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.]