

Cowlitz County District Court
(Includes Castle Rock, Kelso, Longview, Kalama, and Woodland Municipal Courts)

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Local General Rules

LGR 1

Instructions to Jury

- (a) Proposed Instructions.** Unless otherwise requested by the trial judge on timely notice to counsel, proposed instructions shall be submitted when the case is called for trial. Proposed instructions upon questions of law developed by the evidence, which could not reasonably be anticipated, may be submitted at any time before the court has instructed the jury.
- (b) Submission.** Submission of proposed instructions shall be by delivering the original and three or more copies as required by the trial judge, by filing one copy with the clerk, identified as the party's proposed instructions, and by serving one copy upon each opposing counsel.
- (c) Form.** Each proposed instruction shall be typewritten or printed on a separate sheet of letter-size (8-1/2 by 11 inches) paper. Except for one copy of each, the instructions delivered to the trial court shall not be numbered or identified as to the proposing party. Once copy delivered to the trial court, and the copy filed with the clerk, and copies served on each opposing counsel shall be numbered and identified as to proposing party, and may contain supporting annotations.

[Effective September 1, 2019]

LGR 2
Court's Motion

Any of these Rules may be suspended or modified by the Court upon its own motion.

[Effective September 1, 2019]

LGR 14

FORMAT FOR PLEADINGS AND OTHER PAPERS

(1) Format Requirements. All pleadings, motions, other papers and digital images 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, highlighting or other colored markings. All pleadings, motions and other papers shall be printed with numbered lines in the left margin, double spaced type except for generally recognized exceptions such as lengthy quotes or exhibits, and twelve (12) point type. This rule applies to attachments unless the nature of the attachment makes compliance impractical.

- (a) Orders.** Every order presented for a Judge's signature shall include a portion of the text on the signature page and shall be signed by the individual attorney presenting it on the lower left hand corner of the page to be signed.
- (b) Case number.** All documents and digital images filed with the Court shall include the case number on each page filed.
- (c) Date and Typed Name.** All pleadings, motions and other papers to be filed with the clerk shall be dated by the person preparing the same. The names of all persons signing a pleading or other paper shall be typed under the signature. If signed by an attorney, the attorney's Washington State Bar Association number must be set forth to the right of the typed name.
- (d) Pro Se.** Pro Se pleadings shall be typewritten or neatly printed, shall conform to the format requirements of CRLJ 10(e), and shall contain the party's mailing address and street address where service of process and other papers may be made upon them or the same may be rejected for filing by the clerk.
- (e) Electronic Evidence.** When testimony or evidence is to be given via electronic means, it is the responsibility of the party introducing the testimony or evidence to provide the proper equipment for viewing such testimony or evidence and to provide the Court with a copy of such.
- (f) Small Claims and Name Change Requirements.** All Small Claims and Name Change pleadings shall conform to Cowlitz County District Court forms. Prescribed forms are available on the Court's website. Any pleadings not meeting such requirements may be rejected for filing and returned for resubmission in compliance with this rule.

(2) 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.

(3) Citation Format. Citations shall conform with the format prescribed by the Reporter of Decisions.

(4) Required Forms. The following pleadings shall not be accepted unless they are on the most current District Court form or the most recent Washington Courts form:

- (a) Statement of Defendant on Plea of Guilty;
- (b) Petition for Deferred Prosecution;
- (c) Order for Deferred Prosecution;
- (d) Advice and Acknowledgement of Rights Prior to Deferred Prosecution.

District Court forms are available at District Court Administration or on the District Court website.

[Effective September 1, 2019; Revised Effective September 1, 2021]

LGR 29

PRESIDING JUDGE

(1) Election, Term, Vacancies, Removal and Selection Criteria.

- (a) Election.** The Presiding Judge and Assistant Presiding Judge shall be elected by a majority of the sitting Judges on or before October 31st of each even numbered year so that notice of election may be given pursuant to GR 29. The Presiding Judge may be re-elected for additional terms.
- (b) Term.** The Presiding Judge and Assistant Presiding Judge shall be elected for a term of two (2) years, subject to reelection. The term of the Presiding Judge and Assistant Presiding Judge shall commence on January 1 of the odd year in which the Presiding Judge's and Assistant Presiding Judge's term begins.
- (c) Vacancies.** Interim vacancies of the office of Presiding Judge or Acting Presiding Judge shall be filled as provided herein.
1. **Presiding Judge.** In the event of a vacancy in the office of the Presiding Judge prior to the completion of the two-year term of the Presiding Judge, the Assistant Presiding Judge shall serve as Presiding Judge for the remainder of the unexpired term.
 2. **Assistant Presiding Judge.** In the event of a vacancy in the office of the Assistant Presiding Judge prior to the completion of the two-year term of the Assistant Presiding Judge, a new Assistant Presiding Judge shall be elected at the next regularly scheduled judges meeting for the remainder of the unexpired term.
- (d) Removal.** The Presiding Judge or Assistant Presiding Judge may be removed by a majority vote of the judges of the district upon noting such for the next scheduled judge's meeting.
- (e) Selection Criteria.** Selection of a Presiding Judge and Assistant Presiding Judge should be based on the judge's: (1) management and administrative ability; (2) interest in serving in the position; (3) experience and familiarity with a variety of trial court assignments; and (4) ability to motivate and educate other judicial officers and court personnel. A Presiding Judge must have at least four years of experience as a judge, unless this requirement is waived by a majority vote of the judges of the court.

(2) Duties.

- (a) The Presiding Judge will act as Chief Administrative Judge and will see that policy of the Court, as determined by a majority of the Judges, is implemented by the Court Administrator.
 - (b) The Presiding Judge will call meetings of the Court and preside over said meetings.
 - (c) The Presiding Judge will adopt and implement a Court schedule with the consent of the majority of the Judges.
 - (d) The Presiding Judge will be the spokesperson for the Court in response to media inquiries.
 - (e) The Presiding Judge will be responsible for long range planning.
 - (f) The Presiding Judge will be responsible for relations with other elected officials, and other duties consistent with GR 29.
 - (g) All major policy decisions will require the approval of a majority of the Judges, however, the Presiding Judge will be responsible for overseeing the budget, implementation of new technologies and the administrative function of the Court.
 - (h) The Presiding Judge may delegate any of their responsibilities to other Judges and create departments or committees to handle complex problems or functions as they see fit.
- (3) Assistant Presiding Judge Duties.** The Assistant Presiding Judge shall perform the duties of the Presiding Judge in the absence of the Presiding Judge.

[Effective September 1, 2010; Revised Effective September 1, 2021]

Local Infraction Rules

LIRLJ 2.4 (Revised)

Mitigation Hearings on Written Statements

- (a) The court authorizes mitigation hearings on written statements in lieu of a defendant’s personal appearance.
- (b) A defendant may submit a written statement as a response to a notice of infraction within 30 days of the date the notice is personally served or, if the notice is served by mail, within 33 days of the date the notice is mailed. Additionally, a defendant who has requested a mitigation hearing may submit a written statement later in lieu of personally appearing at the hearing. The written statement must be received by the time of the hearing.
- (c) A written statement may be delivered to the court in person, by United States mail or any other delivery service, or by email. The court’s contact information is as follows:

Address: Cowlitz County District Court
312 SW 1st Ave., Room 207
Kelso, WA 98626

Electronic: www.co.cowlitz.wa.us/districtcourt

- (d) A written statement shall contain the person’s promise to pay the monetary penalty authorized by law. The statement shall be executed in compliance with RCW 9A.72.085, 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. I promise that I will pay the monetary penalty authorized by law and assessed by the court.

(Date and place of signature)

(Signature)

[Effective September 1, 2004; Revised Effective September 1, 2020; Revised Effective September 2023]

LIRLJ 3.1
Request for Subpoena

Any request for a subpoena to be issued by the court must be filed in writing at least 14 days before the hearing, or such lesser time as the court deems proper. The request cannot be combined with a notice of appearance or any other pleading.

[Effective September 1, 2004]

LIRLJ 6.6

Request for Speed Measuring Device Expert; Remote Testimony

Any request to produce a speed measuring device expert must be filed in accordance with IRLJ 6.6(b). The request cannot be combined with a notice of appearance or any other pleading. The court may allow the speed measuring device expert to testify from a location other than the courtroom, via speakerphone or other electronic means acceptable to the court.

[Effective September 1, 2005]

LIRLJ 6.6.1

Certification of Scales Used in the Measurement of Weight for Commercial Motor Vehicles

- (a) **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 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.

Local Criminal Rules

LCrRLJ 2.1

COMPLAINT-CITATION AND NOTICE

(e) Citation and Notice to Appear for Alcohol Violator. A defendant who is charged with an offense involving alcohol as defined in RCW 46.61.502, 46.61.503, or 46.61.504 shall be required to appear in person before a judicial officer within seven (7) days from the time of arrest or issuance of a citation pursuant to RCW 46.61.50571. Appearances required are mandatory and may not be waived.

[Effective September 1, 2021]

LCrRLJ 3.1 Stds

STANDARDS FOR INDIGENT DEFENSE

Standard 19. Filing of Certification of Appointed Counsel of Compliance with Standards

By

CrR 3.1 / CrRLJ 3.1/ JuCR 9.2 / MPR 2.1

Standard 19.1. A signed Certification of Compliance with Applicable Standards must be filed by an appointed attorney by separate written certification on a quarterly basis in each court in which the attorney has been appointed as counsel on or before the following dates:

| | |
|-----------|--------------|
| Quarter 1 | March 31 |
| Quarter 2 | June 30 |
| Quarter 3 | September 30 |
| Quarter 4 | December 31 |

Standard 19.2. If an attorney fails to timely file a signed Certification of Compliance with Applicable Standards as provided for herein, said attorney, their law office, and/or their law firm shall not be appointed as counsel on any case in said court until such time as their signed Certification of Compliance with Applicable Standards has been received by the Clerk of the Court.

[Effective September 1, 2021]

LCrRLJ 3.2

Defendants who Must be Seen Before Release

- (1) A person subjected to custodial arrest for a domestic violence assault charge is to be held until the next judicial day if:
 - a. The person has been convicted of or placed on a deferred prosecution for any domestic violence assault charge in any jurisdiction occurring within the last seven years, and/or
 - b. The person has a pending domestic violence assault charge in any jurisdiction. A pending charge means a charge with no final disposition, and includes but is not limited to a charge on deferred prosecution, stipulated continuance, or similar arrangement.

- (2) A person subjected to custodial arrest for driving under the influence of alcohol and/or any drug (“DUI”) or physical control under the influence of alcohol and/or any drug (“physical control”) is to be held until the next judicial day if:
 - a. The person has been convicted of or placed on deferred prosecution for any charge of DUI, physical control, vehicular homicide, or vehicular assault in any jurisdiction occurring within the last ten years, and/or
 - b. The person has a pending DUI or physical control charge in any jurisdiction. A pending charge means a charge with no final disposition, and includes but is not limited to a charge on deferred prosecution, stipulated continuance, or similar arrangement; and/or
 - c. The current case involved an accident that resulted in injury to a person other than the defendant.

[Effective September 1, 2007; Revised Effective September 1, 2019]

LCrRLJ 3.4

Presence of the Defendant

(f) Trial court proceedings including the entry of a Statement of Defendant on Plea of Guilty as provided in CrRLJ 4.2 may be conducted by video conference, in accordance with CrRLJ 3.4(d).

(g) Pursuant to CrRLJ 3.4(d), the court finds good cause to require the defendant's in-person appearance for the following necessary hearings:

(1) Compliance hearings pursuant to RCW 10.21.055 and RCW 9.41.800. The Court finds good cause to require the in-person appearance of all defendants at compliance hearings pursuant to RCW 10.21.055 (alcohol monitoring) and RCW 9.41.801 (weapons surrender). Compliance with these statutes is a condition of release set by the Court and verification of timely compliance with these statutes has public safety implications. Non-compliance may result in review of release conditions. A defendant failing to comply with release conditions is subject to modification of release conditions and revocation of release on personal recognizance. Defendants have a due process right to notice and a hearing before any revision of release conditions. CrRLJ 3.2(j).

(2) Modification of Release Conditions Pursuant to CrRLJ 3.2(j). The Court finds good cause to require the in-person appearance of all defendants for hearings pursuant to CrRLJ 3.2(j) to modify release conditions or revoke release on personal recognizance. A defendant has a due process right to be advised of the allegations of non-compliance with release conditions and to have a hearing regarding those allegations. The Court cannot conduct a hearing pursuant to CrRLJ 3.2(j) in the absence of the defendant.

(3) Readiness Hearings. The Court finds good cause to require the in-person appearance of all defendants for Readiness Hearing trial confirmation in order for the Court to properly manage the jury trial caseload and trial confirmation calendars. A continuance is a critical stage of the proceedings and the defendant has the right to appear. A motion to continue cannot be heard in the absence of an unrepresented defendant.

Cases confirmed for the assigned trial date at Readiness Hearing are an affirmation by the parties and their counsel that discovery has been completed, necessary pre-trial motions have been resolved, witness interviews have been completed and the matter is ready to proceed to trial. 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.

(4) Sentence Review Hearings. The Court finds good cause to require the in-person appearance of all defendants for sentence review hearings. A defendant has a due process right to be advised of the allegations of non-compliance with probation conditions, to have a hearing regarding the allegation and to require the

prosecutor to prove the allegations of non-compliance. The Court cannot conduct a sentence review in the absence of the defendant.

(h) The defendant's in-person appearance may be waived at the discretion of a judicial officer.

[Effective September 1, 2005; Revised Effective September 1, 2019; Revised September 1, 2020]

LCrRLJ 3.7 (Revised)

Motions

- (a) Confirmation Required.** Two (2) court days prior to the calendared hearing date, the party demanding a CrRLJ 3.5 hearing and the moving party for all motions filed pursuant to CrRLJ 3.6, LCrRLJ 3.7(b), CrRLJ 8.3 and any other motion to suppress evidence or motion to dismiss, shall email confirmation to the Court Clerk between 8:30 AM and 4:30 PM, and confirm that the motion is going to proceed. Confirmation must include the name of the person confirming, the party they represent, and the case number. Failure to confirm shall cause the case to be stricken from the motion calendar.
- (b) Pre-Trial Motions to Admit, Exclude or Suppress Evidence.** Unless otherwise ordered by the Court, all pre-trial motions to admit, exclude, or suppress evidence that require the presentation of testimony or other evidence shall comply with the requirements of CrRLJ 3.6 and shall be heard not later than 1 week prior to the trial date.
- (c) CrRLJ 3.5 Motions.** Unless otherwise ordered by the Court, hearings pursuant to CrRLJ 3.5 shall be heard not later than 1 week prior to the trial date.
- (d) Timing.** The filing, content and calendaring of motions is governed by CrRLJ 3.6, 8.1, and 8.2, except that any responsive pleadings must be filed and served not later than 12:00 pm on the court day before the scheduled hearing.

[Effective September 1, 2019: Revised effective September 1, 2023]

LCrRLJ 3.8

Presence of Prosecutor and Defense Attorney

In all criminal cases called before any court of limited jurisdiction in Cowlitz County, a representative of the prosecuting authority responsible for the case shall be present to conduct the case for the plaintiff. In all criminal cases called before any court of limited jurisdiction in Cowlitz County, a representative from the office or firm or individual attorney who has contracted to provide indigent criminal representation who has either been assigned to the case or who will potentially be assigned to the case shall be present. This rule applies to first appearances, arraignments, pre-trial hearings, readiness hearings, review hearings, motions, trials and any and all other times a case is called in court except for those times during which a defendant without notice to his or her assigned attorney or an unrepresented defendant appears before the court asking to quash an arrest warrant. This rule does not apply to conflict attorneys who have not yet been assigned to provide representation. Upon prior approval of the Court, the representative of the Prosecuting Attorney's Office or the Office of the City Attorney may appear by telephone.

[Effective September 1, 2019]

LCrRLJ 4.1

Arraignment

Appointment of counsel eliminates the need for a further arraignment. Upon the appointment of counsel, the court shall enter a plea of “not guilty” and set the appropriate hearing(s). Appointment of counsel shall commence the running of the time periods established in CrRLJ 3.3, unless the time periods have previously been commenced by an appearance in open court.

[Effective September 1, 2007]

LCrRLJ 8.1 (New)

Time

- (a) Computation. Time shall be computed in accordance with CRLJ 6(a).
- (b) Enlargement. When by these rules or by a notice given thereunder 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 therefore 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. The court may not extend the time for taking any actions under rules 7.4, 7.5, 7.8 and 9.1.
- (c) For Motions – Affidavits. A written 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 shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; except as otherwise provided in rule 7.5, 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.

[Effective September 1, 2023]

Local Civil Rules

LCRLJ 53.3

Civil Jury Pre-Trial Procedure

All cases set for jury trial shall be set for pre-trial conference which shall be held at least two (2) weeks prior to trial. No order shall be required for this mandatory pre-trial conference. The attorneys who are to conduct the trial shall be present to consider such matters as will promote a fair and expeditious trial. All discovery should be completed three (3) days prior to said conference. Absent prior Court approval otherwise, all motions in limine which have not previously been heard or which do not require testimony shall be heard at the pre-trial conference. Opposing counsel must be given seven (7) days' notice of all motions in limine to be heard at the pre-trial conference. Any pre-trial motions requiring testimony of witnesses for argument may, in the discretion of the Court, be continued to the day of trial. All amendments, pleas, and motions should be made or be completed at this conference. Upon failure to appear, the Court may proceed with the conference ex-parte, if necessary, and enter any appropriate order including striking the jury demand and may impose terms.

[Effective September 1, 2019]

LCRLJ 54
Judgment and Costs

- (e) Attorney fees. When any party claims the right to recover attorney fees by contract, statute, or court rule, that fact shall be brought to the attention of the Court immediately following its decision on the merits of the case, or the delivery of the jury verdict. If the Court then determines that an award of attorney fees may be appropriate, the Court may require the party requesting attorney fees to provide the Court with an affidavit detailing the fees incurred. The Court may either make an award of attorney fees and include it in the judgment, or schedule the matter for further argument.
- (f) In civil default cases where attorney fees are authorized by statute or by written agreement, the following fee schedule shall be deemed reasonable in all default cases unless the parties present evidence of circumstances that convinces the court that a larger or smaller fee should be awarded, provided, however, the court shall have authority to vary from this schedule on its own motion:

SCHEDULE FOR REASONABLE ATTORNEY FEES
IN DEFAULT CASES
(Unless limited by statute)

| JUDGMENT PRINCIPLE | ATTORNEY FEE |
|-----------------------|--------------|
| \$0 to \$2,500 | \$300 |
| \$2,500.01 to \$5,000 | \$450 |

For judgment amounts exceeding \$5,000, reasonable attorney fees may be allowed in the amount of 10% or any balance over \$5,000, without formal justification or documentation.

[Effective September 1, 2019]

LCRLJ 69

Garnishment Judgment on Answer

Judgments on answer of garnishee defendant seeking the addition of costs to the previous judgment balance shall include a cost bill itemizing the following under penalty of perjury:

1. Principle amount owed at time garnishment filed;
2. Garnishment filing fee;
3. Attorneys' fees;
4. Answer fee;
5. Service fee;
6. Postage/Certified mail costs; and
7. Any other fees or costs requested and not otherwise provided to herein.

[Effective September 1, 2019]