

Upper Kittitas County District Court
Local Court Rules

Table of Rules

Introduction

LARLJ 2 Scope of Rules and Adoption

Local Criminal Rules

LCrRLJ 4.5 Pre-Trial Procedure
LCrRLJ 7.2(f) Requirements for Chemical Dependency Assessments

Local Rule of General Application

LGR 30 Electronic Filing and Service

Local Infraction Rules

LIRLJ 3.3(b) Contested Infraction Hearing – Representation by Lawyer
LIRLJ 3.5(f) Infraction Hearings Based on Written Statements
LIRLJ 6.6.1 Certification of Scales Used in the Measurement of Weight for Commercial
Motor Vehicles
LIRLJ 6.6(e) Request for Speed Measuring Device Expert
LIRLJ 6.6(f) Public Access to Speed Measuring Device Certificates
LIRLJ 6.8 Records of Electronic Signs Controlled by Washington State Department of
Transportation Regarding Speed, Traffic Control, or Equipment Requirements

Forms

Declaration	Interpreter's Declaration
LCrRLJ 4.5 Form 1	Stipulated Pre-Trial Statement of Readiness
LCrRLJ 4.5 Form 2	Deferred Prosecution Findings of Fact, Conclusions of Law & Order
LCrRLJ 4.5 Form 3	Stipulation for and Order for Stay of Proceedings
LIRLJ 3.5 Form	Defendant's Request for Decision on Written Statements

LCrRLJ 4.5 PRE-TRIAL PROCEDURE

(A) Pre-Trial Hearings. All cases scheduled for jury trial shall be set by the clerk for a pre-trial hearing. The state or city prosecutor, defense counsel and the defendant shall attend the pre-trial hearing to consider such matters as will promote a fair and expeditious trial. Upon agreement that the discovery process has been completed to the satisfaction of the parties and that there are no other issues to be heard by the court at the scheduled pre-trial hearing, a stipulated pre-trial statement of readiness, substantially in the form set forth as "Form 1" below, may be filed by the parties. The filing of a stipulated pre-trial statement of readiness will serve to excuse counsel and the defendant from appearing at the scheduled pre-trial hearing.

(B) Motions. All amendments to the charges, pleas or pre-trial motions shall be made prior to or at the time of the pre-trial hearing. Motions which should have been heard at a pretrial hearing shall not be considered at the time of trial unless the judge at the time of the pre-trial hearing expressly continues such motions to the time of trial. Absent good cause, motions for dismissal or suppression of evidence in criminal cases shall be in writing and shall be provided to the prosecutor or city attorney at least 24 hours before the pre-trial hearing. Motions which are lengthy, complex, or which require the presence of witnesses will be heard by the court at a subsequent 3.5/3.6 hearing calendar.

(C) CrRLJ 3.5 Hearings. Pursuant to CrRLJ 3.5(a) all demands for hearing on the admissibility of confessions must be made no later than the pre-trial hearing. All motions filed pursuant to this rule shall be heard by the court at a subsequent 3.5/3.6 hearing calendar.

(D) Deferred Prosecution - Time for Petition - Forms for Petition and Order. A petition for deferred prosecution shall be filed with the court at least seven days before the date set for trial but, upon written motion and affidavit establishing good cause for the delay and failure to comply with this rule, the court may waive this requirement subject to the defendant's reimbursement to the court of the witness fees and expenses due for subpoenaed witnesses who have appeared on the date set for trial. The petition for deferred prosecution shall substantially comply with CrRLJ 4.2(I). The proposed findings and order shall substantially comply with the form set forth as "Form 2" below.

(E) Stays of Proceedings - Form of Order. In the event the parties enter into a stay of proceedings, the agreement between the parties shall be reduced to writing in a form which substantially complies with the form set forth as "Form 3" below.

[Adopted effective June 6, 2011]

Comments

The purpose of these rules is to eliminate surprise and unnecessary delay and expense. While the purpose of these rules is not to create traps for the unwary, when a party's failure to follow these

rules causes unnecessary extra expense to the opposing party, the inconvenienced party may apply to the court for the imposition of sanctions. The purpose of these sanctions is not to punish but rather to insure that the appropriate party is responsible for the predictable costs of unnecessary delay.

Comment to section (A): The stipulated pre-trial statement of readiness was adopted by the court at the request of counsel who wanted to avoid the necessity of clients appearing at unproductive pre-trial hearings. Attorneys are encouraged to use the pre-trial statement of readiness to avoid the necessity of clients appearing when there are no pre-trial issues requiring his or her presence. Comment to section (B): The purpose of this section is to provide a predictable structure to the pre-trial motions process and to insure that the non-moving party has adequate time to prepare for the hearing. However, if counsel desire to avoid multiple hearings, the parties may agree to present evidence and argue pre-trial motions at the scheduled pre-trial hearing rather than following the procedure described by this rule.

Comment to section (C): See the comments to section (B).

Comment to section (D): See RCW 10.05.010.

Comment to section (E): The stay of proceedings form set forth below is generally consistent with the forms currently in use in the Upper Kittitas County District Court. In creating a uniform stay of proceedings form, it is not the court's intention to suggest what conditions should be part of an agreement between the parties. For example, if an agreement between the parties in a specific case does not include the defendant stipulating to the admissibility of the police reports, or a stipulation that the reports are sufficient to convict, the court expects the parties to line out that portion of the stay of proceedings form.

LCrRLJ 7.2(f)
REQUIREMENTS FOR CHEMICAL DEPENDENCY ASSESSMENTS

When, as a part of a sentence or other disposition, a chemical dependency assessment is required, the alcohol/drug evaluator must be a certified Chemical Dependency Professional (CDP) or a CDP trainee (CDPT) under supervision of a CDP. The evaluator shall prepare a written report of the assessment that shall include a description of the steps taken to insure compliance with the requirements of WAC 388-805-310. The written report shall also include the following information:

1. A description of the sources used to establish the defendant's legal history. At a minimum, these sources must include a Defendant's Case History (DCH), a Washington Department of Licensing driver's record abstract, and police reports describing the current offense. The police reports shall contain, at a minimum, a description of the offense and the defendant's blood or breath alcohol level and any other drug levels at the time of arrest.

2. A description of sources used to document the defendant's history of alcohol and other drug treatment or education. At a minimum, these sources shall include any available drug/alcohol evaluations prepared by a CDP or CDPT concerning the defendant. The defendant shall notify the evaluator of any prior alcohol/drug evaluation and sign any releases necessary to make such alcohol/drug evaluations available to his or her current evaluating agency.

3. A description of the method used to notify the defendant of the assessment results. The defendant shall be supplied with a copy of his alcohol/drug evaluation along with any treatment/education recommendations made by the CDP or CDPT. If the assessment results are mailed to the defendant, the report shall state the address to which the assessment was mailed and the date of mailing.

[Adopted effective June 6, 2011]

LGR 30

ELECTRONIC FILING AND SERVICE

(b)

(6) The clerk may accept any electronic document created by a Kittitas County Upper District Court judicial officer, clerk, or administrator for filing. Non-electronic documents filed with the Court may be converted to electronic documents and all such electronic documents shall be deemed the equivalent of original documents.

(7) The clerk may accept for filing via email or any other reliable electronic means any certificates filed for use by the court pursuant to IRLJ 6.6(d) and LIR 6.6(f)

(d)

(2)

(G) Any electronic document created by Kittitas County Upper District Court requiring a signature by a judicial officer, clerk or court administrator may be signed with an electronic signature. Each person authorized to sign court generated documents with an electronic signature will be assigned a user ID and password by the presiding Judge. Documents created pursuant to this rule may be electronically filed. An electronic document shall be deemed the equivalent of an original signed document if the electronic signature thereon complies with this rule.

Comments

LGR 30 (b) (6), LGR 30 (b) (7) and LGR 30 (d) (2) (G) go into effect immediately and apply retroactively to any document created or filed in accordance with the provisions of those rules.

[Adopted Effective September 1, 2016]

LGR 17(a)(7)
Facsimile Transmission

The Upper Kittitas County District Court will not accept for filing a facsimile transmission of any pleading or other document for which any other court rule or statute sets a filing time-limit or filing deadline. The court will accept facsimile transmissions of other documents, including judge's working copies of trial briefs or position statements.

[Adopted effective June 6, 2011, Rescinded 9/1/2016]

LIRLJ 3.3(b)
CONTESTED INFRACTION HEARING – REPRESENTATION BY LAWYER

(b) At a contested hearing the plaintiff shall be represented by a lawyer representative of the prosecuting authority when i) a witness has been subpoenaed to appear, or ii) where a timely request for a speed measuring device (SMD) expert has been filed with the court and served on the prosecuting authority. The court in its discretion may waive the presence of plaintiff's lawyer representative.

Comments:

The purpose of the rule regarding requiring the presence of a lawyer for the plaintiff is to minimize questioning of the witnesses by the court and for the plaintiff's lawyer to be present to address various legal challenges and issues. The presence of the plaintiff's lawyer is not a "right" of the defendant and the court may waive the presence of the plaintiff's lawyer under any circumstances which it may deem appropriate.

[Adopted effective 9/1/2017]

LIRLJ 3.5(f)
INFRACTION HEARINGS BASED ON WRITTEN STATEMENTS

The court adopts IRLJ 3.5 and will, at the request of a defendant, decide infraction cases based on written statements. A defendant requesting the court to decide the case on written statements shall do so by completing a statement in substantially the following form:

{ see form LIRLJ 3.5 Form }

[Adopted effective June 6, 2011]

LIRLJ 6.6.1
CERTIFICATION OF SCALES USED IN THE MEASUREMENT OF WEIGHT
FOR COMMERCIAL MOTOR VEHICLES

- (a) **IN GENERAL.** This rule applies only to contested hearings in traffic infraction cases.
- (b) **SCALE CERTIFICATION.** Evidence given under oath (including testimony given in person or the written report of an officer as provided in IRLJ 3.3) of the results of a measurement of the weight of any commercial motor vehicle or portion thereof shall be admissible without additional foundation. A sworn statement setting forth the results of any inspection, test and/or certification of any scale used primarily for the purpose of measuring the weights of commercial motor vehicles shall likewise be admissible in evidence without foundation, and shall not be subject to objection on grounds of hearsay, provided that such document is maintained in a manner consistent with subsection (d) of this rule. Any party may present evidence supporting or attacking the result of any such measurement of weight or the inspection, test and/or certification of any such scale.
- (c) [Reserved]
- (d) **MAINTAINING CERTIFICATES AS PUBLIC RECORDS.** Any document of inspection, test and/or certification of any State scales as set forth in subsection (b) of this rule may be filed with the court and maintained by the court as a public record. The documents will be available for inspection by the public. Copies will be provided on request. The court may charge any allowable copying fees. The documents are available without a formal request for discovery. In the alternative, or in addition, such documents may be maintained on a web site established for that purpose by the Washington State Patrol. The court is entitled to take judicial notice of the fact that the document has been filed with the court or maintained on the web site. Evidence will not be suppressed merely because there is not a representative of the prosecuting authority present who actually offers the document.

[Adopted Effective June 24, 2013, amended 3/1/2016]

LIRLJ 6.6(e)
REQUEST FOR SPEED MEASURING DEVICE EXPERT

Request for Speed Measuring Device ("SMD") Expert. Defense requests to produce an electronic or laser SMD expert pursuant to IRLJ 6.6(b) shall be contained in a separate document clearly designated as a request for an SMD expert, served on the prosecuting authority with a conformed copy filed with the clerk of the court. If the charging law enforcement agency's SMD expert maintains a schedule for monthly appearances in the Upper Kittitas County District Court, a request for an SMD expert shall be deemed by the court to be a request to set (or re-set) the hearing to a day scheduled for the agency's SMD expert. An SMD expert called as a witness by either party may testify by telephone; however, any party intending to elicit telephonic testimony from an SMD expert shall notify the court and the opposing party at least 5 days prior to the date set for the contested hearing.

[Adopted effective June 6, 2011]

Comments to Local Infraction Rule 6.6(e). LIR 6.6(e) is designed to address the problem of requests for SMD experts being "buried" within discovery requests or other documents filed in contested infraction cases. A request for an SMD expert which stands alone and is clearly identified as a request for an SMD expert will eliminate continuances for defendants who desire the presence of an SMD expert but who have not made their wish sufficiently clear to the prosecuting authority. Allowing SMD expert testimony by telephone serves to reduce costs incurred by law enforcement agencies as well as assisting defendants in presenting the testimony of their own SMD experts .

LIR 6.6(f)
PUBLIC ACCESS TO SPEED MEASURING DEVICE CERTIFICATES

Pursuant to IRLJ 6.6(d), the court maintains as public records any design and construction certifications for electronic speed measuring devices and laser speed measuring devices filed with the court. In addition to the methods of public access described in IRLJ 6.6(d) certifications filed by the Washington State Patrol are available for review and downloading at the WSP website:

<http://www.wsp.wa.gov/driver/speed-measuring-devices>

[Adopted effective June 6, 2011, revised 9/1/2018]

LIRLJ 6.8

RECORDS OF ELECTRONIC SIGNS CONTROLLED BY WASHINGTON STATE DEPARTMENT OF TRANSPORTATION REGARDING SPEED, TRAFFIC CONTROL, OR EQUIPMENT REQUIREMENTS

- (a) **IN GENERAL.** This rule applies only to contested hearings in traffic infraction cases.
- (b) **MAINTAINING DOCUMENTS AS PUBLIC RECORDS.** Any certificate, affidavit or other document providing a record of speed limits, traffic control, equipment requirements or any other information displayed on electronic signs maintained and operated by the Washington State Department of Transportation may be filed with the court and maintained by the court as a public record. The documents will be available for inspection by the public. Copies will be provided on request. The court may charge any allowable copying fees. The documents are available without a formal request for discovery. In the alternative, or in addition, such documents may be maintained on a web site established by the Washington State Department of Transportation. The court is entitled to take judicial notice the fact that the document has been filed with the court or maintained on its web site. Evidence will not be suppressed merely because there is not a representative of the prosecuting authority present who actually offers the document into evidence.
- (c) **TELEPHONIC TESTIMONY PERMITTED.** Any Washington State Department of Transportation custodian of electronic records, if subpoenaed to testify as to the manner in which such records are created and maintained may testify by telephone; however any party intending to elicit telephonic testimony from such records custodian shall notify the court and the opposing party at least 5 days prior to the date set forth for the contested hearing.

[Adopted effective 1/25/2021, renewed 4/25/2021; renewed 7/24/2021, Permanent 09/01/2021]

INTERPRETER'S DECLARATION

I am a certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands, and I have translated this Stipulation for and Order for Stay of Proceedings for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at Cle Elum, Washington on: ____/____/____

Interpreter

Defense:

Witness list filed

Witnesses as follows:

<u>Name</u>	<u>Address/telephone</u>	<u>Subject of testimony</u>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>

Attorney for Plaintiff

W.S.B.A. #

Attorney for Defendant

W.S.B.A. #

FORM LCrRLJ 4.5
DEFERRED PROSECUTION FINDINGS OF FACT, CONCLUSIONS OF LAW & ORDER

Upper Kittitas County District Court
State of Washington

STATE OF WASHINGTON,
[] City of Cle Elum,
[] City of Roslyn,

Plaintiff

Vs.

Defendant

Case No: _____

Deferred Prosecution
Findings of Fact,
Conclusion of Law,
Order

This matter coming before the court on the defendant's Petition for Deferred Prosecution, and the court having considered the Petition, evaluation and treatment plan filed by the defendant, and the arguments of counsel, now makes the following findings of fact:

I. Findings of Fact

1. The defendant was evaluated by an approved alcoholism treatment facility or an approved drug treatment center; said agency's evaluation meets the requirements of RCW 10.05.040 and is attached to this Order. A certified alcoholism treatment facility or drug treatment center has prepared a treatment plan meeting the requirements of RCW 10.05.150 and has committed to provide treatment. Said treatment plan and commitment to treatment is attached to this Order, and incorporated by reference herein.
2. The defendant has agreed to pay, or arranged for the payment of, the costs of treatment.
3. The defendant has agreed to complete the two-year treatment program set forth in the treatment plan attached to this Order and to follow the other conditions of the court's Order.
4. The defendant has been advised of the following rights and has knowingly and voluntarily waived each of them:
 - (a) The right to a jury trial;
 - (b) The right to a speedy trial;
 - (c) The right to present evidence in his or her defense;
 - (d) The right to hear and question all witnesses who testify against the defendant;
 - (e) The right to compel witnesses to appear and testify on behalf of the defendant at no cost to the defendant;
 - (f) The right to testify.
5. The defendant has stipulated to the admissibility and sufficiency of the facts contained in the written police reports and understands these facts will be considered by the court in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution. The defendant has agreed that the facts contained in the stipulated police reports are

sufficient to allow the court to find the petitioner guilty, beyond a reasonable doubt, of the charged offenses.

6. The defendant has agreed, and the court finds, that any statements made by the defendant contained in the stipulated police reports were made knowingly and voluntarily.
7. If the charge is a violation of RCW Title 46 or similar municipal ordinance, the defendant has affirmed, and the court finds, that the defendant has not previously participated in a prior deferred prosecution program for a violation of RCW Title 46 or any similar municipal ordinance.

From the forgoing Findings of Fact, the court makes the following conclusions of law:

II Conclusions of Law

1. The court has jurisdiction over the subject matter and petitioner in this case.
2. The petition meets the requirements of RCW 10.05.020
3. The diagnostic evaluation and treatment plan met the requirements of RCW 10.05.040, RCW 10.05.050 and RCW 10.05.150.
4. The Petition was made freely, voluntarily and knowingly.

III Order

Based on the foregoing Findings of Fact and Conclusions of Law, the court hereby grants the Petition for Deferred Prosecution and allows the defendant to enter into a deferred prosecution program. The defendant shall remain under the jurisdiction of the court and the supervision of Kittitas County Probation Services during the two year treatment plan, and for three years after the court receives proof of successful completion of the two-year treatment program, but not less than five years from the date of this Order. The defendant shall, while under the court's jurisdiction, comply with the following conditions:

1. The defendant shall fully comply with and complete the two-year treatment program attached to this Order and incorporated by reference in Paragraph 2 of the court's Findings. In the event there are any inconsistencies between this order and the attached treatment plan, the terms and conditions set forth in this order shall be controlling.
2. The defendant shall pay, or arrange for payment of, the costs of the treatment program.
3. The defendant shall maintain total abstinence from alcohol, marijuana, and all other non-prescribed mind altering drugs.
4. The defendant shall not commit any crimes. The definition of "commit" includes, but is not limited to, any criminal charge resolved by a stay of proceedings, a stipulated order of continuance, or any other agreement which consists of a continuance with conditions, even if the ultimate disposition of the criminal charge is a dismissal, amendment of charge, or a finding of not guilty.
5. The defendant shall not refuse to submit to a breath or blood test if a police officer has reasonable grounds to believe that the defendant is driving or is in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs.
6. The defendant shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance in an amount not less than that established by RCW 46.29.490.

7. The defendant shall immediately report to Probation Services, and continue to report in the future as directed by Probation Services.
8. The defendant shall pay \$60 per month for probation supervision. The court may, after the successful completion of the two year treatment program, reduce the level of supervision (and associated probation fees) required for the remainder of the period of supervision.
8. The defendant shall not change treatment agencies without written permission of the court.
9. The treatment facility shall file with Kittitas County Probation Services **monthly** treatment status/compliance reports. Those reports shall be sent to:

Kittitas County Probation Services
507 Nanum Street
Ellensburg, Washington 98926

10. The defendant shall provide **in writing** to the court and Probation Services any change in mailing address.
11. The defendant shall not drive any motor vehicle unless the motor vehicle is equipped with a functioning ignition interlock calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. This restriction is effective immediately; as of ___/___/____; after the completion of any suspension, revocation, or denial of driving privileges. The period of time of this restriction shall be for one year five years ten years.
12. The defendant shall shall not be required to pay a \$250 administrative fee.
13. The defendant shall shall not be required to pay a \$250 breath test fee.
14. The defendant shall shall not be required to reimburse Kittitas County for the cost of his/her court appointed attorney in the amount of \$_____.
15. The defendant shall pay restitution in the amount of \$_____. A restitution hearing shall be held on ___/___/20___ to determine what amount of restitution should be paid by the defendant.
16. The defendant shall reimburse the appropriate Law Enforcement Agency \$_____ as an Emergency Response Reimbursement.
17. The defendant shall start the two year deferred prosecution treatment program on or before: ___/___/20___. **Prior to entry into the two year intensive treatment program, the defendant shall attend a minimum of three (3) self-help recovery support group meetings per week, and provide proof of attendance to Probation Services. The defendant shall also attend and fully participate in any pre-treatment program available from his or her treatment agency. The defendant shall report to Probation Services as directed.**
18. The defendant shall attend a DUI victim's panel in Kittitas County by: ___/___/20___.
 The defendant may attend a DUI victim's panel outside of Kittitas County by ___/___/20___.
Must send \$50.00 contribution to the Kittitas County Victim Panel.
 The defendant shall attend a Spanish language DUI victim's panel as directed by Probation Services.

19. This matter shall be set for review at any time as may be deemed appropriate by the court. In the event the defendant fails or neglects to undertake, complete or comply with any term or condition of this Order, the court, upon receiving notice of such failure, neglect, or violation, shall hold a hearing to determine whether the sufficient cause exists to remove the defendant from the deferred prosecution program. In the event the defendant is convicted of a similar offense, the court shall remove the defendant from the deferred prosecution program.
20. In the event the court finds cause to revoke the deferred prosecution, the court (sitting without a jury) will consider the stipulated police reports, including any statements made by the defendant, and determine whether the stipulated evidence supports the charge(s) beyond a reasonable doubt
21. In the event the defendant complies with the conditions of this Order the court shall, three years after receiving proof of successful completion of the two-year treatment program, but not before five years following entry of this Order, dismiss the charges pending against the defendant.
22. Other: _____

Dated _____/_____/20_____

Judge/Court Commissioner

Presented by:

Copy received; approved as to form:

Attorney for Defendant WSBA #

Prosecuting Authority WSBA #

Copy received; terms and conditions of Order accepted by:

Defendant

Attached to this Order are:

- A. Alcohol/drug evaluation, treatment plan and commitment to provide treatment.**
- B. Police reports.**

