Local Rules for the Superior Court
For Lincoln County

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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR LINCOLN COUNTY

In Re Local Rules
Of the

ORDER ADOPTING LOCAL RULES

Pursuant to Civil Rules for Superior Court, CR83, the following Local Rules are hereby adopted by the Superior Court of the State of Washington for Lincoln County, to be in effect from and after the 10th day of September, 1990, superseding all special rules and local rules heretofore adopted.

Dated this 4th day of September, 1990

(s) PHILIP W. BORST
Judge of the Superior Court

RULE 1.

SESSIONS OF COURT

There shall be one continuous session of Court from 9:30 a.m. until 4:30 p.m. each day, January 1st through December 31st, excepting non-judicial days, which are hereby designated to be every Saturday and Sunday and those days designated by law as legal holidays, or specifically designated as non-judicial days by the State Supreme Court.

RULE 2.
LAW AND MOTION DAY

A. Law and Motion Day shall be held each Tuesday commencing at 9:30 a.m. (when necessary, and at the direction of the Judge, some matters may be heard at 9:00 a.m.), except when Tuesday is a legal holiday, or when cancelled by prior order of the Court. All matters requiring 30 minutes or less shall be set on Law and Motion day, unless other arrangements are made with the Court.

B. All matters to be heard on the regular Tuesday Law and Motion docket shall be scheduled with the Clerk of the Court not later than 12 Noon on the immediately preceding Monday.

C. The Clerk of the Court shall prepare a docket of all matters regularly scheduled and shall distribute the same to the Judge, attorneys (on request), Juvenile Office, and 5 copies to the Bailiff, who is responsible for posting the docket as follows: 1 on the docket board in the 2nd floor hallway and 1 on each of the counsel tables in the courtroom, the other 2 copies being for the Bailiff's personal use.

D. Law and Motion Day matters will be heard in the following order:

9:00 a.m. (1) adoptions and other matters to be heard in chambers, at the discretion of the Judge.

9:30 a.m. (1) probate and guardianship matters;
(2) ex parte matters;
(3) default judgments;
(4) default dissolutions of marriage;
(5) trial settings;

10:30 a.m. (1) criminal matters;

1:30 p.m. (1) juvenile matters;

2:30 p.m. (1) show cause hearings, marriage dissolutions;
(2) all motions requiring argument and other contested matters not requiring more than 30 minutes.

E. Special time settings on the motion docket may be made with the Consent of the Court. Preliminary appearances and arraignments may be held during any judicial day, on arrangement with the Court.

F. Motions requiring 15 minutes or less shall be heard in the morning. At the time of docketing, The Clerk's office shall be given notice of any matters requiring more than 15 minutes, and these shall be scheduled for the afternoon, after any juvenile matters which may be scheduled.

G. Matters requiring more than 30 minutes shall be scheduled in the manner as trials.

RULE 3-1.
JUVENILE MATTERS (Offender)

A. Juvenile offender matters shall be heard at the time set aside by the Court on Law and Motion Day (1:30 p.m., Tuesday), unless otherwise provided by the Court. Upon filing of an Information by the Prosecuting Attorney, the alleged offender shall be notified of the first appearance by personal service of Notice and Summons by law enforcement personnel, or as directed by court order, in accordance with RCW 13.40.100 Notice and Summons shall be delivered a minimum of 3 court days prior to the hearing date. Court hearings succeeding the first appearance shall be scheduled in open court in the presence of the juvenile and his/her attorney (if applicable).

B. Law enforcement reports shall be filed within 7 days of the establishment of probable cause. Juveniles lodged in detention are exceptional cases and shall require a report to be filed within 24 hours.

C. Upon appointment/retention of an attorney for a divertable offense (RCW 13.40.070), a decision regarding acceptance/refusal of diversion shall be submitted to the Diversion Union within 2 weeks of attorney appointment/retention. The time frame may be extended by notifying the Diversion Unit.

D. Predisposition reports shall be delivered to the Court 3 days prior to disposition, or as otherwise agreed to by the Court.

E. Attorney fees/detention costs:

1. Attorney's fees may be assessed against the juvenile, parent, or other person legally obligated to support the juvenile, when public funded counsel is used for defense (RCW 13.40.145).

2. Partial detention costs for adjudicated

offenders may be assessed pursuant to RCW 13.40.220. Detention costs shall be based on the parties' ability to pay, not to exceed $25.00 per day/$300.00 per lodging in detention.

3. The State of Washington Determination of Indigency Report form, pursuant to RCW 10.101.020, shall be used in determining parental financial obligations pertaining to 1 and 2 above.

4. A hearing, judgment, and order determining parental financial obligations shall take place following disposition, or as otherwise directed by the Court.

F. Costs paid into the registry of Juvenile Court shall be disbursed in the following order:

1. restitution;
2. court costs;
3. crime victims' compensation;
4. attorney's fees;
5. drug fund.

RULE 3-2.
JUVENILE MATTERS (Dependency)

A. Juvenile dependency matters shall be presented in court by legal counsel from the office of the Attorney General, as arranged by the Department of Social and Health Services. Dependency matters shall be heard by the Court on Law and Motion day, succeeding juvenile offender matters, unless otherwise provided by the Court. Notice and Summons and Publication shall be as directed pursuant to RCW 13.34.070, 13.34.080.

B. Shelter-care hearings shall occur within 72 hours for the youth taken into custody pursuant to RCW 13.34.050, RCW 26.44.050, and RCW 13.34.060 (as amended under HB 2122). Dependency petitions not subject to a shelter-care hearing shall be hearing with the 75-day time framed provided by statute.

C. In accordance with RCW 10.101.020, a determination of indigency shall be made for all persons wishing the appointment of legal counsel involving dependency matters. The same indigency reporting format used in juvenile offender matters (Rule 3-1, E) shall be permitted in dependency matters.

D. Social studies and predisposition reports are to be presented to the Court 3 days prior to disposition, or as otherwise directed by the Court.

RULE 4.
FAMILY COURT, MENTAL PROCEEDINGS

Family court and mental hearing proceedings will be heard on special arrangement with the Court.

RULE 5.
MARRIAGE DISSOLUTIONS

A. Marriage dissolution petitions shall be accompanied by a vital statistics form.

B. At the final dissolution hearing, if the proposed Findings of Fact are verified by the petitioner and there has been no formal appearance by the other party, the personal appearance by the petitioner is not required.

C. If uncontested, the attorney for the appearing party shall deliver a copy of the decree to his client and mail a copy to the other party with the Court file mark indicated thereon.

D. Child support payments shall be made to the Washington State Support Registry, or other person entitled to receive the payments under an alternate payment plan approved by the Court as provided in RCW 26.23.050.

E. In all contested hearings or trials in domestic relations matters, each party shall serve on the opposing party a written pre-trial information form specified by the Court at least 10 days prior to trial.

F. Application for temporary restraining orders, support money, suit money, and attorney's fees shall be made on written motion supported by affidavit, signed by the movant, and may be supported or controverted by oral testimony.

G. In all show cause orders where a party is directed to "personally" appear and show cause, said party shall appear in person and subject himself to examination by counsel. Any such party must be given at least 5 days' notice of the time and place of the show cause hearing.

H. Under RCW 26.19, state guidelines have been established for child support, and this Court will follow such guidelines.

RULE 6.

SETTING CASES FOR TRIAL

A. Requests for trial settings in civil cases will be heard on Law and Motion Day at the time they are regularly noted for setting, upon proper written notice filed with the Clerk of the Court.

B. Civil cases will not be set for trial unless issues are fully joined, and all pleadings of the parties have been filed.

C. The notice of trial setting shall contain the nature of the cause, estimated length of trial, available trial dates, and names and addresses of attorneys for the parties and shall be signed by the attorney filing it, with the designation of the party represented.

D. When a notice for trial assignment comes on for hearing and a party demands or has demanded a jury, the demand should be accompanied with a deposit of the jury fee. Otherwise, a jury will be deemed waived, and the cause will be set for trial to the Court. If a jury is demanded and the jury fee is paid, the case will be set for trail at the next regular jury term setting.

E. Notice of trial dates shall be given to all counsel of record by the Clerk of the Court, and such setting shall be deemed binding if no formal objection is filed within 7 days thereof.

F. The Omnibus Hearing and pre-trial and trial dates for criminal matters shall be set at the time of arraignment, unless otherwise specifically provided by the Court.

RULE 7.
PRE-TRIAL PROCEDURE

If either party desires a pre-trial conference in civil matters prior to the trial date, the Court shall be so notified through the Clerk, and the same may be set. The Court may, in its discretion, order a pre-trial conference in any appropriate case.

RULE 8.
TRIAL BRIEFS

A. NOT LESS THAN 3 WORKING DAYS PRIOR TO THE

COMMENCEMENT OF THE TRIAL, the attorneys for the parties thereto shall serve upon opposing counsel for each party, and also furnish to the Court, a trial brief or memorandum of authorities containing the legal issues involved and the authorities supporting the same.

B, Nothing herein contained shall be construed to restrict the right of any party to submit further briefs or memoranda of authority at any other time during the trial of the case.

RULE 9.
ELECTRONIC TESTIMONY OR EVIDENCE

When testimony or evidence is to be given via video tape or motion pictures, it is the responsibility of the parties to the action to obtain the proper equipment for viewing such testimony or evidence.

RULE 10.
JURIES

Jury terms will be held at such times and for such duration as demanded by the case docket and as prescribed in advance by the Court.

RULE 11.
PROPOSED JURY INSTRUCTIONS

A. Proposed jury instructions shall be typewritten. Each instruction shall be typed on a separate sheet of paper which bears no marking identifying either the party or the attorney presenting the instruction. NO CITATION OR OTHER EXTRANEOUS MATTER SHALL APPEAR ON A PROPOSED INSTRUCTION, EXCEPT AS HEREINAFTER PROVIDED.

B. Prior to the commencement of trial, the proposed instructions shall be distributed as follows:

1. One (1) assembled and numbered copy shall be filed with the Clerk;

2. The original and 2 copies, all of which shall be assembled, shall be delivered to the Court.

3. Two (2) copies, both of which shall be assembled and numbered and shall have placed thereon the citation of supporting authorities, including the number of any applicable Washington Pattern Instruction, shall be delivered as follows: 1 to the Court and 1 to opposing counsel.

C. Copies of Washington Pattern Instructions are not provided by the Court. If such instructions are proposed, they must be submitted in typed form with the suitable number of copies as outlined above.

RULE 12.
SETTLEMENTS, JURY CASES

Whenever a cause has been set for trial as a jury case and a date for the trial has been assigned and the matter is settled, or will not be tried by a jury, for any reason whatsoever, notice of the fact shall immediately be given to the Court so that the jury panel can be dismissed. The violation of this rule may result in unnecessary jury expense, and the Court, in its discretion, may assess such additional costs against the violating party for the jury called for the trial.

RULE 13.
ORDERS AND JUDGMENTS

A. In all non-contested matters, findings, orders, decrees, and judgments shall have the name of the presenting counsel signed thereon on the day of presentment.

B. In contested matters, all findings, decrees, orders and judgments shall be approved by the attorneys of record, unless the same are presented for signing in open court in the presence of all counsel, or are signed after proper notice of presentment.

RULE 14.
REQUIREMENTS OF CLERK’S OFFICE

A. All pleadings, motions, and other papers presented for filing with the Clerk shall be on 8 ½ x 11 paper and shall be printed on one side only. The Clerk may refuse to file any papers not in conformance with this rule.

B. Only on prior Court order will fax copies be accepted as temporary file documents, the fax copy to be destroyed upon receipt of the original signed document.

C. Files may be withdrawn from the Clerk's office by a Judge, or his bailiff, court commissioner, official court reporter, practicing attorney of Lincoln County, or a title company situated in Lincoln County, upon signing a receipt therefore. Files may be withdrawn by attorneys outside of Lincoln County upon written order of the Court. All files shall be returned within 10 days, or sooner if requested by the Judge or the Clerk of the Court.

D. An attorney, or other person, requesting an answer to correspondence or confirmation on any pleadings or other documents shall furnish to the Clerk a stamped, self-addressed envelope for the convenience of the Clerk in making a necessary reply.

E. The Clerk shall not be required to disburse any funds paid into the registry of the court unless ordered to do so by the Court.

F. Unless the order specifically provides otherwise, all payments made in civil matters shall be by money order or certified check.

G. The disbursement of costs paid into the registry of the court in all criminal matters (except Juvenile. See Rule 3-1 F) shall be disbursed by the Clerk in the following order:

1. restitution;
2. court costs;
3. crime victims' compensation;
4. sheriff's fees;
5. attorney's fees;
6. drug fund.

RULE 15.
COURT REPORTING

A. Pre-trial and post-trial civil motions and other proceedings will not be recorded by a reporter or by electronic or mechanical recording unless requested by a party to the action, or as directed by the court.

B. Civil trials will be reported only on request of a

party to the action, which party shall arrange for a court reporter to be in attendance. The cost of such reporter shall be an expense of the requesting party or parties. On proper request, and then directed by the Court, 1-day trials may be electronically recorded. All trials of longer than 1 day shall be reported by a court reporter as hereinabove stated.

C. In criminal matters, all pre-trial motions and appearances will be recorded electronically, and the Court will arrange for a court reporter to be in attendance for criminal trials at the expense of Lincoln County.

D. If partial transcriptions are made of the record during proceedings in Superior Court, a copy of such transcription shall be furnished to the Judge.

RULE 16.
PRESENCE AT HEARINGS

Unless a personal appearance at hearings is required by the Court, personal representatives and guardians may use a verified petition, or testify by affidavit, at the time of appointment, or when making an interim or final account.

RULE 17.
COURT INTERPRETERS

Qualified court interpreters shall be provided in accordance with RCW 2.42 for proceedings involving hearing impaired or non-English speaking individuals.

RULES 18.
SUSPENSION OR MODIFICATION OF RULES

The Court may suspend or modify any of the foregoing rules, in any given case, upon good cause being shown therefore, or upon the Court’s own motion.