with or obstruct the examination.

(3) *Recording of Examination.* Unless otherwise ordered by the court, the party being examined or that party's representative may make an audiotape recording of the examination which shall be made in an unobtrusive manner. A videotape recording of the examination may be made on agreement of the parties or by order of the court.

(b) Report of Examining Physician or Psychologist. The party causing the examination to be made shall deliver to the party or person examined a copy of a detailed written report of the examining physician or psychologist setting out the examiner's findings, including results of all tests made, diagnosis and conclusions, together with like reports of all earlier examinations of the same condition, regardless of whether the examining physician or psychologist will be called to testify at trial. The report shall be delivered within 45 days of the examination and in no event less than 30 days prior to trial. These deadlines may be altered by agreement of the parties or by order of the court. If a physician or psychologist fails or refuses to make a report in compliance herewith the court shall exclude the examiner's testimony if offered at the trial, unless good cause for noncompliance is shown.

(c) Examination by Agreement. Subsections (a) (2) and (3) and (b) apply to examinations made by agreement of the parties, unless the agreement expressly provides otherwise.

RULE 36 REQUESTS FOR ADMISSION

(a) Request for Admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of rule 26(b) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the petitioner after the summons and a copy of the petition are served upon the respondent, or the petition is filed, whichever shall first occur, and upon any other party with or after service of the summons and petition upon that party. Requests for admission shall not be combined in the same document with any other form of discovery.

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney, but, unless the court shortens the time, a respondent shall not be required to serve answers or objections before the expiration of 40 days after service of the summons and petition upon him. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial or a central fact in dispute may not, on that ground alone, object to the request; he may, subject to the provisions of rule 37(c), deny the matter or set forth reasons why he cannot admit or deny it. The party who has requested the Admissions may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to trial. The provisions of rule 37 (a)(4)

apply to the award of expenses incurred in relation to the motion.

(b) Effect of Admission. Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of rule 16 governing amendment of a pretrial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission by him for any other purpose nor may it be used against him in any other proceeding.

RULE 37 FAILURE TO MAKE DISCOVERY—SANCTIONS

(a) Motion for Order Compelling Discovery. A party, upon reasonable notice to other parties and all persons affected thereby, and upon a showing of compliance with rule 26(i), may apply to the court in the county where the deposition was taken, or in the county where the action is pending, for an order compelling discovery as follows:

(1) *Appropriate Court.* An application for an order to a party may be made to the court in which the action is pending, or on matters relating to a deposition, to the court in the county where the deposition is being taken. An application for an order to a deponent who is not a party shall be made to the court in the county where the deposition is being taken.

(2) *Motion.* If a deponent fails to answer a question propounded or submitted under rules 30 or 31, or a corporation or other entity fails to make a designation under rule 30 (b)(6) or 31(a), or a party fails to answer an interrogatory submitted under rule 33, or if a party, in response to a request for inspection submitted under rule 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, any party may move for an order compelling an answer or a designation, or an order compelling inspection in accordance with the request. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before he applies for an order. If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to rule 26(c).

(3) *Evasive or Incomplete Answer.* For purposes of this section an evasive or incomplete answer is to be treated as a failure to answer.

(4) *Award of Expenses of Motion.* If the motion is granted, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust. If the motion is denied, the court shall, after opportunity for hearing, require the moving party or the attorney advising the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust. If the motion is granted in part and denied in part, the court may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

(b) Failure To Comply With Order.

(1) *Sanctions by Court in County Where Deposition Is Taken.* If a deponent fails to be sworn or to answer a question after being directed to do so by the court in the county in which the deposition is being taken, the failure may be considered a contempt of that court.

(2) *Sanctions by Court in Which Action Is Pending.* If a party or an officer, director, or managing agent of a party or a person designated under rule 30 (b)(6) or 31(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under section (a) of this rule or rule 35, or if a party fails to obey an order entered under rule 26(f), the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence;

(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceedings or any part thereof, or rendering a judgment by default against the disobedient party;

(D) In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to physical or mental examination;

(E) Where a party has failed to comply with an order under rule 35(a) requiring him to produce another for examination such orders as are listed in sections (A), (B), and (C) of this subsection, unless the party failing to comply shows that he is unable to produce such person for examination.

In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising him or both to pay the reasonable expenses, including attorney fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(c) Expenses on Failure To Admit. If a party fails to admit the genuineness of any document or the truth of any matter as requested under rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney fees. The court shall make the order unless it finds that:

(1) the request was held objectionable pursuant to rule 36(a); or

(2) the admission sought was of no substantial importance; or

(3) the party failing to admit had reasonable ground to believe the fact was not true or the document was not genuine; or

(4) there was other good reason for the failure to admit.

(d) Failure of Party To Attend at Own Deposition or Serve Answers to Interrogatories or Respond to Request for Production or Inspection. If a party or an officer, director, or managing agent of a party or a person designated under rule 30 (b)(6) or 31(a) to testify on behalf of a party fails;

(1) to appear before the officer who is to take his or her deposition, after being served with a proper notice; or

(2) to serve answers or objections to interrogatories submitted under rule 33, after proper service of the interrogatories; or

(3) to serve a written response to a request for production of documents or inspection submitted under rule 34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under sections (A), (B), and (C) of subsection (b)(2) of this rule. In lieu of any order or in addition thereto, the court shall require the party failing to act or the attorney advising the party or both to pay the reasonable expenses, including attorney fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust. The failure to act described in this subsection may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by rule 26(c). For purposes of this section, an evasive or misleading answer is to be treated as a failure to answer.

(e) Failure To Participate in the Framing of a Discovery Plan. If a party or his attorney fails to participate in good faith in the framing of a discovery plan by agreement as is required by rule 26(f), the court may, after opportunity for hearing, require such party or his attorney to pay to any other party the reasonable expenses, including attorney fees, caused by the failure.

6. TRIALS (Rules 38-53.5)

RULE 38 JURY TRIAL OF RIGHT [Reserved. Does not apply to Family Law.]

RULE 39 TRIAL BY THE COURT

All Family Law cases shall be tried by the Court without a jury.

RULE 40 ASSIGNMENT OF CASES

(a) Notice of Trial—Note of Issue.

(1) *Of Fact.* At any time after the issues of fact are completed in any case by the service of complaint and answer or reply when necessary, as herein provided, either party may cause the issues of fact to be brought on for trial, by serving upon the opposite party a notice of trial at least 3 days before any day provided by rules of court for setting causes for trial, which notice shall give the title of the cause as in the pleadings, and notify the opposite party that the issues in such action will be brought on for trial at the time set by the court; and the party giving such notice of trial shall, at least 5 days before the day of setting such causes for trial, file with the clerk of the court a note of issue containing the title of the action, the names of the attorneys and the date when the last pleading was served; and the clerk shall thereupon enter the cause upon the trial docket according to the date of the issue.

(2) *Of Law.* In case an issue of law raised upon the pleadings is desired to be brought on for argument, either party shall, at least 5 days before the day set apart by the court under its rules for hearing issues of law, serve upon the opposite party a like notice of trial and furnish the clerk of the court with a note of issue as above provided, which note of issue shall specify that the issue to be tried is an issue of law; and the clerk of the court shall thereupon enter such action upon the motion docket of the court.

(3) *Adjournments.* When a cause has once been placed upon either docket of the court, if not tried or argued at the time for which notice was given, it need not be noticed for a subsequent session or day, but shall remain upon the docket from session to session or from law day to law day until final disposition or stricken off by the court.

(4) *Filing Note by Opposite Party.* The party upon whom notice of trial is served may file the note of issue and cause the action to be placed upon the calendar without further notice on his part.

(5) *Issue May Be Brought to Trial by Either Party.* Either party, after the notice of trial, whether given by himself or the adverse party, may bring the issue to trial, and in the absence of the adverse party, unless the court for good cause otherwise directs, may proceed with his case, and take a dismissal of the action, or a judgment, as the case may require.

(b) Methods. Each superior court may provide by local rule for placing of actions upon the trial calendar (1) without request of the parties or (2) upon request of a party and notice to the other parties or (3) in such other manner as the court deems expedient.

(c) Preferences. In setting cases for trial, unless otherwise provided by statute, preference shall be given to criminal over civil cases, and cases where the defendant or a witness is in confinement shall have preference over other cases.

(d) Trials. When a cause is set and called for trial, it shall be tried or dismissed, unless good cause is shown for a continuance. The court may in a proper case, and upon terms, reset the same.

(e) Continuances. A motion to continue a trial on the ground of the absence of evidence shall only be made upon affidavit showing the materiality of the evidence expected to be obtained, and that due diligence has been used to procure it, and also the name and address of the witness or witnesses. The court may also require the moving party to state upon affidavit the evidence which he expects to obtain; and if the adverse party admits that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial shall not be continued. The court, upon its allowance of the motion, may impose terms or conditions upon the moving party.

(f) Change of Judge. Any right under RCW 4.12.050 to seek disqualification of a judge will be deemed waived unless, in addition to the limitations in the statute, the motion and affidavit is filed with the court no later than thirty days prior to trial before a pre-assigned judge. For purposes of this rule, "trial" includes any review or appeal from an adminis-

trative body. If a case is reassigned to a different judge less than forty days prior to trial, a party may then move for a change of judge within ten days of such reassignment, unless the moving party has previously made such a motion.

(g) Local rules adopted pursuant to rule 83 may establish a system that creates case schedules and the assignment of judicial teams for the efficient management of cases.

RULE 41 DISMISSAL OF ACTIONS

(a) Voluntary Dismissal.

(1) *Mandatory.* Subject to the provisions of rules 23(e) and 23.1, any action shall be dismissed by the court:

(A) By stipulation. When all parties who have appeared so stipulate in writing; or

(B) By petitioner before resting. Upon motion of the petitioner at any time before petitioner rests at the conclusion of his opening case.

(2) *Permissive.* After petitioner rests after his opening case, petitioner may move for a voluntary dismissal without prejudice upon good cause shown and upon such terms and conditions as the court deems proper.

(3) *Counterclaim.* If a counterclaim has been pleaded by a respondent prior to the service upon him of petitioner's motion for dismissal, the action shall not be dismissed against the respondent's objection unless the counterclaim can remain pending for independent adjudication by the court.

(4) *Effect.* Unless otherwise stated in the order of dismissal, the dismissal is without prejudice, except that an order of dismissal operates as an adjudication upon the merits when obtained by a petitioner who has once dismissed an action based on or including the same claim in any court of the United States or of any state.

(b) Involuntary Dismissal; Effect. For failure of the petitioner to prosecute or to comply with these rules or any order of the court, a respondent may move for dismissal of an action or of any claim against him or her.

(1) *Want of Prosecution on Motion of Party.* Any civil action shall be dismissed, without prejudice, for want of prosecution whenever the petitioner, counterclaimant, cross claimant, or third party petitioner neglects to note the action for trial or hearing within 1 year after any issue of law or fact has been joined, unless the failure to bring the same on for trial or hearing was caused by the party who makes the motion to dismiss. Such motion to dismiss shall come on for hearing only after 10 days' notice to the adverse party. If the case is noted for trial before the hearing on the motion, the action shall not be dismissed.

(2) *Dismissal on Clerk's Motion.*

(A) Notice. In all civil cases in which no action of record has occurred during the previous 12 months, the clerk of the superior court shall notify the attorneys of record by mail that the court will dismiss the case for want of prosecution unless, within 30 days following the mailing of such notice, a party takes action of record or files a status report with the court indicating the reason for inactivity and projecting future activity and a case completion date. If the court does not receive such a status report, it shall, on motion of the clerk, dismiss the case without prejudice and without cost to any party.

(B) Mailing Notice; Reinstatement. The clerk shall mail notice of impending dismissal not later than 30 days after the case becomes eligible for dismissal because of inactivity. A party who does not receive the clerk's notice shall be entitled to reinstatement of the case, without cost, upon motion brought within a reasonable time after learning of the dismissal.

(C) Discovery in Process. The filing of a document indicating that discovery is occurring between the parties shall constitute action of record for purposes of this rule.

(D) Other Grounds for Dismissal and Reinstatement. This rule is not a limitation upon any other power that the court may have to dismiss or reinstate any action upon motion or otherwise.

(3) Respondent's Motion After Petitioner Rests. After the petitioner has completed the presentation of his evidence, the respondent, without waiving his right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the petitioner has shown no right to relief. The court as trier of the facts may then determine them and render judgment against the petitioner or may decline to render any judgment until the close of all the evidence. If the court renders judgment on the merits against the petitioner, the court shall make findings as provided in rule 52(a). Unless the court in its order for dismissal otherwise specifies, a dismissal under this subsection and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under rule 19, operates as an adjudication upon the merits.

(c) Dismissal of Counterclaim, Cross Claim, or Third Party Claim. The provisions of this rule apply to the dismissal of any counterclaim, cross claim, or third party claim. A voluntary dismissal by the claimant alone pursuant to subsection (a)(1) of this rule shall be made before a responsive pleading is served or, if there is none, before the introduction of evidence at the trial or hearing.

(d) Costs of Previously Dismissed Action. If a petitioner who has once dismissed an action in any court commences an action based upon or including the same claim against the same respondent, the court may make such order for the payment of taxable costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the petitioner has complied with the order.

(e) Notice of Settlements. If a case is settled after it has been assigned for trial, it shall be the duty of the attorneys or of any party appearing pro se to notify the court promptly of the settlement. If the settlement is made within 5 days before the trial date, the notice shall be made by telephone or in person. All notices of settlement shall be confirmed in writing to the clerk.

RULE 42 CONSOLIDATIONS; SEPARATE TRIALS

(a) Consolidation. When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

(b) Separate Trials. The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross claim, counterclaim, or third party

claim, or of any separate issue or of any number of claims, cross claims, counterclaims, third party claims, or issues.

RULE 43 TAKING OF TESTIMONY

(a) Testimony.

(1) *Generally.* In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise directed by the court or provided by rule or statute. For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.

(2) *Multiple Examinations.* When two or more attorneys are on the same side trying a case, the attorney conducting the examination of a witness shall continue until the witness is excused from the stand; and all objections and offers of proof made during the examination of such witness shall be made or announced by the attorney who is conducting the examination or cross examination.

(b) [Reserved. See ER 103 and 611.]

(c) [Reserved. See ER 103 and 611.]

(d) Oaths of Witnesses.

(1) *Administration.* The oaths of all witnesses in the superior court

(A) shall be administered by the judge;

(B) shall be administered to each witness individually; and

(C) the witness shall stand while the oath is administered.

(2) *Applicability.* This rule shall not apply to civil ex parte proceedings or default dissolution of marriage or domestic partnership cases and in such cases the manner of swearing witnesses shall be as each superior court may prescribe.

(3) *Affirmation in Lieu of Oath.* Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

(e) Evidence on Motions.

(1) *Generally.* When a motion is based on facts not appearing of record the court may hear the matter on affidavits or declarations presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions.

(2) *For injunctions, etc.* On application for injunction or motion to dissolve an injunction or discharge an attachment, or to appoint or discharge a receiver, the notice thereof shall designate the kind of evidence to be introduced on the hearing. If the application is to be heard on affidavits or declarations, copies thereof must be served by the moving party upon the adverse party at least 3 days before the hearing. Oral testimony shall not be taken on such hearing unless permission of the court is first obtained and notice of such permission served upon the adverse party at least 3 days before the hearing. This rule shall not be construed as pertaining to applications for restraining orders or for appointment of temporary receivers.

(f) Adverse Party as Witness.

(1) *Party or Managing Agent as Adverse Witness.* A party, or anyone who at the time of the notice is an officer, director, or other managing agent (herein collectively referred to as "managing agent") of a public or private corporation, partnership or association which is a party to an action or proceeding may be examined at the instance of any adverse party. Attendance of such deponent or witness may be compelled solely by notice (in lieu of a subpoena) given in the manner prescribed in rule 30 (b)(1) to opposing counsel of record. Notices for the attendance of a party or of a managing agent at the trial shall be given not less than 10 days before trial (exclusive of the day of service, Saturdays, Sundays, and court holidays). For good cause shown in the manner prescribed in rule 26(c), the court may make orders for the protection of the party or managing agent to be examined.

(2) *Effect of Discovery, etc.* A party who has served interrogatories to be answered by the adverse party or who has taken the deposition of an adverse party or of the managing agent of an adverse party shall not be precluded for that reason from examining such adverse party or managing agent at the trial. Matters admitted by the adverse party or managing agent in interrogatory answers, deposition testimony, or trial testimony are not conclusively established and may be rebutted.

(3) *Refusal To Attend and Testify; Penalties.* If a party or a managing agent refuses to attend and testify before the officer designated to take his deposition or at the trial after notice served as prescribed in rule 30 (b)(1), the petition, answer, or reply of the party may be stricken and judgment taken against the party, and the contumacious party or managing agent may also be proceeded against as in other cases of contempt. This rule shall not be construed:

(A) to compel any person to answer any question where such answer might tend to incriminate him;

(B) to prevent a party from using a subpoena to compel the attendance of any party or managing agent to give testimony by deposition or at the trial; nor

(C) to limit the applicability of any other sanctions or penalties provided in rule 37 or otherwise for failure to attend and give testimony.

(g) Attorney as Witness. If any attorney offers himself as a witness on behalf of his client and gives evidence on the merits, he shall not argue the case, unless by permission of the court.

(h) Report or Transcript as Evidence. Whenever the testimony of a witness at a trial or hearing which was reported is admissible in evidence at a later trial, it may be proved by the transcript thereof duly certified by the person who reported the testimony.

(i) [Reserved. See ER 804.]

(j) Report of Proceedings in Retrial. In the event a cause has been remanded by the court for a new trial or the taking of further testimony, and the testimony in such cause shall have been taken in full and used as the report of proceedings upon review, either party upon the retrial of such cause or the taking of further testimony therein shall have the right, provided the court shall so order after an application on 10 days' notice to the opposing party or parties, to submit said report of proceedings as the testimony in said cause upon its second hearing, to the same effect as if the witnesses called by him in the earlier hearing had been called, sworn, and testified in the further hearing; but no party shall be denied the right to submit other or further testimony upon such retrial or further hearing, and the party having the right of cross examination shall have the privilege of subpoenaing any witness

whose testimony is contained in such report of proceedings for further cross examination.

(k) Juror Questions for Witnesses. [Reserved. Does not apply to Family Law.]

RULE 44 PROOF OF OFFICIAL RECORD

(a) Authentication.

(1) *Domestic.* An official record kept within the United States, or any state, district, or commonwealth, territory, or within a territory subject to the administrative or judicial jurisdiction of the United States, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by the officer's deputy, and accompanied by a certificate that such officer has the custody. The certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office or official custody of the seal of the political subdivision and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of the officer's office or the seal of the political subdivision.

(2) *Foreign.* A foreign official record, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof; or a copy thereof, attested by a person authorized to make the attestation, and accompanied by a final certification as to the genuineness of the signature and official position (A) of the attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice-consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the documents, the court may, for good cause shown, either admit an attested copy without final certification or permit the foreign official record to be evidenced by an attested summary with or without a final certification. The final certification is unnecessary if the record and the attestation are certified as provided in a treaty or convention to which the United States and the foreign country in which the official record is located are parties.

(b) Lack of Record. A written statement that after diligent search no record or entry of a specified tenor is found to exist in the records, designated by the statement, authenticated as provided in subsection (a)(1) of this rule in the case of a domestic record, or complying with the Requirements of subsection (a)(2) of this rule for a summary in the case of a foreign record, is admissible as evidence that the records contain no such record or entry.

(c) Other Proof. This rule does not prevent the proof of official records or of entry or lack of entry therein by any other method authorized by law.

RULE 44.1 DETERMINATION OF FOREIGN LAW

(a) Pleading. A party who intends to raise an issue concerning the law of a state, territory, or other jurisdiction of the United States, or a foreign country shall give notice in his pleadings in accordance with rule 9(k).

(b) United States Jurisdiction. The law of a state, territory, or other jurisdiction of the United States shall be determined as provided in RCW 5.24.

(c) Other Jurisdictions. The court, in determining the law of any jurisdiction other than a state, territory, or other jurisdiction of the United States, may consider any relevant written material or other source, including testimony, having due regard for their trustworthiness, whether or not submitted by a party and whether or not admissible under the Rules of Evidence. If the court considers any material or source not received in open court, prior to its determination the court shall:

(1) Identify in the record such material or source;

(2) Summarize in the record any unwritten information received; and

(3) Afford the parties an opportunity to respond thereto. The court's determination shall be treated as a ruling on a question of law.

RULE 45 SUBPOENA

(a) Form; Issuance.

(1) Every subpoena shall:

(A) state the name of the court from which it is issued;

(B) state the title of the action, the name of the court in which it is pending, and its case number;

(C) command each person to whom it is directed to attend and give testimony or to produce and permit inspection and copying of designated books, documents or tangible things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified; and

(D) set forth the text of subsections (c) and (d) of this rule.

(2) A subpoena for attendance at a deposition shall state the method for recording the testimony.

(3) A command to a person to produce evidence or to permit inspection may be joined with a command to appear at trial or hearing or at deposition, or may be issued separately. A party may be compelled to produce evidence at a deposition or permit inspection only in accordance with rule 34.

(4) A subpoena may be issued by the court in which the action is pending under the seal of that court or by the clerk in response to a praecipe. An attorney of record of a party or other person authorized by statute may issue and sign a subpoena, subject to RCW 5.56.010.

(b) Service.

(1) A subpoena may be served by any suitable person over 18 years of age by giving the person named therein a copy thereof, or by leaving a copy at such person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. When service is made by any person other than an officer authorized to serve process, proof of service shall be made by affidavit or declaration.

(2) A subpoena commanding production of documents and things, or inspection of premises, without a command to appear for deposition, hearing or trial, shall be served on each party in the manner prescribed by rule 5(b). Such service shall be made no fewer than five days prior to service of the

subpoena on the person named therein, unless the parties otherwise agree or the court otherwise orders for good cause shown. A motion for such an order may be made *ex parte*.

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to subsection (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance;

(ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden, provided that the court may condition denial of the motion upon a requirement that the subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information in camera to the court for a determination of the claim. The person responding to the subpoena must preserve the information until the claim is resolved.

(e) Subpoena for Taking Deposition, Producing Documents, or Permitting Inspection.

(1) *Witness Fees and Mileage.* [Reserved. See RCW 2.40.020.]

(2) *Place of Examination.* A resident of the state may be required to attend an examination, produce documents, or permit inspection only in the county where the person resides or is employed or transacts business in person, or at such other convenient place as is fixed by an order of the court. A nonresident of the state may be required to attend an examination, produce documents, or permit inspection only in the county where the person is served with a subpoena, or within 40 miles from the place of service, or at such other convenient place as is fixed by an order of the court.

(3) *Foreign Proceedings for Local Actions.* When the place of examination, production, or inspection is in another state, territory, or country, the party desiring to take the deposition, obtain production, or conduct inspection may secure the issuance of a subpoena or equivalent process in accordance with the laws of such state, territory, or country.

(4) *Local Depositions for Foreign Actions.* When any officer or person is authorized to take depositions in this state by the law of another state, territory, or country, with or without a commission, a subpoena to require attendance before such officer or person may be issued by any court of this state for attendance at any place within its jurisdiction.

(f) Subpoena For Hearing or Trial.

(1) *When Witnesses Must Attend—Fees and Allowances.* [Reserved. See RCW 5.56.010.]

(2) *When Excused.* A witness subpoenaed to attend in a civil case is dismissed and excused from further attendance as soon as the witness has given testimony in chief and has been cross-examined thereon, unless either party moves in open court that the witness remain in attendance and the court so orders. Witness fees will not be allowed any witness after the day on which the witness' testimony is given, except

when the witness has in open court been required to remain in further attendance, and when so required the clerk shall note that fact.

(g) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a non-party to attend a deposition, produce documents, or permit inspection at a place not within the limits provided by subsection (e)(2).

(h) Form. A subpoena should be substantially in the form below.

Issued by the
SUPERIOR COURT FOR THE STATE OF WASHINGTON
COUNTY

____

SUBPOENA IN A CIVIL CASE
CAUSE NUMBER:

v.

____

TO:

YOU ARE COMMANDED to appear in the Superior Court of the State of Washington at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. FLCR 30 (b)6).

PLACE OF DEPOSITION	DATE AND TIME
	METHOD OF RECORDING

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or tangible things at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PETITIONER OR RESPONDENT	DATE
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	

PROOF OF SERVICE

DATE
PLACE SERVED
SERVED ON (PRINT NAME)
MANNER OF SERVICE
SERVED BY (PRINT NAME)
TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the State of Washington that the foregoing information contained in the Proof of Service is true and correct.

Executed on ______________________________ ______________________________

DATE/PLACE SIGNATURE OF SERVER

____

ADDRESS OF SERVER

RULE 46 EXCEPTIONS UNNECESSARY

Formal exceptions to rulings or orders of the court are unnecessary; but for all purposes for which an exception has heretofore been necessary it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court and his grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice him.

RULE 47 [Reserved.]

RULE 48 [Reserved.]

RULE 49 [Reserved.]

RULE 50 [Reserved.]

RULE 51 [Reserved.]

RULE 52 DECISIONS, FINDINGS AND CONCLUSIONS

(a) Requirements.

(1) *Generally.* In all actions tried upon the facts, the court shall find the facts specially and state separately its conclusions of law. Judgment shall be entered pursuant to rule 58 and may be entered at the same time as the entry of the findings of fact and the conclusions of law.

(2) *Specifically Required.* Without in any way limiting the requirements of subsection (1), findings and conclusions are required:

(A) Temporary injunctions. In granting or refusing temporary injunctions.

(B) In connection with all final decisions in adoption, parenting plan, custody, or dissolution of marriage or domestic partnership proceedings, whether heard ex parte or not.

(C) Other. In connection with any other decision where findings and conclusions are specifically required by statute, by another rule, or by a local rule of the superior court.

(3) *Proposed.* Requests for proposed findings of fact are not necessary for review.

(4) *Form.* If a written opinion or memorandum of decision is filed, it will be sufficient if formal findings of fact and conclusions of law are included.

(5) *When Unnecessary.* Findings of fact and conclusions of law are not necessary:

(A) Stipulation. Where all parties stipulate in writing that there will be no appeal.

(B) Decision on motions. On decisions of motions under rules 12 or 56 or any other motion, except as provided in rules 41 (b)(3) and 55 (b)(2).

(C) Temporary restraining orders. On the issuance of temporary restraining orders issued ex parte.

(b) Amendment of Findings. Upon motion of a party filed not later than 10 days after entry of judgment the court may amend its findings or make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial pursuant to rule 59. When findings of fact are made, the question of the sufficiency of evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the court an objection to such findings or has made a motion to amend them or a motion for judgment.

(c) Presentation. Unless an emergency is shown to exist, or a party has failed to appear at a hearing or trial, the court shall not sign findings of fact or conclusions of law until the defeated party or parties have received 5 days' notice of the time and place of the submission, and have been served with copies of the proposed findings and conclusions. Persons who have failed to appear at a hearing or trial after notice, may, in the discretion of the trial court, be deemed to have waived their right to notice of presentation or previous review of the proposed findings and conclusions.

(d) Judgment Without Findings, etc. A judgment entered in a case tried to the court where findings are required, without findings of fact having been made, is subject to a motion to vacate within the time for the taking of an appeal. After vacation, the judgment shall not be reentered until findings are entered pursuant to this rule.

(e) Time Limit for Decision. [Reserved. See RCW 2.08.240.]

RULE 53 MASTERS [RESERVED]

RULE 53.1 REFEREES

(a) Referees—Definition and Powers. [Reserved. See RCW 2.24.060.]

(b) Reference by Consent—Right to Trial. [Reserved. Does Not Apply To Family Law.]

(c) Reference Without Consent. [Reserved. See RCW 4.48.020.]

(d) To Whom Reference May Be Ordered. [Reserved. See RCW 4.48.030.]

(e) Qualifications of Referees. [Reserved. See RCW 4.48.040.]

(f) Challenges to Referees. [Reserved. See RCW 4.48.050.]

(g) Trial Procedure—Powers of Referee. [Reserved. See RCW 4.48.060.]

(h) Referee's Report—Contents—Evidence, Filing of, Frivolous. [Reserved. See RCW 4.48.070.]

(i) Proceedings on Filing of Report. [Reserved. See RCW 4.48.080.]

(j) Judgment on Referees Report. [Reserved. See RCW 4.48.090.]

(k) Fees of Referees. [Reserved. See RCW 4.48.100.]

RULE 53.2 COURT COMMISSIONERS

(a) Appointment of Court Commissioners—Qualifications—Term of Office. [Reserved. See RCW 2.24.010.]

(b) Oath. [Reserved. See RCW 2.24.020.]

(c) Salary. [Reserved. See RCW 2.24.030.]

(d) Powers of Commissioners—Fees. [Reserved. See RCW 2.24.040.]

(e) Revision by Court. [Reserved. See RCW 2.24.050.]

RULE 53.3 APPOINTMENT OF MASTERS IN DISCOVERY MATTERS

(a) Appointment. The court in which any action is pending may appoint a special master either to preside at depositions or to adjudicate discovery disputes, or both. Such appointment may be made, for good cause shown, upon the request of any party in pending litigation or upon the court's own motion.

(b) Qualifications. The master shall be a lawyer admitted to practice in the state of Washington.

(c) Compensation. The compensation of the master shall be fixed by the court. Payment of the master's compensation shall be charged to such of the parties or paid out of such other available funds as the court shall direct, but in determining payment of compensation the court shall take into account the relative financial resources of the parties and such other factors as the court deems appropriate.

(d) Powers. The order of reference to the master may specify the duties of the master. It may direct that the master preside at depositions and make rulings on issues arising at the depositions. It may direct the master to hear and report to the court on unresolved discovery disputes and to make recommendations as to the resolution of such disputes, as to the imposition of terms or sanctions to be assessed against any party, and as to which party or parties shall bear the costs of the master. If directed by the court, the master shall prepare a report upon the matters submitted to the master by the order of reference. A party may request that the report be sealed pursuant to rule 26(c). The report with the rulings and recommendations of the master shall be reviewed by the court and may be adopted or revised as the court deems just.

RULE 53.4 [Reserved.]

7. JUDGMENT (Rules 54-63)

RULE 54 JUDGMENTS AND COSTS

(a) Definitions.

(1) *Judgment.* A judgment is the final determination of the rights of the parties in the action and includes any decree and order from which an appeal lies. A judgment shall be in writing and signed by the judge and filed forthwith as provided in rule 58.

(2) *Order.* Every direction of a court or judge, made or entered in writing, not included in a judgment, is denominated an order.

(b) Judgment Upon Multiple Claims or Involving Multiple Parties. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross claim, or third party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination in the judgment, supported by written findings, that there is no just reason for delay and upon an express direction for the entry of judgment. The findings may be made at the time of entry of judgment or thereafter on the court's own motion or on motion of any party. In the absence of such findings, determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

(c) Demand for Judgment. A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings.

(d) Costs, Disbursements, Attorney's Fees, and Expenses.

(1) *Costs and Disbursements.* Costs and disbursements shall be fixed and allowed as provided in RCW 4.84 or by any other applicable statute. If the party to whom costs are awarded does not file a cost bill or an affidavit or declaration detailing disbursements within 10 days after the entry of the judgment, the clerk shall tax costs and disbursements pursuant to rule 78(e).

(2) *Attorney's Fees and Expenses.* Claims for attorney's fees and expenses, other than costs and disbursements, shall be made by motion unless the substantive law governing the action provides for the recovery of such fees and expenses as an element of damages to be proved at trial. Unless otherwise provided by statute or order of the court, the motion must be filed no later than 10 days after entry of judgment.

(e) Preparation of Order or Judgment. The attorney of record for the prevailing party shall prepare and present a proposed form of order or judgment not later than 15 days after the entry of the decision, or at any other time as the court may direct. Where the prevailing party is represented by an attorney of record, no order or judgment may be entered for the prevailing party unless presented or approved by the attorney of record. If both the prevailing party and his attorney of record fail to prepare and present the form of order or judgment within the prescribed time, any other party may do so, without the approval of the attorney of record of the prevailing party upon notice of presentation as provided in subsection (f)(2).

(f) Presentation.

(1) *Time.* Judgments may be presented at the same time as the findings of fact and conclusions of law under rule 52.

(2) *Notice of Presentation.* No order or judgment shall be signed or entered until opposing counsel have been given 5 days' notice of presentation and served with a copy of the proposed order or judgment unless:

(A) Emergency. An emergency is shown to exist.

(B) Approval. Opposing counsel has approved in writing the entry of the proposed order or judgment or waived notice of presentation.

(C) After findings. If presentation is made after entry of findings and while opposing counsel is in open court.

RULE 55 DEFAULT AND JUDGMENT

(a) Entry of Default.

(1) *Motion.* When a party against whom a judgment for affirmative relief is sought has failed to appear, plead, or otherwise defend as provided by these rules and that fact is made to appear by motion and affidavit or declaration, a motion for default may be made.

(2) *Pleading After Default.* Any party may respond to any pleading or otherwise defend at any time before a motion for default and supporting affidavit or declaration is filed, whether the party previously has appeared or not. If the party has appeared before the motion is filed, he may respond to the pleading or otherwise defend at any time before the hearing on the motion. If the party has not appeared before the motion is filed he may not respond to the pleading nor other-

wise defend without leave of court. Any appearances for any purpose in the action shall be for all purposes under this rule 55.

(3) *Notice.* Any party who has appeared in the action for any purpose shall be served with a written notice of motion for default and the supporting affidavit or declaration at least 5 days before the hearing on the motion. Any party who has not appeared before the motion for default and supporting affidavit or declaration are filed is not entitled to a notice of the motion, except as provided in rule 55 (f)(2)(A).

(4) *Venue.* A motion for default shall include a statement of the basis for venue in the action. A default shall not be entered if it clearly appears to the court from the papers on file that the action was brought in an improper county.

(b) Entry of Default Judgment. As limited in rule 54(c), judgment after default may be entered as follows, if proof of service is on file as required by subsection (b)(4):

(1) *When Amount Certain.* When the claim against a party, whose default has been entered under section (a), is for a sum certain or for a sum which can by computation be made certain, the court upon motion and affidavit or declaration of the amount due shall enter judgment for that amount and costs against the party in default, if he is not an infant or incompetent person. No judgment by default shall be entered against an infant or incompetent person unless represented by a general guardian or guardian ad litem. Findings of fact and conclusions of law are not necessary under this subsection even though reasonable attorney fees are requested and allowed.

(2) *When Amount Uncertain.* If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any allegation by evidence or to make an investigation of any other matter, the court may conduct such hearings as are deemed necessary. Findings of fact and conclusions of law are required under this subsection.

(3) *When Service by Publication or Mail.* In an action where the service of the summons was by publication, or by mail under rule 4 (d)(4), the petitioner, upon the expiration of the time for answering, may, upon proof of service, apply for judgment. The court must hereupon require proof of the demand mentioned in the petition, and must require the petitioner or his agent to be examined on oath respecting any payments that have been made to the petitioner, or to anyone for his use on account of such demand, and may render judgment for the amount which he is entitled to recover, or for such other relief as he may be entitled to.

(4) *Costs and Proof of Service.* Costs shall not be awarded and default judgment shall not be rendered unless proof of service is on file with the court.

(c) Setting Aside Default.

(1) *Generally.* For good cause shown and upon such terms as the court deems just, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with rule 60(b).

(2) *When Venue Is Improper.* A default judgment entered in a county of improper venue is valid but will on motion be vacated for irregularity pursuant to rule 60 (b)(1). A party who procures the entry of the judgment, shall in the vacation proceedings, be required to pay to the party seeking vacation the costs and reasonable attorney fees incurred by the party in seeking vacation if the party procuring the judgment could have determined the county of proper venue with reasonable diligence. This subsection does not apply if either (a) the parties stipulate in writing to venue after commencement of the action, or (b) the respondent has appeared, has been given written notice of the motion for an order of default, and does not object to venue before the entry of the default order.

(d) Petitioners, Counterclaimants, Cross Claimants. The provisions of this rule apply whether the party entitled to the judgment by default is a petitioner, a third party petitioner, or a party who has pleaded a cross claim or counterclaim. In all cases a judgment by default is subject to the limitations of rule 54(c).

(e) Judgment Against State. [Reserved.]

(f) How Made After Elapse of Year.

(1) *Notice.* When more than 1 year has elapsed after service of summons with no appearance being made, the court shall not sign an order of default or enter a judgment until a notice of the time and place of the application for the order or judgment is served on the party in default, not less than 10 days prior to the entry. Proof by affidavit or declaration of the service of the notice shall be filed before entry of the judgment.

(2) *Service.* Service of notice of the time and place on the application for the order of default or default judgment shall be made as follows:

(A) by service upon the attorney of record;

(B) if there is no attorney of record, then by service upon the respondent by certified mail with return receipt of said service to be attached to the affidavit or declaration in support of the application; or

(C) by a personal service upon the respondent in the same manner provided for service of process.

(D) If service of notice cannot be made under subsections (A) and (C), the notice may be given by publication in a newspaper of general circulation in the county in which the action is pending for one publication, and by mailing a copy to the last known address of each respondent. Both the publication and mailing shall be done 10 days prior to the hearing.

RULE 56 SUMMARY JUDGMENT

(a) For Claimant. A party seeking to recover upon a claim, counterclaim, or cross claim, or to obtain a declaratory judgment may, after the expiration of the period within which the respondent is required to appear, or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits or declarations for a summary judgment in his favor upon all or any part thereof.

(b) For Defending Party. A party against whom a claim, counterclaim, or cross claim is asserted or a declaratory judgment is sought may move with or without supporting affidavits or declarations for a summary judgment in his favor as to all or any part thereof.

(c) Motion and Proceedings. The motion and any supporting affidavits or declarations, memoranda of law, or other documentation shall be filed and served not later than 28 calendar days before the hearing. The adverse party may file

and serve opposing affidavits or declarations, memoranda of law or other documentation not later than 11 calendar days before the hearing. The moving party may file and serve any rebuttal documents not later than 5 calendar days prior to the hearing. If the date for filing either the response or rebuttal falls on a Saturday, Sunday, or legal holiday, then it shall be filed and served not later than the next day nearer the hearing which is neither a Saturday, Sunday, or legal holiday. Summary judgment motions shall be heard more than 14 calendar days before the date set for trial unless leave of court is granted to allow otherwise. Confirmation of the hearing may be required by local rules. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits or declarations, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

(d) Case Not Fully Adjudicated on Motion. If on motion under the rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action, the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

(e) Form of Affidavits or declarations; Further Testimony; Defense Required. Supporting and opposing affidavits or declarations shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the declarant or affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in a declaration or an affidavit shall be attached thereto or served therewith. The court may permit affidavits or declarations to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits or declarations. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or declarations or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

(f) When Affidavits or Declarations Are Unavailable. Should it appear from the affidavits or declarations of a party opposing the motion that he cannot, for reasons stated, present by affidavit or declaration facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits or declarations to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

(g) Affidavits or Declarations Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits or declarations presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits or declarations caused him to incur, including reasonable attorney fees, and any offending party or attorney may be adjudged guilty of contempt.

(h) Form of Order. The order granting or denying the motion for summary judgment shall designate the documents and other evidence called to the attention of the trial court before the order on summary judgment was entered.

RULE 57. DECLARATORY JUDGMENTS.

The procedure for obtaining a declaratory judgment pursuant to the Uniform Declaratory Judgments Act, RCW 7.24, shall be in accordance with these rules. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar.

RULE 58 ENTRY OF JUDGMENT

(a) When. Unless the court otherwise directs and subject to the provisions of rule 54(b), all judgments shall be entered immediately after they are signed by the judge.

(b) Effective Time. Judgments shall be deemed entered for all procedural purposes from the time of delivery to the clerk for filing, unless the judge earlier permits the judgment to be filed with him as authorized by rule 5(e).

(c) Notice of Entry. [Reserved. See rule 54(f).]

(d) [Reserved.]

(e) Judgment by Confession. [Reserved. See RCW 4.60.]

(f) Assignment of Judgment. [Reserved. See RCW 4.56.090.]

(g) Interest on Judgment. [Reserved. See RCW 4.56.-110.]

(h) Satisfaction of Judgment. [Reserved. See RCW 4.56.100.]

(i) Lien of Judgment. [Reserved. See RCW 4.56.190.]

(j) Commencement of Lien on Real Estate. [Reserved. See RCW 4.56.200.]

(k) Cessation of Lien—Extension Prohibited. [Reserved. See RCW 4.56.210.]

(l) Revival of Judgments. [Reserved.]

RULE 59 NEW TRIAL, RECONSIDERATION, AND AMENDMENT OF JUDGMENTS

(a) Grounds for New Trial or Reconsideration. On the motion of the party aggrieved, a new trial granted to all or any of the parties, and on all issues, or on some of the issues when such issues are clearly and fairly separable and distinct, or any other decision or order may be vacated and reconsideration granted. Such motion may be granted for any one of the following causes materially affecting the substantial rights of such parties:

(1) Irregularity in the proceedings of the court, or adverse party, or any order of the court, or abuse of discre-

tion, by which such party was prevented from having a fair trial.

(2) Misconduct of prevailing party;

(3) Accident or surprise which ordinary prudence could not have guarded against;

(4) Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence have discovered and produced at the trial;

(5) [Reserved.]

(6) Error in the assessment of the amount of recovery whether too large or too small, or for the injury or detention of property;

(7) That there is no evidence or reasonable inference from the evidence to justify the decision, or that it is contrary to law;

(8) Error in law occurring at the trial and objected to at the time by the party making the application; or

(9) That substantial justice has not been done.

(b) Time for Motion; Contents of Motion. A motion for a new trial or for reconsideration shall be filed not later than 10 days after the entry of the judgment, order, or other decision. The motion shall be noted at the time it is filed, to be heard or otherwise considered within 30 days after the entry of the judgment, order, or other decision, unless the court directs otherwise. A motion for a new trial or for reconsideration shall identify the specific reasons in fact and law as to each ground on which the motion is based.

(c) Time for Serving Affidavits or Declarations. When a motion for new trial is based on affidavits or declarations, they shall be filed with the motion. The opposing party has 10 days after service to file opposing affidavits or declarations, but that period may be extended for up to 20 days, either by the court for good cause or by the parties' written stipulation. The court may permit reply affidavits or declarations.

(d) On Initiative of Court. Not later than 10 days after entry of judgment, the court on its own initiative may order a hearing on its proposed order for a new trial for any reason for which it might have granted a new trial on motion of a party. After giving the parties notice and opportunity to be heard, the court may grant a timely motion for a new trial for a reason not stated in the motion. When granting a new trial on its own initiative or for a reason not stated in a motion, the court shall specify the grounds in its order.

(e) Hearing on Motion. When a motion for reconsideration or for a new trial is filed, the judge by whom it is to be heard may on the judge's own motion or on application determine:

(1) *Time of Hearing.* Whether the motion shall be heard before the entry of judgment;

(2) *Consolidation of Hearings.* Whether the motion shall be heard before or at the same time as the presentation of the findings and conclusions and/or judgment, and the hearing on any other pending motion; and/or

(3) *Nature of Hearing.* Whether the motion or motions and presentation shall be heard on oral argument or submitted on briefs, and if on briefs, shall fix the time within which the briefs shall be served and filed.

(f) Statement of Reasons. In all cases where the trial court grants a motion for a new trial, it shall, in the order granting the motion, state whether the order is based upon the record or upon facts and circumstances outside the record that cannot be made a part thereof. If the order is based upon the record, the court shall give definite reasons of law and facts for its order. If the order is based upon matters outside the record, the court shall state the facts and circumstances upon which it relied.

(g) Reopening Judgment. On a motion for a new trial, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

(h) Motion To Alter or Amend Judgment. A motion to alter or amend the judgment shall be filed not later than 10 days after entry of the judgment.

(i) Alternative Motions, etc. Alternative motions for judgment as a matter of law and for a new trial may be made in accordance with rule 50(c).

(j) Limit on Motions. If a motion for reconsideration, or for a new trial, or for judgment as a matter of law, is made and heard before the entry of the judgment, no further motion may be made without leave of the court first obtained for good cause shown: (1) for a new trial, (2) pursuant to sections (g), (h), and (i) of this rule, or (3) under rule 52(b).

RULE 60 RELIEF FROM JUDGMENT OR ORDER

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. Such mistakes may be so corrected before review is accepted by an appellate court, and thereafter may be corrected pursuant to RAP 7.2(e).

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

(1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;

(2) For erroneous proceedings against a minor or person of unsound mind, when the condition of such respondent does not appear in the record, nor the error in the proceedings;

(3) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 59(b);

(4) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

(5) The judgment is void;

(6) The judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application;

(7) If the respondent was served by publication, relief may be granted as prescribed in RCW 4.28.200;

(8) Death of one of the parties before the judgment in the action;

(9) Unavoidable casualty or misfortune preventing the party from prosecuting or defending;

(10) Error in judgment shown by a minor, within 12 months after arriving at full age; or

(11) Any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time and for reasons (1), (2) or (3) not more than 1 year after the judgment, order, or proceeding was entered or taken. If the party entitled to relief is a minor or a person of unsound mind, the motion shall be made within 1 year after the disability ceases. A motion under this section (b) does not affect the finality of the judgment or suspend its operation.

(c) Other Remedies. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding.

(d) Writs Abolished—Procedure. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review are abolished. The procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

(e) Procedure on Vacation of Judgment.

(1) *Motion.* Application shall be made by motion filed in the cause stating the grounds upon which relief is asked, and supported by the affidavit or declaration of the applicant or his attorney setting forth a concise statement of the facts or errors upon which the motion is based, and if the moving party be a respondent, the facts constituting a defense to the action or proceeding.

(2) *Notice.* Upon the filing of the motion and affidavit or declaration, the court shall enter an order fixing the time and place of the hearing thereof and directing all parties to the action or proceeding who may be affected thereby to appear and show cause why the relief asked for should not be granted.

(3) *Service.* The motion, affidavit or declaration, and the order to show cause shall be served upon all parties affected in the same manner as in the case of summons in a civil action at such time before the date fixed for the hearing as the order shall provide; but in case such service cannot be made, the order shall be published in the manner and for such time as may be ordered by the court, and in such case a copy of the motion, affidavit or declaration, and order shall be mailed to such parties at their last known post office address and a copy thereof served upon the attorneys of record of such parties in such action or proceeding such time prior to the hearing as the court may direct.

(4) *Statutes.* Except as modified by this rule, RCW 4.72.010-.090 shall remain in full force and effect.

RULE 61 HARMLESS ERROR [RESERVED]

RULE 62 STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT

(a) Automatic Stays. Except as to a judgment of a district court filed with the superior court pursuant to RCW 4.56.200, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 10 days after its entry. Upon the filing of a notice of appeal, enforcement of judgment is stayed until the expiration of 14 days after entry of judgment. Unless otherwise ordered by the trial court or appellate court, an interlocutory or final judgment in an action for an injunction or in a receivership action, shall not be stayed during the period after its entry and until appellate review is accepted or during the pendency of appellate review.

(b) Stay on Motion for New Trial or for Judgment. In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to rule 59, or of a motion for relief from a judgment or order made pursuant to rule 60 or of a motion for amendment to the findings or for additional findings made pursuant to rule 52(b).

(c) Injunction Pending Appeal. [Rescinded]

(d) Stay Upon Appeal. [Rescinded]

(e) Stay in Favor of State. [Rescinded]

(f) Other Stays. This rule does not limit the right of a party to a stay otherwise provided by statute or rule.

(g) Power of Supreme Court Not Limited. [Rescinded]

(h) Multiple Claims or Multiple Parties. When a court has ordered a final judgment under the conditions stated in rule 54(b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

RULE 63 JUDGES

(a) Powers. See rule 77.

(b) Disability of a Judge. If by reason of death, sickness, or other disability, a judge before whom an action has been tried is unable to perform the duties to be performed by the court under these rules after findings of fact and conclusions of law are filed, then any other judge regularly sitting in or assigned to the court in which the action was tried may perform those duties; but if such other judge is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may in his discretion grant a new trial.

8. PROVISIONAL AND FINAL REMEDIES (Rules 64-71)

RULE 64 SEIZURE OF PERSON OR PROPERTY

At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by the law existing at the time the remedy is sought. The remedies thus available include arrest, attachment, garnishment, replevin, sequestration, and other corresponding or equivalent remedies, however designated and regardless of whether the remedy is ancillary to an action or must be obtained by an independent action.

RULE 65 INJUNCTIONS

(a) Preliminary Injunction.

(1) *Notice.* No preliminary injunction shall be issued without notice to the adverse party.

(2) *Consolidation of Hearing With Trial on Merits.* Before or after the commencement of the hearing of an appli-

cation for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible upon the trial on the merits becomes part of the record on the trial and need not be repeated upon the trial.

(b) Temporary Restraining Order; Notice; Hearing; Duration. A temporary restraining order may be granted without written or oral notice to the adverse party or his attorney only if (1) it clearly appears from specific facts shown by affidavit or declaration or by the verified petition that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting his claim that notice should not be required. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed 14 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if he does not do so, the court shall dissolve the temporary restraining order.

On 2 days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(c) Security. Except as otherwise provided by statute, no restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. No such security shall be required of the United States or of an officer or agency thereof. Pursuant to RCW 4.92.080 no security shall be required of the State of Washington, municipal corporations or political subdivisions of the State of Washington. The provisions of rule 65.1 apply to a surety upon a bond or undertaking under this rule.

(d) Form and Scope. Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the petition or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

(e) Statutes. These rules are intended to supplement and not to modify any statute prescribing the basis for obtaining injunctive relief. These rules shall prevail over statutes if there are procedural conflicts.

RULE 65.1 SECURITY—PROCEEDINGS AGAINST SURETIES

Whenever these rules require or permit the giving of security by a party, and security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits himself to the jurisdiction of the court and irrevocably appoints the clerk of the court as his agent upon whom any papers affecting his liability on the bond or undertaking may be served. His liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

RULE 66 [RESERVED]

RULE 67 DEPOSIT IN COURT

In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other thing capable of delivery, a party, upon notice to every other party, and by leave of court, may deposit with the court all or any part of such sum or thing, whether or not that party claims all or any part of the sum or thing. The party making the deposit shall serve the order permitting deposit on the clerk of the court. Money paid into court under this rule shall be deposited and withdrawn in accordance with the provisions of RCW 4.44.480 through 4.44.500 or any like statute or rule.

RULE 68 OFFER OF JUDGMENT

At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against him for the money or property or to the effect specified in his offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the court shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer. When the liability of one party to another has been determined by order or judgment, but the amount or extent of the liability remains to be determined by further proceedings, the party adjudged liable may make an offer of judgment, which shall have the same effect as an offer made before trial if it is served within a reasonable time not less than 10 days prior to the commencement of hearings to determine the amount or extent of liability.

RULE 69 EXECUTION

(a) Procedure. The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of execution shall be in accordance with the practice and procedure of the State as authorized in RCW 6.13, 6.15, 6.17, 6.19, 6.21, 6.23, 6.32, 6.36, and any other applicable statutes.

(b) Supplemental Proceedings. In aid of the judgment or execution, the judgment creditor or his successor in interest when that interest appears of record, may examine any person, including the judgment debtor, in the manner provided in these rules for taking depositions or in the manner provided by RCW 6.32.

RULE 70 JUDGMENT FOR SPECIFIC ACTS; VESTING TITLE

If a judgment directs a party to execute a conveyance of land or to deliver deeds or other documents or to perform any other specific act and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done has like effect as if done by the party. On application of the party entitled to performance, the clerk shall issue a writ of attachment or sequestration against the property of the disobedient party to compel obedience to the judgment. The court may also in proper cases adjudge the party in contempt. If real or personal property is within the state, the court in lieu of directing a conveyance thereof may enter a judgment divesting the title of any party and vesting it in others and such judgment has the effect of a conveyance executed in due form of law. When any order or judgment is for the delivery of possession, the party in whose favor it is entered is entitled to a writ of execution or assistance upon application to the clerk.

RULE 70.1 APPEARANCE BY ATTORNEY

(a) Notice of Appearance. An attorney admitted to practice in this state may appear for a party by serving a notice of appearance.

(b) Notice of Limited Appearance. If specifically so stated in a notice of limited appearance filed and served prior to or simultaneous with the proceeding, an attorney's role may be limited to one or more individual proceedings in the action. Service on an attorney who has made a limited appearance for a party shall be valid (to the extent permitted by statute and rule 5(b)) only in connection with the specific proceedings for which the attorney has appeared, including any hearing or trial at which the attorney appeared and any subsequent motions for presentation of orders. At the conclusion of such proceedings the attorney's role terminates without the necessity of leave of court, upon the attorney filing notice of completion of limited appearance which notice shall include the client information required by rule 71 (c)(1).

RULE 71 WITHDRAWAL OF ATTORNEY

(a) Withdrawal by Attorney. Service on an attorney who has appeared for a party in a civil proceeding shall be valid to the extent permitted by statute and rule 5(b) only until the attorney has withdrawn in the manner provided in sections (b), (c), and (d). Nothing in this rule defines the circumstances under which a withdrawal might be denied by the court.

(b) Withdrawal by Order. A court appointed attorney may not withdraw without an order of the court. The client of the withdrawing attorney must be given notice of the motion to withdraw and the date and place the motion will be heard.

(c) Withdrawal by Notice. Except as provided in sections (b) and (d), an attorney may withdraw by notice in the manner provided in this section.

(1) *Notice of Intent To Withdraw.* The attorney shall file and serve a Notice of Intent To Withdraw on all other parties in the proceeding. The notice shall specify a date when the attorney intends to withdraw, which date shall be at least 10 days after the service of the Notice of Intent To Withdraw. The notice shall include a statement that the withdrawal shall be effective without order of court unless an objection to the withdrawal is served upon the withdrawing attorney prior to the date set forth in the notice. If notice is given before trial, the notice shall include the date set for trial. The notice shall include the names and last known addresses of the persons represented by the withdrawing attorney, unless disclosure of the address would violate the Rules of Professional Conduct, in which case the address may be omitted. If the address is omitted, the notice must contain a statement that after the attorney withdraws, and so long as the address of the withdrawing attorney's client remains undisclosed and no new attorney is substituted, the client may be served by leaving papers with the clerk of the court pursuant to rule 5 (b)(1).

(2) *Service on Client.* Prior to service on other parties, the Notice of Intent To Withdraw shall be served on the persons represented by the withdrawing attorney or sent to them by certified mail, postage prepaid, to their last known mailing addresses. Proof of service or mailing shall be filed, except that the address of the withdrawing attorney's client may be omitted under circumstances defined by subsection (c)(1) of this rule.

(3) *Withdrawal Without Objection.* The withdrawal shall be effective, without order of court and without the service and filing of any additional papers, on the date designated in the Notice of Intent To Withdraw, unless a written objection to the withdrawal is served by a party on the withdrawing attorney prior to the date specified as the day of withdrawal in the Notice of Intent To Withdraw.

(4) *Effect of Objection.* If a timely written objection is served, withdrawal may be obtained only by order of the court.

(d) Withdrawal and Substitution. Except as provided in section (b), an attorney may withdraw if a new attorney is substituted by filing and serving a Notice of Withdrawal and Substitution. The notice shall include a statement of the date on which the withdrawal and substitution are effective and shall include the name, address, Washington State Bar Association membership number, and signature of the withdrawing attorney and the substituted attorney. If an attorney changes firms or offices, but another attorney in the previous firm or office will become counsel of record, a Notice of Withdrawal and Substitution shall nevertheless be filed.

9. APPEALS (Rules 72-76) [Reserved]

10. SUPERIOR COURTS AND CLERKS (Rules 77-80)

RULE 77 SUPERIOR COURTS AND JUDICIAL OFFICERS

(a) Original Jurisdiction. [Reserved. See RCW 2.08.010.]

(b) Powers of Superior Courts.

(1) *Powers of Court in Conduct of Judicial Proceedings.* [Reserved. See RCW 2.28.010.]

(2) *Punishment for Contempt.* [Reserved. See RCW 2.28.020.]

(3) *Implied Powers.* [Reserved. See RCW 2.28.150.]

(c) Powers of Judicial Officers.

(1) *Judges Distinguished From Court.* [Reserved. See RCW 2.28.050.]

(2) *Judicial Officers Defined—When Disqualified.* [Reserved. See RCW 2.28.030.]

(3) *Powers of Judicial Officers.* [Reserved. See RCW 2.28.060.]

(4) *Judicial Officer May Punish for Contempt.* [Reserved. See RCW 2.28.070.]

(5) *Powers of Judges of Supreme and Superior Courts.* [Reserved. See RCW 2.28.080.]

(6) *Powers of Judicial Officers of Courts of Limited Jurisdiction.* [Reserved. See RCW 2.28.090.]

(7) *Powers of Judge in Counties of His District.* [Reserved. See RCW 2.08.190.]

(8) *Visiting Judges.*

(A) Assignments.

(i) Visiting Judges at Direction of Governor. [Reserved. See RCW 2.08.140.]

(ii) Visiting Judges at Request of Judge or Judges. [Reserved. See RCW 2.08.140 and 2.08.150.]

(iii) Court Administrator—Make Recommendations. [Reserved. See RCW 2.56.030(3).]

(iv) Duty of Judges to Comply with Chief Justices Direction. [Reserved. See RCW 2.56.040.]

(B) Powers. Whenever a visiting judge has heard or tried any case or matter and has departed from the county, he may require the argument on any post trial motion to be submitted to him on briefs at such place within the state as he may designate and he may sign findings of fact, conclusions of law, judgments and post trial orders anywhere within the state. See also RCW 2.08.140 and 2.08.150.

(9) *Judges Pro Tempore.* [Reserved. See RCW 2.08.-180.]

(10) *Change of Judge.* [Reserved. See RCW 4.12.040 and 4.12.050.]

(11) *Court May Fix Amount of Bond in Civil Actions.* [Reserved. See RCW 4.44.470.]

(d) Superior Courts Always Open. The superior courts are courts of record, and shall be always open, except on non-judicial days.

(e) No Court on Legal Holidays—Exceptions. [Reserved. See RCW 2.28.100.]

(f) Sessions. The superior court shall hold regular and special sessions at the county seats of the several counties at such times as the judges may determine and at such other places within the county as are designated by the judge or judges thereof with the approval of the chief justice of the supreme court of this state and of the governing body of the county. Special sessions, i.e., mental illness hearings, juvenile hearings, and proceedings which are authorized to be held before a court commissioner may be held at such times and places as the judges may authorize.

(g) Adjournments.

(1) *Power.* [Reserved. See RCW 2.28.120.]

(2) *Automatic.* [Reserved. See RCW 2.28.110.]

(3) *Effect.* [Reserved. See RCW 2.08.040.]

(h) [Reserved.]

(i) Sessions Where More Than One Judge Sits—Effect of Decrees, Orders, etc. [Reserved. See RCW 2.08.160.]

(j) Trials and Hearings; Orders in Chambers. Except as otherwise authorized by these rules or by statute, all trials upon the merits shall be conducted in open court and so far as convenient in a regular courtroom. All other acts or proceedings may be done or conducted by a judge in chambers, without the attendance of the clerk or other court officials and at any place either within or without the county; but no hearing, other than one ex parte, shall be conducted outside the county in which the cause or proceedings are pending without the consent of all parties affected thereby.

(k) Motion Day-Local Rules. Unless local conditions make it impracticable, the superior court in each county shall establish regular times and places, at intervals sufficiently frequent for the prompt dispatch of business, at which motions requiring notice and hearing may be heard and disposed of; but the judge at any time or place and on such notice, if any, as he considers reasonable may make orders for the advancement, conduct, and hearing of actions.

(l) Submission on Briefs. To expedite its business, the court may make provision by rule or order for the submission and determination of motions without oral hearing upon brief written statements of reasons in support and opposition.

(m) Stipulations. See rule 16.

(n) Seal of Court. [Reserved. See RCW 2.08.050.]

(o) Court Schedules and Locations. [Reserved.]

RULE 78 CLERKS

(a) Powers and Duties of Clerks. [Reserved. See RCW 2.32.050.]

(b) Office Hours. The clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days except Saturdays, Sundays, and legal holidays.

(c) Orders by Clerk. All motions and applications in the clerk's office for issuing mesne process, for issuing final process to enforce and execute judgments, and for other proceedings which do not require allowance or order of the court are grantable of course by the clerk; but his action may be suspended or altered or rescinded by the court upon cause shown.

(d) Filing of Depositions. Upon the filing of a deposition transcript in any case pursuant to rule 5(i), the clerk shall forthwith endorse the date of the filing upon the envelope, and shall enter the same upon the case history docket.

(e) Entry of Judgments and Costs. The clerk shall enter judgment or decree pursuant to the provisions of rule 58 and the same shall then be entered for the sum found due or the relief awarded, with costs and disbursements, if any, to be taxed. Entry of judgment shall not be delayed for the taxing

of costs. If no cost bill is filed by the party to whom costs are awarded within 10 days after the entry of the judgment or decree, the clerk shall proceed to tax the following costs and disbursements, namely:

(1) The statutory attorney fee;

(2) The clerk's fee; and

(3) The sheriff's fee.

If a cost bill is filed, the clerk shall enter as the amount to be recovered the amount claimed in such cost bill, and no motion to retax costs shall be considered unless the same be filed within 6 days after the filing of the cost bill. For purposes of this subsection (e), "cost bill" also includes affidavit or declaration detailing disbursements.

(f) Bonds. The clerk shall at once upon the filing of a bond (except bond for costs) enter the same at large upon the journal. The clerk shall endorse upon every affidavit or declaration or undertaking filed to procure a writ of attachment, the day, hour, and minute of filing thereof.

RULE 79 BOOKS AND RECORDS KEPT BY THE CLERK

(a) Civil Docket. [Reserved.]

(b) Civil Judgments and Orders.

(1) *Generally.* [Reserved.]

(2) *Entry of Judgment in Journal.* [Reserved. See RCW 4.64.030.]

(3) *Judgment Roll.* [Reserved. See RCW 4.64.040.]

(4) *Identification of Judgment Roll.* [Reserved. See RCW 4.64.050.]

(5) *Execution Docket.* [Reserved. See RCW 4.64.060.]

(6) *Entry of Verdict in Execution Docket.* [Reserved. See RCW 4.64.020.]

(7) *Entries in Execution Docket.* [Reserved. See RCW 4.64.080.]

(8) *Transcript of Justice Docket.* [Reserved. See RCW 4.64.110.]

(9) *Entry of Abstract or Transcript of Judgment.* [Reserved. See RCW 4.64.120.]

(10) *Abstract of Judgment.* [Reserved. See RCW 4.64.090.]

(11) *Abstract of Verdict—Cessation of Lien.* [Reserved. See RCW 4.64.100.]

(c) Indices; Calendars. [Reserved.]

(d) Other Books and Records of Clerk. [Reserved.]

(e) Destruction of Records. [Reserved. See RCW 36.23.065 and GR 15.]

(f) List of Pending Decisions. The clerk of each county shall maintain a permanent, public record showing each case submitted to a judge and not yet decided. Said list shall clearly show what, if any, further action is to be taken by any party or counsel and when said action should be taken. Said list shall be called to the attention of every judge in said county on the first Monday of each calendar month. Any case which shall have been submitted to any visiting judge and not yet decided shall be called to the attention of such visiting judge by mail on said dates.

RULE 80 COURT REPORTERS

(a) [Reserved.]

(b) Electronic Recording. In any civil or criminal proceedings, electronic or mechanical recording devices approved by the Administrator for the Courts may be used to record oral testimony and other oral proceedings in lieu of or supplementary to causing shorthand notes thereof to be taken. In all matters the use of such devices shall rest within the sole discretion of the court.

(c) Recording Proceedings in Superior Court by Means of Videotape. All superior courts that elect to use video equipment to record proceedings shall comply with courtroom procedures published by the Office of the Administrator for the Courts.

11. GENERAL PROVISIONS (Rules 81-88)

RULE 81 APPLICABILITY IN GENERAL

Except where inconsistent with rules or statutes applicable to special proceedings or Title 26 RCW proceedings, these rules shall govern all family law proceedings. Where statutes relating to special proceedings or Title 26 RCW proceedings provide for procedure under former statutes applicable generally to family law actions, the procedure shall be governed by these rules.

RULE 82 VENUE

(a) Nonresident. An action against a nonresident of this state may be brought:

(1) In any county in which service of process may be had; or

(2) In a county in which the acts, or any of them, were done which gave rise to service under RCW 4.28.180 and 4.28.185; or

(3) In the county in which the petitioners, or any of them, reside.

(b) Request-Waiver. If an action is brought in the wrong county, the action may nevertheless be tried therein unless the respondent, pursuant to the provisions of rule 12, requests that the trial be held in the proper county and files an affidavit or declaration of merits.

(c) Default. See rule 55(c). No order of default shall be entered if it clearly appears to the court from the papers on file that the action was brought in an improper county, except as provided in rule 55 (c)(2)(a) or (b).

(d) Change of Venue-Fees. Any fees or costs required to be paid by a party pursuant to RCW 4.12.090 shall be to the clerk of the county from which the case is being transferred by check or money order made payable to the clerk of the county to which the case is being transferred.

RULE 82.5 TRIBAL COURT JURISDICTION

(a) Indian Tribal Court; Exclusive Jurisdiction. Where an action is brought in the superior court of any county of this state, and where, under the Laws of the United States, exclusive jurisdiction over the matter in controversy has been granted or reserved to an Indian tribal court of a federally recognized Indian tribe, the superior court shall, upon motion of a party or upon its own motion, dismiss such action pursuant to Rule 12 (b)(1), unless transfer is required under federal law.

(b) Indian Tribal Court; Concurrent Jurisdiction. Where an action is brought in the superior court of any county of this state, and where, under the Laws of the United States, concurrent jurisdiction over the matter in controversy has been granted or reserved to an Indian tribal court of a federally recognized Indian tribe, the superior court may, if the

interests of justice require, cause such action to be transferred to the appropriate Indian tribal court. In making such determination, the superior court shall consider, among other things, the nature of the action, the interests and identities of the parties, the convenience of the parties and witnesses, whether state or tribal law will apply to the matter in controversy, and the remedy available in such Indian tribal court.

(c) Enforcement of Indian Tribal Court Orders, Judgments or Decrees. The superior courts of the State of Washington shall recognize, implement and enforce the orders, judgments and decrees of Indian tribal courts in matters in which either the exclusive or concurrent jurisdiction has been granted or reserved to an Indian tribal court of a federally recognized tribe under the Laws of the United States, unless the superior court finds the tribal court that rendered the order, judgment or decree (1) lacked jurisdiction over a party or the subject matter, (2) denied due process as provided by the Indian Civil Rights Act of 1968, or (3) does not reciprocally provide for recognition and implementation of orders, judgments and decrees of the superior courts of the State of Washington.

RULE 83 LOCAL RULES OF COURT

(a) Adoption. Each court, in accordance with GR 7, may from time to time make and amend local rules that are not inconsistent with these rules and that govern that court's practice in cases governed by these rules. Local rules shall conform to the same numbering and index system as these rules. Local rules shall be denoted as Local Family Law Civil Rules (with the official abbreviation of LFLCR).

(b) Scope and Limitations. Local court rules shall be limited to procedural matters and shall not address substantive legal issues. Statutes and case law rulings shall not be restated and set forth in local rules but may be cited for purposes of reference pointers only.

RULE 84 FORMS [Reserved]

RULE 85 TITLE OF RULES

These rules shall be known and cited as the Family Law Civil Rules. FLCR is the official abbreviation.

RULE 86 EFFECTIVE DATES

These rules and amendments promulgated pursuant to authority granted to the Supreme Court shall govern all proceedings in all Title 26 RCW actions after the rules and amendments take effect and also all further proceedings in actions pending on their effective dates except to the extent that in the opinion of the superior court, expressed by its order, the application of these rules in a particular action pending when the rules take effect would not be feasible or would work injustice, in which event the procedure existing at the time the action was brought applies.

RULES 87 - 99 [Reserved.]

12. OTHER FAMILY LAW PROVISIONS (Rules 100-114)

RULE 100 ALTERNATIVE DISPUTE RESOLUTION IN FAMILY LAW CASES

Any court may refer parties in any case governed by these rules to mediation or settlement conferences prior to setting the matter for trial. In cases where either of the parties is indigent or such referral would pose a significant financial hardship on either party, the court shall not require participation in such services without also providing a waiver or funding to pay for the service.

RULE 101 COURTHOUSE FACILITATORS

A court may require a party appearing pro se to meet with a GR 27 courthouse facilitator or may require review by a GR 27 courthouse facilitator of certain documents prepared by a party appearing pro se prior to submission of those documents to a judicial officer. In cases where either party is indigent or use of a GR 27 courthouse facilitator would pose a significant financial hardship on either party, or where a lawyer has signed documents to indicate review of documents prepared by a party appearing pro se, the court shall not require the use of a GR 27 courthouse facilitator without also providing a waiver or providing funding to pay for that use.

RULE 102 PARENTING SEMINARS AND OTHER INFORMATIONAL SERVICES

Subject to the following provisions, a court may require parties to participate in parenting seminars prior to entry of a final parenting plan as set forth in RCW 26.12.172:

(a) In no case shall opposing parties be required to attend parenting seminars together;

(b) In cases where either of the parties is indigent or such participation in a parenting seminar would pose a significant financial hardship on either party, the court shall not require participation in a parenting seminar without also providing a waiver or providing funding to pay for the seminar;

(c) The court must provide a means of waiving the requirement to participate in a parenting seminar for good cause shown; and

(d) Failure of a party to participate in a parenting seminar shall not be the basis for the court denying a request of a compliant party for entry of a final order in the action.

RULE 103 ADOPTION PROCEEDINGS

Disposition of Reports. In an adoption proceeding, any report prepared pursuant to RCW 26.33 shall be open to inspection by the adoptive parents and the attorney for the adoptive parents. Such report at the close of the entire proceeding shall be sealed in accordance with RCW 26.33.330.

RULE 104 ACCESS TO COURT RECORDS [Reserved. See GR 22 and 31]

RULE 105 FINANCIAL PROVISIONS [Reserved.]

RULE 106 PARENTING PLAN AND NONPARENTAL CUSTODY PROVISIONS [Reserved.]

RULE 107 PROTECTION ORDERS [Reserved.]

RULE 108 MARRIAGE AGE WAIVERS [Reserved.]

RULE 109 EMANCIPATION OF MINORS [Reserved.]

RULE 110 UNIFIED FAMILY COURTS [Reserved.]

RULE 111 TITLE 26 RCW GUARDIANS AD LITEM [Reserved. See GALR 1-7.]

RULE 112 PARENTING AND PSYCHOLOGICAL EVALUATIONS [Reserved.]

RULE 113 BANKRUPTCY

When any party to a pending Title 26 RCW proceeding in which assets or liabilities are before the trial court for disposition files for bankruptcy protection with the Federal Courts, the party seeking bankruptcy protection shall file notice with the trial court of such proceedings and of any stays authorizing the trial court to dispose of the subject assets or liabilities.

RULE 114 RELOCATION [Reserved.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the State Supreme Court and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The spelling errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 12-14-096
AGENDA
DEPARTMENT OF LABOR AND INDUSTRIES
[Filed July 3, 2012, 10:29 a.m.]

Pursuant to RCW 34.05.314, following is the department of labor and industries' semi-annual rules development agenda for July 1 through December 31, 2012.

There may be additional rule-making activities not on the agenda as conditions warrant.

Please contact Tamara Jones at (360) 902-6805 or Tamara.Jones@lni.wa.gov if you have any questions.

Semi-Annual Rules Development Agenda
July 1 - December 31, 2012

DIVISION: ADMINISTRATIVE SERVICES

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-06	Public records.	Angela Wharton Public Records (360) 902-5542	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	This rule making will update the public record WACs with the current agency organizational information, statutory references, web links, and records request information.

DIVISION: CRIME VICTIMS COMPENSATION

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-31 296-33	Crime victims compensation rules and fees, and attendant services.	Maty Brimmer Crime Victims (360) 902-6707	6/5/12 WSR 12-12-061	7/31/12	10/23/12	This rule making is to update the mental health and attendant services rules to ensure consistency with SSB 5691 (chapter 346, Laws of 2011).

DIVISION: DIVISION OF OCCUPATIONAL SAFETY AND HEALTH (DOSH)

WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
All DOSH WACs	DOSH rules overhaul.	Devin Proctor DOSH (360) 902-5541	TBD	TBD	TBD	This rule making will consist of reorganization, renumbering, and plain language changes. The WISHA advisory committee is urging DOSH to proceed with this work.
296-24 296-37 296-62 296-304 296-800 296-849	Standards improvement project.	Cathy Julian DOSH (360) 902-5401	N/A	8/21/12 (CR-105)	12/4/12	This rule making is being proposed to comply with a federal Occupational Safety and Health Administration (OSHA) requirement to adopt rule changes consistent with the final rule of their standards improvement project. It is the third in the OSHA standards improvement projects initiative that periodically reviews OSHA regulations with the goal of improving and eliminating those that are confusing, outdated, duplicative, or inconsistent.

DIVISION: DIVISION OF OCCUPATIONAL SAFETY AND HEALTH (DOSH)						
WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-24	Acetylene.	Beverly Clark DOSH (360) 902-5516	N/A	4/17/12 (CR-105) WSR 12-09-059	7/31/12	OSHA recently adopted changes to the acetylene standard, effective March 5, 2012. This rule making addresses the change to WAC 296-24-31001 Cylinders (acetylene). This rule making updates the reference to a Compressed Gas Association (CGA) standard in the existing acetylene standard by removing CGA G-1-2003 and replacing it with CGA G-1-2009. This rule making ensures that employers have the latest safety requirements for managing acetylene.
296-24	General safety and health standards—Electrical rules.	Beverly Clark DOSH (360) 902-5516	N/A	5/1/12 (CR-105) WSR 12-10-063	7/31/12	DOSH is required to have rules at-least-as-effective-as the federal OSHA. DOSH was notified that there are areas in our electrical section of chapter 296-24 WAC that are considered to be "not-at-least-as-effective-as" OSHA.
296-32	Telecommunications.	Beverly Clark DOSH (360) 902-5516	TBD	TBD	TBD	In 2009, DOSH began working with a telecommunications stakeholder group to develop draft language to update our current telecommunications standard and bring it up to date with industry standards.
296-36 296-155, Part Q	Compressed atmospheres.	Cindy Ireland DOSH (360) 902-5522	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	This rule making will address requirements relating to compressed atmospheres. The current requirements have not been amended since 1962 resulting in multiple variances that have been issued to deal with these outdated requirements. A stakeholder group has been formed to assist the department with this rule making.
296-45	Electrical.	Cindy Ireland DOSH (360) 902-5522	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	The department is reviewing chapter 296-45 WAC, Safety standards for electrical workers, to determine areas where we may be "not-at-least-as-effective-as" the federal standard. While updating another rule, there were areas of concern identified in chapter 296-45 WAC that needed to be looked at.
296-54	Safety standards for logging.	Cindy Ireland DOSH (360) 902-5522	11/16/10 WSR 10-23-096	TBD	TBD	The department received several petitions for rule making for the logging standard. The department has accepted the petitions and has begun formal rule making.
296-155, Part L	Cranes, rigging, and personnel lifting.	Cindy Ireland DOSH (360) 902-5522	N/A	6/5/12 (CR-105) WSR 12-12-062	TBD	The department, in response to business and labor stakeholder concerns, is extending the date by which the requirement relating to written and practical testing requirements for qualified riggers is effective. In addition, this rule making clarifies that the scope of the rule includes the following existing requirements: (1) Rigging for all construction activities (WAC 296-155-556); and (2) personnel lifting with attached or suspended platforms using cranes or derricks (WAC 296-155-547). This clarification does not add any additional requirements to the rule. The department is also adding language to the rule

DIVISION: DIVISION OF OCCUPATIONAL SAFETY AND HEALTH (DOSH)						
WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
						to be at-least-as-effective-as the federal rule.
296-155	Fall protection.	Cindy Ireland DOSH (360) 902-5522	4/4/06 WSR 06-08-085	TBD	TBD	DOSH has been working with a fall protection ad hoc committee to consolidate the fall protection requirements of the construction safety rules into one coherent set of requirements. In addition, DOSH asked the committee to help identify any technical changes needed due to industry developments, and to ensure that any gap in current fall protection would be addressed and rectified by the rule update.
296-305	Fire fighting.	Devin Proctor DOSH (360) 902-5541	11/4/08 WSR 08-22-082	7/31/12	12/4/12	OSHA advised the department of a couple areas in the firefighter standards where we are not as-effective-as the federal rules. Stakeholders asked us to look at our firefighter standards and bring them up to date with current consensus standards and practices.
296-307	Safety standards in agriculture—REDON fit testing.	Devin Proctor DOSH (360) 902-5541	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	The department will put respirator requirements for the controlled negative pressure REDON fit testing protocol into the agriculture rule.
296-900	Monetary penalties.	Beverly Clark DOSH (360) 902-5516	11/16/10 WSR 10-23-095	Suspended per Executive Orders 10-06 and 11-03	TBD	OSHA is changing their policies and procedures for how they assess penalties. The department will be required to modify its rules to ensure they are "at-least-as-effective-as" OSHA's new policies.

DIVISION: INSURANCE SERVICES						
WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-14	Confidentiality of workers' compensation claim files.	Mark Rosen Integrated Claims Services—Policies and Rules (360) 902- 6570	11/16/04 WSR 04-23-080	Suspended per Executive Orders 10-06 and 11-03	TBD	This rule making will define the responsibility of employers, workers, and other parties who have access to workers' compensation claim files for confidentiality and release of claim information.
296-14	Industrial insurance definitions.	Mark Rosen Integrated Claims Services—Policies and Rules (360) 902- 6570	5/3/05 WSR 05-10-073	Suspended per Executive Orders 10-06 and 11-03	TBD	This rule making will define terms used in chapter 296-14 WAC and move definitions currently in chapter 296-20 WAC to chapter 296-14 WAC. The rule making will amend the definition of temporary partial disability.
296-14	Pension discount rates and mortality assumptions.	Mark Rosen Integrated Claims Services—Policies and Rules (360) 902- 6570	6/20/01 WSR 01-13-096	Suspended per Executive Orders 10-06 and 11-03	TBD	This rule making will update the mortality assumptions used to determine pension reserves and actuarial benefit reductions.
296-14	Wages.	Mark Rosen Integrated Claims Services—Policies and Rules (360) 902- 6570	4/22/08 WSR 08-09-115	Suspended per Executive Orders 10-06 and 11-03	TBD	This rule making will amend existing rules for consistency with RCW 51.08.178 (2007 SHB 1244). In addition, a new rule will be added to clarify when the value of health care benefits is included in determining the worker's monthly wage.

DIVISION: INSURANCE SERVICES						
WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-14 296-15	Suppressing workers' compensation claims.	Mark Rosen Integrated Claims Services—Policies and Rules (360) 902- 6570	6/5/07 WSR 07-12-079	Suspended per Executive Orders 10-06 and 11-03	TBD	Pursuant to RCW 51.28.010 and 51.28.025 (2007 SSB 5443), rules are needed to define "bona fide workplace safety," "accident prevention program," and "first aid," and establish the penalty structure for employers when there is a finding of claim suppression. Consideration will be given to when and how employers may be required to notify workers of a finding of claim suppression. In addition, the rule making may address additional issues identified in the rule development process.
296-15	Claim filing and recordkeeping at on-site medical facilities.	Margaret Conley Self-Insurance (360) 902-6723	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	The purpose of this rule making is to clarify the requirements for what records self-insured employers must maintain for on-site medical facilities, including when a claim must be filed.
296-15	Definition of claim arrival.	Margaret Conley Self-Insurance (360) 902-6723	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	The purpose of this rule making is to clarify what documentation constitutes notice of a claim for self-insured employers. This date is key for determining benefit timeliness.
296-15	Definition of first aid.	Margaret Conley Self-Insurance (360) 902-6723	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	The purpose of this rule making is to define "first aid." This will clarify when a claim does not need to be filed, and when one must be filed.
296-15	Reporting option 2 vocational costs to L&I.	Margaret Conley Self-Insurance (360) 902-6723	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	The purpose of this rule making is to clarify the process by which a self-insured employer reports retraining costs for any claims upon which option 2 benefits have been granted.
296-15	Self-insurance electronic data reporting system (SIEDRS) requirements and penalties.	Margaret Conley Self-Insurance (360) 902-6723	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	The purpose of this rule making is to clarify language regarding reporting requirements and penalties as they relate to SIEDRS.
296-15	Self-insurance—Housekeeping changes.	Margaret Conley Self-Insurance (360) 902-6723	8/20/08 WSR 08-17-117	Suspended per Executive Orders 10-06 and 11-03	TBD	The purpose of this rule making is to review chapter 296-15 WAC for any corrections and to ensure consistency with statute. Affected rules will also be rewritten using "plain talk."
296-17 296-17B	2013 workers' compensation premium rates.	Jo Anne Attwood Employer Services (360) 902-4777	6/19/12 WSR 12-13-071	9/18/12	11/30/12	This rule making will set rates for 2013 workers' compensation insurance.
296-17	Change of ownership—Experience modification factor.	Julia Sweeney Employer Services (360) 902-4799	TBD	TBD	TBD	This rule making is to simplify the change of ownership - experience modification factor rule. An ad hoc committee will be created to assist with the rule changes.
296-17 296-17A	Classifications for agricultural industries.	Karen Chamberlain Employer Services (360) 902-4772	TBD	TBD	TBD	This rule making will clarify language and better organize sub-classifications in the agricultural industries.
296-17 296-17A	Classifications for land surveyors.	Karen Chamberlain Employer Services (360) 902-4772	3/6/12 WSR 12-06-068	TBD	TBD	This rule making will evaluate the fairness and equality of rates in the land survey industry.

DIVISION: INSURANCE SERVICES						
WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-17 296-17A	Employer services—Housekeeping changes.	Jo Anne Attwood Employer Services (360) 902-4777	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	This rule making is to correct various rules for typographical errors, organizational flow, and clarity of language for improved application of rules.
296-17 296-17A	Reporting for schools.	Jo Anne Attwood Employer Services (360) 902-4777	8/3/10 WSR 10-16-120	Suspended per Executive Orders 10-06 and 11-03	TBD	This rule making is intended to provide a simpler method for reporting contract teachers, easing the administrative burden of the employer.
296-17A	Classification for entertainers.	Patti Phillips Employer Services (360) 902-4723	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	This rule making will change the classification for reporting dancers to the entertainer classification.
296-17A	Classification for product demonstrators.	Richard Bredeson Employer Services (360) 902-4985	9/4/12	11/6/12	4/1/13	This rule making will create a new special exception subclassification in 6406, Retail stores, for all businesses to report product demonstrators so the risks are more consistently and fairly classified.
296-17B	Retrospective rating.	Jo Anne Attwood Employer Services (360) 902-4777 Tim Smolen Retrospective Rating (360) 902-4835	3/20/12 WSR 12-07-070	TBD	TBD	This rule will accommodate requirements made by EHB 2123 (chapter 37, Laws of 2011) and ESHB 1725 (chapter 290, Laws of 2011).
296-20 296-14 296-15 296-21 296-23 296-23A 296-23B	Medical provider network and Centers for Occupational Health and Education (COHEs) (Phase III).	Leah Hole-Curry Office of the Medical Director (360) 902-4996	7/3/12 WSR 12-14-095	8/21/12	11/13/12	SSB 5801 (chapter 6, Laws of 2011) directs L&I to establish a medical provider network to treat injured workers of employers insured with L&I and of self-insured employers. SSB 5801 also expands COHEs. Rules are necessary to implement the changes. The department is creating and/or amending necessary rules in phases to ensure timely completion of all required provisions. This rule-making phase is necessary to amend, clarify, or delete department rules that conflict with SSB 5801, related WACs, or the department's implementation of SSB 5801.
296-20	Ninety-day supply and mail-order pharmacy.	Leah Hole-Curry Office of the Medical Director (360) 902-4996	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	As part of a performance audit on L&I's prescription drugs in 2011, the state auditor's office recommended that the department amend the current medication rules to allow low-cost mail-order pharmacies to provide ninety day prescriptions for permanently disabled workers who require ongoing care.
296-20 296-23	Medical aid conversion factors, physical therapy rules, and occupational therapy rules.	Erik Landaas Health Services Analysis (360) 902-4244 Tom Davis Health Services Analysis (360) 902-6687	12/18/12	February 2013	April 2013	This rule making is to update conversion factors used to determine payments to medical providers, and to update the maximum daily fees payable to physical and occupational therapists.

DIVISION: INSURANCE SERVICES						
WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-23	Independent medical exams (IMEs).	Kristen Baldwin-Boe Health Services Analysis (360) 902-6815	3/20/12 WSR 12-07-069	9/4/12	12/4/12	Rules need to be updated so that minimum standards for IME examiners are equal to or above the new medical provider network minimum requirements.

DIVISION: SPECIALTY COMPLIANCE SERVICES (SCS)						
WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-05	Apprenticeship rules.	Alicia Curry Specialty Compliance Services (360) 902-4281	TBD	TBD	TBD	SB 5584 (chapter 308, Laws of 2011) adds a new level of review for federal purposes, director's review, to Washington state apprenticeship and training council action prior to any court appeal. The apprenticeship program needs to adopt an appeal process by rule in order to implement the law.
296-46B	Electrical rules.	Alicia Curry Specialty Compliance Services (360) 902-4281	7/17/12	9/4/12	11/20/12	The electrical program reviews the electrical rules for additions and revisions on an annual basis to ensure the rules are consistent with the national consensus standards and industry practice. Due to Executive Order 10-06, rules were not modified in 2011; therefore, the program needs to proceed with rule making in order to make sure the rules reflect industry practice.
296-96	Elevator rules.	Alicia Curry Specialty Compliance Services (360) 902-4281	1/31/12 WSR 12-04-074	TBD	TBD	The elevator program reviews their rules for additions and revisions on a regular basis to ensure the rules are consistent with the national consensus standards and industry practice. The elevator program is proceeding with rule making to adopt the current national conveyance safety standards for elevators and escalators, platform lifts and chair lifts, belt man lifts, and personnel hoists.
296-104	Board of boiler rules.	Alicia Curry Specialty Compliance Services (360) 902-4281	7/20/10 WSR 10-15-102	Suspended per Executive Orders 10-06 and 11-03	TBD	The rule making will amend the board of boiler rules by making clarifying and technical changes. The changes will: • Add a definition of a "pool heater" to eliminate confusion for inspectors, owner/users, manufacturers, and installers regarding what units are acceptable for service by the jurisdiction. • Adopt the current edition of the ASME Boiler and Pressure Vessel Code.

DIVISION: SPECIALTY COMPLIANCE SERVICES (SCS)						
WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-125	Employment standards—Child labor rules.	Alicia Curry Specialty Compliance Services (360) 902-4281	2/19/08 WSR 08-05-107	TBD	TBD	The rule making reviews the child labor rules in order to incorporate current administrative policies and federal law. The rules are also being reviewed and amended for clarity and ease of use. A number of changes are necessary to update the state regulations to be compatible with federal law and to remove the jeopardy of noncompliance with federal law for Washington employers.
296-126	Employment standards—Meal and rest break rules.	Alicia Curry Specialty Compliance Services (360) 902-4281	5/19/10 WSR 10-11-121	Suspended per Executive Orders 10-06 and 11-03	TBD	The rule making is to clarify the meal and rest break rules as a result of existing law such as *Wingert v. Yellow Freight*, 146 Wn.2d 841 (2002) and *Alvarez v. IBP*, 339 F.3d 894 (9th Cir. 2003).
296-127	Prevailing wage.	Alicia Curry Specialty Compliance Services (360) 902-4281	6/16/09 WSR 09-13-077	Suspended per Executive Orders 10-06 and 11-03	TBD	The rule making reviews prevailing wage rules, which have not gone through a comprehensive review since the early 1990s. Amendments will be made to: • Reflect court decisions; • Integrate administrative policies; • Streamline current processes; • Create consistency with the statute; and • Make housekeeping changes.
296-127	Prevailing wage—Scope of work descriptions for dredge workers, truck drivers, and ready mix truck drivers.	Alicia Curry Specialty Compliance Services (360) 902-4281	7/20/10 WSR 10-15-107	Suspended per Executive Orders 10-06 and 11-03	TBD	L&I has wage rates for dredge workers, truck drivers, and ready mix drivers, but no corresponding scope of work descriptions. The rule making will adopt scope of work descriptions for those worker classifications.
296-127	Prevailing wage—Scope of work description for fabricated precast concrete products.	Alicia Curry Specialty Compliance Services (360) 902-4281	Suspended per Executive Orders 10-06 and 11-03	TBD	TBD	L&I is currently working with the prevailing wage advisory committee on the scope of work definition for fabricated precast concrete products.
296-127	Prevailing wage—Scope of work descriptions for utilities construction and laborers in utilities construction.	Alicia Curry Specialty Compliance Services (360) 902-4281	8/16/10 WSR 10-17-087	Suspended per Executive Orders 10-06 and 11-03	TBD	The department received rule-making petitions to repeal the scope of work definitions for utilities construction and laborers in utilities construction. The petitions state the repeal of these scopes of work would eliminate confusion for wage survey respondents, would allow the department to calculate a more accurate wage rate, and would be consistent with references from the federal Davis Bacon Act.
296-150C 296-150F 296-150I 296-150M 296-150P 296-150R 296-150T 296-150V	Factory assembled structures.	Alicia Curry Specialty Compliance Services (360) 902-4281	9/22/09 WSR 09-19-121	4/17/12 WSR 12-09-055	7/17/12	The rule making reviews the factory assembled structure rules on a regular basis to ensure the rules are consistent with industry practice, for clarification, and for possible housekeeping changes. The rules need to be amended to reflect current code references and in response to internal audit findings.

DIVISION: SPECIALTY COMPLIANCE SERVICES (SCS)						
WAC CHAPTER(S)	RULE SUBJECT	AGENCY CONTACT	PROPOSED TIMELINE			BRIEF DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
296-200A	Contractor certificate of registration.	Alicia Curry Specialty Compliance Services (360) 902-4281	7/6/10 WSR 10-14-103	Suspended per Executive Orders 10-06 and 11-03	TBD	The rule making reviews the contractor registration rules to ensure consistency with industry practice and clarity of language. The rule making will make housekeeping changes and update language for clarity and consistency with industry practices.
296-200A	Contractor certificate of registration.	Alicia Curry Specialty Compliance Services (360) 902-4281	5/22/12 WSR 12-11-111	7/31/12	11/6/12	The rule making revises the insurance and bond filing requirements for contractors to reflect changes in new technology. The rule will allow customers to submit their insurance and bond documents to the department through an on-line system and eliminate the requirement for filing a hard copy.
296-400A	Plumber certification.	Alicia Curry Specialty Compliance Services (360) 902-4281	TBD	TBD	TBD	This rule making is a result of SSB 5067 (chapter 301, Laws of 2011). The bill allows the program to use alternative methods for mailing certified and registered mail.

Tamara Jones, Assistant Director
Legislative and Government Affairs
Rules Coordinator

WSR 12-15-002
NOTICE OF PUBLIC MEETINGS
CONVENTION CENTER
[Filed July 6, 2012, 9:59 a.m.]

A regular meeting of the Washington state convention center public facilities district board of directors will be held on Tuesday, July 15, 2012, at 2:00 p.m. The meeting will take place in Room 211 of the Convention Center, 800 Pike Street, Seattle.

If you have any questions regarding the board meeting, please call (206) 694-5000.

WSR 12-15-003
DEPARTMENT OF AGRICULTURE
[Filed July 6, 2012, 11:38 a.m.]

2012 Petitions for Rule Making

The following information is being sent to you in order to implement RCW 1.08.112 [(1)](g) and WAC 1-21-180. The Washington state department of agriculture received two petitions for rule making during the second quarter of 2012.

Date	Requestor	Subject
3/22/12	The Scotts Company	Liquid formulations of phenoxy herbicides.
5/31/12	Washington State Dairy Federation	Somatic cell counts.
6/22/12	Matt Sircely	Cottage food operations.

WSR 12-15-007
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
[Filed July 9, 2012, 11:13 a.m.]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College scheduled for August 16, 2012, has been **cancelled**. Call 752-8334 for information.

WSR 12-15-010
NOTICE OF PUBLIC MEETINGS
WALLA WALLA COMMUNITY COLLEGE
[Filed July 9, 2012, 4:13 p.m.]

The board of trustees of Walla Walla Community College, District Number Twenty, has cancelled its July 18, 2012, meeting.

Please direct any questions to Jerri Ramsey at jerri.ramsey@wwcc.edu or by phone (509) 527-4274.

WSR 12-15-011
NOTICE OF PUBLIC MEETINGS
WALLA WALLA COMMUNITY COLLEGE
[Filed July 9, 2012, 4:13 p.m.]

The board of trustees of Walla Walla Community College, District Twenty, will hold a special retreat meeting on July 23, 2012, beginning at 9:00 a.m., in the Board Room, Walla Walla Community College, 500 Tausick Way, Walla Walla, WA. The purpose of this retreat meeting is to discuss issues affecting the college, including a review of the college's mission and goals, indicators of institutional effectiveness, enrollment, financial, and facility master planning. No action will be taken.

For additional information, please contact Jerri Ramsey, executive assistant to the president, at (509) 527-4274, fax (509) 527-4249, e-mail jerri.ramsey@wwcc.edu, web www.wwcc.edu.

WSR 12-15-012
RULES COORDINATOR
CONSOLIDATED TECHNOLOGY SERVICES
[Filed July 10, 2012, 10:41 a.m.]

Pursuant to RCW 34.05.312, the rules coordinator for consolidated technology services is Rebekah O'Hara.

Ms. O'Hara's contact information is Rebekah O'Hara, Consolidated Technology Services, 1500 Jefferson Street S.E., P.O. Box 41501, Olympia, WA 98504-1501, phone (360) 407-8818, fax (360) 586-1414, e-mail Rebekah.ohara@cts.wa.gov.

Christy Ridout
Deputy Director

WSR 12-15-013
NOTICE OF PUBLIC MEETINGS
HEALTH CARE AUTHORITY
(Pharmacy and Therapeutics Committee)
(Drug Utilization Review Board)
[Filed July 10, 2012, 10:50 a.m.]

Contact Regina Chacon, program coordinator, (206) 521-2027, regina.chacon@hca.wa.gov.

September 19, 2012
9:00 a.m. - 4:00 p.m.
Location: International A. Conference Room
SeaTac Airport Conference Center
17801 International Boulevard
Seattle, WA 98158

WSR 12-15-014
AGENDA
OFFICE OF FINANCIAL MANAGEMENT
[Filed July 10, 2012, 11:24 a.m.]

In accordance with RCW 34.05.314, the office of financial management (OFM) submits this semi-annual agenda for rules under development. During the next six-month period, OFM will be engaged in the rule-making activities set forth below.

- WAC 357-31-225, remove last sentence in subsection (1). The current wording is not in conflict with the law but is confusing. The civil service rules do not need to address this as it is covered by the department of retirement system rules.
- Potential rule making to clarify how veteran's preference applies to reemployment.

If you have any questions, please feel free to contact Sandi Stewart at (360) 664-6324.

Sandi Stewart
Rules Coordinator

WSR 12-15-016

AGENDA

DEPARTMENT OF AGRICULTURE

[Filed July 10, 2012, 11:48 a.m.]

Following is the department of agriculture's semi-annual rules development agenda for the period of July 1 through December 31, 2012. This document is being sent to you in compliance with RCW 34.05.314.

The department may undertake additional rule-making activity as conditions warrant. If you have any questions, please call Teresa Norman at (360) 902-2043 or e-mail tnorman@agr.wa.gov.

Semi-Annual Rules Agenda
July 1 - December 31, 2012
P.O. Box 42560
Olympia, WA 98504-2560

WAC Number	Rule Title	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101 CR-105	CR-102	CR-103	
Agriculture Development and Assistance						
16-08	Practice and procedure.	Elizabeth McNagny Administrative Regulations (360) 902-1809	September		December	Updating rules of procedure that are applicable to adjudicative proceedings.
Animal Services						
NEW	Animal disease traceability.	Jodi Jones Animal Services (360) 902-1889	June	August	October	Creation of the animal disease traceability program.
16-86	Cattle and bison diseases in Washington state.	Jodi Jones Animal Services (360) 902-1889	June	August	October	Change the official mature RB-51 Brucella vaccination dosage from 0.25cc to a full dose.
16-610	Livestock brand inspection.	Jodi Jones Animal Services (360) 902-1889	June	August	October	• Modify the livestock inspection exemption for private sales of unbranded, female, dairy breed cattle involving fifteen head or less; • Require milk producers to develop, implement, and financially support an electronic transaction reporting system within eighteen months of the rule making effective date; • Require a certificate of permit and bill of sale to accompany any cattle presented for an inspection that are in the possession of the buyer; and • Exempt unbranded dairy breed bull calves or free martins from inspection requirements when criteria are met.
Commodity Inspection						
16-303	Seed assessment, fees for seed services and seed certification.	Victor Shaul Seed Program (509) 249-6955	May	July	August	Fee increases to ensure cost of services recovery.

WAC Number	Rule Title	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101 CR-105	CR-102	CR-103	
16-390	WSDA fruit and vegetable inspection districts, inspection fees and other charges.	Karen Cozzetto Fruit and Vegetable Inspection (509) 249-6906	May	July	August	Fee increases necessary to recover the actual costs of providing inspection services.
16-237-195	Fees for warehouse audit and related services.	Don Potts Grain Inspection (509) 533-2487	May	July	August	Increase the year-end inventory fee from ten percent of the warehouse license fee to twenty percent of the warehouse license fee with a minimum of four hundred dollars.
16-240	WSDA grain inspection program—Definitions, standards, and fees.	Keith Angerman Grain Inspection (206) 298-4619	May	July	August	Increase fees to adequately recover the cost of providing inspection services.
Food Safety and Consumer Services						
16-167	Intrastate commerce in food.	Claudia Coles Compliance Program (360) 902-1905	TBD	TBD	TBD	Adoption of most current Codes of Federal Regulation for interstate [intrastate] commerce in food.
Pesticide Management						
16-232	Pesticide restrictions for cranberries.	Robin Schoen-Nessa Pesticide Compliance (360) 902-2038	June 2010	August	December	Establishing best management practices for cribbing and covering ditches adjacent to cranberries in Grayland area to prevent water contamination.
16-228	Pesticide examination fees.	Margaret Tucker Certification and Training Program (360) 902-2015	May	September	December	Pesticide examination fee increase.
NEW	Nutrient management.	Nora Mena Dairy Nutrient Management Program (360) 902-2894	June 2010	July	August	Establishing civil penalty rules.
Plant Protection						
16-470	Quarantine—Agricultural pests.	Tom Wessels Plant Services Program (360) 902-1984	August	September	November	The department is considering initiating an industry request quarantine that would place restrictions on the importation of hazelnut plants into Washington state in response to Eastern filbert blight.
16-470	Quarantine—Agricultural pests.	Tom Wessels Plant Services Program (360) 902-1984	August	September	November	The department is considering increasing the requested inspection fees for inspecting and certifying plants for freedom from plant pests.

WAC Number	Rule Title	Agency Contact	Tentative Timeline			Subject of Rule Making
			CR-101 CR-105	CR-102	CR-103	
16-623	Commission Merchants Act—Licensing fees, proof of payment, cargo manifests, and registration of acreage commitments.	Jerry Buendel Agricultural Investigations Program (360) 902-1856	June	August	September	The department is considering increasing the fees for licenses issued under chapter 20.01 RCW, which authorizes the agricultural investigations program; and may amend the existing language to increase its clarity and readability and update the language to conform to current industry and regulatory standards.
16-662	Weights and measures—National handbooks.	Jerry Buendel Weights and Measures Program (360) 902-1856	August	September	November	The department is considering amending rules that adopt, in whole or in part, the most recent National Institute of Standards and Technology (NIST) handbooks regarding requirements for: Weighing and measuring devices, net contents of packaged goods, legal metrology and engine fuel quality.

Teresa Norman
Rules Coordinator

WSR 12-15-017
AGENDA
DEPARTMENT OF FISH AND WILDLIFE
[Filed July 10, 2012, 4:03 p.m.]

Semi-Annual Rule-Making Agenda July through December 2012

Following is the Washington department of fish and wildlife's semi-annual rule-making agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on the agenda as conditions warrant.

If you have questions about this rule-making agenda, please contact Lori Preuss, WDFW Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2930, fax (360) 902-2155, or e-mail Lori.preuss@dfw.wa.gov.

WAC Citation	Subject Matter	Current Activity		
		Preproposal (CR-101)	Proposed (CR-102) or Expedited (CR-105)	Permanent (CR-103P)
220-20-010	Required reporting of lost or abandoned commercial fishing nets.	WSR 11-16-076 filed on 8/1/11	CR-102 expected on or after 9/19/12	CR-103P expected on or after 12/14/12

WAC Citation	Subject Matter	Current Activity		
		Preproposal (CR-101)	Proposed (CR-102) or Expedited (CR-105)	Permanent (CR-103P)
220-55-220 220-56-105 220-56-115 220-56-124 220-56-195 220-56-500 232-28-619 232-28-620 232-28-621	North of Falcon recreational salmon rules.	WSR 12-11-104 filed on 5/21/12	CR-102 expected on or after 7/18/12	CR-103P expected on or after 8/21/12
232-16-440 232-28-283 232-28-435 232-28-436	Game reserves, big-game and turkey auctions and raffles, and migratory waterfowl seasons and regulations.	WSR 12-05-122 filed on 2/22/12; and WSR 12-10-083 filed on 5/2/12	WSR 12-13-105 filed on 6/20/12	CR-103P expected on or after 8/3/12
232-12-011	Delisting Stellar sea lions.	WSR 12-10-084 filed on 5/2/12	WSR 12-14-115 filed on 7/5/12	CR-103P expected on or after 12/14/12
220-20-025 Ch. 220-16 Ch. 220-48 Ch. 220-52 Ch. 220-56	WAC amendments to update statutory references, correct typographical errors, and repeal an unnecessary section.	WSR 12-09-049 filed on 4/16/12	CR-102 expected on or after 8/22/12	CR-103P expected on or after 11/2/12
220-47-307 220-47-311 220-47-401 220-47-411 220-47-427 220-47-428	North of Falcon commercial salmon fishing rules.	WSR 12-01-104 filed on 12/21/11	WSR 12-05-112 filed on 2/22/12; and WSR 12-11-128 filed on 5/23/12	CR-103P expected on or after 7/11/12
Ch. 220-12 Ch. 232-12 Ch. 232-28	WAC amendments to update statutory references, correct typographical errors, and repeal an unnecessary section.	WSR 12-10-035 filed on 4/25/12	CR-102 expected on or after 9/19/12	CR-103P expected on or after 12/14/12
232-28-619	Splitting, reorganizing and updating this rule pertaining to recreational sportfishing.	WSR 12-11-078 filed on 5/17/12	CR-102 expected in the summer of 2013	CR-103P expected in the fall of 2013
Ch. 220-110	Updates to hydraulic project rules.	WSR 11-16-050 filed on 7/28/11	CR-102 expected in January 2013	CR-103P expected in spring 2013
New rules	Rules relating to the Discover Pass and access to department lands.	WSR 11-10-090 filed on 5/4/11	Timing of the CR-102 is to be determined	Timing of the CR-103P is to be determined

Lori Preuss
Rules Coordinator

WSR 12-15-021
AGENDA
LIQUOR CONTROL BOARD
[Filed July 11, 2012, 8:44 a.m.]

Semi-Annual Rule-Making Agenda
July 1 through December 31, 2012

Following is the liquor control board's semi-annual rule-making agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on the agenda as conditions warrant.

If you have questions about this rule-making agenda, please contact Karen McCall, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, phone (360) 664-1631, e-mail rules@liq.wa.gov.

WAC Chapter or Section(s)	Subject Matter	Current Activity		
		Preproposal (CR-101)	Proposal (CR-102) or Expedited (CR-105)	Permanent (CR-103)
WAC 314-11-070 During what hours can I sell or serve liquor?	Stakeholder request to allow local jurisdictions to request extended hours for alcohol sales and consumption.	WSR 11-12-043 Filed 10/12/11	Withdrawn 6/11/12	
Create a new section in chapter 314-03 WAC to allow minors in restaurants with cinemas.	Stakeholder request to allow minors in restaurants with cinemas with alcohol service.	WSR 12-08-066 Filed 4/4/12	WSR 12-12-011 Filed 5/24/12	
Create a new chapter for compliance checks, chapter 314-31 WAC.	Create rules on compliance checks.	WSR 12-07-041 Filed 3/14/12		
Brief adjudicatory proceedings (BAP), new sections in chapter 314-42 WAC.	Create rules for a BAP process for the liquor control board.	WSR 12-12-014 Filed 5/24/12		
Rules implementing I-1183				
"Trade area" definition, revise chapter 314-01 WAC.	Create a definition of "trade area" as part of implementing I-1183.	WSR 12-12-013 Filed 5/24/12		
$150 million assessment to be paid by spirits distributor license holders, create a new section in chapter 314-23 WAC.	Create rules to implement section 105 of I-1183.	WSR 12-12-012 Filed 5/24/12		
Revisions and/or repeal of current WACs to implement Initiative 1183.	Revise and/or repeal current rules to implement I-1183.	WSR 12-05-121 Filed 2/22/12	WSR 12-11-009 Filed 5/3/12	
WAC 314-02-108 Responsible vendor program.	Create new rule for the responsible vendor program to implement I-1183.	WSR 12-04-020 Filed 1/25/12	WSR 12-07-093 Filed 3/21/12	WSR 12-11-008 Filed 5/3/12
Several new sections in chapter 314-02 WAC, new chapter 314-23 WAC; and revisions to several sections in chapter 314-28 WAC.	Rules to implement I-1183.	WSR 11-24-098 Filed 12/7/11	WSR 12-07-040 Filed 3/14/12 WSR 12-09-088 (supp) Filed 4/18/12	WSR 12-12-065 Filed 6/5/12

WSR 12-15-022
AGENDA
PARKS AND RECREATION COMMISSION
[Filed July 11, 2012, 8:57 a.m.]

Semi-Annual Rule-Making Agenda
January through July 2012

Following is the Washington state parks and recreation commission's semi-annual rule-making agenda for publication in the Washington State Register, pursuant to RCW 34.05.314.

The agency may have additional rule-making activity not listed in this semi-annual agenda that unforeseen conditions may require later development.

If you have questions relating to this agenda, please contact Valeria Evans, Rule[s] Coordinator, 1111 Israel Road S.W., Olympia, WA 98504-2650, phone (360) 902-8597.

WAC Citation	Subject Matter	Current Activity		
		Preproposal	Proposed (CR-102) or expedited (CR-105)	Permanent (CR-103)
WAC 352-32-030(14), camping.	This section allows overnight camping in approved areas within designated sno-park parking areas.	CR-101 July 10, 2012, as WSR 12-15-018	CR-102 on or by [no further information supplied by agency].	CR-103 on or by October 16
WAC 352-32-056 Peace and quiet.	The changes proposed in WAC 352-32-030(14), camping, would allow overnight camping within designated sno-park areas. During the winter months, operation of generators after 9:00 p.m. is often a necessity, as freezing temperatures are the norm.	CR-101 July 10, 2012, as WSR 12-15-018	CR-102 on or by September 14	CR-103 on or by October 16
WAC 352-32-125 Fires and campfires.	Adding language to restrict campfires at Crystal Springs and Easton Reload sno-parks to portable fire receptacles.	CR-101 July 10, 2012, as WSR 12-15-018	CR-102 on or by September 14	CR-103 on or by October 16

Valeria Evans
Rules Coordinator

WSR 12-15-023
PUBLIC DISCLOSURE COMMISSION

[Filed July 11, 2012, 9:38 a.m.]

PDC Interpretation No. 12-01: The public disclosure commission enforces the campaign disclosure provisions and contribution limits found in chapter 42.17A RCW and Title 390 WAC. This interpretative statement is intended to guide campaigns with respect to in-kind loans, pledges, and disclosure of contributions on the twenty-one and seven day preelection reports.

INTERPRETATION

In-Kind Loans: The term "contribution" is defined broadly and includes not only money, but also the vast majority of items and services donated or loaned to assist a campaign. See RCW 42.17A.005(13). Donated items include but are not limited to items such as campaign office space, computers, and auction items. Donated services include, but are not limited to, printing, campaign consulting and campaign website development. Donated items and services are commonly referred to as in-kind contributions. See also WAC 390-05-210.

For purposes of reporting requirements and contribution limits, an in-kind loan must be recorded in writing and executed at the time of the loan, listing the details of the loan. The campaign must timely and accurately report the in-kind loan on a C-4 report, Schedules B and L, and disclose all required information about the contributor.

In-kind loans are subject to contribution limits and the preelection limitations of RCW 42.17A.420. General election in-kind contributions may not be used for the primary election if to do so would cause the contributor to exceed the primary election contribution limit. (WAC 390-17-300.)

An in-kind loan also occurs when a candidate purchases campaign items or services using personal funds with the expectation of being repaid, and the campaign has not fully repaid the candidate within twenty-one days of the expenditure. In order to be reimbursed with campaign funds for out-of-pocket expenditures, a candidate must first submit receipts or similar documentation to the campaign. All out-of-pocket campaign expenditures made by a candidate must be documented in order to be reimbursed. Any undocumented out-of-pocket campaign expenditures made by the candidate are not eligible for reimbursement and are considered in-kind contributions. Repayment of in-kind loans made by the candidate, when combined with other loans repaid to the candidate, may not exceed $5,000. (RCW 42.17A.445; WAC 390-05-400 and 390-16-226.)

Debt: The term "expenditure" includes a promise to pay for a good or service. RCW 42.17A.005(20). Debts are incurred when the candidate, campaign treasurer, campaign official, or campaign agent or principal decision maker, places an order for goods or services, or otherwise obligates itself to a vendor who is in the business of selling the goods or services provided to the campaign, and makes those services available to the campaign in its usual course of business.

A contractual liability, even when it is contingent on a future event such as a "win" bonus, is a debt. (WAC 390-16-042.)

Campaign debts are not subject to contribution limits. *However*, campaign debts that are forgiven by the vendor become contributions from the vendor and are subject to contribution limits. Campaign debt must be timely and accurately disclosed on a C-4 report, Schedule B. RCW 42.17A.-240(8) and WAC 390-05-245.

Further information may be found at http://www.pdc.wa.gov/archive/guide/pdf/12-01.pdf. The commission meeting materials can be found at www.pdc.wa.gov under commission meetings. For additional information concerning this interpretation contact Suemary Trobaugh, Administrative Officer, (360) 753-1985, toll-free 1-877-601-2828 or e-mail strobaugh@pdc.wa.gov.

WSR 12-15-032
NOTICE OF PUBLIC MEETINGS
COMMUNITY COLLEGES OF SPOKANE
[Filed July 12, 2012, 9:14 a.m.]

The board of trustees of Washington State Community College District 17 (Community Colleges of Spokane) has changed the following regular meeting:

From: Tuesday, August 21, 2012.

To: This meeting has been cancelled.

If you need further information contact Linda Graham, Community Colleges of Spokane, 501 North Riverpoint Boulevard, Spokane, WA 99217, phone (509) 434-5006, fax (509) 434-5025, e-mail linda.graham@ccs.spokane.edu.

WSR 12-15-033
NOTICE OF PUBLIC MEETINGS
EVERETT COMMUNITY COLLEGE
[Filed July 12, 2012, 10:18 a.m.]

Approved 2012-2013 Board Meeting Dates

Board meeting schedule will be as follows:

July 17, 2012
September 18, 2012
October 16, 2012
November 20, 2012
January 15, 2013
February 19, 2013
March 19, 2013
April 16, 2013
May 21, 2013
June 18, 2013

WSR 12-15-036
RULES OF COURT
STATE SUPREME COURT
[July 11, 2012]

IN THE MATTER OF THE IMPLEMENTATION OF APR 28—LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS	)	ORDER NO. 25700-A-1006

APR 28—Limited Practice Rule for Limited License Legal Technicians, adopted by Supreme Court order dated June 15, 2012, and effective on September 1, 2012, establishes the Limited License Legal Technician Board.

The Washington State Bar Association shall administer the operation of the Limited License Legal Technician Board in accordance with the provisions of APR 28.

Now, therefore, it is hereby

ORDERED:

The Washington State Bar Association shall provide staff necessary to implement and support the operation of the APR 28 and the Limited License Legal Technician Board.

DATED at Olympia, Washington this 11th day of July, 2012.

	Madsen, C.J.
	J. M. Johnson, J.
Chambers, J.	Stephens, J.
.	Wiggins, J.
	Gonzalez, J.

WSR 12-15-038
NOTICE OF PUBLIC MEETINGS
CONVENTION CENTER
[Filed July 13, 2012, 10:04 a.m.]

DATE CORRECTION

A regular meeting of the Washington state convention center public facilities district board of directors will be held on Tuesday, **July 17, 2012,** at 2:00 p.m. The meeting will take place in Room 211 of the Convention Center, 800 Pike Street, Seattle.

If you have any questions regarding the board meeting, please call (206) 694-5000.

WSR 12-15-046
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
[Filed July 16, 2012, 12:01 p.m.]

Following is a revision to the 2012 regular meeting schedule of the Edmonds Community College board of trustees.

A special conference call meeting has been scheduled on July 19, 2012, at 1:00-1:15 p.m. This call will be generated from the president's office to the trustees to take action on one item.

If you have any questions, please feel free to contact Patty Michajla at (425) 640-1516.

WSR 12-15-047
AGENDA
HEALTH CARE AUTHORITY
[Filed July 16, 2012, 2:19 p.m.]

Semi-Annual Rule-Making Agenda
July through December 2012

The following is the Washington health care authority's (HCA) semi-annual rule-making agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on the agenda as conditions warrant. If you have questions about this rule-making agenda, please contact Kevin M. Sullivan, Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, phone (360) 725-1344, e-mail Kevin.Sullivan@hca.wa.gov.

		Current Activity		
WAC Citation	**Subject Matter**	**CR-101 Preproposal**	**CR-102 or CR-105**	**CR-103**
Chapters 182-08, 182-12, and 182-16	Public employee's benefits board (PEBB) - eligibility, enrollment, and appeal rules. Implementing legislation authorizing the Washington health benefit exchange to participate in PEBB healthcare coverage.	WSR 12-09-064 filed April 17, 2012		
Chapters 182-503, 182-504, 182-505, 182-506, 182-507, 182-508, 182-509, 182-510, 182-511, 182-512, 182-514, 182-518, 182-519, 182-520, and 182-523	Medicaid expansion—Implementation of Affordable Care Act provisions by January 2014.			
182-501-0050, 182-501-0060, 182-501-0065, 182-501-0070, 182-502-0160	Updating healthcare services categories to reflect what is currently available to HCA medicaid clients.	WSR 10-22-121 filed November 3, 2010		
182-502-0115	Adding requirements and prohibition of payment for provider preventable conditions (PPC).	WSR 11-19-008 filed September 7, 2011		
Chapters 182-503, 182-504, 182-506, 182-507, 182-508, and 182-509	ESSB [ESHB] 2082 requires HCA to establish an incapacity-based medical care services program for adults effective November 1, 2011.	WSR 11-16-104 filed August 3, 2011	WSR 11-23-164 filed November 22, 2011 Supplemental CR-102 WSR 12-12-068 filed June 5, 2012	
Chapter 182-526	Medical administrative hearings. Required due to HCA being designated as the "single state medicaid agency" per HB 1738.	WSR 11-19-004 filed September 7, 2011		
Chapter 182-530	Drug formulary. To avoid elimination of the prescription drug benefit for medicaid clients due to budget cuts, HCA intends to implement a drug formulary.	WSR 12-01-081 filed December 19, 2011	WSR 12-13-075 filed June 19, 2012	
182-530-7000, 182-531-0050, and 182-531-1625	Hemophilia products and supplies. Requires treatment of hemophilia disorders to be provided by a comprehensive hemophilia treatment center.	WSR 11-19-005 filed September 7, 2011	WSR 12-09-087 filed April 18, 2012	
Chapter 182-537	School-based healthcare services. To avoid elimination of the program, HCA is revising rules to allow school districts to provide the state funds to match the federal participation.	WSR 10-20-160 filed October 6, 2010		
182-543-5500, 182-543-9100, 182-543-9200, 182-543-9300, and 182-543-9400	Durable medical equipment. Reinserting policy language regarding "base year" that was inadvertently deleted under WSR 11-14-052.	WSR 11-23-088 filed November 17, 2011	WSR 12-13-088 filed June 19, 2012	
182-548-1400, 182-549-1400	Federally qualified health centers and rural health clinics. New alternative payment methodology. Requires state plan amendment.	WSR 11-23-017 filed November 17, 2011	WSR 12-13-087 filed June 19, 2012	

WAC Citation	Subject Matter	Current Activity		
		CR-101 Preproposal	CR-102 or CR-105	CR-103
Chapter 182-552	Oxygen services. Updating policy for oxygen and respiratory therapy,	WSR 09-13-099 filed June 17, 2009	WSR 12-09-076 filed April 17, 2012	WSR 12-14-022 filed June 25, 2012 (effective August 1, 2012)

Kevin M. Sullivan
Rule[s] Coordinator

WSR 12-15-051
HEALTH CARE AUTHORITY
[Filed July 17, 2012, 6:45 a.m.]

NOTICE

Document Title: Title XIX State Plan Amendment (SPA) 12-022.

Subject: Medicaid state plan changes related to hospital inpatient outlier payment methodology.

Effective Date: August 1, 2012.

Description: The medicaid agency plan to submit medicaid state plan amendment 12-022 to update its hospital inpatient outlier payment methodology to reflect current agency policy. The agency will be updating the outlier threshold factor and the percent of outlier adjustment factor for both per diem and DRG methods.

For additional information, contact Sandy Stith, Office of Hospital Finance, P.O. Box 45500, Olympia, WA 98504, phone (360) 725-1949, TDD/TTY 1-800-848-5429, fax (360) 753-9152, e-mail sandy.stith@hca.wa.gov.

WSR 12-15-053
NOTICE OF PUBLIC MEETINGS
FRUIT COMMISSION
[Filed July 17, 2012, 9:53 a.m.]

The Washington state fruit commission (WSFC) has changed the following regular meeting:

FROM: July 25, 2012, 11:00 a.m., Washington Apple Commission, Wenatchee, Washington.

TO: August 22, 2012, 11:00 a.m., Washington Apple Commission, Wenatchee, Washington.

The WSFC complies with the Americans with Disabilities Act (ADA) which prohibits discrimination against persons with disabilities. If you would like to attend the meeting but need special accommodations, please contact us forty-eight hours in advance at (509) 453-4837.

If you need further information, please contact the WSFC offices at (509) 453-4837.

WSR 12-15-054
NOTICE OF PUBLIC MEETINGS
STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES
[Filed July 17, 2012, 10:19 a.m.]

The state board adopts its meeting schedule for the fiscal year for publication in the Washington State Register.

The state board has agreed upon the following meeting dates and locations for 2012-13:

September 10-12, 2012 (retreat)	State Board Office Olympia
October 24-25, 2012	Grays Harbor College
December 5-6, 2012	Pierce College Fort Steilacoom
February 6-7, 2013	State Board Office Olympia
March 27-28, 2013	State Board Office Olympia
May 8-9, 2013	Green River Community College
June 19-20, 2013	Spokane Falls Community College

WSR 12-15-057
INTERPRETIVE STATEMENT
DEPARTMENT OF FINANCIAL INSTITUTIONS
[Filed July 17, 2012, 10:47 a.m.]

Notice of Repeal of Interpretive Statement No. 23 Under the Securities Act of Washington

The department of financial institutions recently adopted amendments to the "accredited investor" definition set forth in chapter 460-44A WAC to align the definition with that adopted by the Securities and Exchange Commission. The amendments address the treatment of indebtedness secured by an investor's primary residence, which was previously addressed in Securities Act Interpretive Statement No. 23. In light of the recent adoption of amendments to the "accredited investor" definition, the department of financial institutions hereby repeals the following interpretive statement under the Securities Act, chapter 21.20 RCW:

- Securities Act Interpretive Statement No. 23 - Accredited Investor Definition - Indebtedness Secured By Primary Residence.

Further information about the recent rule making is available on our web site at http://dfi.wa.gov/sd/rulemaking.htm. Please contact Michelle Webster at (360) 902-8736 or michelle.webster@dfi.wa.gov with any questions.

Scott Jarvis
Director

WSR 12-15-058
INTERPRETIVE STATEMENT
DEPARTMENT OF FINANCIAL INSTITUTIONS
[Filed July 17, 2012, 10:47 a.m.]

Notice of Repeal of Interpretive Statement No. 7 Under the Franchise Investment Protection Act

The department of financial institutions recently adopted amendments to the "accredited investor" definition set forth in chapter 460-80A WAC to align the definition with that adopted by the Securities and Exchange Commission. The amendments address the treatment of indebtedness secured by a prospective franchisee's primary residence, which was previously addressed in Franchise Act Interpretive Statement No. 7. In light of the recent adoption of amendments to the "accredited investor" definition, the department of financial institutions hereby repeals the following interpretive statement under the Franchise Investment Protection Act, chapter 19.100 RCW:

- Franchise Act Interpretive Statement No. 7 - Accredited Investor Definition - Indebtedness Secured By Primary Residence.

Further information about the recent rule making is available on our web site at http://dfi.wa.gov/sd/rulemaking.htm. Please contact Michelle Webster at (360) 902-8736 or michelle.webster@dfi.wa.gov with any questions.

Scott Jarvis
Director

WSR 12-15-059
DEPARTMENT OF ECOLOGY
[Filed July 17, 2012, 11:32 a.m.]

PUBLIC NOTICE

Announcing the Phase I and II Western Washington Municipal Stormwater General Permits

Municipal Stormwater Permits: On August 1, 2012, the Washington state department of ecology (ecology) issued Phase I and Phase II Western Washington national pollutant discharge elimination system (NPDES) municipal stormwater general permits (permits). Ecology previously issued the two current permits January 17, 2007.

RCW 90.48.260 directs ecology to reissue the Phase II Western Washington permits as follows:

- Reissue the existing Western Washington Phase II permit without modification to become effective beginning September 1, 2012, and
- Reissue the updated Western Washington Phase II permit to become effective beginning August 1, 2013.

Ecology is reissuing the Phase I permit with modifications to monitoring requirements to become effective on September 1, 2012, and is also issuing an updated Phase I permit to become effective beginning August 1, 2013.

Purpose of the Permits: These permits are required in urban areas that collect stormwater runoff in municipal separate storm sewers and discharge it to surface waters. A municipal separate storm sewer system (MS4) is a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels and/or storm drains which is:

1. Owned or operated by a city, town, county, district, association, or other public body created pursuant to state law having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as sewer districts, flood control districts or drainage districts, or similar entity;
2. Designed or used for collecting or conveying stormwater;
3. Not a combined sewer system; and
4. Not part of a publicly owned treatment works (POTW) (see 40 C.F.R. 122.2).

Copies of the Permit: The permits, response to comments, and fact sheets are available on-line www.ecy.wa.gov/programs/wq/stormwater/municipal/PermitsPermittees.html. You may request copies from Kim Adams, (360) 407-6401 or e-mail Kimberly.Adams@ecy. wa.gov.

Public Notice Process and Comments: Ecology accepted written comments on the draft permits and fact sheets from **October 19, 2011, to February 3, 2012.** Ecology accepted oral comments at three public hearings preceded by workshops. These hearings were held in Lacey, Renton, and Vancouver, Washington. Ecology held four additional public workshops without hearings across the state.

Your Right to Appeal the Permits: You have a right to appeal the new permits to the Pollution Control Hearing[s] Board (PCHB) within thirty days of the date of receipt of this notice. The appeal process is governed by chapters 43.21B RCW and 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within thirty days of the date of receipt of this permit issuance notice:

- File your appeal and a copy of this notice with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this notice on ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

Address and Location Information:

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive S.E. Lacey, WA 98503	**Department of Ecology** Attn: Appeals Processing Desk P.O. Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road S.W. Suite 301 Tumwater, WA 98501	**Pollution Control Hearings Board** P.O. Box 40903 Olympia, WA 98504-0903

WSR 12-15-060
DEPARTMENT OF ECOLOGY

[Filed July 17, 2012, 11:32 a.m.]

PUBLIC NOTICE

Announcing the Phase II Eastern Washington Municipal Stormwater General Permits

Municipal Stormwater Permits: On August 1, 2012, the Washington state department of ecology (ecology) issued two Phase II Eastern Washington national pollutant discharge elimination system (NPDES) municipal stormwater general permits (permits). Ecology previously issued the current permit January 17, 2007. As required by RCW 90.48.260 ecology is issuing two permits:

- The existing Eastern Washington Phase II permit without modification to be effective beginning September 1, 2012, and
- The updated Eastern Washington Phase II permit to become effective beginning August 1, 2014.

Purpose of the Permits: The permits apply to all regulated small municipal separate storm sewer systems. A municipal separate storm sewer system (MS4) is a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels and/or storm drains which is:

1. Owned or operated by a city, town, county, district, association, or other public body created pursuant to state law having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as sewer districts, flood control districts or drainage districts, or similar entity;

2. Designed or used for collecting or conveying stormwater;

3. Not a combined sewer system; and

4. Not part of a publicly owned treatment works (POTW) (see 40 C.F.R. 122.2).

Copies of the Permits: The permits, response to comments, and fact sheet are available on-line www.ecy.wa.gov/programs/wq/stormwater/municipal/PermitsPermittees.html. You may request copies from Kim Adams, (360) 407-6401 or e-mail Kimberly.Adams@ecy.wa.gov.

Public Notice Process and Comments: Ecology accepted written comments on the draft permits and fact sheet from **October 19, 2011, to February 3, 2012.** Ecology accepted oral comments at two public hearings preceded by workshops. These hearings were held in Ellensburg and Spokane Valley, Washington. Ecology held four additional public workshops without hearings across the state.

Your Right to Appeal the Permits: You have a right to appeal the new permits to the pollution control hearing[s] board (PCHB) within thirty days of the date of receipt of this notice. The appeal process is governed by chapters 43.21B RCW and 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within thirty days of the date of receipt of this issuance notice:

- File your appeal and a copy of this notice with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this notice on ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

Address and Location Information:

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive S.E. Lacey, WA 98503	**Department of Ecology** Attn: Appeals Processing Desk P.O. Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road S.W. Suite 301 Tumwater, WA 98501	**Pollution Control Hearings Board** P.O. Box 40903 Olympia, WA 98504-0903

WSR 12-15-064

INTERPRETIVE OR POLICY STATEMENT

HEALTH CARE AUTHORITY

[Filed July 17, 2012, 4:32 p.m.]

Notice

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the health care authority (HCA).

HCA
Legal and Administrative Services

Document Title: Provider Notice #12-56.

Subject: Drug polypharmacy.

Effective Date: August 15, 2012.

Effective for dates of service on and after August 15, 2012, the medicaid program of the HCA will implement a drug initiative to reduce polypharmacy of mental health drugs prescribed for children seventeen years of age and younger.

For additional information, contact Amber Dassow, HCA, P.O. Box 45504, phone (360) 725-1349, TDD/TTY 1-800-848-5429, fax (360) 586-9727, e-mail dassoal@hca.wa.gov, web site http://www.hca.wa.gov/.

WSR 12-15-065
INTERPRETIVE OR POLICY STATEMENT
HEALTH CARE AUTHORITY
[Filed July 17, 2012, 4:34 p.m.]

Notice

In accordance with RCW 34.05.230(12), following is a list of policy and interpretive statements issued by the health care authority (HCA).

HCA
Legal and Administrative Services

Document Title: Provider Notice #12-58.

Subject: Expedited authorization codes and criteria table (EA).

Effective Date: April 1, 2012.

Retroactive to dates of service on and after April 1, 2012, the medicaid program of the HCA will publish a revised expedited authorization codes and criteria table (EA).

For additional information, contact Amber Dassow, HCA, P.O. Box 45504, phone (360) 725-1349, TDD/TTY 1-800-848-5429, fax (360) 586-9727, e-mail dassoal@hca.wa.gov, web site http://www.hca.wa.gov/.

WSR 12-15-067
AGENDA
TRANSPORTATION COMMISSION
DEPARTMENT OF TRANSPORTATION
[Filed July 18, 2012, 8:26 a.m.]

Following is the department of transportation's and transportation commission's July through December 2012 semi-annual rules development agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

There may be additional rule-making activity not on this agenda as conditions warrant.

Department of Transportation
Semi-Annual Rules Agenda
RCW 34.05.314
July - December 2012

WAC Chapter	Chapter Title	Sections	Purpose of Rule	Agency Contact	Approximate Filing Date
468-100	Uniform relocation assistance and real property acquisition.	002, 203, 205, and 301	Update rule and definitions to current practices.	Dianna Nausley (360) 705-7329	Undecided
468-38	Vehicle size and weight highway restrictions equipment.	100, 155, and 175	To harmonize Washington state pilot escort and permitting requirement rules with NW Passage Corridor states and WASHTO states.	Jim Wright (360) 704-3645	September
468-38	Vehicle size and weight highway restrictions equipment.	120	To add a provision for manufactured homes longer than 75' to be transported in the state with special approval of WSDOT maintenance superintendents.	Jim Wright (360) 704-3645	CR-102 filed July 11, 2012. Public hearing on August 22, 2012.
468-06	Public access to information and records.	040 and 050	Update to reflect current organization.	Cathy Downs (360) 705-7761	August

Cathy Downs
Rules Coordinator

WSR 12-15-077
AGENDA
EMPLOYMENT SECURITY DEPARTMENT
[Filed July 18, 2012, 9:57 a.m.]

Semi-Annual Rule-Making Agenda
July 31, 2012 - January 31, 2013

The following is employment security department's semi-annual rule-making agenda for publication in the Washington State Register pursuant to RCW 34.05.314. There may be additional rule-making activity not on the agenda as the department is responsible for initiating rule making to implement new state laws, meet federal requirements, or meet unforeseen circumstances. Additional rule-making information is available on the agency web site, www.ESD.wa.gov. Click on Rule-making at the bottom of the page.

If you have any questions, please contact Pamela Ames, employment security department rules coordinator at (360) 902-9387, or e-mail at pames@esd.wa.gov.

WAC CHAPTER	SUBJECT	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
192-XX	Accessible communities	Toby Olson (360) 485-5890	CR-101 - September 15, 2010 CR-102 - September 2012 CR-103 - October 2012	Implement ESSB 5902 and establish rules for the criteria and procedures for county accessible community advisory committees to receive reimbursement of travel and per diem expenses. Also establish rules for the evaluation, selection, and oversight of grants for local accessible communities' projects.
192-200	Self-employment assistance program	Juanita Myers (360) 902-9665	CR-101 - April 2012 CR-102 - TBD CR-103 - TBD	Implement HB 6289 and modify eligibility requirements related to the self-employment assistance program.
192-350	Predecessor/successor employers	Juanita Myers (360) 902-9665	CR-101 - July 2012 CR-102 - TBD CR-103 - TBD	Implement SHB 2491 related to predecessor/successor employers.

WSR 12-15-078
NOTICE OF PUBLIC MEETINGS
RENTON TECHNICAL COLLEGE
[Filed July 18, 2012, 10:03 a.m.]

The regular meeting and retreat of the board of trustees for Community College District 27, state of Washington, 3000 fourth Street, Renton, WA, scheduled for Tuesday, September 4, 2012, will be held at 9:00 a.m. in the Technology Resource Center, Room C-111.

Please contact Di Beers at (425) 235-2426 if you have any questions.