

# Local Court Rules Benton County District Court

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## General Rules

### BGR 30.

#### Electronic Filing and Service

(a) Definitions

(2) "Electronic Filing" or "e-filing" is the electronic transmission of information to a court or clerk for case processing

(b) Electronic filing authorization, exception, service, and technology equipment.

(4)

(A) *Mandatory Electronic Filing.* Attorneys shall electronically file all documents, including emergency pleadings, identified in the e-filing Implementation Schedule posted on the court website, using the e-filing application unless this rule provides otherwise. Non-attorneys, or pro se parties are not required to e-file but may do so.

(i) *Documents That Shall Not Be e-filed.* The following documents must be filed in paper form rather than e-filed:

- (a) Documents submitted for *in camera review*, or documents supporting motions to seal, including documents submitted pursuant to GR 15;
- (b) Application for court issued Writs of Garnishment;
- (c) Applications for Writs of Attachment or Writs of Execution and original supporting documents;
- (d) Bail Bonds and bonds in civil cases;
- (e) Documents incapable of legible conversion to an electronic format by scanning, imaging, or any other means;
- (f) Documents from governments or other courts under official seal, except that a copy may be e-filed as an exhibit to another document, such as a pleading;
- (g) New cases of fee-based documents filed with an Order *in Forma Pauperis*;

(ii) *Documents That May Be e-filed.* The following documents may be e-filed:

- (a) Documents associated with a scheduled court hearing or scheduled trial presented for filing during the course of the hearing or trial;

- (b) Answers to Writs of Garnishment, or
- (c) Appeals.

If filed electronically, the filing party must retain the original document during the pendency of any appeal and until at least sixty (60) days after completion of the instant case and shall present the original document to the court if requested to do so. This does not include documents that are or will be submitted as an exhibit in a hearing or trial.

(iii) *Waiver of the Requirement to e-file for attorneys.*

- (a) If an attorney is unable to e-file documents, the attorney may request a waiver from the court. The attorney must make a showing of good cause and explain why paper document(s) must be filed in that particular case. The court will consider each application and provide a written approval or denial to the attorney. Attorneys who receive a waiver shall file a copy of the waiver in each case in which they file documents. Attorneys who receive a waiver shall place the words "Exempt from e-filing per waiver filed on (date)" in the caption of all paper documents filed for the duration of the waiver.
- (b) Upon a showing of good cause, the court may waive the requirement as to a specific document or documents on a case-by-case basis.

(5) Electronically filed court records have the same force and effect and are subject to the same right of public access as are documents that are not e-filed.

(6) If a party serves another party electronically or via email, that party must likewise accept service from the other parties electronically or via email.

(c) Time of Filing, Confirmation, and Rejection.

(1)(A) A party whose filing is untimely as the result of a technical failure of the court's e-filing application may seek appropriate relief from the court. The court shall consider its e-filing application to be subject to a technical failure if the site is unable to accept filings, either continuously or intermittently, for more than 4 hours on during the time the court is open. Known systems outages will be posted on the court website. Users are responsible for monitoring the court website to be aware of regularly scheduled down time for maintenance.

(B) Problems on the filer's end (such as phone line problems, problems with the filer's Internet Service Provider, or hardware or software problems) will not constitute a technical failure under this rule, nor excuse an untimely filing. A filer who cannot file a document electronically

because of a problem on the filer's end should explore other e-filing options.

(C) Filing a document electronically does not alter filing deadlines.

(2) (A) In the absence of the court's confirmation of receipt and filing, there is no presumption that the court received and filed the document. The filer is responsible for verifying that the court received and filed any document that was submitted to the court electronically using the court's e-filing application.

(d) Authentication of Electronic Documents.

(1) (C) (i) Filers agree to protect the security of their passwords and immediately notify the court if they learn that their password has been compromised. Filers may be subject to sanctions for failure to comply with this provision.

(2) An electronic document filed in accordance with this rule shall bind the signer and function as the signer's signature for any purpose, including CRLJ 11.

(A) When a document has been filed electronically, the official record is the electronic record of the document as stored by the court, and the filing party is bound by the document as filed.

(Adopted Effective September 1, 2019. Amended effective September 1, 2021)

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**Civil Rules**

**Local Civil Rule \_\_\_ **BCRLJ 3****

**CIVIL CASE SCHEDULE**

- (a) **Case schedule.** Except as otherwise ordered by the Court, when an initial civil complaint is filed and a new case file is opened, the District Court Clerk will prepare and file a scheduling order (referred to in these rules as a "Case Schedule") and will provide one copy to the party filing the initial pleading.
- (b) **Effective Date.** This rule shall apply to all cases filed on or after 2023 except as provided below.
- (c) **Cases Not Governed by a Civil Case Schedule.** A party may request a Case Schedule from the Court by filing a motion for the Civil Docket. Any motion should address the timeframe and/or deadlines needed for the Case Schedule. Upon entry, a copy of the order is to be provided to the Civil Clerk, who shall provide the parties with the pre-approved trial dates. The Civil Clerk shall then issue a Case Schedule in accordance with the selected trial date and the Court's ruling.

Unless otherwise ordered by the Court, the following cases will not be issued a Case Schedule on filing:

- (1) Change of name;
- (2) Proceedings under RCW title 26.
- (3) Debt Collection;
- (4) Civil Protection Orders (RCW chapter 7.105);
- (5) Abstract or transcript of judgment;
- (6) Petition for any Writ;
- (7) Any action upon a bond; and/or
- (8) Proceedings under RCW chapter 10.77;

**(d) Service of Case Schedule on Other Parties.**

(1) The party filing the initial pleading shall promptly provide a copy of the Case Schedule to all other parties by (a) serving a copy of the Case Schedule on the other parties along with the initial pleading, or (b) serving the Case Schedule on the other parties within 10 days after the later filing of the initial pleading or service of any response to the initial pleading, whether that response is a notice of appearance, an answer, or a CR 12 motion.

(2) A party who joins an additional party in an action shall serve the additional party with the current Case Schedule together with the first pleading served on the additional party.

**(e) Amendment of Case Schedule.** The Court, on motion of a party, on stipulation of all parties, or on its own initiative, may modify the Case Schedule for good cause. The Court shall freely grant a motion to amend the case schedule when justice so requires. The motion of a party or the stipulation of all parties, shall only be made after the moving party or parties have conferred with, and obtained approval from, the Civil Clerk for the proposed modification of the Case Schedule. Parties may not amend a Case Schedule by stipulation without pre-approval of the Court. Upon entry, a copy of the order shall be provided to the Civil Clerk within 3 days. If a Case Schedule is modified on the Court's own motion, the Civil Clerk will prepare and file the Amended Case Schedule and promptly email or mail it to all parties. If a trial is continued after the Pretrial Management Conference, the parties will complete a Certificate of Trial Readiness, file with the District Court Clerk's Office and provide copy to the Civil Clerk.

**(f) Form of Case Schedule.**

(1) *Case Schedule.* A Case Schedule for each type of case, which will set the time period between filing and trial and the scheduled events and deadlines for that type of case, will be established by the Court by General Order, based upon relevant factors, including statutory priorities, resources available to the Court, case filings, and the interests of justice.

(2) *Form.* A Case Schedule will be in generally the following form:

DISTRICT COURT OF THE STATE OF WASHINGTON  
IN AND FOR BENTON COUNTY

	)	
	)	Case No.
Plaintiff(s)	)	
	)	<b>CIVIL CASE SCHEDULE ORDER</b>
V.	)	
	)	
	)	
Defendant(s)	)	

I. SCHEDULE

	<u>DUE DATE</u>
1. Plaintiff’s Disclosure of Lay and Expert Witnesses .....	4 Months
2. Defendant’s Disclosure of Lay and Expert Witnesses .....	6 Months
3. Disclosure of Plaintiff’s Rebuttal Witnesses .....	6 ½ Months
4. Disclosure of Defendant’s Rebuttal Witnesses .....	7 Months
5. Discovery Completed .....	9 ½ Months
6. Last Date for Filing Jury Demand.....	10 Months
7. Last Date for Hearing Dispositive Pretrial Motions.....	10 ½ Months
8. Settlement Conference .....	11 Months
9. Last Date for Filing and Serving Trial Management Report .....	11 ½ Months
10. Pretrial Management Conference .....	11 ½ Months
11. Trial Memoranda and Motions in Limine to be filed.....	2 Weeks to Trial
12. Trial Date and Motions in Limine .....	12 Months

*\* PLEASE SEE ATTACHED FOR DETAILS REGARDING ITEMS 1-12*

**NOTICE TO PLAINTIFF:**

The plaintiff may serve a copy of the Case Schedule Order on the defendant(s) along with the summons and complaint. Otherwise, the plaintiff shall serve the Case Schedule Order on the defendant(s) within ten (10) days after the latter of: (1) the filing of the summons and complaint or (2) service of the defendant’s first response to the complaint, whether that response is a Notice of Appearance, an Answer, or a CR 12 Motion.

**NOTICE TO BOTH PARTIES:**

For Stipulated continuances of the trial date, parties and/or counsel must obtain pre-approval of the new dates by the Civil.

**(g) Monitoring.** At such times as, the Presiding Judge may direct, Court Administration will monitor cases to determine compliance with these rules.

**(h) Witness Disclosure; Enforcement; Sanctions.**

(1) *Disclosure of Possible Lay and Expert Witnesses.*

(A) Disclosure of Primary Witnesses. Each party shall, no later than the date for disclosure designated in the Case Schedule, disclose all persons with relevant factual or expert knowledge whom the party believes are reasonably likely to be called at trial.

(B) Disclosure of Rebuttal Witnesses. Each party shall, no later than the date for disclosure designated in the Case Schedule, disclose all persons whose knowledge did not appear relevant until the primary witnesses were disclosed and whom the party reserves the option to call as witnesses at trial.

(C) Scope of disclosure. Disclosure of witnesses under this rule shall include the following information:

- i. All witnesses. Name, address, and phone number.
- ii. Lay witnesses. A brief description of the anticipated subject matter of the witness' testimony.
- iii. Experts. A summary of the expert's opinions and the basis therefor and a brief description of the expert's qualifications.

(D) Exclusion of Testimony. Any person not disclosed in compliance with this rule may not be called to testify at trial, unless the Court orders otherwise for good cause and subject to such conditions as justice requires, including the payment of terms.

(E) Discovery Not Limited. This rule does not modify a party's responsibility under court rules to respond to or seasonably supplement responses to discovery or otherwise to comply with discovery before the deadlines set by this rule.

(2) If the Court finds that an attorney or party has failed to comply with the Case Schedule, failed to provide all of the information required in witness disclosures or disclosed witnesses that are not reasonably likely to be called at trial or has failed to disclose witnesses and has no reasonable excuse, the Court may order the attorney or party to pay monetary sanctions to the Court, or terms to any other party who has incurred expense as a result of the failure to comply, or both; in addition, the Court may impose such other sanctions as justice requires.

(3) As used with respect to the Case Schedule, "terms" means costs, attorney fees, and other expenses incurred or to be incurred as a result of the failure to comply; the term "monetary sanctions" means a financial penalty payable to the Court; the term "other sanctions" includes but is not limited to the exclusion of evidence.

(Adopted effective September 1, 2023)

#### BCRLJ 55

Any party seeking a default judgment shall submit at least the following to the Court contemporaneously with the motion for default judgment, unless otherwise excused by the Court for good cause, regardless of whether any of these required documents have been filed with the Court prior to the motion:

- (1) A copy of the original proof of service shall be submitted with every motion for default judgment.
- (2) In Debt Buyer causes of action involving debt purchased on or after June 11, 2020: proof as set forth in RCW 19.16.260. An affidavit by counsel under CRLJ 55(b)(1) is sufficient as to the amount of the debt only.

- (3) In assigned causes of action: a copy of the assignment interest. If the debt was assigned more than once, each assignment or other writing evidencing transfer of ownership must be submitted to establish an unbroken chain of ownership, beginning with the original creditor to the first debt buyer and each subsequent sale.
- (4) In causes of action based on all contracts: sworn testimony to prove performance(s) may be required; a copy of the contract, if written; proof of the items of account and any credits; the factual basis for the breach; and the final amount of the principal owing (the final amount should be underlined and highlighted). In addition:
- (i) In causes of action based on open account: a written statement of account setting forth all charges and credits and the dates thereof on the principal and separately listing any statement of any interest or surcharges; and a statement of the nature of merchandise or services furnished.
  - (ii) In causes of action based on a check as defined in RCW 62A.3-104 or a promissory note: the original or a document which comports with the Rules of Evidence (ER), including an attestation that the document is reliable.

In causes of action based on credit card debt: the original or a copy of billing statements in the debtor's name showing cumulative charges to the extent available, interest, interest rate, payments, credits and, if available, a statement of the nature of merchandise or services furnished; and a final billing statement proving the principal.

(Adopted effective September 1, 2023)

BCRLJ 65

#### ISSUANCE OF JUDICIAL SUBPOENA PURSUANT TO RCW 50.13.070

A Judgment Creditor may request that the Court issue a judicial subpoena for employment records pursuant to RCW 50.13.070 upon the filing and service of a motion supported by an affidavit I sworn statement under penalty of perjury and notice directed to the Clerk of the Court and the Judgment Debtor. The notice shall indicate that the Judgment Creditor holds an unsatisfied judgment against the Judgment Debtor, that the Judgment Creditor has requested the Court to issue a subpoena pursuant to RCW 50.13.070, that the motion will be granted unless the Judgment Debtor objects to the motion and demands a hearing within 13 days of the date of mailing of the notice. The notice shall indicate that the legal issue at the hearing on the motion is any privacy concern that the Judgment Debtor may have. The Judgment Creditor shall also serve upon the Judgment Debtor a Demand and Notice of Hearing form which the Judgment Debtor may complete. The Demand and Notice shall also provide the Judgment Debtor with instructions regarding completing the form and service of the form on the Court and the Judgment Creditor. The Demand and Notice of

Hearing form shall contain a date for hearing on the Court's civil docket, which hearing shall not be less than 7 days from deadline to respond to the Motion. The forms provided in this rule are deemed to satisfy the requirements of this rule.

(1) ISSUANCE OF SUBPOENA, EX PARTE - If the Judgment Creditor files the motion, notice, and demand for hearing form along with evidence of service, and the Judgment Debtor fails to file the demand for hearing form, the Court may issue the subpoena without a hearing or further notice to the Judgment Debtor.

(2) HEARING REGARDING ISSUANCE OF SUBPOENA - If the Judgment Debtor files the Demand and Notice of Hearing form, the Clerk of the Court shall docket the matter for hearing on the date and time set out in the demand. The matter is deemed ready for hearing and the parties need not call the matter ready for the Court.

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## Forms

### 1. MOTION

(Judgment Creditor), Judgment Creditor and Plaintiff in this matter, moves the Court for a Judicial Subpoena pursuant to RCW 50.13.070.

This motion is based on the fact that (Judgment Creditor) holds an unsatisfied judgment against (Judgment Debtor) and is in need of information which is deemed confidential by RCW 50.13.020, in order to obtain a source of assets to satisfy the judgment

Dated: \_\_\_\_\_

\_\_\_\_\_  
*/s/ Judgment Creditor's Attorney*

*Judgment Creditor*  
(Address)  
(City, State)

### 2. SWORN DECLARATION FOR ORDER FOR SUBPOENA; RCW 50.13.070

Under penalty of perjury of the State of Washington the following is true and correct:

I am the (attorney for) (authorized agent of the above-named Plaintiff;

Plaintiff has a judgment wholly or partially unsatisfied against the Defendant in the Court from which this order is sought;



Plaintiff has reason to believe and does believe that the Defendant below named is employed and/or has assets in excess of those exempt from garnishment under Washington law, to wit:

Defendant Name: *(Defendant's name)* SSN: \*\*\*-\*\*-\_\_\_\_)

Plaintiff believes the Department of Employment Security has information concerning Defendant's past and current employment. Plaintiff needs the information in order to collect this judgment which Defendant has not paid.

I certify under penalty of perjury under the laws of the State of Washington the foregoing is true and correct.

Dated: \_\_\_\_\_

\_\_\_\_\_  
*(Attorney or Authorized Agent)*

### **3. NOTICE**

TO THE CLERK OF THE COURT, and  
TO *(Judgment Debtor)*, JUDGMENT DEBTOR:

Please take notice that (Judgment Creditor) has requested that the above-entitled court issue a Judicial Subpoena directed to the Washington State Employment Security Department, in order to obtain your employment records. In order for the Court to issue the subpoena, the Court must find that (Judgment Creditor) holds a judgment against you, that the judgment has not been paid in full, and that (Judgment Creditor's) need for the information outweighs concerns you have regarding the privacy of this information.

You may do two things:

- (1) If you choose not to act, the Court will issue the Subpoena without notice to you.
- (2) If you choose to demand a hearing, you must complete the enclosed Demand and Notice of Hearing form and file it with the Benton County District Court and mail it to the Judgment Creditor at the addresses below within 13 days of the date of mailing of this notice to you. The Date, Place and Time for your hearing is contained in the Demand and Notice of Hearing. Please keep a copy of the Demand for your records. This is your opportunity to be heard and this is the only notice you will receive. The motion will be granted unless you object to the motion and demand a hearing as described herein. Your deadline to file and serve the Demand and Notice of Hearing is *(Date)*.

At the hearing, you will have an opportunity to present privacy concerns that you may have.

Dated: \_\_\_\_\_

\_\_\_\_\_  
*/s/ Judgment Creditor's Attorney*

Benton County District Court  
7122 W Okanogan Pl, Ste A110  
Kennewick, WA 99336

*Judgment Creditor*  
(Address)  
(City, State Zip)

**4. DEMAND AND NOTICE OF HEARING (RCW 50.13.070)**

TO THE CLERK OF THE COURT and  
TO THE JUDGMENT CREDITOR:

Please take notice that the Judgment Debtor hereby demands a hearing regarding the issuance of a Judicial Subpoena for Employment Records pursuant to RCW 50.13.070.

The Hearing shall be on the fourth Wednesday of (Month) (Month/day/year), at 1:15 PM or as soon thereafter as it may be heard at the Benton County District Court on 7122 W Okanogan Pl, Building A, Kennewick, Washington. This is the only notice you will receive of this hearing.

This Demand and Notice of Hearing must be filed with the Clerk of the Court and mailed to the (Judgment Creditor) on or before (Date) at the following addresses:

Benton County District Court  
7122 W Okanogan Pl, Ste A110  
Kennewick, WA 99336

*Judgment Creditor*  
(Address)  
(City, State Zip)

Dated: \_\_\_\_\_

\_\_\_\_\_  
*/s/ Judgment Debtor*

**5. SUBPOENA**

The Court considered the file herein and the Plaintiff's motion. The Court finds that the Plaintiff is a Judgment Creditor in this matter. The Plaintiff's need for employment information in order to allow the Plaintiff to discover a source to satisfy that judgment outweighs the privacy concerns of the Defendant/Judgment Debtor. The information is otherwise accessible through a proceeding under RCW 6.32.010.

Finding that the requirements of RCW 50.13.070 have been met, the Court orders as follows:

TO THE EMPLOYMENT SECURITY DEPARTMENT OF WASHINGTON:  
You are hereby directed to provide employment information to (*Judgment Creditor*) for the following individuals for a period of 2 years from the date this Judicial Subpoena is issued:

(*Judgment Debtor*)

Issued on: \_\_\_\_\_ Judge \_\_\_\_\_

(Adopted effective September 1, 2019)

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### **Criminal Rules**

BCrRLJ 3.1

#### **RIGHT TO AND ASSIGNMENT OF COUNSEL**

**(a) Appointment of Counsel.** Defendants who request appointment of counsel may be required to promptly execute a financial disclosure under oath, which shall be filed.

All appointments of counsel by reason of indigence are expressly contingent upon indigence and full disclosure of assets. Where assets are discovered or acquired subsequent to appointment which would indicate that defendant can afford counsel, or if the defendant can afford part payment, fees may be ordered paid, pursuant to the appointment agreement, by the Court.

Upon appointment of counsel for indigent criminal defendants or other litigants, the clerk shall promptly provide counsel with notice of the appointment.

Attorneys representing defendants in criminal cases, except for appointed attorneys, must serve prompt written notice of their appearance upon the prosecuting attorney and file the same with the Clerk of the Court.

Whenever an attorney appears for a defendant in a criminal case at arraignment, the appearance shall be unconditional. No appearance shall be conditioned on payment of fees or for any other reason.

**(b) Services Other than Counsel.** Pursuant to the authority under CrRLJ 3.1 (f), all requests and approval for expert services expenditures are hereby delegated to the Benton County Office of Public Defense (OPD). Upon finding that investigative, expert or other services are necessary to an adequate defense and

that the defendant is financially unable to obtain them, the OPD shall authorize the services. Where services are denied in whole or in part, the defendant may move for de novo review to the Presiding Judge. Should the defendant seek an order sealing the moving papers, defendant shall present, along with the moving papers, a motion and proposed order sealing the documents to the OPD. The OPD shall submit the motion to seal and proposed order with the moving papers regarding request for expert services and the OPD's order on the motion for expert services to the Presiding Judge. The motion may be made ex-parte. All compensation for investigative, expert or other services shall be paid by the OPD.

(Adopted effective September 1, 2015. Amended effective September 1, 2017.  
Amended effective September 1, 2022)

BCrRLJ 3.2

**Release of Accused**

**(a) Bail and Recognizance.** Defendants on bail or recognizance are expected to be available for nonscheduled appearances upon seventy-two (72) hours-notice to defendant or defendant's attorney. They are expected to be present and on time at all scheduled appearances concerning which they have received either oral or written notice. Failure to appear in accordance with this rule may result in forfeiture of bail, revocation of recognizance, issuance of a bench warrant for arrest or additional criminal charges.

**(b) New Conditions of Release.** In the event that bail is forfeited for any reason, new conditions of release must be entered, and a new bond posted. No order reinstating a previously forfeited bond shall be issued by the court; however, the court may, for good cause shown, vacate the judgment of forfeiture.

**(c) Separate Bond Required.** All case filings wherein conditions of release requiring bail are set shall require a separate and distinct bond posted by the surety in the specific amount specified for each case. A bond in the aggregate amount for multiple cases will not be allowed nor shall any order be presented to the court that fails to specify the exact amount of bail for each matter addressed in the order.

**(d) Post-Conviction Release.** No plea of guilty shall be conditioned upon any agreement concerning the conditions of release provided for in CrRLJ 3.2(f).

**(e) Bench Warrant after Failing to Appear in Response to a Summons.** Any time a defendant fails to appear in response to a summons, where it is shown that the summons was not deliverable to the address where sent, and a bench warrant is issued, bail shall be initially set at the sum of \$100.00 if other factors do not necessitate an increase to that amount.

**(f)(1)** Except as set forth in subsections (2) and (3), in the absence of a judicial order, bail for any person arrested by a Law Enforcement Officer on probable cause for a misdemeanor shall be \$500 cash or bond and for a gross misdemeanor \$1,000 cash or bond pending his or her first appearance in court.

Any person arrested on probable cause for a violation of RCW 46.61.502 (Driving Under the Influence) or RCW 46.61.504 (Physical Control of a Vehicle Under the Influence) shall only be released after an eight-hour sobriety hold and he or she has blown a .00 on a portable breath test.

Any person arrested on probable cause for a violation of RCW 46.61.502 (Driving Under the Influence) or RCW 46.61.504 (Physical Control of a Vehicle Under the Influence) who is released prior to a first court appearance will have a first court appearance on the next judicial day after the date he or she is released.

**(2)** In the absence of a judicial order any person arrested by a Law Enforcement Officer on probable cause (without an arrest warrant) for the offenses listed below shall be held without bail until his or her first appearance in court:

1. Assault Domestic Violence or No Contact Order Domestic Violence under RCW 10.99 or an equivalent local ordinance.
2. Harassment and/ or Stalking under RCW 10.14 and/or 9A.46 or an equivalent local ordinance.
3. An offense classified as a Felony.

(3) In the absence of a judicial order any person arrested by a Law Enforcement Officer on probable cause for a violation of RCW 46.61.502 (Driving Under the Influence) or RCW 46. 61. 504 (Physical Control of a Vehicle Under the Influence) and the officer has knowledge that the person has been charged with or has a prior offense as defined in RCW 46.61.5055 within 10 years shall be held without bail until his or her first appearance in court.

(Adopted effective November 1, 2019. Amended effective September 1, 2022)

#### BCrRLJ 4.2

### **PLEAS AND CONTINUANCES**

(a) **When Heard.** If a criminal case is set for trial but is to be disposed of by a change of plea, the plea shall be heard on or before the Trial Readiness hearing unless the court authorizes a continuance or a subsequent setting on a later date.

(Adopted Effective September 1, 2022)

#### BCrRLJ 4.5

### **PRE-TRIAL HEARINGS**

(a) **When Heard.** In every criminal case a Pretrial hearing date will be set at the time of arraignment. Normally, it will be set for three (3) weeks from the date of arraignment. At the time of the hearing, it will be expected that defense counsel and Prosecuting Attorney will have already met to initiate and complete discovery, conduct further investigation of the case as needed, and that plea bargaining will have been considered.

(b) **General Provisions.** If there are any unresolved matters, they will be determined by the Court at the hearing, or, upon good cause shown, they may be set for a further hearing. If it is necessary to hold a suppression hearing, a date certain will be set for such hearing at the time of the pretrial hearing. The defendant shall be present at the pretrial hearing where a suppression date is set, unless otherwise excused by the Court.

All rulings of the Court at pretrial hearings or otherwise made in the Criminal Motion Department shall be binding on the parties and shall not be re-litigated at trial.

(c) **Pre-Trial Order.** When a matter is set for trial, in addition to setting a trial readiness date consistent with BCrRLJ 4.9, setting a trial date, providing the nature of the defense and indicating the anticipated length of trial, the parties shall set an additional pre-trial date for the entry of the Joint Pre-Trial Stipulations and Order.

The Joint Pre-Trial Stipulations and Order shall include (1) the names of witnesses available to testify, (2) the manner of handling exhibits, (3) any stipulations to proposed exhibits, (4) the procedural history of the case, and (5) any remaining contested pre-trial issues.

The pre-trial date for entry of the Joint Pre-Trial stipulations and Order may also serve as the discovery cut-off date unless the parties have set a different such date.

The proposed order shall be filed in the cause pursuant to GR30 and BGR30.

(d) **Pleadings.** All briefs, declarations, affidavits, and motions shall be served and filed in the cause pursuant to GR30 and BGR30.

For matters filed electronically, a separate bench copy need not be filed. Any paper bench copies must be submitted as soon as allowed under these local rules or the Criminal Rules for Courts of Limited Jurisdiction, but not later than twelve (12:00) o'clock p.m., one (1) court day prior to the scheduled hearing, proceeding or trial. No paper filed bench copies shall be submitted to the Court unless prior thereto or simultaneously therewith a copy thereof has been served upon or mailed to opposing counsel.

(Adopted September 1, 2022, amended September 1, 2023)

#### BCrRLJ 4.5.1

### **CRIMINAL SPECIAL SET HEARINGS**

(a) **General Provisions.** No request by a party for a special setting in a criminal matter will be considered unless it is in a filed proposed note for motion, request for setting and order which contains: (1) The nature of the hearing or hearings requested; (2) The reason(s) the hearing or hearings cannot be set on an existing criminal regular dockets, 3.5/3.6 dockets, or arraignment dockets in compliance with the rules applicable to those dockets; (3) a proposed date certain and/or earliest date proposed for hearing; (4) whether briefing has been completed; and (5) whether the opposing party has been contacted and whether the opposing party agrees or disagrees with the request.

(b) **Pleadings.** The proposed note for motion, request for setting and order shall include a check box titled "CLERK'S ACTION REQUIRED" in the caption, and the

order shall contain language whereby the Court will grant or deny the request for special setting in whole or in part, and if granted, the date on which the motion will be heard.

(c) **Procedure For Review And Decision.** Only after filing, the clerk or designee will review the request, provide the same to a judicial officer for review, and notify the parties of the decision. Absent compelling circumstances, the moving party may inquire regarding the status of the request no earlier than one week after submission.

(Adopted Effective September 1, 2022)

BCrRLJ 4.9

### **TRIAL READINESS HEARING**

(a) **General Provisions.** In every criminal case, a hearing shall be held for the purpose of determining whether the parties have fully considered the possibility of disposition of the case without trial; for the purpose of entering a plea should a plea be tendered; for considering the matter of requests for continuance; and for any other appropriate matters.

The hearing shall be set on a trial readiness docket ten (10) days prior to the trial date. The Court may direct an earlier setting and enter further orders where necessary to assure that final witness and exhibit lists are filed and that exhibits are prepared and provided as directed. It shall be the responsibility of each defense attorney, upon receipt of the notice of the trial date, to notify the defendant of this hearing.

Additionally, the parties shall submit via the District Court website a Trial Confirmation Form by 12:00 pm (noon) the Thursday before the scheduled trial date to confirm the case is proceeding to trial, and if not, advising the Court as to why, selecting new dates, etc. The filing of this form will allow for the smoother administration of justice and coordination with Superior Court for jury empanelment.

If the Trial Confirmation form is not submitted by either or both parties, or anything other than continuing to trial as currently set is selected, then the parties will need to appear at the next Trial Readiness docket immediately prior to their set trial date, to resolve, pick new trial dates or discuss why the Trial Confirmation form was not filed.

Failure to follow this procedure may result in costs being assessed to a party and/or sanctions to attorneys for subsequent delays, if appropriate.



(b) **Appearance at Trial Readiness.** Pursuant to CrRLJ 3.4(d), The Court finds good cause to require the appearance of all defendants at trial readiness hearings in order for the Court to properly manage the jury trial caseload and the trial readiness calendars. The Court cannot properly assess the readiness of the parties to proceed to trial in the defendant's absence. Leaving continuances, dispositions, and confirmation of cases to the assigned trial date would unreasonably congest the trial calendar, preclude the Court from determining the need for jurors, impede the timely commencement of trials, and prevent the Court from fulfilling the responsibility to protect the time for trial rights of the parties.

Defendants represented by counsel may waive their appearance at trial readiness, as provided by other court rules, if an agreed continuance of the trial date is requested by the parties. Unrepresented and self-represented defendants must personally appear at trial readiness if a continuance of the trial date is requested by either party. A contested continuance is a critical stage of the proceeding, and the defendant has the right to appear. A contested motion to continue cannot be heard in the absence of an unrepresented or self-represented defendant.

(Adopted Effective September 1, 2022; amended September 1, 2023)

## BCrRLJ 8.2 MOTIONS

Rules 3.5 and 3.6 and CRLJ 7(b) shall govern motions in criminal cases. No motions will be set for hearing unless accompanied by an affidavit. All motions must be filed with the affidavit and any brief attached.

(Adopted effective September 1, 2017. Amended effective September 1, 2022)

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## **Infraction Rules**

### BIRLJ 3.5 DECISION ON WRITTEN STATEMENTS

**Contested Hearings.** A person who has received a traffic or civil infraction may request by mail or e-mail to contest their traffic infraction. The court shall examine the citing officer's report and any statement submitted by the defendant. The examination shall take place within 120 days after the defendant filed the response to the notice of the infraction. The examination will be held on the docket without

notice to the parties and shall not be governed by the Rules of Evidence. The court shall determine whether the plaintiff has proved by a preponderance of the evidence submitted that the defendant has committed the infraction.

If the court determines that the infraction has been committed the court may assess a monetary penalty consistent with IRLJ 3.3 (e).

The court will notify the defendant in writing whether an infraction was found to have been committed and what penalty, if any, was imposed.

There is no appeal from a decision on written statements.

**Mitigation Hearings.** A person's mitigation hearing will be by U.S. Mail or e-mail. The hearing will be held in chambers and will take place within 120 days after the defendant's request for a mitigated hearing was received by the courts. A person who is unable to appear by U.S. Mail or e-mail may appear by video or in person at a mitigation hearing. The court, upon request for a video or in-person hearing, will send notice of the hearing date. The hearing will be conducted on the record. The court shall notify the defendant in writing of its decision, including any penalty imposed. There is no appeal from a decision at a mitigated hearing.

(Adopted effective September 1, 2015. Amended effective September 1, 2017; September 1, 2021)