RULE 11
PROCEDURE AT CONTESTED HEARINGS

1) Speed Measuring Device Experts. When any speed measuring device expert is required to testify in a contested infraction hearing, the expert may testify by telephone, unless otherwise ordered by the Court. The party required to produce such evidence shall be responsible for arranging the expert's telephonic testimony and advising the Court Clerk prior to the scheduled time for the contested hearing.

2) Handling of Requests for Contested Hearings After Failure to Respond. lf a defendant who has failed to respond to a notice of infraction, as required by RCW 46.63.070 and Rule 2.4 of the Infraction Rules for Courts of Limited Jurisdiction (IRLJ), requests that the Court set his/her case for a contested hearing, the Court Clerk shall be authorized to set a date for a contested hearing, and retrieve pleadings and/or correspondence from the Department of Licensing reflecting the failure to respond or appear, if any was sent, only upon the following conditions:

a) The defendant, within one week of the date by which a request for a contested hearing should have been received by the Court, delivers to the Court an envelope containing his/her request for a contested hearing, with a postmark clearly indicating that the envelope was addressed and mailed to the Court within the time frame for requesting contested hearings pursuant to statute and Court rule, and with the envelope indicating that it was returned to the defendant, for whatever reason; or,

b) The Court, within one week of the date by which a request for contested hearing should have been received by the Court, receives in the mail an envelope containing the defendant's request for a contested hearing, with the envelope showing a postmark clearly indicating that the envelope was mailed to the Court within the time frame for requesting contested hearings pursuant to statute and Court rule.

In all other cases, the defendant shall not be entitled to a contested hearing, and the disposition of the infraction shall be dealt with as provided by statute or Court rules for failure to respond or appear.

3) Discovery Demands. Any party alleging a violation of the rules of discovery set forth in IRLJ 3.1(b) shall document service of the discovery demand upon the opposing party by either providing a copy of the discovery demand with a stamp from the opposing party indicating the demand was received in a timely manner or by providing a return receipt from the U.S. Postal Service or private postal carrier documenting that the opposing party was served with the discovery demand in a timely manner. Discovery demands made to the City in infraction matters shall be directed to the prosecution unit of the Office of the City Attorney, which shall date-stamp all discovery demands when received.

4) Subpoenas for Bellingham Police Officers--Alternative Procedure. Subpoenas may be requested and served as provided by state law and court rules. In the alternative, defendants in contested infraction cases may serve subpoenas upon officers of the Bellingham Police Department in the following manner:

a) A subpoena may be requested and obtained from the court clerk;

b) The defendant, or his or her attorney or agent, may effectuate service of the subpoena upon the officer by serving the subpoena upon an employee of the Criminal Division of the Bellingham City Attorney's Office in that office at least seven days before the scheduled contested hearing;

c) The Bellingham City Attorney's Office shall date-stamp the subpoena,

provide a stamped copy to the person serving the subpoena, and transmit the original subpoena to the officer at the Bellingham Police Department;

d) All subpoenas served pursuant to this alternative procedure shall indicate that the subject of the subpoena shall appear to testify one hour after the commencement of the calendar upon which the case is scheduled;

e) The City of Bellingham has consented to this alternative procedure. A subpoena served pursuant to this alternative procedure shall be deemed valid unless objected to in a timely fashion for good cause shown; and

f) This alternative procedure does not apply to requests for Speed Measuring Device experts employed by or contracted with the Bellingham Police Department.

5) City Attorney. Pursuant to IRLJ 3.3, the City Attorney's Office need not appear in any contested infraction unless requested by the Judge or Commissioner.

6) This rule is not intended to supersede or conflict with any statutes concerning procedures for infractions or the Infraction Rules for Courts of Limited Jurisdiction (IRLJ).

[Effective September 1, 2012]