INFRACTION RULES FOR COURTS OF LIMITED JURISDICTION (IRLJ)

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RULE 1.1
SCOPE AND PURPOSE OF RULES

(a) Scope of Rules. These rules govern the procedure in courts of limited jurisdiction for all cases involving "infractions". Infractions are noncriminal violations of law defined by statute.

(b) Purpose. These rules shall be construed to secure the just, speedy, and inexpensive determination of every infraction case.

(c) Effect of Other Law. These rules supersede all conflicting rules and statutes covering procedure for infractions unless a rule indicates a statute or rule controls. Provisions of statute or rule not inconsistent with these rules shall remain in effect.

IRLJ
Rule 1.2
DEFINITIONS

For the purposes of these rules:

(a) Infraction Case. "Infraction case" means a civil proceeding initiated in a court of limited jurisdiction pursuant to a statute that authorizes offenses to be punished as infractions.

(b) Notice of Infraction. "Notice of infraction" means a document initiating an infraction case when issued and filed pursuant to statute and these rules.

(c) Defendant. "Defendant" means a person cited for an infraction, a registered owner of a vehicle cited for a parking infraction, or the person who responds to the parking infraction or the requests of a hearing.

(d) Court. "Court" means a court of limited jurisdiction organized pursuant to RCW Title 3, RCW Title 35, or RCW Title 35A.

(e) Judgment. "Judgment" means any final decision in an infraction case, including, but not limited to, a finding entered after a hearing governed by these rules or after payment of a monetary penalty in lieu of a hearing.

(f) Plaintiff. "Plaintiff" means the governmental unit issuing the notice of infraction, including, but not limited to, the state, a county, or a municipality.

(g) Department. "Department" means the Washington State Department of Licensing.

(h) Lawyer. "Lawyer" means any person authorized by Supreme Court rule to practice law.

(i) Statute. "Statute" means any state statute, local or county ordinance, resolution, or regulation, or agency regulation.

(j) Citing Officer. "Citing officer" means a law enforcement officer or other official authorized by law to issue a notice of infraction.

(k) Prosecuting Authority. "Prosecuting authority" includes prosecuting attorneys, city attorneys, corporation counsel, and their deputies and assistants, or such other persons as may be designated by statute.

(l) Judge. "Judge" means any judge of any court of limited jurisdiction and shall include every judicial officer authorized to preside over infraction cases.

(m) Community Restitution. "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the defendant.

[Adopted effective September 1, 1992; amended effective June 2, 1998; amended effective January 3, 2006.]

RULE 1.3
LOCAL COURT RULES

(a) Adoption. Each court may adopt special infraction rules not inconsistent with these general rules.
(b) Format. The numbering system and format of local rules shall conform to these rules.
(c) Filing. Local rules become effective only after they are filed with the Administrator for the Courts in accordance with GR 7.

IRLJ 2.1
NOTICE OF INFRACTION

(a) Infraction Form Prescribed or approved by the Administrative Office of the Courts. Infraction cases shall be filed on a form entitled "Notice of Infraction" prescribed by the Administrative Office of the Courts; except that the form used to file cases alleging the commission of a parking, standing or stopping infraction shall be approved by the Administrative Office of the Courts. Notice of Infraction forms prescribed or approved by the Administrative Office of the Courts are presumed valid and shall not be deemed insufficient by reason of defects or imperfections which do not prejudice substantial rights of the defendant.

(b) Contents. Subject to IRLJ 3.1(d), the notice of infraction shall contain the following information on the copy given to the defendant, except the information required by subsections (2) is not required on a notice of infraction alleging the commission of a parking, standing, or stopping infraction:

(1) The name, address, and phone number of the court where the notice of infraction is to be filed;

(2) The name, address, date of birth, sex, physical characteristics, and, for a notice of traffic infraction, the operator's license number of the defendant;

(3) For a notice of traffic infraction, the vehicle make, year, model, style, license number, and state in which licensed;

(4) The infraction which the defendant is alleged to have committed and the accompanying statutory citation or ordinance number, the date, time, and place the infraction occurred, the date the notice of infraction was issued, and the name and, if applicable, the number of the citing officer;

(5) A statement that the defendant must respond to the notice of infraction within 15 days of the date the notice is personally served or, if the notice is served by mail, within 18 days of the date the notice is mailed.

(6) A space for entry of the monetary penalty which respondent may pay in lieu of appearing in court;

(7) A statement that a mailed response must be mailed not later than

midnight on the day the response is due;

(8) The statements required by RCW 46.63.060 or other applicable statute; and

(9) Any additional information determined necessary by the Administrator for the Courts.

[Adopted effective September 1, 1992; amended effective June 2, 1998; January 3, 2006; November 21, 2006; May 6, 2008; September, 2010; July 24, 2012]

RULE IRLJ 2.2
INITIATION OF INFRACTION CASES

(a) Generally. An infraction case is initiated by the issuance, service, and filing of a notice of infraction in accordance with this rule. An infraction is issued on the date the infraction is signed by the citing officer or prosecuting authority.

(b) Who May Issue. A notice of infraction may be issued, upon certification that the issuer has probable cause to believe, and does believe, that a person has committed an infraction contrary to law:

(1) By a citing officer. The infraction need not have been committed in the officers presence, except as provided by statute;

(2) By the prosecuting authority.

(c) Service of Notice. A notice of infraction may be served either by:

(1) The citing officer serving the notice of infraction on the person named in the notice of infraction at the time of issuance;

(2) The citing officer affixing to a vehicle in a conspicuous place the notice of a traffic infraction if it alleges the violation of a parking, standing, or stopping statute; or

(3) The citing officer or the prosecuting authority filing the notice of infraction with the court, in which case the court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of infraction at his or her address. If a notice of infraction served by mail is returned to the court as undeliverable, the court shall issue a summons.

(d) Filing of Notice. When a notice of infraction has been issued, the notice shall be filed with a court having jurisdiction over the infraction or with a violations bureau subject to such courts supervision. The notice must be filed within five days of issuance of the notice, excluding Saturdays, Sundays, and holidays. In the absence of good cause shown, a notice of infraction not filed within the time limits of this section shall, upon motion, be dismissed with prejudice.

[Adopted as JTIR effective January 1, 1981; amended effective September 1, 1989. Changed from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; September 1, 1999; amended effective January 3, 2006.]

RULE 2.3
VENUE

Except as otherwise specifically provided by statute, an infraction case shall be brought in the district court district or the municipality where the infraction occurred. If a notice of infraction is filed in a court which is not the proper venue, the notice shall be dismissed without prejudice on motion of either party.

RULE IRLJ 2.4
RESPONSE TO NOTICE

(a) Generally. A person who has been served with a notice of infraction must respond to the notice within 15 days of the date the notice is personally served or, if the notice is served by mail, within 18 days of the date the notice is mailed.

(b) Alternatives. A person may respond to a notice of infraction by:

(1) Paying the amount of the monetary penalty in accordance with applicable law, in which case the court shall enter a judgment that the defendant has committed the infraction;

(2) Contesting the determination that an infraction occurred by requesting a hearing in accordance with applicable law;

(3) Requesting a hearing to explain mitigating circumstances surrounding the commission of the infraction in accordance with applicable law; or

(4) Submitting a written statement either contesting the infraction or explaining mitigating circumstances, if this alternative is authorized by local court rule. The statement shall contain the person's promise to pay the monetary penalty authorized by law if the infraction is found to be committed. For contested hearing the statement shall be executed in substantially the following form:

I hereby state as follows:

I promise that if it is determined that I committed the infraction for which I was cited, I will pay the monetary penalty authorized by law and assessed by the court.
I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

_____ _____
(Date and Place) (Signature)

I understand that if this form is submitted by e-mail, my typed name on the signature line will qualify as my signature for purposes of the above certification.)

For mitigation hearings, the statement shall be executed in substantially the following form:

I hereby state as follows:

I promise to pay the monetary penalty authorized by law or, at the discretion of the court, any reduced penalty that may be set.

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

_____ _____
(Date and Place) (Signature)

I understand that if this form is submitted by e-mail, my typed name on the signature line will qualify as my signature for purposes of the above certification.

(c) Method of Response. A person may respond to a notice of infraction either personally, or if allowed by local rule by mail or by e-mail. If the response is mailed or e-mailed, it must be postmarked or e-mailed not later than midnight of the day the response is due.

[Adopted effective September 1, 1992; amended effective January 3, 2006.]

RULE IRLJ 2.5
FAILURE TO RESPOND

If the defendant fails to respond to a notice of infraction, the court shall enter an order finding that the defendant has committed the infraction, shall assess any monetary penalties provided for by law, and, in the case of a traffic infraction, shall notify the Department of the defendants failure to respond in accordance with RCW 46.20.270.

[Adopted effective September 1, 1992.]

RULE 2.6
SCHEDULING OF HEARINGS

(a) Contested Hearings.

(1) Except as provided in sections (1)(i) and (ii), upon receipt of a response submitted pursuant to rule 2.4(b)(2), the court shall schedule a hearing to determine whether the defendant committed the infraction. The hearing shall be scheduled for not less than 14 days from the date the written notice of hearing is sent by the court, nor more than 120 days from the date of the notice of infraction or the date a default judgment is set aside.

(i) If authorized by local court rule, a defendant who requests a contested hearing may first be scheduled for a prehearing conference, which shall be scheduled for not less than 14 days from the date the written notice of the hearing is sent by the court nor more than 45 days from the date of the notice of infraction or the date a default judgment is set aside, unless

otherwise agreed by the defendant in writing.

(ii) The prehearing conference may be waived by the defendant in writing if the waiver is received by the court before the time set for the prehearing conference. If the prehearing conference is waived, the case will be set for contested hearing. The contested hearing shall be scheduled for not more than 90 days from the date of the prehearing conference or, if the prehearing conference is waived, from the date the waiver of the prehearing conference is received by the court.

(2) The court shall send the defendant written notice of the time, place, and date of the hearing within 21 days of the receipt of the request for a hearing. The notice of the hearing shall also include statements advising the defendant of the defendant's rights at the hearing, how the defendant may request that witnesses be subpoenaed, and that failure to appear may be a crime for which the defendant may be arrested, and, in a traffic infraction case, the defendant's privilege to operate a motor vehicle may be suspended. If a local rule is adopted implementing sections (a)(1)(i) and (ii), the court shall advise the defendant in the notice of the defendant's right to waive the prehearing conference.

(3) The court may schedule the hearing on a contested infraction for the same time as the hearing on another infraction alleged to have been committed by the defendant. The court may schedule the hearing on a contested infraction for the same time as the trial on a misdemeanor arising out of the same occurrence as the infraction.

(4) The infraction may be dismissed upon a showing of prejudice if the court does not send a defendant written notice of a hearing within 21 days of receipt of the request for a hearing.

(b) Mitigation Hearings.

(1) Upon receipt of a response submitted pursuant to rule 2.4(b)(3) the court shall schedule a hearing to determine whether there were mitigating circumstances surrounding the commission of the infraction. The hearing shall be scheduled for not less than 14 days from the date the written notice of hearing is sent by the court, nor more than 120 days from the date of the notice of infraction or the date a default judgment is set aside, unless otherwise agreed by the defendant in writing.

(2) The court shall send the defendant written notice of the time, place, and date of the hearing within 21 days of the request for a hearing. The notice shall also include statements advising the defendant of the defendant's rights at the hearing and stating that failure to appear may be a crime for which the defendant may be arrested, and, in a traffic infraction case, the defendant's privilege to operate a motor vehicle may be suspended.

(3) The court may schedule the mitigation hearing for the same time as the mitigation hearing on another infraction alleged to have been committed by the defendant.

(c) Decisions on Written Statements. If the court has adopted a local rule authorizing decisions on written statements submitted by mail, or e-mail, it shall, upon receipt of a statement pursuant to rule 2.4(b)(4), consider the case in accordance with rule 3.5. The requirements of GR 30.5 are not applicable to e-mail statements submitted pursuant to rule 2.4(b)(4). The court is not required to notify the parties of a date for the examination of the statements.

(d) Objection to Hearing Date. A defendant who objects to the hearing date set by the court upon the ground that it is not within the time limits prescribed by this rule shall file with the court and serve upon the prosecuting authority a written motion for a speedy hearing date within 10 days after the notice of hearing is mailed or otherwise given to the defendant. Failure of a party, for any reason, to make such a motion shall be a waiver of the objection that a hearing commenced on such a date is not within the time limits prescribed by this rule. The written notice of the hearing date shall contain a copy of IRLJ 2.6(d).

(e) Time for Hearing; Effect of Delay or Continuances. A motion for dismissal for the failure to hold a hearing within the time period provided by this rule shall not be granted if the failure to hold the hearing was attributable to the defendant or the defendant's counsel.

(f) Dismissal With Prejudice. An infraction not brought to hearing within the time period provided by this rule shall, upon motion, be dismissed with prejudice.

(g) Change of Judge. The provisions of CRLJ 40(f) apply.

[Adopted as JTIR effective January 1, 1981; amended effective September 1, 1989. Changed from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; September 1, 1998; amended effective January 3, 2006.]

RULE IRLJ 3.1
CONTESTED HEARINGS--PRELIMINARY PROCEEDINGS

(a) Subpoena. The defendant and the prosecuting attorney may subpoena witnesses necessary for the presentation of their respective cases. Witnesses should be served at least 7 days before the hearing. The subpoena may be issued by a judge, court commissioner, or clerk of the court or by a party's lawyer. If a party's lawyer issues a subpoena, a copy shall be filed with the court and with the office of the prosecuting authority assigned to the court in which the infraction is filed on the same day it is sent out for service. A request that an officer appear at a contested hearing pursuant to rule 3.3(c) shall be filed on a separate pleading. A subpoena may be directed for service within their jurisdiction to the sheriff of any county or any peace officer of any municipality in the state in which the witness may be or it may be served as provided in CR 45(c), or it may be served by first-class mail, postage prepaid, sent to the witnesses' last known address. Service by mail shall be deemed complete upon the third day following the day upon which the subpoena was placed in the mail. If the subpoena is for a witness outside the county, a judge must approve of the subpoena.

(b) Discovery. Upon written demand of the defendant at least 14 days before a contested hearing, filed with the court and served on the office of the prosecuting authority assigned to the court in which the infraction is filed, the prosecuting attorney shall at least 7 days before the hearing provide the defendant or the defendant's lawyer with (1) a copy of the citing officer's sworn statement (2) a copy of video or photographic evidence the prosecutor proposes to introduce at trial, unless in reply to the discovery request the prosecutor provides the address to a website where such evidence is accessible to the defendant; and (3) the names of any witnesses not identified in the citing officer's sworn statement. No other discovery shall be required. If the prosecuting authority provides any portion of the discovery less than 7 days before the hearing, such untimely discovery shall be suppressed only upon a showing of prejudice in the presentation of the defendant's case. If the prosecuting authority, without reasonable excuse or justification, fails to provide any portion of the discovery prior to the day of the hearing, the portion of discovery not provided shall be suppressed. Neither party is precluded from investigating the case, and neither party shall impede another party's investigation. A request for discovery pursuant to this section shall be filed on a separate pleading.

(c) Amendment of Notice. The court may permit a notice of infraction to be amended at any time before judgment if no additional or different infraction is charged, and if substantial rights of the defendant are not thereby prejudiced. A continuance shall be granted if the defendant satisfies the court that the additional time is needed to defend against the amended notice of infraction.

(d) Sufficiency. No notice of infraction shall be deemed insufficient for failure to contain a definite statement of the essential facts constituting the specific infraction which the defendant is alleged to have committed, nor by reason of defects, imperfections or omissions which do not tend to prejudice substantial rights of the defendant.

Adopted as JTIR effective January 1, 1981. Changed from JTIR to IRLJ effective September 1, 1992; amended effective January 2, 1997; amended effective January 3, 2006; January 2, 2007; amended effective September 1, 2010.]

RULE 3.2
FAILURE TO APPEAR

(a) Entry of Judgment. If the defendant fails to appear at a requested hearing the court shall enter judgment against the defendant finding that the defendant has committed the infraction and assessing against the defendant any monetary penalties provided by law. A judgment upon a failure to appear shall not be entered if it appears to the court from the papers on file that the infraction case was brought in an improper court.

(b) Setting Aside Judgment Upon Failure To Appear. For good cause shown and upon terms the court deems just, the court may set aside a judgment entered upon a failure to appear in accordance with CRLJ 60(b).

RULE IRLJ 3.3
PROCEDURE AT CONTESTED HEARING

(a) Generally. The court shall conduct the hearing for contesting the notice of infraction on the record in accordance with applicable law.

(b) Representation by Lawyer. At a contested hearing, the plaintiff shall be represented by a lawyer representative of the prosecuting authority when prescribed by local court rule. The defendant may be represented by a lawyer.

(c) Rules of Evidence. The Rules of Evidence and statutes that relate to evidence in infraction cases shall apply to contested hearings. The court may consider the notice of infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing, unless the defendant has caused the officer to be served with a subpoena to appear in accordance with instructions from the court issued

pursuant to rule 2.6(a)(2).

(d) Factual Determination. The court shall determine whether the plaintiff has proved by a preponderance of the evidence that the defendant committed the infraction. If the court finds the infraction was committed, it shall enter an appropriate order on its records. If the court finds the infraction was not committed, it shall enter an order dismissing the case.

(e) Disposition. If the court determines that the infraction has been committed, it may assess a monetary penalty against the defendant. The monetary penalty assessed may not exceed the monetary penalty provided for the infraction by law. The court may waive or suspend a portion of the monetary penalty, or provide for time payments, or in lieu of monetary payment provide for the performance of community restitution as provided by law. The court has continuing jurisdiction and authority to supervise disposition for not more than 1 year.

[Adopted as JTIR effective January 1, 1981; amended effective March 20, 1981. Changed from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; amended effective January 3, 2006.]

RULE IRLJ 3.4
HEARING ON MITIGATING CIRCUMSTANCES

(a) Generally. The court shall conduct the hearing concerning mitigating circumstances in accordance with applicable law.

(b) Procedure at Hearing. The court shall hold an informal hearing which shall not be governed by the Rules of Evidence. Subject to the other provisions of these rules, all relevant evidence is admissible which, in the opinion of the judge, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. The plaintiff and the defendant may each be represented by a lawyer. The defendant may present witnesses, but they may not be compelled to attend.

(c) Disposition. The court shall determine whether the defendants explanation of the events justifies reduction of the monetary penalty. The court shall enter an order finding the defendant committed the infraction and may assess a monetary penalty. The court may not impose a penalty in excess of the monetary penalty provided for the infraction by law. The court may waive or suspend a portion of the monetary penalty, or provide for time payments, or in lieu of monetary payment provide for the performance of community restitution as provided by law. The court has continuing jurisdiction and authority to supervise disposition for not more than 1 year.

[Adopted effective September 1, 1992; amended effective January 3, 2006.]

RULE IRLJ 3.5
DECISION ON WRITTEN STATEMENTS
(Local Option)

(a) Contested Hearings. 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 infraction. The examination may be held in chambers and shall not be governed by the Rules of Evidence.

(1) Factual Determination. The court shall determine whether the plaintiff has proved by a preponderance of all evidence submitted that the defendant has committed the infraction.

(2) Disposition. If the court determines that the infraction has been committed, it may assess a penalty in accordance with rule 3.3.

(3) Notice to Parties. The court shall notify the parties in writing whether an infraction was found to have been committed and what penalty, if any, was imposed.

(4) No Appeal Permitted. There shall be no appeal from a decision on written statements.

(b) Mitigation Hearings. Mitigation hearings based upon written statements may be held in chambers.

[Adopted as JTIR effective January 1, 1981. Changed from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; amended effective January 3, 2006.]

IRLJ 4.1
NOTIFICATION TO DEPARTMENT OF LICENSING OF TRAFFIC INFRACTION

(a) Generally. Upon entry of judgment that a traffic infraction was committed the court shall forward to the Department of Licensing a copy of the notice of traffic infraction and an abstract of the courts order. Courts may forward case disposition information to the Department of Licensing via electronic means according to procedures established by the Department and the Administrator for the Courts.

(b) Parking, Standing, Stopping, or Pedestrian Infractions. The court shall not notify the Department of a parking, standing, stopping, or pedestrian infraction, except as allowed by RCW 46.20.270(3).

(c) Notice to Department When Failure To Appear Set Aside. If a judgment for a failure to appear in a traffic infraction case has been set aside, the Department shall be notified that it has been set aside and of the final disposition of the infraction upon entry of judgment.

[Adopted effective September 1, 1992; November 21, 2006.]

RULE IRLJ 4.2
FAILURE TO PAY OR COMPLETE COMMUNITY RESTITUTION FOR TRAFFIC INFRACTION

(a) Failure To Pay or Complete Community Restitution. Unless the traffic infraction is a parking, standing, stopping, or pedestrian infraction, the court shall notify the Department within 10 days:

(1) If the defendant fails to pay the monetary penalty assessed after a hearing to contest the traffic infraction or a hearing to explain mitigating circumstances, or after a decision on written statements, if authorized by local court rule, or

(2) If the defendant fails to meet a time payment authorized by the court or fails to complete community restitution approved by the court.

(b) Notice to Department. The notice to the Department shall be in the form prescribed by the Department.

(c) Removal of the Failure To Pay or Complete Community Restitution. When the defendant has paid all monetary penalties owing, including completion of community restitution, the court shall notify the Department within 10 days of payment or of completion of community restitution on a form prescribed by the Department.

[Adopted effective September 1, 1992; amended effective January 3, 2006.]

RULE 5.1
WHAT ORDERS MAY BE APPEALED

A defendant may appeal a judgment entered after a contested hearing finding that the defendant has committed the infraction. The plaintiff may appeal a decision which in effect abates, discontinues, or determines the case other than by a judgment that the defendant has not committed an infraction. No other orders or judgments are appealable by either party.

RULE 5.2
APPEAL TO SUPERIOR COURT

An appeal from a court of limited jurisdiction is governed by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. Under RALJ 1.1 the appeal from some courts is an appeal for error on the record, and the appeal from other courts is conducted as a trial de novo. The procedures for an appeal for error on the record are defined by RALJ. The procedures for a trial de novo are defined by CRLJ 73 and 75.

RULE 6.1
TIME

Time shall be computed or enlarged as provided in CRLJ 6, except that

the time in which to respond to the notice of infraction under rule 2.4 and the time in which to file an appeal may not be enlarged.

6.2 MONETARY PENALTY SCHEDULE FOR TRAFFIC INFRACTIONS (IN PDF FORMAT)

The contents of this item are only available on-line.

RULE 6.3
TITLE AND CITATION OF RULES

These rules may be known and cited as Infraction Rules for Courts of Limited Jurisdiction. IRLJ is the official abbreviation.

RULE 6.4
EFFECTIVE DATE

These rules shall apply to all infraction cases in which the infraction occurred on or after September 1, 1992.

RULE 6.5
RULES SUPERSEDED

The Justice Court Traffic Infraction Rules originally effective January 1, 1981, are superseded by these rules, except that the Justice Court Traffic Infraction Rules shall be applicable to any traffic offense occurring before September 1, 1992.

IRLJ 6.6
SPEED MEASURING DEVICE: DESIGN AND CONSTRUCTION CERTIFICATION

(a) In General. This rule applies only to contested hearings in traffic infraction cases.

(b) Speed Measuring Device Certificate; Form. In the absence of proof of a request on a separate pleading to produce an electronic or laser speed measuring device (SMD) expert served on the prosecuting authority and filed with the clerk of the court at least 30 days prior to trial or such lesser time as the court deems proper, a certificate in substantially the following form is admissible in lieu of an expert witness in any court proceeding in which the design and construction of an electronic or laser speed measuring device (SMD) is an issue:

CERTIFICATION CONCERNING DESIGN AND CONSTRUCTION OF ELECTRONIC SPEED MEASURING DEVICES OR LASER SPEED MEASURING DEVICES

I, _____ do certify under penalty of perjury as follows:

I am employed with _____ as a _____. I have been employed in such a capacity for _____ years. Part of my duties include supervising the maintenance and repair of all electronic and laser speed measuring devices (SMD's) used by _____ (name of agency).

This agency currently uses the following SMD's:

(List all SMD's used and their manufacturers and identify which SMDs use laser technology.)

I have the following qualifications with respect to the above stated SMD's:

(List all degrees held and any special schooling regarding the SMD's listed above.)

This agency maintains manuals for all of the above stated SMD's. I am personally familiar with those manuals and how each of the SMD's are designed and operated. On _____ (date) testing of the SMD's was performed under my direction. The units were evaluated to meet or exceed existing performance standards. This agency maintains a testing and certification program. This program requires:

(State the program in detail.)

Based upon my education, training, and experience and my

knowledge of the SMD's listed above, it is my opinion that each of these electronic pieces of equipment is so designed and constructed as to accurately employ the Doppler effect in such a manner that it will give accurate measurements of the speed of motor vehicles when properly calibrated and operated by a trained operator or, in the case of the laser SMDs, each of these pieces of equipment is so designed and constructed as to accurately employ measurement techniques based on the velocity of light in such a manner that it will give accurate measurements of the speed of motor vehicles when properly calibrated and operated by a trained operator.

_____
(Signature)

Dated: _____

(c) Continuance. The court at the time of the formal hearing shall hear testimony concerning the infraction and, if necessary, may continue the proceedings for the purpose of obtaining evidence concerning an electronic speed measuring device and the certification thereof. If, at the time it is supplied, the evidence is insufficient, a motion to suppress the readings of such device shall be granted.

(d) Maintaining Certificates as Public Records. Any certificate, affidavit or foundational evidentiary document allowed or required by this rule can be filed with the court and maintained by the court as a public record. The records will be available for inspection by the public. Copies will be provided on request. The court may charge any allowable copying fees. The records are available without a formal request for discovery. The court is entitled to take judicial notice of the fact that the document has been filed with the court. Evidence will not be suppressed merely because there is not a representative of the prosecuting authority present who actually offers the document. Evidence shall be suppressed pursuant to subsection (c) of this rule if the evidence in the certificate, affidavit or document is insufficient, or if it has not been filed as required.

[Adopted as JTIR effective January 1, 1981; amended effective September 1, 1989. Changed from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; amended effective October 31, 2000; amended effective January 3, 2006.]

RULE IRLJ 6.7
IDENTITY CHALLENGES AND RELIEF FROM JUDGMENT

(a) Relief from Judgment. A motion to waive or suspend a fine, or to convert a penalty to community restitution, or to vacate a judgment is governed by CRLJ 60(b).

(b) Identity Challenge.

(1) Right Granted. In addition to the rights granted defendants pursuant to rule 6.7(a), a defendant may move to vacate a judgment that was entered after a failure to respond to a notice of infraction on the basis that he or she was mistakenly identified as the person who allegedly committed the infraction.

(2) Identity Affidavit. A defendant moving to vacate a judgment for mistaken identification shall file an affidavit or certification under RCW 9A.72.085 with the court in which the infraction was found committed and with the office of the prosecuting authority assigned to the court stating that he or she could not be the person identified by the citing officer as having committed the infraction, citing a factual basis for the assertion and stating that he or she was not served with the notice of infraction.

(3) Adjudication Pending Hearing. The court may, at its discretion, set aside the default judgment pending the hearing.

(4) Scheduling of Hearings. An identification hearing shall be scheduled for not less than 14 days and not more than 120 days from the date an identity affidavit is filed unless otherwise agreed by the defendant. The court shall send the defendant written notice of the time, place and date of the hearing within 28 days of the receipt of the request for hearing.

(5) Hearing Procedure. The court may require the presence of the defendant at the scheduled hearing. At the hearing, identification may be established by methods other than direct identification in court.

(6) Disposition. If the court determines that the named defendant was the person identified by the citing officer as the person who committed the infraction or was served with the notice of infraction, the infraction shall remain committed or be re-adjudicated as committed.

[Adopted effective September 1, 1994; amended effective January 3, 2006; amended effective February 28, 2006.]