

RITZVILLE DISTRICT COURT, STATE OF WASHINGTON, ADAMS COUNTY

IN RE: LOCAL COURT RULES

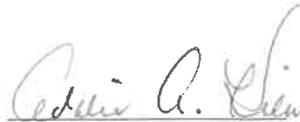
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ORDER RESCINDING PREVIOUSLY
PUBLISHED RULES, AND
ADOPTING UPDATED RULES

IT IS HEREBY ORDERED:

- (1) That all Local Court Rules presently in effect in the above captioned District Court are hereby rescinded; and
- (2) The Ritzville District Court Rules, attached hereto, are hereby adopted, effective September 1, 2018

DATED this 16th day of May, 2018.


Adalia A. Hille, Judge

**LOCAL COURT RULES
RITZVILLE DISTRICT COURT
STATE OF WASHINGTON
ADAMS COUNTY**

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LOCAL RULES

These Local Rules have been adopted under the provisions of General Rule 7 promulgated by the Washington State Supreme Court. The numbering used in these Local Rules conforms to the numbering system and format of the

Superior Court Criminal Rules (CrR), Civil Rules for Courts of Limited Jurisdiction (CRLJ), and Infraction Rules for Courts of Limited Jurisdiction (IRLJ), which are in effect as of the adoption of these Local Rules.

I. LOCAL ADMINISTRATIVE RULES

LARLJ 1. Scope of Rules

(a) Operating and administrative policies and procedures of the Ritzville District Court shall be in accordance with Local Court Rules adopted pursuant to GR 7, et seq.

(b) In the absence of a rule governing a particular procedure, or policy, the Presiding Judge shall resolve the issue pending the establishment of a new rule.

(c) Prior Rules Repealed. All prior rules of the Ritzville District Court are repealed upon adoption of these Rules.

LARLJ 2. Advisory Rules Committee

(a) To facilitate regular review of established Local Court Rules, policies and procedures, and to insure maximum participation by all jurisdictions, an Advisory Committee shall be established composed of the following representative participants:

- (1) City Attorney for Ritzville
- (2) Adams County Prosecutor
- (3) Adams County Public Defender
- (4) Court Administrator
- (5) Adams County Bar Association
- (6) Presiding Judge, who will serve as Chairman
- (7) Chief of Police of City of Ritzville
- (8) Adams County Sheriff
- (9) Sergeant of Ritzville Detachment of Washington State Patrol

(b) The Advisory Committee shall meet annually at the Adams County Courthouse, Ritzville District Court. Meeting arrangements, including the date, shall be facilitated by the Court Administrator, for the convenience of the Committee. Additional meetings may be called as needed by the Presiding Judge.

(c) The Committee shall evaluate written recommendations for the revision or establishment of Local Court Rules. The

committee shall review all written suggestions and/or recommendations on Local Court Rules received by the Court during the preceding quarter.

(d) The Committee shall also consider proposed changes in Court policies and procedures which are not governed by Court Rules.

LARLJ 3. Miscellaneous Provisions

(a) All requests for Local Court Rules or rule changes must be submitted in writing to be considered by the Advisory Committee.

(b) Immediately following each Advisory Committee meeting, the Presiding Judge shall present the Committee recommendations to the elected Judge and Court Administrator for appropriate action.

(c) In evaluating any proposed Local Court Rules, the Judge shall take into consideration the fiscal impact of additional services in view of budget restraints.

LARLJ 9. Confidential Records and Information

(a) **Public Records.** Unless the trial judge rules otherwise in a particular case, the following are considered public records and may be viewed and copied by the public:

- (1) Court pleadings;
- (2) Dockets, both civil and criminal, regardless of the current status of the proceeding;
- (3) Indexes to civil and criminal cases;
- (4) Tape recordings of court proceedings;
- (5) Search warrants, affidavits, and inventories, after execution and return of the warrant.

(b) Private Records. The following are considered exempt from disclosure unless they have been admitted into evidence, incorporated into a court pleading, or are the subject of a stipulation on the record which places them into public record:

- (1) Witness statements and police reports;
- (2) Pre-sentence reports and reports related to compliance with conditions of sentence;
- (3) Copies of driving records or criminal history records subject to RCW 10.97;
- (4) Correspondence received by the court regarding sentencing and compliance with the terms of probation.

(c) Quasi-Public Documents. The following are not subject to public review, but are subject to review by the defendant and his/her attorney:

- (1) Witness statements;
- (2) Pre-sentence reports and reports related to compliance with conditions of sentence;
- (3) Copies of driving records or criminal history records subject to RCW 10.97;

(4) Correspondence received by the court regarding sentencing and compliance with the terms of probation, except when the information is provided on the condition it remain confidential or when a finding of good cause is made for its confidentiality.

(d) Court Assistance.

- (1) Court facilities are available to the public to assist in disclosure, subject to local court rule.
- (2) For security purposes, the court may require identification from the reviewing party.

(e) Judicial Review. To assure that only public records are reviewed by the public, judicial review of disclosure may be requested by the prosecuting authority, defendant, court clerks, or other interested parties. The court may withhold dissemination until a hearing may reasonably be held. Following the hearing, the court may make such restrictive orders as are necessary.

(f) Statutes Not Superseded. Nothing in this rule shall be construed to supersede existing statutes or subsequent amendments thereto.

II. LOCAL GENERAL RULES

LGR 1. Designation

The District Courts in Adams County shall be designated:

- Othello District Court
- Ritzville District Court

These Rules apply only to the Ritzville District Court.

LGR 2. Hours of Operation

The District Court Shall be open for business Monday through Friday, except holidays, from 8:30 a.m. to 4:30 p.m. District Court will be closed daily from 12:00 p.m. to 1:00 p.m. for lunch. Special hearings and motions may be set by appointment with the Court. The "next judicial day" as referred to in RCW 46.61.50571 means the next day upon which Court is held in the Ritzville District Court, Adams County, Washington.

LGR 3. Form of Pleading

Every paper presented to the Judge for signature or delivered to the Court Clerk for filing shall be a clearly readable original and shall include:

- (a) number and title of case;
- (b) designation of what the paper purports to be;
- (c) name, original signature, office address, telephone number and Washington State Bar Association Number of counsel.

LGR 4. Instructions to Jury

(a) **Proposed.** Unless otherwise requested by the trial judge on timely notice to counsel, proposed instructions shall be submitted when the case is called for trial. Proposed instructions upon questions of law developed by the evidence, which could not reasonably be anticipated, may be submitted at any time before the court has instructed the jury.

(b) **Submission.** Submission of proposed instructions shall be by delivering the original and three or more copies as required by the trial judge, by filing one copy with the clerk, identified as the party's proposed instructions, and by serving one copy upon each opposing counsel.

(c) **Form.** Each proposed instruction shall be typewritten or printed on a separate sheet of letter-size (8-1/2 by 11 inches) paper. Except for one copy of each, the instructions delivered to the trial court shall not be numbered or identified as to the proposing party. One copy delivered to the trial court, and the copy filed with the clerk, and copies served on each opposing counsel shall be numbered and identified as to proposing party, and may contain supporting annotations.

LGR 5. Cost of Jury

When a cause assigned a date for trial as a jury case is settled, or will not be tried by a jury for any reason whatsoever, notice of that fact shall be given immediately to the Court. Terms may be sought against the responsible party should this case be settled after the jury has been called. Any such terms imposed by the Court for payment shall be paid as directed by the Court.

LGR 6. Judge's Copy

Whenever a trial brief or memorandum of authority is filed with the Court, a copy shall be served upon opposing counsel, with an extra copy provided for the Judge.

LGR 7. Schedule of Fees

The following cost of documents/official services provided by the Ritzville District Court Clerk can be found on the Ritzville District Court website at www.co.adams.wa.us.

- Anti Harassment
- Appeal to Superior Court
- Appeal Preparation Fee
- Certified Copy
- Civil
- Civil Supplemental Proceedings
- Copy of Proceedings on disc
- Deferred Finding Assessments
- Domestic Violence
- Duplication of Electronic Records
- Fax Transmission Fees
- Impound
- Name Change
- NSF check –handling fee
- Photo Copy Expenses (per page)
- Postage
- Small Claims
- Transcript of Judgment
- Writ of Garnishment

LGR 8. Court's Motion

Any of these Rules may be suspended or modified by the Court upon its own motion.

LGR 9. Enumerated Powers

Court Clerks and Court Commissioners shall have only powers enumerated by the Judge appointing them and as restricted by State Statute or Court Rule.

LGR 10. Cell Phones, Pagers, and Other Devices

No person shall be in the Ritzville District Court while in possession of a cell phone, pager, smart phone, hand held device, or other electronic device capable of producing a ring tone, beep, or other noise or signal unless such device is turned off or is in a "silent" or "vibrate" mode.

Any person found having any of the articles or devices heretofore mentioned which are not turned off or in a "silent" or "vibrate" mode while in the Ritzville District Court is subject to having such devices seized by law enforcement officers, bailiffs on court order, or as otherwise directed by the Court.

In addition, any person violating this rule shall be subject to punishment for contempt of court.

LGR 11. Courtroom Safety

No person shall be in the Ritzville District Court while armed with ANY firearm or taser or explosive device or any knife having a blade length of more than three inches or any billy club, blackjack, truncheon or bat, nor shall any such person be in the afore-mentioned area while possessing any gas gun or other device used for the spraying of tear gas, mace or other noxious chemical substance, nor any incendiary device.

Any person found having any of the articles or devices heretofore mentioned which are banned from the Ritzville District Court (when being used for court purposes) is subject to having such

articles or devices seized by law enforcement officers, bailiffs on court order, or as otherwise directed by the Court.

Any person violating this rule shall be subject to punishment for contempt of court and prosecuted under RCW 9.41.300.

LGR 12. Use of a Collection Agency and Assessment as Court Cost of Amounts Paid for Collection Services

(a) The Court shall use the services of a collection agency for the purposes of collecting unpaid and delinquent penalties on infraction, criminal fines, costs, assessments, and forfeitures, on the terms and conditions of the contract for collection services between Ritzville District Court for Adams County and said collection agency, and may be subsequently amended.

(b) The collection agency's fee or charge, as set forth in said contract, shall be added by the collection agency as a cost to the total judgment of the Court against each defendant whose account is referred by the Court to the collection agency.

(c) Nothing in this section shall prevent the Court from notifying the Department of Licensing of the defendant's failure to pay a fine or cost as ordered by the Court.

III. LOCAL CIVIL RULES

LCRLJ 3. Commencement of Action

Actions filed deliberately in the wrong venue on motion for change of venue, shall carry an award of reasonable attorney fees to the moving party. Any action filed in the wrong venue shall be presumed to have been done with deliberation, and the burden to show otherwise is hereby placed upon the filing party. A motion for voluntary non-suit shall not be granted while there is a motion pending for correction of venue.

LCRLJ 16. Civil Jury Pre-Trial Procedure

All cases set for jury trial shall be set for pre-trial conference which shall be held at least two weeks prior to trial. No order shall be required for this mandatory pre-trial conference. The

attorneys who are to conduct the trial and all parties shall be present to consider such matters as will promote a fair and expeditious trial. All discovery should be completed three days prior to said conference. Opposing counsel or party must be given seven days notice on pre-trial motions to be heard at the pre-trial conference. Any pre-trial motions requiring testimony of witnesses for argument may, in the discretion of the Court, be continued to the day of trial. All amendments, pleas, and motions should be made or be completed at this conference. Upon failure to appear, the Judge may proceed with the conference ex-parte, if necessary, and enter any appropriate order including striking the jury demand and may impose terms.

CRLJ 26. Discovery

Prior permission of the Court is required before taking depositions pursuant to Rules 30 through 32 of the Superior Court Civil Rules. The request for Admissions, Written Interrogatories and all other discovery procedures authorized by Rules 26 through 37 of the Superior Court Civil Rules shall be available to all parties in a cause of action without prior permission of the Court.

LCRLJ 39. Admissibility of Certain Documents at Trial

The documents listed below, if relevant, are presumed admissible at the trial, but only if: (1) the party offering the document serves on all parties at least 14 days prior to the trial date a notice, accompanied by a copy of the document and the name, address, and telephone number of its author or maker; and (2) the party offering the document similarly furnishes all other parties with copies of all other related documents from the same author or maker. This Rule does not restrict argument or proof related to the weight of evidence admitted, nor does it restrict the Court's authority to determine the weight of the evidence after hearing all of the evidence and the arguments of opposing parties.

Any other party may subpoena the author or maker of a document admissible under this Rule, at the party's expense, and examine the author or maker as if under cross-examination. The documents presumed admissible under this Rule are:

(a) A bill, report, chart or record of a hospital, doctor, dentist, registered nurse, licensed practical nurse, physical therapist, psychologist or other health care provider, on a letterhead or billhead;

(b) A bill for drugs, medical appliances or other related expenses on a letterhead or billhead;

(c) A bill, or an estimate of property damage on a letterhead or billhead. In the case of an estimate, the party intending to offer the estimate shall forward with the notice to the adverse party a statement indicating whether or not the property was repaired, and if it was, whether the estimated repairs were made in full or in part, attaching a copy to the receipted bill showing the items or repair and the amount paid;

(d) A police, weather, wage lost, or traffic signal report, or standard United States government life expectancy table to the extent it is admissible under the Rules of Evidence, but without the need for formal proof of authentication or identification;

(e) A photograph, x-ray, drawing, map, blueprint, or similar documentary evidence, to the extent it is admissible under the Rules of Evidence, but without the need for formal proof of authentication or identification;

(f) A document not specifically covered by any of the foregoing provisions by having equivalent circumstantial guarantees of trustworthiness, the admission of which would serve the interest of justice.

LCRLJ 40. Continuance

(a) **Bench Trials.** Once a trial date has been set, a continuance will be granted only upon written stipulation of the parties filed, or order of the Court upon showing of good cause.

(b) **Jury Trials.**

(1) Prior to or at the pre-trial conference, request for continuance shall be granted upon written stipulation of the parties filed, or upon order of the Court upon showing good cause.

(2) After pre-trial conference, all requests for a continuance must be made in the form of a written motion and affidavit with reasonable notice provided to the opposing counsel and the Court. A continuance will be granted by the Court only upon showing of good cause.

(c) In any case, continuances shall be granted for only so long as is necessary taking into account not only the request or consent of the parties, but also the public interest in prompt disposition of cases.

LCRLJ 41. Dismissal

(a) **Voluntary Dismissal.** Voluntary non-suits requested on the trial date are subject, at the discretion of the Court, to the allowance of costs and witness fees and reasonable attorney fees to those appearing on such trial date.

(b) **Dismissal on Clerk's Motion.** In all civil cases in which no action of record has occurred during the previous 12 months, the Clerk of the Court shall notify the attorneys of record by mail that the court will dismiss the case unless, within 30 days following the mailing of such, a party takes action of record or files a status report with the court indicating the reason for inactivity and projecting future activity and a case completion date. If the court does not receive such a status report, it shall, on motion of the clerk, dismiss the case without prejudice and without cost to any party.

The clerk shall mail notice of impending dismissal not later than 30 days after the case becomes eligible for dismissal because of inactivity. A party who does not receive the clerk's notice shall be entitled to reinstatement of the case, without cost, upon motion brought within a reasonable time after learning of the dismissal.

LCRLJ 54. Judgment and Costs

(a) **Attorney fees.** When any party claims the right to recover attorney fees by contract, statute, or court rule, that fact shall be brought to the attention of the Court immediately following its decision on the merits of the case, or the delivery of the jury verdict. If the Court then determines that an award of attorney fees may be appropriate, the Court may require the party requesting attorney fees to provide the Court with an affidavit detailing the fees incurred. The Court may either make an award of attorney fees and include it in the judgment or schedule the matter for further argument.

LCRLJ 55. Default and Judgment

(a) Entry of Default.

In the event the Defendant does not appear within one half hour of the time set for trial, the Plaintiff may move for entry of default and a default judgment pursuant to CRLJ 55. A motion and affidavit for default judgment for failure to appear, plead, or otherwise defend as

provided by this Rule shall be in substantially the same format hereinafter set forth.

(b) Entry of Default Judgment.

(1) *Assigned Claims.* A default judgment will not be entered on an assigned claim unless the original written assignment is filed with the Court.

(2) *Interest.* No judgment for interest shall be allowed unless proof of the factors necessary for computation of interest including applicable dates, rate of interest, and amount subject to interest, in addition to the final amount of interest claimed, is submitted in writing.

(3) *Notice.* The prevailing party shall notify the Defendant of the entry of default judgment by mailing a copy of the judgment to the defendant at his last known address within 5 days after entry of judgment.

(4) *Attorney Fees.* Where authorized by written instrument or statute, excluding those cases governed by the provisions of RCW 12.20.060, the Court may award reasonable attorney fees in cases where default judgment is entered in the amount of \$200.00, unless at the time of judgment is entered, the prevailing party presents competent evidence to the Court that a larger sum should be awarded.

LCRLJ 87. Name Change

(a) **Requirements.** An applicant who applies to the court for a change of name pursuant to RCW 4.24.130 must meet the following requirements:

(1) *Birth Certificate.* A certified copy of any minor applicant's birth certificate or suitable identification must be presented to the clerk for verification and copying.

(2) *Minors: Parental Consent.* All applicants under eighteen (18) years of age must be represented by a parent or legal guardian, and both biological or legal parents or guardian must approve the change of name either by personal appearance or by verified affidavit.

(3) *Separate Application.* Each applicant requesting a change of name must present a separate Change of Name Order and pay a separate filing fee and recording fee.

IV. LOCAL CRIMINAL RULES

LCRrLJ 3.2 Release of Accused

Any defendant charged with a criminal offense shall at his first court appearance be ordered released on his personal recognizance pending trial unless the Court determines that such recognizance will not reasonably assure his appearance, when required, or the Court finds that release on personal recognizance should be denied based on other criteria in pre-trial release rules applicable to Courts of Limited Jurisdiction.

If the Court finds that release should be denied, the Court shall proceed to determine whether probable cause exists to believe that the accused committed the offense charged, unless this determination has previously been made by a Court. Before making this determination, the Court may only consider affidavits or certificates under oath filed, or sworn testimony and further may examine under oath the affiant and any other witnesses he may produce. If probable cause is not established, the defendant shall be released.

Any person arrested for a crime classified as Domestic Violence under RCW 10.99 shall be held in jail without bail pending his first appearance.

No bail pending first appearance shall apply to all such offenses listed under Section 10.99 irrespective of their classification as felony, gross misdemeanor or misdemeanor.

LCRrLJ 3.5-3.6 Evidence Suppression Procedure/Confession Suppression Procedure

All demands for hearings on admissibility of confessions, statements, or evidence must be made no later than the pre-trial hearing. The plaintiff shall be responsible for the subpoena of all witnesses necessary to meet its burden of proof at the CrRLJ 3.5-3.6 hearing. All CrRLJ 3.5-3.6 hearings shall be specially set.

(i) **Deferred Prosecution Petition.** Deferred Prosecution petitions shall be in substantially the same format as the petition attached to this Rule. Each petition shall include a case history and an evaluation attached as exhibits.

RITZVILLE DISTRICT COURT, STATE OF WASHINGTON, ADAMS COUNTY	
_____	Plaintiff,
vs.	
_____	Defendant.

No: _____

Petition for Deferred Prosecution (DPPF)

Charges: _____

Violation Date: _____

I am the defendant in this case and I petition the court for deferred prosecution under RCW Chapter 10.05. I make the following statement in support of my petition:

1. The wrongful conduct charged is the result of or caused by [] **substance use disorders** [] **mental problems**, for which I need treatment.
2. Unless I receive treatment for my problem, the probability is great that I will offend again.
3. I agree to pay the cost of diagnosis and treatment, if I am financially able to do so, subject to RCW 10.05.130.
4. I understand that the court will not accept a petition for deferred prosecution from a person who sincerely believes that he or she is innocent of the crime(s) charged or does not suffer from alcoholism, drug addiction, or mental problems.
5. If this charge is a violation of Title 46 or similar municipal ordinance, I have not previously been placed on a deferred prosecution for a Title 46 or similar municipal ordinance violation.
6. I have filed a case history and assessment with this petition as required by RCW 10.05.020.
7. I have the following rights: (a) to have a lawyer represent me at all hearings; (b) to have a lawyer appointed at public expense if I cannot afford one; (c) to have a speedy, public jury trial; (d) to appeal any conviction; (e) to remain silent and not testify; (f) to question witnesses who testify against me; (g) to call witnesses to testify for me, at no cost; (h) to be presumed innocent unless the charge(s) against me is (are) proved beyond a reasonable doubt; and (i) to present evidence and a defense. By deferring prosecution on these charges, I give up my right to: (a) a speedy trial; (b) a jury; (c) testimony on my own behalf; an opportunity to (d) call and (e) question witnesses; and (f) present evidence or a defense.
8. I agree that the facts as reported in the attached police reports are admissible evidence and are sufficient to support a conviction. I acknowledge that the above items will be used to support a finding of guilty if the deferred prosecution is revoked.
9. If my deferred prosecution is revoked and I am found guilty, I may be sentenced up to the maximum penalty allowed by law.
10. If I proceed to trial and I am found guilty, I may be allowed to seek suspension of some or all fines and incarceration if I seek treatment. I understand that I may seek treatment from a public or private agency at any time, whether or not I have been found guilty or placed on deferred prosecution.
11. For some crimes, a deferred prosecution will enhance mandatory penalties for subsequent offenses committed within a seven-year period. I understand that a deferred prosecution will be a prior offense under RCW 46.61.5055 (driving under the influence, physical control of a vehicle under the influence, negligent driving if originally charged as driving under the influence or physical control of a vehicle under the influence, vehicular homicide, or vehicular assault).
12. If the court defers prosecution on any crime that would be a violation of state law or local ordinance relating to motor vehicle traffic control, I will be disqualified from driving a commercial motor vehicle for the period specified in RCW 46.25.090 and, if I drive a commercial motor vehicle holding a license issued by Washington State, I will be required to notify the Department of Licensing and my employer of this deferred prosecution within 30 days of the judge granting this petition.

RCW 46.25.030. If the court grants this Petition, I may not operate a motor vehicle on the public highways without a valid operator's license and proof of liability insurance pursuant to RCW 46.29.490. If my wrongful conduct is the result of or caused by alcohol dependency, I shall also be required to install an ignition interlock device under RCW 46.20.720. The required periods of interlock use shall be not less than the periods provided for in RCW 46.20.720, and subject to certification from the ignition interlock device vendor. RCW 46.20.720(4). I may also be required to pay restitution to victims, pay court costs, and pay probation costs authorized by law. To help ensure continued sobriety and reduce the likelihood of reoffense, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. Substance use disorder treatment programs shall require a minimum of two self-help recovery groups per week for the duration of the treatment program. The court may terminate the deferred prosecution program if I violate this paragraph.

13. If the court grants this petition, during the period of deferred prosecution I will be required to contact my probation officer, the probation director or designee, or the court if there is no probation department, to request permission to travel or transfer to another state if my wrongful conduct involves: (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; (iv) a sexual offense that requires me to register as a sex offender in Washington state. I understand that I will be required to pay an application fee with my travel or transfer request.
14. If I fail or neglect to comply with any part of my treatment plan or with any ignition interlock device requirements, then the court will hold a hearing to determine whether I should be removed from the deferred prosecution program. After the hearing, the court will either order that I continue with treatment or be removed from deferred prosecution and enter judgment. If I am convicted of a similar offense during the deferred prosecution, the court will revoke the deferred prosecution and enter judgment.
15. The court will dismiss the charge(s) against me in this case three years from the end of the two-year treatment program and following proof to the court that I have complied with the conditions imposed by the court following successful completion of the two-year treatment program, but no less than five years from the date the deferred prosecution is granted, if the court grants this petition and if I fully comply with all the terms of the court order placing me on deferred prosecution.

I certify under penalty of perjury under the laws of the state of Washington that I have read the foregoing and agree with all of its provisions and that all statements made are true and correct.

Dated at _____, Washington this ____ day of _____,

Petitioner-Defendant

Defense Attorney/WSBA No.

RITZVILLE DISTRICT COURT, STATE OF WASHINGTON, ADAMS COUNTY

STATE OF WASHINGTON,)
CITY OF RITZVILLE,)
)
Plaintiff,) No.
)
vs.) DEFERRED PROSECUTION
) FINDINGS OF FACT,
) CONCLUSIONS OF LAW, AND
Defendant.) ORDER
)
)

This matter coming before the Court on the defendant's Petition for Deferred Prosecution; the Court having considered the Petition, evaluation and treatment plan filed by the defendant; and the argument of counsel; now, makes the following:

I. Findings of Fact:

1. The defendant was evaluated by an approved alcoholism treatment facility or an approved drug treatment center; said agency's evaluation meets the requirements of RCW 10.05.040 and is attached to this Order. A certified alcoholism treatment facility or drug treatment center has prepared a treatment plan meeting the requirements of RCW 10.05.150 and has committed to provide treatment. Said treatment plan and commitment to treatment is attached to this Order, and incorporated by reference herein.
2. The defendant has agreed to pay, or arranged for the payment of, the costs of treatment.
3. The defendant has agreed to complete the two-year treatment program set forth in the treatment plan attached to this Order and to follow the other conditions of the court's Order.
4. The defendant has been advised of the following rights and has knowingly and voluntarily waived each of them:
 - (a) The right to a jury trial;
 - (b) The right to a speedy trial;
 - (c) The right to present evidence in his or her defense;
 - (d) The right to hear and question all witnesses who testify against the defendant;
 - (e) The right to compel witnesses to appear and testify on behalf of the defendant at no cost to the defendant;
 - (f) The right to testify.
5. The defendant has stipulated to the admissibility and sufficiency of the facts contained in the written police reports and understands these facts will be considered by the Court in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution. The defendant has agreed that the facts contained in the stipulated police reports are sufficient to allow the court to find the petitioner guilty, beyond a reasonable doubt, of the charged offenses.
6. The defendant has agreed, and the Court finds, that any statements made by the defendant contained in the stipulated police reports were made knowingly and voluntarily.
7. If the charge is a violation of RCW Title 46 or similar municipal ordinance, the defendant has affirmed, and the Court finds, that the defendant has not previously participated in a prior

deferred prosecution program for a violation of RCW Title 46 or any similar municipal ordinance.

From the foregoing Findings of Fact, the Court makes the following:

II. Conclusions of Law:

1. The Court has jurisdiction over the subject matter and petitioner in this case. The petition meets the requirements of RCW 10.05.0203.
2. The diagnostic evaluation and treatment plan met the requirements of RCW 10.05.040, RCW 10.05.050 and RCW 10.05.150.
3. The Petition was made freely, voluntarily and knowingly.

III. Order:

Based on the foregoing Findings of Fact and Conclusions of Law, the Court hereby grants the Petition for Deferred Prosecution and allows the defendant to enter into a deferred prosecution program. The defendant shall remain under the jurisdiction of the court during the two-year treatment plan, and for three years after the court receives proof of successful completion of the two-year treatment program, but not less than five years from the date of this Order. The defendant shall, while under the Court's jurisdiction, comply with the following conditions:

1. The defendant shall fully comply with and complete the two-year treatment program attached to this Order and incorporated by reference in Paragraph 2 of the Court's Findings. In the event there are any inconsistencies between this order and the attached treatment plan, the terms and conditions set forth in this order shall be controlling.
2. The defendant shall pay, or arrange for payment of, the costs of the treatment program.
3. The defendant shall maintain total abstinence from alcohol and all other non-prescribed mind altering drugs.
4. The defendant shall not commit any crimes. The definition of "commit" includes, but is not limited to, any criminal charge resolved by a stay of proceedings, a stipulated order of continuance, or any other agreement which consists of a continuance with conditions, even if the ultimate disposition of the criminal charge is a dismissal, amendment of charge, or a finding of not guilty.
5. The defendant shall not refuse to submit to a breath or blood test if a police officer has reasonable grounds to believe that the defendant is driving or is in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs.
6. The defendant shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance in an amount not less than that established by RCW 46.29.490.
7. The defendant shall not change treatment agencies without written permission of the Court.
8. The treatment facility shall file with Ritzville District Court **monthly** treatment status/compliance reports. Those reports shall be sent to:

Ritzville District Court
210 W. Broadway
Ritzville, WA 99169
Phone # 509-659-1002
Fax # 509-659-3245

9. The defendant shall provide **in writing** to the Court any change in mailing address.
10. The defendant shall shall not be required to pay a \$600.00 administrative fee.
11. The defendant shall shall not be required to pay a \$250.00 breath test fee.
12. The defendant shall shall not be required to reimburse Adams County for the cost of his/her court appointed attorney in the amount of \$_____.
13. The defendant shall pay restitution in the amount of \$_____. A restitution hearing shall be held on ___/___/20___ to determine what amount of restitution should be paid by the defendant
14. This matter shall be set for review at any time as may be deemed appropriate by the Court. In the event the defendant fails or neglects to undertake, complete or comply with any term or condition of this Order, the Court, upon receiving notice of such failure, neglect, or violation, shall hold a hearing to determine whether the sufficient cause exists to remove the defendant from the deferred prosecution program. In the event the defendant is convicted of a similar offense, the court shall remove the defendant from the deferred prosecution program.
15. In the event the Court finds cause to revoke the deferred prosecution, the Court (sitting without a jury) will consider the stipulated police reports, including any statements made by the defendant, and determine whether the stipulated evidence supports the charge(s) beyond a reasonable doubt
16. In the event the defendant complies with the conditions of this Order the Court shall, three years after receiving proof of successful completion of the two-year treatment program, but not before five years following entry of this Order, dismiss the charges pending against the defendant
17. Other: _____

Dated this _____ day of _____, 20_____.

DISTRICT COURT JUDGE

Presented by:

Copy received; approved as to form:

Attorney for Defendant

WSBA No.

Prosecuting Attorney

WSBA No.

Defendant

Attached to this Order are:

- A. Alcohol/drug evaluation, treatment plan and commitment to provide treatment.**
- B. Police reports.**

LCrRLJ 3.7 Presence of the Prosecutor

In all criminal cases, a representative of the Prosecuting Attorney's Office or the Office of City Attorney responsible for the case shall be present to conduct the case for the plaintiff. This rule applies to arraignments, pretrial hearings, motions, trials and other dispositions.

LCRrLJ 4.5 Jury Pre-Trial Procedure

(a) Pre-Trial Hearings. All cases scheduled for jury trial shall be set for pre-trial hearing. Pre-trial hearings shall be held prior to the jury trial. The State or City Prosecutor, defense counsel and defendant shall attend the pre-trial hearings. If the defendant does not appear for the pre-trial hearing, a warrant for the arrest of the defendant shall issue and the jury trial date will be stricken unless a written waiver of pre-trial hearing has been filed with the Court. If the Prosecutor fails to appear at pre-trial hearing, the Court may impose terms and other sanctions created by Court Rule and State law. Pre-trial hearing may be waived by filing a written stipulation signed by both parties which states there are no pretrial motions and the case will proceed to jury trial on the specified date.

A defendant may also waive the first pre-trial hearing by filing a written waiver and request to set the case over to the next regularly scheduled pre-trial or motion calendar. A written motion must be filed on any issues to be argued at the second or third pre-trial or motion calendar.

(b) Motions. Pre-Trial motions shall be made at the time of the pre-trial hearing. Motions shall not be considered at the time of trial unless they could not have been raised at the time of pre-trial hearing or the Judge at the time of the pre-trial hearing expressly continues such motions to the time of trial. Absent good cause, motions for dismissal or suppression of evidence in criminal cases shall be in writing and shall be provided to the Prosecutor or City Attorney at least 48 hours before the pre-trial hearing. Dispositions and bench trials will not be heard on the date set for jury trial. Lengthy motions or motions requiring

witnesses to be subpoenaed will be specially set by the court.

CRrLJ 7.2 Sentencing

Conditions and Payment. Any deferred or suspended sentence in which the defendant is ordered to pay a fine, restitution, court cost, or attorney fees, shall, unless other specific provision is made by the Court, include by reference the following provision:

(1) *Time Payments.* Regular monthly payments may be required if the fine is not paid in full at sentencing until all fines, penalties, fees and costs are paid. Unless otherwise specified by the Court, all fine payments, costs, fees, and restitution paid through the Court shall be scheduled to be paid on a set date each month. Each payment agreement shall include a statement that the account will be referred to a collection agency if payment is not received by due date and the defendant will be liable for any and all costs. Upon finding that such payment is delinquent, the Clerk shall mail the Defendant a delinquent payment notice. If payment is not received within 30 days, then the matter is turned over to collection and Department of Licensing is notified of Defendant's failure to respond.

(2) *Collection Process/Costs.* If a Defendant fails to make all payments as directed or otherwise fails to respond to the Court within 30 days after the date of a delinquency notice, the delinquent account will be referred to a collection agency pursuant to RCW 3.02.045. The amount agreed to between the Court and the collection agency as remuneration for services will be assessed as cost and added to the judgment.

(3) *Attorney Fee/Reimbursement.* Upon motion of the Plaintiff, the Court will evaluate the financial status of Defendants represented by appointed counsel. Those Defendants found by the Court to be financially able at the time of sentencing to reimburse the City or County for all or a portion of attorney fees will be ordered by the Court to make reimbursement. Unless otherwise ordered by the Court, such

reimbursement shall be made within 90 days of sentencing.

(4) *Probation Fees.* Pursuant to RCW 10.64.120, a defendant may be required to pay a fee for probation services.

(5) *Revocation of Probation / Hearing.* Revocation of a deferred or suspended sentence for nonpayment of fines, costs, attorney fees or probation fees or a finding of contempt pursuant to RCW 10.01.180 shall occur only after a hearing and upon such a finding by the Court that the defendant has willfully failed to make such payments while having the financial ability to do so or has willfully failed to make a good faith reasonable effort to acquire a means to make such payments. Further, the Court should consider whether alternative means of payment through time payments or performance of community service has been available to the Defendant, prior to imposition of a jail sentence.

(6) *Petition to Modify.* The Defendant may, at any time, petition to the Court to adjust the amount of any payment established in accordance with this Rule, due to his or her changed financial position or to relieve undue hardship to the Defendant and his or her family.

LCRrLJ 8.2 Motions

Notation for hearing. Motions may be noted on the Court's docket by delivery of a written Note for Motion Docket. Counsel shall indicate on the document whether the motion will require live testimony and the estimated time for disposition. Motions requiring ten minutes or less will be given preference on the motion docket.

V. LOCAL INFRACTION RULES

LIRLJ 2.4 Response to Notice

Any person who has been served with a notice of infraction and who desires to use option (1) as provided in IRLJ 2.4(b)(1), may arrange time payments on the monetary penalty according to the policy then in force when the infraction is filed. A fee shall be assessed at the time of establishing a time payment agreement, as a non-refundable cost for usage of the service. A minimum payment of \$25.00 is required each month.

LIRLJ 2.6 Infraction Pre-Hearing Conference

(a) **Pre-hearing Conference Required – Waiver.** A defendant charged with an infraction who requests a hearing to contest the infraction shall first appear at a pre-hearing conference, in which motions, not witnesses will be heard. The pre-hearing conference shall be scheduled in accordance with the provisions of IRLJ 2.6(a)(1)(i). If the defendant does not intend to bring any pre-hearing motion, the requirement that the defendant appear at the pre-hearing conference may be waived by the defendant in writing; provided the waiver is received by the

court before the time set for the pre-hearing conference. If the defendant does not appear for the pre-hearing he is deemed to have waived his right to bring any pre-hearing motions, and the infraction will be set on the next contested hearing date. In waiving the pre-hearing conference, the defendant shall complete a waiver form approved by the court. In the event that the defendant submits a waiver in a form other than that approved by the court, said waiver shall be ineffective unless it is in substantial compliance with the same format hereinafter set forth.

(ii) **Setting Contested Hearing.** If the infractions are not resolved following the pre-hearing conference, a contested hearing shall be scheduled for not more than ninety (90) days from the date of the prehearing conference. If the pre-hearing conference is waived, a contested hearing shall be scheduled for not more than ninety (90) days from the date the waiver of the pre-hearing conference is received by the court.

(iii) **Pre-hearing Motions For Contested Infractions –Written Notice Required – Time Limits For Oral Argument.** All motions, including the cited authority(s), to exclude evidence or dismiss an infraction shall be filed

no later than the conclusion of the pre-hearing conference. If a defendant elects to waive his or her appearance at the pre-hearing conference, any motion, including the cited authority, must be noted on the waiver form filed with the court pursuant to IRLJ 2.6(a). Any motion(s) not timely filed shall be waived and shall not be considered by the court.

All motions timely noted shall be addressed by the court at the time of the contested hearing. Unless otherwise ordered by the court, parties shall have a total of ten (10) minutes each to

argue and/or respond to motions before the court. Any argument in support of, or in response to, motions before the court that will require more than ten (10) minutes to present shall be submitted in brief form.

DISTRICT COURT, STATE OF WASHINGTON, ADAMS COUNTY

STATE OF WASHINGTON,)
 CITY OF RITZVILLE,)
)
 Plaintiff,)
)
 vs.)
)
 _____,)
 Defendant.)
 _____)

No. _____

WAIVER OF PRE-HEARING

The undersigned defendant, having been advised of his/her right to a pre-hearing conference for the contested citation number # _____, hereby freely, knowingly and voluntarily, waives said right.

 Date

 Defendant's Signature

 Date

 Defendant's Attorney WSBA No.

 Date

 DISTRICT COURT JUDGE

LIRLJ 3.1 Contested Hearings – Preliminary Proceedings

(a) **Subpoena.** The defendant and the plaintiff may subpoena witnesses necessary for the presentation of their respective cases. Subpoena requests must be filed with the court at least fourteen (14) days prior to the contested hearing and 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 CR45(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) If the defendant who requests a hearing to contest the determination that an infraction was committed has a criminal charge pending, and said criminal charge arises out of the same occurrence as the infraction, the hearing on the infraction may be heard at the same time as the trial on the criminal charge at the request of the defendant, the City Attorney, County Attorney, or the court as authorized by the Infraction Rules for Courts of Limited Jurisdiction.

LIRLJ 3.3 Procedure at Contested Hearing

(b) **Plaintiff Witness-Representation by Lawyer.** In contested traffic infraction hearings the Plaintiff shall be represented by a lawyer representative of the Prosecuting Attorney or City Attorney in all contested hearings where witnesses have been subpoenaed, or discovery requested, and where the Defendant is represented by a lawyer.

LIRLJ 3.5 Hearings via Mail/E-mail

(a) **Contested or Mitigation Hearings.** Upon receipt of a request for contested or mitigation hearing (including e-mail submissions), the Court shall set the matter for hearing and send the Defendant a letter and the appropriate forms. The Defendant shall return the completed declaration to the Court in writing (including e-mail submissions). Upon receipt of the completed declaration the hearing will be cancelled. The Declaration contesting or mitigating an infraction must certify or declare under penalty of perjury under the laws of the State of Washington that the statement is true and correct. The Declaration must also contain a statement that if it is determined that the respondent committed the infraction, the respondent promises to pay the monetary penalty authorized by law and assessed by the court. Any witness statement submitted by the Defendant contesting the infraction must also be sworn. The Court shall review the officer's sworn statement and declarations submitted by the defendant. The examination may be held in Chambers and shall not be governed by the rules of evidence. The Court will then determine whether the plaintiff has proved by a preponderance of evidence whether it is more likely than not that the defendant has committed the infraction and render its decision and/or what penalty, if any, was imposed, by mail. If the defendant chooses to contest or mitigate by mail, he or she waives the right to appeal the court's decision to the Superior Court under IRLJ 3.5. The Court must receive declarations no later than seven (7) days prior to the scheduled hearing time or they will not be considered.

(c) Deferred Findings.

The court may defer findings regarding traffic infractions for up to one year pursuant to RCW 46.63.070(5)(a).

(1) Limit. A person may not receive more than one deferral within a seven-year period for moving violations and one deferral within a seven-year period for non-moving violations.

(2) Conditions. For both moving and non-moving violations a person who is the holder of an active commercial driver's license may not receive a deferral under this section. The conditions shall include payment of an administrative fee.

(3) Administrative Fees can be found on the Ritzville District Court website www.co.adams.wa.us under Filing and Miscellaneous Fees.

(4) Dismissal. After the end of the deferral period, the court will dismiss the infraction if the person has met all the conditions of the deferral and has not committed another respective traffic infraction during the period.

(5) A petition for a deferred finding which is denied by the Court will be treated as a request for a mitigation hearing.

(6) Failure to comply with any conditions, will result in the infraction being found committed and reported to the Department of Licensing.

LIRLJ 4.2 Failure to Pay for Traffic Infraction.

Defendants who owe penalties on traffic infractions must report to the cashier/clerk immediately after leaving the courtroom to make payment arrangements. Failure to do so may be considered a failure to pay. The Court may assess the appropriate penalty for failure to pay or appear, and may rescind any reduction in the penalty imposed. The court reserves the right to assign the account to a third party agency for the collection of the penalties, fines, and costs owed.

LIRLJ 6.2 Monetary Penalty Schedule for Infractions

(b) Unscheduled Infractions.

(1) *Mandatory Liability Insurance Violations-Proof of Insurance.* If a defendant who is charged with driving a motor vehicle without having proof of valid insurance pursuant to RCW 46.30.020 and that defendant presents satisfactory evidence that they have obtained valid insurance to the Clerk of the Court within 15 days of the date of the citation, for the vehicle the defendant was operating on the day he/she was cited, then the bail for the offense shall be reduced. If the defendant presents satisfactory evidence of valid insurance being in effect at the time the citation was issued, for the vehicle the defendant was operating, within 15 days of the date of the citation, then the offense shall be dismissed upon payment of the \$25 administrative fee.

(2) *No Valid Operators License - Show License.* If a defendant is charged with the infraction of driving a motor vehicle without having a valid driver's license issued to Washington residents pursuant to RCW 46.20.015, and that defendant presents a valid license or satisfactory evidence that the defendant has obtained a valid driver's license to the court clerk, then the bail for the offense shall be reduced and the defendant will be entitled to post and forfeit that penalty without the need to appear in court on that charge.

(3) *Expired Vehicle License.* If a person charged with the violation of RCW 46.16A.030.5.L (Expired Vehicle Registration Less than Two Months) or RCW 46.16A.030.5.O (Expired Vehicle Registration Over Two Months) is able to provide proof prior to any scheduled hearing the person has subsequently obtained a valid registration then the penalty shall be reduced and a finding of committed entered.

**LIRLJ 6.6 Speed Measuring Device:
Design and Construction
Certification**

(b) Speed Measuring Device Certifications. Any certificate, affidavit, or foundation evidentiary document allowed or required by IRLJ 6.6 can be filed with the Clerk of the Court and maintained by the court as a public record. The records will be available for inspection by the public. Copies will be provided on request, subject to a charge for any allowable copying fees. Speed measuring device certification documents can be obtained from the court clerk during normal business hours prior to a contested hearing. Speed measuring device certifications are not subject to discovery

(c) Request for Speed Measuring Device (SMD) Expert. Defense request to produce an electronic or laser SMD expert pursuant to

IRLJ 6.6(e) for a contested hearing shall be contained in a separate document clearly designated as a request for a SMD expert, served on the prosecuting authority with a conformed copy filed with the Clerk of the Court. If the charging law enforcement agency's SMD expert maintains a schedule for monthly appearances in the Ritzville District Court for Adams County, a request for a SMD expert shall be deemed by the court to be a request to set (or re-set) the hearing to a day scheduled for the agency's SMD expert.

(1) The Party filing the above demand shall specifically call it to the Court Clerk's attention so the case will be set on the appropriate SMD expert's trial date so as to avoid a continuance under IRLJ 6.6(c).

In the absence of proof of a request to produce an electronic speed measuring device (SMD) expert, a certificate in substantially the form provided under CrRLJ 6.13, IRLJ 6.6 is admissible in lieu of an expert witness in any court proceeding in which the design and construction of an electronic speed measuring device (SMD) is an issue.

VI. LOCAL RULES FOR APPEAL OF DECISIONS

Refer to Washington Court Rules (State).

VII. LOCAL COURTROOM PRACTICE AND DECORUM

**(a) Examination of Witnesses and
Argument of Counsel.**

(1) During opening statement, examination of witnesses, and arguments, counsel should remain at counsel table unless otherwise authorized by the Court.

(2) Do not approach a witness without asking permission of the Court. When permission is granted for the purpose of working with an exhibit, resume the examination from counsel table when finished with the exhibit.

(3) Rise when addressing the Court and when making objections as this calls the Court's attention to you.

(b) Objections to Questions and Evidence.

(1) When objecting, state only that you are objecting and specify the ground or grounds of objection. Do not use objections for the purpose of making a speech, recapitulating testimony, or attempting to guide the witness.

(2) Argument upon the objection will not be heard until permission is given or argument is requested by the Court.

(c) Decorum.

(1) Address all remarks to the Court. Colloquy or argument between attorneys is not permitted.

(2) In a jury case, if there is an offer of stipulation, first confer with opposing counsel and obtain the Court's permission before submitting it to the jury.

(3) Counsel during trial shall not exhibit familiarity with witnesses, jurors, or opposing counsel. The use of first names or nicknames is to be avoided. During jury argument, no juror shall be addressed individually or by name.

(4) During the argument of opposing counsel, remain seated at the counsel table and be respectful. Never divert the attention of the Court or the jury.

(d) Witnesses and Ruling of the Court.

(1) Witnesses shall at all times be treated with fairness, consideration and respect.

(2) No person shall ever by facial expression or other conduct exhibit any opinion concerning any testimony, which is being given by a witness, or as to a ruling by the Court. Counsel will admonish their clients and witnesses about this very common occurrence.

(e) Court Hours and Promptness.

(1) The Court will make every effort to commence proceedings at the time set. Promptness is expected from counsel and witnesses.

(2) Counsel should make every effort to schedule witnesses in order to use full utilization of the trial day.

(f) Exhibits.

(1) All exhibits should be pre-marked for identification prior to trial. The Bailiff assigned to each Judge will cooperate with counsel in facilitating the marking and management of the exhibits.

(2) Documents and other exhibits should be shown to opposing counsel before their use in Court.

(3) Ordinarily, exhibits should be offered in evidence when they become admissible rather than at the end of counsel's case.

(4) Marking on exhibits should only be made after receiving the Court's permission to do so.

(g) Opening Statement. Confine your opening statement to what you expect the evidence to show. It is not proper to use the opening statement to argue the case or instruct as to the law.