Local Civil Rule 40
ASSIGNMENT OF CASES

(a) Notice of Trial - Note of Issue

(1) Of Fact - Note for Trial Docket - Cases Not Subject to Civil Case Schedule Order.

(A) Any party desiring to bring any issue of fact to trial, except for cases governed by LCR 4 and LCR 04.04W, shall file with the Clerk and Court Administrator's Office and serve upon the other parties or their attorneys a "Notice of Trial Setting and Certificate of Readiness," in the form maintained by the Court Administrator's Office, which shall contain the title for the court, a brief title of the case, the case number, the nature of the case, whether jury or non-jury, whether there has been a 12-person jury demand, whether a 6-person jury would be acceptable, estimated trial time, the name and address and telephone number of each attorney assigned to the case, whether there should be a pre-trial conference, preferential trial dates or times, and anything further that would assist the Court in setting a trial date, and shall be subscribed by the attorney filing the same.

(B) An attorney noting a case for trial thereby certifies that the case is at issue, that there has been a reasonable opportunity for discovery, that discovery will be complete by the trial date, that necessary witnesses will be available, and that to his/her knowledge, no other parties will be served with a summons and no further pleadings will be filed prior to trial.

(C) The attorney noting the case for trial shall confer with all other counsel prior to noting the case for trial setting to determine if there is any objection to setting. If there is no objection, the attorney shall so certify on the notice of setting. If there is objection and the setting attorney believes the objections to readiness are not justified, the attorney shall so indicate on the setting notice and the matter shall be heard by the Presiding Judge on the motion calendar.

(D) In the event all parties agree the case is ready for trial or will be ready for trial by a specific date, but have objections to particular dates, they shall notify the Court Administrator's Office of unavailable dates within five (5) days after receiving the notice of trial setting.

(b) Methods.

(1) Court Administrator to Assign Dates. The Court Administrator shall assign trial dates under the supervision of the Presiding Judge who shall be in direct charge of the trial calendar. To the extent practical, cases shall be set chronologically according to noting date, except for cases having statutory preference.

(2) Jury and Non-jury Trials. Upon the serving and filing of a "Notice of Trial Setting and Certificate of Readiness," the Court Administrator shall forthwith assign a specific trial date and notify the Clerk and counsel of the date assigned.

(3) Advancing Trial Dates. Any case assigned a specific date may, at the discretion of the Presiding Judge, be advanced to an earlier date or may be reset if the court calendar permits. Notice shall be given at least five (5) days prior to the new trial date assigned.

(4) One Day Trailing. Except for good cause shown, all non-domestic civil cases shall trail for one day. That is, trials of cases in Benton County will be called on Mondays, but the parties must be prepared to begin trial on the next day (Tuesday). Similarly, trials of cases in Franklin County will be

called on Wednesdays, but the parties must be prepared to begin trial on the next day (Thursday).

(5) Notice of Settlement. Notice of the settlement of a case set for trial shall be immediately given to the Court Administrator or, if unable to contact the Court Administrator, to the Clerk. Any circumstance preventing any case from going to trial as scheduled, immediately upon becoming known to counsel, shall be communicated to the Court Administrator. Failure to comply with this rule may result in the assessment of terms including the expense of a jury panel.

(c) Stipulated Continuances. No trial setting shall be continued by stipulation of counsel without good cause and without approval of the Civil Presiding Judge or Court Administrator within twenty (20) days of the date set for trial. More than twenty (20) days before trial, stipulations for continuance will normally be honored unless the Court concludes a continuance is unwarranted. All stipulations to continue must be supported by an affidavit setting forth the reasons for the continuance and submitted to the Court Administrator's office for review by the Civil Presiding Judge.

(d) Change of Judge.

(1) Affidavit - Judge.

(A) Under RCW 4.12.050, the motion and the affidavit must be filed with the clerk, and a copy delivered to Court Administration and to all other parties. If the party has not filed another motion and affidavit, and the motion and affidavit meet the requirements of RCW 4.12.050, the designated judge shall recuse himself or herself, without further order.

(B) Requests for Recusal. A party requesting the recusal of a judge may do so by motion and affidavit filed with the Clerk and a copy delivered to Court Administration and to all other parties. The matter shall be heard on the record by the judge against whom the request is made.

(2) Affidavit - Court Commissioner. Affidavits of prejudice or for change of Court Commissioner will not be recognized. The remedy of a party is for a motion for revision under RCW 2.24.050.

(e) Assignment of Judge. Judges will be pre-assigned to cases only by court order, for good cause, and will be assigned in order from the list maintained by Court Administration.

(f) Writ of Habeas Corpus Relating to Custody of Minor Children. Applications for Writs of Habeas Corpus relating to custody of minor children shall be presented to and returnable to the presiding judge of the Superior Court for Benton and Franklin Counties on court days between the hours of 8:30 a.m. to noon and 1:00 to 4:00 p.m.

[Adopted Effective April 1, 1986; Amended Effective September1, 1998; September 1, 2000; September 1, 2002, September 1, 2003, September 1, 2004, September 1, 2008, September 1, 2010, September 1, 2011, September 1, 2012]