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(d) 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; January 3, 2006; April 30, 2013.]