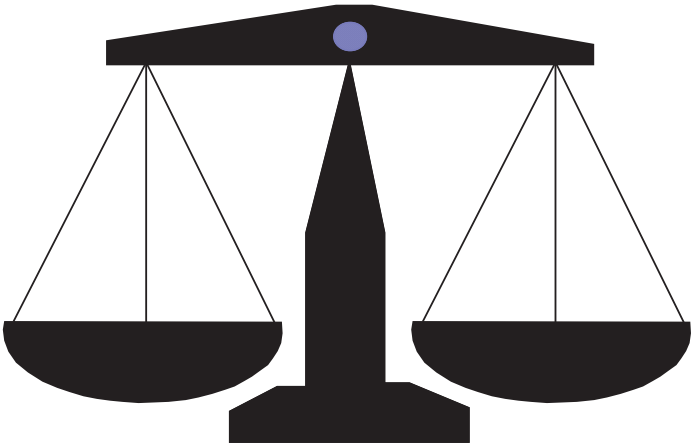
THE SUPERIOR COURT OF WASHINGTON IN AND FOR BENTON AND FRANKLIN COUNTIES



LOCAL RULES

JUDGES:

HONORABLE DAVID L. PETERSEN
HONORABLE JOSEPH M. BURROWES
HONORABLE DIANA N. RUFF
HONORABLE NORMA RODRIGUEZ
HONORABLE SAMUEL P. SWANBERG
HONORABLE JACQUELINE I. STAM
HONORABLE JACQUELINE J. SHEA-BROWN

Effective September 1, 2023

TABLE OF CONTENTS

I. LOCAL ADMINISTRATIVE RULE

Local Administrative Rule 4
MORE THAN ONE JUDGE IN SUPERIOR COURT DISTRICT

A. Reapplication for Order. When an order has been applied for and refused in whole or in part or has been granted conditionally and the condition has not been performed, the same application for an order must not be presented to another judge without advising the second judge of the fact that the order was previously refused or conditioned.

[Adopted Effective September 1, 2018; Re-Formatted Effective September 1, 2023]

Local Administrative Rule 5
DISTRIBUTION OF COURT RECORDS BY CLERKS [RESERVED]

[Adopted Effective September 1, 2018]

II. LOCAL GENERAL RULES

Local General Rule 2
ADMINISTRATIVE PRESIDING JUDGE AND ASSISTANT ADMINISTRATIVE PRESIDING JUDGE

A. Election, Term, Vacancies, and Removal.

1. *Election*. The administrative presiding judge and assistant administrative presiding judge shall be elected by a majority vote of the judges. Said elections shall occur at the Fall Judicial Retreat in even numbered years to be effective in the following odd numbered years.

2. *Term*. The administrative presiding judge and assistant administrative presiding judge shall each serve for a term of two years. The terms of the presiding judge and assistant presiding judge shall commence January 1st following the election through December 31st of the second year of the term.

3. *Vacancies*.

   a. Administrative Presiding Judge. In the event of a vacancy in the office of the administrative presiding judge prior to the completion of the two-year term of the administrative presiding judge, the assistant administrative presiding judge shall serve as administrative presiding judge for the remainder of the un-expired term.

   b. Assistant Administrative Presiding Judge. In the event of a vacancy in the office of the assistant administrative presiding judge prior to the completion

of the two (2) year term of the assistant administrative presiding judge, a new assistant administrative presiding judge shall be elected pursuant to subsection (A.) above at the next regularly scheduled judge's meeting. The newly elected assistant administrative presiding judge shall serve for the remainder of the un-expired term.

4. *Removal.* The administrative presiding judge and assistant administrative presiding judge may be removed by a majority vote of the judges after noting the issue on the agenda for the next regularly scheduled judge's meeting.

5. *Executive Committee*. The Judges of the Superior Court, sitting as a whole as an executive committee, shall advise and assist the administrative presiding judge in the administration of the court.

6. *Liaison Judges*. Individual judges may be assigned responsibility for certain management areas and court functions. The responsibility of the assigned judge is to act as a liaison between the court and others concerned about matters that fall within the management area or court function. The assigned judge shall keep the administrative presiding judge and executive committee informed about the management area or court function and shall make such reports as are necessary to the executive committee at the regularly scheduled judge's meetings. The court administrator shall maintain the list of the liaison assignments that shall be available, upon request, to the public.

7. *Court Administrator*. The court administrator shall, under the direction of the executive committee, supervise the administration of the court.

[Adopted Effective April 9, 2002; Amended Effective September 1, 2010; September 1, 2020; Re-Formatted Effective September 1, 2023]

Local General Rule 3
FILES AND "PAPERLESS COURT" [RESCINDED]

[Adopted Effective January 16, 2018; Rescinded Effective April 23, 2020]

Local General Rule 4
TORRENS ACT PETITIONS (Chapter 65.12 RCW) [RESCINDED]

[Adopted Effective December 19, 2019; March 13, 2020; June 5, 2020, Adopted as Permanent Rule Effective September 1, 2020; Rescinded Effective September 1, 2022]

Local General Rule 5
ELECTRONIC SIGNATURES AND FILING

A. A judge, commissioner, clerk, party, witness, law enforcement officer, or attorney may sign a court order, judgment, notification, or other document with a digital or electronic signature. For purposes of this Order, "electronic signature" means a digital signature as described in GR 30 and as defined in RCW 1.80.010. The judicial officer shall use a computer or device that requires the use of their Benton County username and password when utilizing an electronic signature.

B. "Third Party Signature" means a handwritten signature made by an authorized third party where the signatory conveys his or her permission to the third party to sign a document on his or her behalf in person, telephonically, by facsimile, email, or other, similar electronic means of communication providing evidence of transmission, and that permission is reflected on the signature page by the third party.

C. As authorized by Supreme Court Order No. 25700-B-697 (October 27, 2022), Benton County Superior court waives GR 30(d) requiring: (1) the issuance of a user ID and password to electronically file documents with the court or clerk.

D. All judicial officers' electronic signatures must be protected so that it cannot be electronically copied.

E. Nothing herein alters the ability of the judge to sign documents in person or delegate the affixing of signatures by others if allowed by law or court rule.

[Adopted Effective September 1, 2022; Amended & Re-Formatted Effective September 1, 2023]

Local General Rule 16
COURTROOM PHOTOGRAPHY AND RECORDING

A. Video and audio recording and still photography are allowed in the courtroom during and between sessions only if permission has first been expressly granted by the judicial officer presiding in the courtroom. Requests for permission shall be made to the presiding judicial officer via the bailiff assigned to the courtroom.

[Adopted Effective September 1, 2016; Amended & Re-Formatted Effective September 1, 2023]

Local General Rule 17
FILING OF FACSIMILE TRANSMISSIONS AND OTHER COPIES

A. Reserved.

B. Except where expressly prohibited by GR 17, a document transmitted by facsimile or any other electronic means, or a copy of a document produced by other means, shall be acceptable for filing with the Clerk of the Court and shall constitute an original for all court purposes. The person responsible for the filing of the document(s) is no longer required to attach an affidavit or declaration pursuant to GR 17(2). Nothing herein prevents a party from challenging the authenticity of any document deemed an original under this rule.

[Adopted Effective September 1, 2017, Amended Effective September 1, 2018; September 1, 2020; Re-Formatted Effective September 1, 2023]

Local General Rule 35
AUTHORIZED TRANSCRIPTIONISTS

A. This rule only applies to transcripts of court proceedings, and does not apply to transcriptions of other matters, such as statements.

B. Official court transcripts may be completed and filed by:

1. An official court reporter employed by the court or other certified court reporter;
2. A court employee with job responsibilities to transcribe a report of proceedings; or
3. An authorized transcriptionist who has been approved by the Benton and Franklin Counties Superior Court hereunder.

C. The minimum qualification to become an authorized transcriptionist:

1. Certification as a court reporter;
2. Certification by AAERT (American Association of Electronic Reporters and Transcribers); or
3. Proof of one year of supervised mentorship with a certified court reporter or an authorized transcriptionist.

D. Those wishing to become authorized transcriptionists must complete and submit, with all supporting documents, a transcriptionist Application, which can be obtained from Court Administration or at https://www.co.benton.wa.us/pview.aspx?id=55145&catid=0.

E. Authorizations granted under this rule shall remain in effect until withdrawn by the Court. Authorized transcriptionists shall have the affirmative duty to advise the Court immediately if they no longer meet the minimum qualifications set forth above, or if any information in their Transcriptionist Application or supporting documents is no longer accurate.

F. A list of authorized transcriptionists can be found at https://www.co.benton.wa.us/pview.aspx?id=55145&catid=0.

[Adopted Effective September 1, 2016, September 1, 2022; Re-Formatted Effective September 1, 2023]

Local General Rule 41
TRIAL PRIORITY DOCKET

A. Trial Priority Hearings (combined with trial readiness docket for criminal cases):

1. *Case Types.* A trial priority docket will be held for domestic cases, civil cases (including administrative law review cases) and minor guardianship cases.

2. *Day/Time.* The combined Trial Readiness/Trial Priority Docket will be held in Benton County on Mondays at 9:00 a.m. and in Franklin County on Wednesdays at 2:30 p.m. subject to updates as needed for court operations.

3. *Criminal Trial Readiness.* Local CrR 4.11 previously governed the trial readiness process for criminal cases. As of the effective date of these rules, Local CrR 8.5 now governs the trial readiness process for criminal matters.

4. *Order which cases will be called.* In the combined Trial Readiness/Trial Priority Docket, criminal cases will be called first, domestic cases will follow directly thereafter, then minor guardianship cases, and finally civil cases. The Court will take recesses as needed to ensure the necessary clerk is present for each case type.

5. *Start of Docket/Hearings.* Counsel for represented parties and pro se parties for all case types shall be present, via WebEx or in person, and ready to go at 9:00 a.m. (Benton) or 2:30 p.m. (Franklin).

6. *Trial Priority Status Hearing Form.* Each counsel for a represented party and each pro se party shall upload to eMotion a Trial Priority Status Hearing form by noon the Wednesday before each docket. In Benton County, that will be a Wednesday before the Monday Trial Priority Docket; in Franklin County, that will be a Wednesday before the next Wednesday Trial Priority Docket. eMotion can be accessed at: (https://www.co.benton.wa.us/pview.aspx?id=55124&catID=0). The trial Priority Status Hearing Form can be accessed on the Court's website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0)

7. *Written Notice for Trial Priority Hearings*:

   a. Domestic Case: Notices will be provided in writing to the parties immediately after the Settlement/Pretrial Conference if the case does not resolve at the settlement conference.
   b. Civil Cases: Notices will be provided in writing to the parties immediately after the Pretrial Management Conference.
   c. Minor Guardianship Cases: Notices will be provided in writing to the parties immediately after pretrial (approximately sixty (60) days before

trial). The pretrial date is provided in the Case Schedule Order which is issued by the court.

d. Adult Guardianship Cases: Notices will be provided in writing to the parties after the hearing held pursuant to RCW 11.130.275 if the matter is going to a contested trial with or without jury.

8. *Cases Not Governed by a Case Schedule Order*. (*e.g.*, Adoptions and Administrative Law Reviews) The parties will continue to file a Certificate of Readiness per LCR 40. A copy of the Certificate of Readiness will be provided to Court Administration. Court Administration will set trial and trial priority hearing (and send notice of both). The Trial Priority Status Hearing form is still required as stated above.

[Adopted Effective September 1, 2023]

III. LOCAL CIVIL RULES

All forms can be found on the Benton/Franklin Superior Court Website:
https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0

Local Civil Rule 4
CIVIL CASE SCHEDULE

A. **Case schedule.** Except as otherwise provided in these rules or ordered by the Court, when an initial pleading is filed and a new case file is opened, Court Administration or Superior Court Clerk will prepare and file a scheduling order (referred to in these rules as a "Case Schedule") and will provide one copy to the party filing the initial pleading.

B. **Effective Date.** This rule shall apply to all cases filed on or after January 1, 2001, except as provided below.

C. **Cases Not Governed by a Civil Case Schedule.** A party may request a Case Schedule from the Court by filing a motion for the Civil Under Ten Docket. Any motion should address the timeframe and/or deadlines needed for the Case Schedule. Upon entry, a copy of the Order is to be provided to the Civil Case Manager, who shall provide the parties with the pre-approved trial dates. The Civil Case Manager shall then issue a Case Schedule in accordance with the selected trial date and the Court's ruling. Unless otherwise ordered by the Court, the following cases will not be issued a Case Schedule on filing:

1. Change of name;
2. Proceedings under RCW title 26.
3. Harassment (RCW chapter 10.14);
4. Proceedings under RCW title 13;

5. Unlawful detainer;
6. Foreign judgment;
7. Abstract or transcript of judgment;
8. Petition for Writ of Habeas Corpus, Mandamus, Restitution, or Review, or any other Writ;
9. Civil commitment;
10. Proceedings under RCW chapter 10.77;
11. Proceedings under RCW chapter 70.96A;
12. Proceedings for isolation and quarantine
13. Injunction;
14. Guardianship/Petitions under TEDRA;
15. Probate;
16. Proceedings under RCW chapter 36.70C;
17. Tax Warrants;
18. Administrative Law Reviews (Appeals of Administrative Agency Decisions);
19. Emancipation of a Minor;
20. Minor Settlements;
21. Condemnations;
22. Petitions for Transfer of Structured Settlements under RCW 19.205;
23. Tax Foreclosures;
24. Actions brought under the Public Records Act, RCW 42.56.

D. Service of Case Schedule on Other Parties.

1. The party filing the initial pleading shall promptly provide a copy of the Case Schedule to all other parties by (a) serving a copy of the Case Schedule on the other parties along with the initial pleading, or (b) serving the Case Schedule on the other parties within 10 days after the later filing of the initial pleading or service of any response to the initial pleading, whether that response is a notice of appearance, an answer, or a CR 12 motion.

2. A party who joins an additional party in an action shall serve the additional party with the current Case Schedule together with the first pleading served on the additional party.

E. Amendment of Case Schedule. The Court, on motion of a party, on stipulation of all parties, or on its own initiative, may modify the Case Schedule for good cause. The Court shall freely grant a motion to amend the case schedule when justice so requires. Parties may stipulate or motion the court for a continuance of trial or amendment of the case schedule order only after receiving and attaching a Certificate of Case Manager's Pre-Approved Dates as prescribed by the court and available on Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0). The dates provided to the parties by way of the certificate will expire thirty (30) days after the Case Manager's signature or as otherwise noted on the form. All orders to continue trial/amend the case schedule order shall be provided to the Case Manager within three (3) court days

of entry of the order. If the court grants a continuance (without a motion/stipulation) the court shall utilize the Court's Order to Continue Trial/Amend Case Schedule Order as prescribed by the court and available on Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).

F. Form of Case Schedule.

1. *Case Schedule.* A Case Schedule for each type of case, which will set the time period between filing and trial and the scheduled events and deadlines for that type of case, will be established by the Court by General Order, based upon relevant factors, including statutory priorities, resources available to the Court, case filings, and the interests of justice.

2. *Form.* A Case Schedule will generally be in the form as prescribed by the court and available on Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0)

G. Monitoring. At such times as, the Presiding Judge may direct, Court Administration will monitor cases to determine compliance with these rules.

H. Witness Disclosure; Enforcement; Sanctions.

1. *Disclosure of Possible Lay and Expert Witnesses:*

   a. Disclosure of Primary Witnesses: Each party shall, no later than the date for disclosure designated in the Case Schedule, disclose all persons with relevant factual or expert knowledge whom the party believes are reasonably likely to be called at trial.
   b. Disclosure of Rebuttal Witnesses: Each party shall, no later than the date for disclosure designated in the Case Schedule, disclose all persons whose knowledge did not appear relevant until the primary witnesses were disclosed and whom the party reserves the option to call as witnesses at trial.
   c. Scope of disclosure: Disclosure of witnesses under this rule shall include the following information:
      i. All witnesses: Name, address, and phone number;
      ii. Lay witnesses: A brief description of the anticipated subject matter of the witness testimony; and/or
      iii. Experts: A summary of the expert's opinions and the basis therefor and a brief description of the expert's qualifications.
   d. Exclusion of Testimony: Any person not disclosed in compliance with this rule may not be called to testify at trial, unless the Court orders otherwise for good cause and subject to such conditions as justice requires, including the payment of terms.
   e. Discovery Not Limited: This rule does not modify a party's responsibility under court rules to respond to or promptly supplement responses to

discovery or otherwise to comply with discovery before the deadlines set by this rule.

2. If the Court finds that an attorney or party has failed to comply with the Case Schedule, failed to provide all of the information required in witness disclosures or disclosed witnesses that are not reasonably likely to be called at trial, or has failed to disclose witnesses and has no reasonable excuse, the Court may order the attorney or party to pay monetary sanctions to the Court, or terms to any other party who has incurred expense as a result of the failure to comply, or both; in addition, the Court may impose such other sanctions as justice requires.

3. As used with respect to the Case Schedule, "terms" means costs, attorney fees, and other expenses incurred or to be incurred as a result of the failure to comply; the term "monetary sanctions" means a financial penalty payable to the Court; the term "other sanctions" includes but is not limited to the exclusion of evidence.

[Adopted Effective September 1, 2000; Amended Effective September 1, 2001; September 1, 2003; September 1, 2004; September 1, 2005; September 1, 2006; September 1, 2007; September 1, 2009; September 1, 2010; September 1, 2011; September 1, 2013; September 2, 2014; September 1, 2015; September 1, 2016; September 1, 2017; September 1, 2018; September 1, 2020; September 1, 2021; September 1, 2022; Effective February 1, 2023; Amended & Re-Formatted Effective September 1, 2023]

Local Civil Rule 4.1
CANCELLATION OR CONFIRMATION OF STATUS CONFERENCE [RESCINDED]

[Adopted Effective September 1, 2000; Amended Effective September 1, 2001; September 1, 2009; September 1, 2011; September 1, 2017; September 1, 2018; Rescinded Effective September 1, 2021]

Local Civil Rule 5
BRIEFS, PROPOSED ORDERS, AND ELECTRONIC SERVICE

A. **Electronic Service**. The Court and Clerk may transmit to all attorneys orders, notices and other documents electronically, via e-mail or other process. Unless an attorney provides a different e-mail address, the Court and Clerk will send documents to the electronic mailbox address shown on the Washington State Bar Association online Attorney Directory. The Court or Clerk may electronically transmit notices, orders, or other documents to a self-represented party who has filed electronically, has agreed to accept electronic documents from the Court, or has provided the Clerk the address of the party's electronic mailbox. The court will use the updated electronic mailbox as it appears on the court case management system. It is the responsibility of all attorneys and the filing or agreeing party

to maintain an electronic mailbox sufficient to receive electronic transmissions of notices, orders, and other documents.

Parties are reminded that, pursuant to CR5(b)(7), a party may serve pleadings electronically on another party only with the consent of the other party. An optional form Agreement to Accept Electronic Notification is available on the Court's website.

B. **Briefs.** All motions, briefs, declarations, affidavits, and other supporting written documentation pertaining to trials, summary judgments motions, lower court appeals and appeals from decisions of administrative agencies (except the record transferred by the agency) and any other motions, and other documents submitted for hearings, such as trial management reports, proposed findings of fact and conclusions of law and judgments, motions and sentencing position statements in criminal matters, and guardian ad litem reports (including criminal and domestic relations), shall be served and filed in the cause.

C. **Bench Copies.** Unless a party does not have access to a computer or the Internet, bench copies of all such documents, as well as settlement position statements/joint pre-trial management reports/joint pre-trial statement and order in civil and domestic cases, shall be submitted electronically via the Internet at:
https://www.co.benton.wa.us/pview.aspx?id=55124&catID=45 or
http://motion.co.franklin.wa.us/.
Parties without access to a computer and the Internet shall deliver bench copies to Court Administration at the Benton County Justice Center. Except for motions for summary judgment and Over Ten motions, all bench copies must be submitted not later than noon on the date the reply is due. Litigants are encouraged to upload to eMotion earlier. Bench copies for motions for summary judgment and over-ten motions shall be submitted no later than the time and date for confirming the motion under LCR 56(A)(2). No bench copies, except settlement position statements and "Read First" pleadings required under LCR 94.04(W)(B)(2)(g), shall be submitted to the Court unless a copy has been served upon or mailed to opposing counsel or party if unrepresented if they are entitled to notice by law. Settlement position statements should be uploaded under seal.

Bench copies submitted electronically are deleted from the system forty-five days after the associated hearing. Bench copies submitted on paper are destroyed after the associated hearing. When hearings are continued, the parties shall amend the hearing date associated with all bench copies submitted electronically or re-submit the Bench copies submitted on paper.

If a party fails to submit bench copies as set forth above the Court may continue the hearing, impose terms and enter other orders as may be appropriate.

Bench copies of the following documents should not be electronically submitted: Notices of hearings, notes for dockets, transmittal letters, proposed statements of defendant on plea of guilty, proposed judgments and sentences and affidavits/proofs of service (unless service

is at issue), and briefs and supporting materials in uncontested summary judgment motions in State paternity cases need not be submitted.

D. **Proposed Orders.** The moving party and any party opposing the motion shall prepare a proposed order which shall be uploaded to eMotion and emailed to Court Administration at the time of filing and serving the motion or response as follows: A Microsoft Word version of the proposed order shall be emailed to Court Administration at courtadmin@co.benton.wa.us. All opposing attorneys and/or, as applicable, all unrepresented litigants shall be copied on any email message sent to Court Administration. The proposed order, labeled as such, shall be filed with the clerk and an original order shall be presented at the hearing. eMotion and Word version of proposed orders shall be submitted pursuant to LCR 5(C) and LCR 56(A).

E. **Process for Presenting Orders when an Order is not signed at a Hearing.** If an order is not signed at the hearing on a matter, entry of the order shall be as follows:

1. *Submission*. Within seven (7) days after the decisions rendered, the prevailing party shall send a proposed order to the opposing counsel and/or unrepresented party. If the prevailing party fails to submit a proposed order in a timely manner, the other party may do so, and shall send it to the opposing counsel and/or unrepresented party.

2. *Objections*. If the party who did not initially prepare the proposed order objects to it, that party shall, within five (5) days after receipt of the same, deliver to the other party a pleading outlining the objections, and proposed substitute order. Upon receipt of same, the party who initially prepared the proposed order shall send the initial order, the substitute order and the pleading outlining the objections to the judge, file the documents with the clerk, and give notice of that action to the other party. The judge may enter an order as proposed or as modified by the judge or set the matter for hearing.

3. *Entry of Order*. If there are no objections received within the five (5) day period aforesaid, the party who initially prepared the order shall send it to the Judicial Officer through Clerk's Services for Presentation of Orders (fees may apply). The Clerk shall present the order to the Judge, file the signed order, cause conformed copies to be sent to all counsel and/or unrepresented parties. Note: conformed copies will only be provided if copies are included and any necessary self-addressed envelopes.

[Adopted Effective April 1, 1986; Amended Effective September 1, 2000; September 1, 2001; September 1, 2002; September 1, 2003; September 1, 2005; September 1, 2007; September 1, 2009; September 1, 2011; September 1, 2012; September 2, 2014; September 1, 2015; September 1, 2016; September 1, 2017; September 1, 2018; September 1, 2021; September 1, 2022; Amended & Re-Formatted Effective September 1, 2023]

Local Civil Rule 7
PLEADINGS ALLOWED; FORM OF MOTIONS

A. Motions and Other Papers.

1. *Memorandum of Authorities and Affidavits Required.*

   a. Moving Party/Parties. The moving party shall serve and file, with his or her motion, a brief written statement of the motion and a brief memorandum containing reasons and citations of the authorities on which he or she relies. If the motion requires the consideration of facts not appearing of record, he or she shall also serve and file copies of all affidavits and photographic or other documentary evidence he or she intends to present in support of the motion. If the motion relies on facts in documents of record, the motion shall identify the document(s) and the date of filing of each document so identified. The motion shall be contained in a separate document from the Note for Motion Docket addressed in subsection (7)(a) hereinbelow. Bench copies shall be submitted as provided in LCR 5.

   b. Opposing Party/Parties. Each party opposing the motion shall at least by noon, one (1) day prior to the argument, serve upon counsel for the moving party and upon counsel for all other parties, if the parties are represented, or upon all other parties if proceeding pro se, file with the Clerk a memorandum containing reasons and citations of the authorities upon which he or she relies, together with all affidavits and photographic or other documentary evidence he or she intends to present in opposition of the motion. If the opposition relies on facts in documents of record, the memorandum shall identify the document(s) and the date of filing of each document so identified. Bench copies shall be submitted as provided in LCR 5.

2. *Necessary Provision in Pleadings Relating to Supplemental Proceedings and Show Cause Hearings for Contempt.* In all supplemental proceedings wherein an order is to be issued requiring the personal attendance of a party to be examined in open court, and in orders to show cause for contempt, the order must include the following words in capital letters:

   YOUR FAILURE TO APPEAR AS ABOVE SET FORTH AT THE TIME, DATE, AND PLACE THEREOF WILL CAUSE THE COURT TO ISSUE A BENCH WARRANT FOR YOUR APPREHENSION AND CONFINEMENT IN JAIL UNTIL SUCH TIME AS THE MATTER CAN BE HEARD OR UNTIL BAIL IS POSTED.

   No bench warrant will be issued in such cases for the apprehension of the cited person if such language has been omitted.

3. C*ounsel Fees.* Appointed counsel submitting motions for fixing or payment of fees and counsel requesting that the Court fix fees in any other case (except for temporary fees in domestic relation cases) should itemize their time, services rendered, or other detailed basis for the fees requested and attach a copy thereof to the motion.

4. *Action Required by Clerk.* All documents filed with the Clerk, other than a note for the motion or trial dockets (see LCR 40) which require any action (other than filing) by the Clerk shall contain a motion in the caption specifying the nature of the document the words: "CLERK'S ACTION REQUIRED."

5. *Motion to Shorten Time.* All motions to shorten time must be in writing and supported by declaration or affidavit that (a) states exigent circumstances or other compelling reasons why the matter must be heard on shortened time and (b) demonstrates due diligence in the manner and method by which notice, or attempted notice, was provided to all other parties regarding the presentation of the motion to shorten time. If the moving party, after showing due diligence, has been unable to notify all parties of the motion to shorten time, it is within the judicial officer's discretion to proceed with the motion to shorten time. All motions to shorten time must be presented on the ex parte docket no less than forty-eight (48) hours before the date and time of the relevant docket/special set/trial. The judicial officer shall indicate on the order shortening time the minimum amount of notice to be provided the responding party, which, barring extraordinary circumstances as set forth in the declaration or affidavit supporting the motion, shall not be less than forty-eight (48) hours.

6. *Document Format.* Documents prepared for a judge's signature must contain at least two (2) lines of text on the signature page.

7. *Hearing of Motion Calendar.*

    a. Note for Motion Docket. Any attorney desiring to bring any issue of law on for Hearing shall file with the Clerk and serve on all opposing counsel, not later than ten (10) calendar days prior to the day on which the attorney desires it to be heard, a note for the motion docket which shall contain the title of the court, the cause number, a brief title of the cause, the date when the same shall be heard, the words "Note for Motion Docket," the name or names of each attorney involved in the matter, the nature of the motion, and by whom made. It shall be subscribed by the attorney filing the same and shall bear the designation of whom the attorney represents. The foregoing provisions shall not prohibit the hearing of written and/or oral emergency motions at the discretion of the Court on any docket.
    b. Over Ten (10) Minutes for Hearing. If the moving party expects the motion to take more than ten (10) minutes to argue by all sides collectively, the movant shall designate on the note for motion docket that the matter is "over 10 minutes."

c. Confirmation of Summary Judgment and Over-Ten-Minute Hearings. The moving party shall confirm with the clerk that summary judgment and over-ten-minute hearings will be heard on the date set during the following time periods:

i. Summary judgment and over-ten-minute hearings shall be confirmed in Benton County no sooner than Monday at 8:00 am and no later than Tuesday noon the week preceding the date the motion is noted for hearing.

ii. Summary judgment and over-ten-minute hearings shall be confirmed in Franklin County no sooner than Tuesday at 8:30 am and no later than Thursday noon the week preceding the week in which the motion is noted for hearing. Confirmations may be by telephone, or by e-mail to the addresses stated below in LCR 7(A)(7)(f).

iii. The clerk shall not allow more than a total of two (2) summary judgment and two (2) over-ten-minute hearings to be confirmed for any one date. The maximum for such motions may be changed by resolution of the judges.

d. Removal of Motion. If the note for motion docket, the motion and supporting factual materials and memorandum are not served and filed as detailed in LCR 7, the Court may strike the same from the calendar.

e. Service of Notice. The motion will not be heard unless there is proof of service of notice upon the attorney for the opposing party, or the opposing party if proceeding pro se, or there is an admission of service by opposing counsel or the opposing party if proceeding pro se in the file.

f. Continuance or Striking of Noted Motions by Parties. A matter noted on the motion docket may be continued pursuant to the following:

i. The moving party may strike or continue a motion at any time without cause with adequate notice to the opposing parties. Sanctions may be imposed if the opposing party's appearance at the hearing could have been avoided through due diligence of the moving party.

ii. Upon a showing of cause, the Court, in its discretion, may grant the non-moving party's request for a continuance.

iii. The party striking any matter may give notice to the non-moving parties by any means reasonably likely to provide actual notice. The clerk may be notified either by written notice or by e-mail notification. Notice to the Franklin County Clerk may be emailed to the following address: civilclerk@co.franklin.wa.us for civil cases; and domesticctclerk@co.franklin.wa.us for domestic cases. Notice to the Benton County Clerk may be emailed to the following address: clerk@co.benton.wa.us.

iv. If the matter is stricken and the moving party desires a hearing, a new note for motion docket must be filed with the Clerk in accordance with section (a), above. Except for matters continued in

open court, a new note for docket is required for motions that are continued.

g. Calling Docket, Priority for Pro Bono Counsel. The causes on the civil docket for each motion day will be called in order, and the moving party, if no one appears in opposition, may take the order moved for upon proper proof of notice, unless the Court shall deem it unauthorized. In order to encourage participation in pro bono legal representation, all motions, where one or both parties are represented by pro bono counsel, shall, at the request of the pro bono attorney, be given priority on the docket. Such priority shall be given without any reference as to the reason why.

h. Continuances by the Court. Any motion or hearing may be continued by the Court to a subsequent motion day or set down by the Court for hearing at another specified time, and the Court may alter the order of hearing as may be necessary to expedite the business of court.

i. Frivolous Motions. Upon hearing any motion, if the Court is of the opinion that such motion is frivolous, or upon granting a continuance of any matter, terms may be imposed by the Court against the party filing such motion, or against the party at whose instance such continuance is granted.

j. Ex Parte – Notice to Opposing Counsel. Ex parte orders shall not be requested without proper notice to counsel for the opposing party, if counsel has appeared, whether formally or informally. Where both parties are appearing pro se, the Court may in its discretion require notice to the opposing party. This rule applies to temporary restraining orders in domestic relations cases as well as all other types of matters but does not apply to orders to show cause in domestic matters (*See LCR 65*) or to domestic violence protection orders and other civil (non-domestic) protection orders.

k. Decisions Without Oral Argument. Upon agreement of the parties, or at the Court's discretion, a motion may be determined without oral argument. Matters may be noted for decision without oral argument only on the dates and times established for regular calendars. The moving party shall certify in the note for docket that every party has consented to determination without oral argument.

l. Discovery Motions. The Court will not entertain any Motion or objection with respect to Rules 26, 27, 30, 31, 33, 34, 35 or 36, Civil Rules for Superior Court unless it affirmatively appears that counsel have met and conferred with respect thereto. Counsel for the moving or objecting party shall arrange such a conference. If the Court finds that counsel for any party, upon whom a Motion for an objection with respect to matters covered by such rules is served, willfully refused to meet and confer, or having met, willfully refused or fails to confer in good faith, the Court may take appropriate action to encourage future good faith compliance. In the event of an emergency, the Court will entertain Motion objections which would otherwise be governed by the above rule.

m. Argument Limitations. Argument on the civil docket shall be limited to thirty (30) minutes per case.

[Adopted Effective April 1, 1986; Amended Effective August 1, 1990; September 1, 2002; September 1, 2009; September 1, 2011; September 1, 2013; September 2, 2014; September 1,

2015; September 1, 2016; September 1, 2017; September 1, 2018; September 1, 2020; September 1, 2021; September 1, 2022; Amended & Re-Formatted Effective September 1, 2023]

Local Civil Rule 16
PRE-TRIAL PROCEDURE

A. Settlement Conferences. In all cases governed by a Case Schedule pursuant to LCR 4, the Court shall schedule a settlement conference.

1. *Preparation for Conference*.
   a. No later than the date set forth on the civil case schedule order, all parties shall prepare a settlement position statement which shall be submitted to the Court as set forth in LCR 5(C). No fax copies will be accepted by the court. Position statements shall not be filed in the court file. No party shall be required to provide a copy of the position statement to any other party. The position statement shall include the following:
      i. A brief non-argumentative summary of the case;
      ii. A statement of whether liability is admitted, and if not, the plaintiff's theory or theories of liability and the defendant's theory or theories on non-liability;
      iii. A list of all items of special damages claimed by the plaintiff and a statement of whether any or all of those are admitted by the defendant;
      iv. An explanation of the general damages, including a summary of the nature and extent of any claimed disability or impairment; and
      v. A statement of what settlement offers have been made thus far, if any.
   b. The position statement is to be a summary only. It is not to include a copy of any exhibits, medical reports, expert witness reports, etc. Generally, the length of the summary will be 1- 5 pages. The summary should take the form of a letter that begins with a reference to the name of the case and the cause number. It should not be in the form of a pleading.

2. *Parties to Be Available.*
   a. The parties and counsel shall attend the settlement conference except on prior order of the Court upon good cause shown or notification of settlement has been given to Court Administration, under LCR 40(B)(4). If notification of settlement is provided to Court Administration, trial shall not be struck, but set for "entry of final documents."
   b. *Representative of Insurer and Guardians ad Litem*: Parties whose defense is provided by a liability insurance company need not personally attend the settlement conference, but a representative of the insurer of said parties shall be available by telephone or in person with sufficient authority to bind the insurer to a settlement. Guardians ad Litem shall be available by telephone or appear in person.

3. *Private Mediation*. Regardless of whether mediation is court-ordered, parties may seek an order allowing them to opt out of the settlement conference by filing a stipulation and order with Court Administration. The request must include a letter from a mediator and signed on behalf of all parties that the case has been mediated or that mediation has been scheduled to occur on or before the date of the settlement conference.

4. *Proceedings Privileged.* Proceedings of said settlement conference shall in all respects be privileged and not reported or recorded. No party shall be bound unless a settlement is reached. When a settlement has been reached, the Judge may in his/her discretion order the settlement agreement in whole, or, in case of a partial agreement, then the terms thereof, to be reported or recorded.

5. *Continuances.* Continuances of settlement conferences may be authorized only by the Court on timely application.

6. *Pretrial Power of Court.* If the case is not settled at a settlement conference, the Judge may nevertheless make such orders as are appropriate in a pretrial conference under LCR 16.

7. *Judge disqualified for trial.* A Judge presiding over a settlement conference shall be disqualified from acting as the trial Judge in that matter, as well as any subsequent summary judgment motions, unless all parties agree otherwise in writing.

B. Pretrial Conference Hearing/Trial Exhibits. In cases that are governed by a Case Schedule pursuant to LCR 4, the Court shall schedule a Pretrial Conference Hearing, which shall be attended by the lead trial attorney of each party who is represented by an attorney and by each party who is not represented by an attorney. The parties must jointly prepare a Trial Management Report.

C. Trial Management Report. In cases governed by a Civil Case Schedule Order pursuant to LCR 4, the parties must jointly prepare a Trial Management Report. The plaintiff shall prepare an initial report and serve it upon all opposing parties no later than two weeks prior to the date it is due under the Civil Case Schedule Order. The Report shall be filed with the Court, and uploaded to eMotion pursuant to LCR 5(C). The Report shall contain:

1. Nature and brief, non-argumentative summary of the case;
2. List of issues that are not in dispute;
3. List of issues that are disputed;
4. Index of exhibits (excluding rebuttal or impeachment exhibits);
5. List of plaintiff's requests for Washington Pattern Jury Instructions;
6. List of defendant's requests for Washington Pattern Jury Instructions;
7. List of names of all lay and expert witnesses, excluding rebuttal witnesses; and
8. Suggestions by either party for shortening the trial.

D. **Parties to Confer in Completing Report.** The attorneys for all parties in the case shall confer in completing the Trial Management Report. If any party fails to cooperate in completing the report, any other party may file and serve the report and note the refusal to cooperate.

E. **Sanctions**. On motion or on its own, the court may issue any just orders, including those set forth herein:

1. If a party and/or attorney for a party:

   a. fails to appear for a required Settlement Conference and/or Pre-Trial Conference, as set by the Case Schedule, court order or court notice;
   b. fails to comply with paragraph (A)(1)(a) hereinabove;
   c. is substantially unprepared to participate – or does not participate in good faith – in any scheduled conference; and/or
   d. fails to obey a scheduling or other pretrial order; then the Court shall issue an order that imposes a monetary sanction up to $250.00 per violation on the offending party and/or attorney, the payment of which is due no later than the 20th calendar day following the date of the order. Any person aggrieved by this order may motion the Court for relief by filing the same and noting it on the appropriate docket, no later than the date upon which payment is due. Failure to make the payment when due shall be punishable by contempt.

2. The sanction detailed in paragraph (E)(1) does not affect the right of any party to move the court for an additional sanction or sanctions with the motion being filed and noted on the appropriate docket and served pursuant to applicable court rules and local court rules. The additional sanctions may include the following:

   a. Prohibiting the violating party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
   b. Striking pleadings in whole or in part;
   c. Staying further proceedings until the order is obeyed;
   d. Dismissing the action or proceeding in whole or in part;
   e. Rendering a default judgment against the violating party pursuant to CR 55; or
   f. Requesting costs, attorney's fees and/or terms be assessed; or
   g. Treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

   At the hearing, any sanction or sanctions will be issued at the discretion of the court with the court having the ability to deny additional sanction or sanctions if the noncompliance was substantially justified or other circumstances make a sanction or sanctions unjust.

F. Form of Trial Management Report. A trial management report will be in generally the following form as prescribed by the court and available on Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).

[Adopted Effective April 1, 1986; Amended Effective September 1, 2000; September 1, 2002; September 1, 2003; September 1, 2007; September 1, 2009; September 1, 2011; September 1, 2012; September 1, 2013; September 2, 2014; September 1, 2015; September 1, 2016; September 1, 2017; September 1, 2018; September 1, 2020; September 1, 2021; Amended & Re-Formatted Effective September 1, 2023]

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 94.04W, shall file with the Clerk, deliver a copy to Court Administration and serve upon the other parties or their attorneys a "Notice of Trial Setting and Certificate of Readiness," in the form as prescribed by the court and available on Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0), 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, address, e-mail 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 noted on the civil motion docket to argue the matter of trial setting.
   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 Court

Administration of unavailable dates within five (5) days after receiving the notice of trial setting.

B. Methods.

1. *Court Administration to Assign Dates*. Court Administration 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," Court Administration shall forthwith assign a specific trial date and notify the Clerk and counsel of the date assigned. Cases set for trial shall be set for a pre-trial conference hearing by Court Administration.

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. *Notification of Settlement.* Notification of the settlement of a case set for trial shall be immediately given to Court Administration and filed with the Clerk, as per LCR 16(A)(2)(a). Any circumstance preventing any case from going to trial as scheduled, immediately upon becoming known to counsel, shall be communicated to Court Administration. Failure to comply with this rule may result in the assessment of terms including the expense of a jury panel.

C. Stipulated Continuances. Parties may stipulate/motion the court for a continuance of trial or amendment of the case schedule order with an attached Certificate of Case Manager's Pre-Approved Dates available on Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0). The dates provided to the parties by way of the certificate will expire 30 days after the Case Manager's signature or as otherwise noted on the form. All orders to continue trial/amend the case schedule order shall be provided to the Case Manager within three (3) court days of entry of the order. If the court grants a continuance (without a motion/stipulation), the court shall utilize the Court's Order to Continue Trial/Amend Case Schedule Order as prescribed by the court and available on Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).

D. Change of Judge.

1. *Notice of Judicial Disqualification.*

   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. *Disqualification - Court Commissioner.* Disqualifications of a Court Commissioner or requests for a 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. Pre-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 p.m. 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; September 2, 2014; September 1, 2016; September 1, 2017; September 1,2018; September 1, 2020; September 1, 2021; September 1, 2022; Amended & Re-Formatted Effective September 1, 2023]

Local Civil Rule 42
CONSOLIDATION; SEPARATE TRIALS

A. Consolidated Cases for Trial Only. When two or more cases are consolidated for trial only, an original Order to Consolidate, reflecting the cause number to be used as the lead case in which all subsequent documents will be filed, shall be submitted in each case. Consolidated cases shall be presumed to be consolidated for trial only, unless otherwise indicated.

B. Consolidated Cases. When two or more cases are consolidated, an Order to Consolidate reflecting the cause number to be used as the lead case and all other numbers relevant to the consolidation shall be submitted in each relevant case.

[Adopted Effective August 1, 1990; Amended Effective September 1, 2007; Re-Formatted Effective September 1, 2023]

Local Civil Rule 47
JURORS

A. **Voir Dire.** The trial judge may examine the prospective juror(s) touching their qualification to act as fair and impartial jurors in the case before him or her; provided that thereafter the trial judge shall give leave to respective counsel to ask the jurors such supplementary questions as may be deemed by the trial judge proper and necessary. The voir dire examination of prospective jurors shall, as nearly as possible, be limited to those matters having a reasonably direct bearing on prejudice or qualifications and shall not be used by opposing counsel as a means of arguing or trying their case on voir dire. The "struck method" of voir dire examination is allowed. That is, the parties may direct questions to individual jurors or to the panel or to portions thereof, in the discretion of the examiner.

B. **Challenge.**

1. *Peremptory Challenges.* All peremptory challenges allowed by law shall be exercised in the following manner:

   a. The bailiff will deliver to counsel for the plaintiff and counsel for the defendant, in turn, a prepared form upon which each counsel shall endorse the name of the challenged juror in the space designated, or his acceptance of the jury as constituted. The bailiff will then exhibit this form after each challenge to the opposing counsel, to the Clerk, and to the Court. After all challenges have been exhausted, the Court will excuse those jurors who have been challenged and will seat the jury as finally selected.
   b. A waiver by a party indicates an acceptance by that party of all jurors seated up to that point.
   c. The purpose of this rule is to preserve the secrecy of peremptory challenges and all parties and their counsel shall conduct themselves to that end. This procedure may be modified if appropriate.

C. **Selection of Jurors.** The Benton County Superior Court and the Franklin County Superior Court shall employ a properly programmed electronic data processing system or device to make random selection of jurors as required by RCW 2.36.063. It is determined that fair and random selection may be achieved without division of the county into three (3) or more jury districts. At least annually, a master jury list shall be selected by an unrestricted random sample in accordance with RCW 2.36.055.

D. **Jury Questionnaires**. Subject to the limited access provisions of GR 31(f), original jury questionnaires completed by all prospective jurors shall be filed by the court Clerk.

[Adopted Effective August 1, 1990; Amended Effective September 1, 2007; Re-Formatted Effective September 1, 2023]

Local Civil Rule 48
JURIES OF LESS THAN TWELVE

A. Stipulation - Procedure. The parties may stipulate that the jury shall consist of any number of persons less than twelve (12) but not less than three (3). Counsel shall call the stipulation to the attention of the Presiding Judge when the case is called for trial. The stipulation, if in writing, shall be filed in the cause; if oral, it shall be noted by the clerk in the minutes of the trial.

B. Challenges Not Affected. The stipulation shall not affect the number of challenges, nor the manner of making them, unless the parties expressly agree otherwise. (See RCW 4.44.120, et seq.)

[Adopted Effective April 1, 1986; Re-Formatted Effective September 1, 2023]

Local Civil Rule 51
INSTRUCTIONS TO JURY AND DELIBERATION

A. Proposed.

1. *Instructions Required of Plaintiff*. Plaintiff's counsel shall prepare and present to the Court a cover instruction containing the title and file number of proceedings, the name of the attorney for each party properly designated, and appropriate blank space where the name of the judge hearing the case can be inserted and entitled "Instructions of the Court."

2. *Instructions in the Alternative.* Instructions, the form of which is dependent upon rulings of the Court, may be submitted in the alternative and counsel shall have the right to withdraw those instructions made unnecessary or inappropriate by reason of said rulings at any time prior to the submission of the Court's instructions to the jury.

B. Submission.

1. *Distribution*. Sets of proposed instructions shall be prepared and distributed as follows:

   a. Original, which shall be assembled and numbered and contain citations, shall be filed with the clerk;
   b. One copy, which shall be assembled, numbered and contain citations, shall be provided to counsel for each other party;
   c. One copy, which shall be assembled and numbered, shall be retained by the counsel preparing them;
   d. One copy, which shall be assembled, numbered and contain citations, shall be provided to the trial judge; and
   e. One copy, without numbers or citations, shall be provided to the trial judge.
   f. Citations, as required by the rule, shall include applicable WPI or WPIC numbers and shall appear on the bottom of the proposed instructions.

2. *Time for Serving Instructions*. Unless requested earlier by the trial judge, all instructions, shall be submitted at the beginning of the first day of trial. Upon request of the trial judge to all counsel and made not more than seven (7) days before the date of trial, counsel shall prepare and deliver to the trial judge and to other counsel, not less than three (3) days before the day on which the case is set for trial, the required number of copies of proposed instructions insofar as counsel may then be able to determine them.

C. Verdict Forms. Each verdict form shall be headed with title and cause number of the proceeding. This shall also apply to special interrogatories. A date line shall be typed above the line for the jury foreperson.

D. Published Instructions.

1. *Request.* The Court has not adopted a local rule to allow instructions appearing in the Washington Pattern Instructions (WPI or WPIC) to be requested by reference to the published number.

2. *Modified Instructions*. Whenever a Washington Pattern Instruction (WPI or WPIC) is modified by the addition of, the deletion of, or the modification of certain language, the party proposing the instruction must cite the instruction as follows: "WPI or WPIC No. Modified."

E. Disregarding Requests. The trial court may disregard any proposed instruction not proposed or submitted in accordance with this rule.

F. Civil and Criminal. This rule applies to instructions for civil and criminal cases.

G. Duties Relating to Return of Verdict. Attorneys awaiting a verdict shall keep the clerk and bailiff advised of where they may be reached by phone. Attorneys desiring to be present for the verdict shall be at the courthouse within fifteen (15) minutes of the time they are called. In a criminal case, at least one attorney for each party and the prosecuting attorney or deputy prosecuting attorney shall be present for the receipt of the verdict, unless excused by the Court. The defense attorney is responsible for advising the defendant to be present for the verdict unless defendant is in custody.

[Adopted Effective April 1, 1986; Amended Effective September 1, 2003; September 1, 2005; September 1, 2009; September 1, 2011; September 1, 2020; Re-Formatted Effective September 1, 2023]

Civil Local Rule 52
FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Unless the presiding judicial officer directs that entry of Findings of Fact and Conclusions of Law are to be handled differently, the Findings, Conclusions and Judgment shall be entered in the following manner:

1. *Submission.* Within fifteen (15) days after the decisions rendered, the prevailing party shall submit Findings of Fact and Conclusions of Law and shall deliver the same together with the Proposed Judgment to the opposing counsel. If the prevailing party fails to submit proposed findings in a timely manner, the other party may do so, and shall thereupon note the matter for presentment, giving the prevailing party at least seven (7) business days' notice of the hearing.

2. *Objections.* A non-prevailing party objecting to the Findings, Conclusions or Judgment shall, within fifteen (15) days after receipt of the same, deliver to proposing counsel two (2) copies of the objections thereto in writing, and the proposed substitutions. Upon receipt of the objections, the proposing attorney shall deliver the proposed Findings, Conclusions and proposed Judgment together with one (1) copy of the objections and the proposed substitutions received from opposing counsel to the trial judge through Court Administration.

    a. If there are no objections received within the fifteen (15) day period aforesaid, counsel may forward the submittal to the judge who shall, within ten (10) days thereafter, either (a) sign the proposed Findings of Fact, Conclusions of Law and Judgment and forward to the Clerk for filing with conformed copies to all counsel, or (b) return the Findings of Fact, Conclusions of Law and Judgment, if deficient, to all counsel noting the Court's requested changes or additions thereto.
    b. If objections are made, the Court shall arrange for a chamber conference to settle the issues as soon as practicable.

3. *Intent.* It is the intent of this rule that Findings of Fact, Conclusions of Law and Judgment will be settled and filed as soon as possible, and that such matters shall not be noted on the Motion Docket; provided however, that if the Findings of Fact, Conclusions of Law and Judgment are not settled within sixty (60) days after the Court's oral or written decision, either party may note entry of the Findings of Fact, Conclusions of Law and Judgment on the Motion Docket.

4. *Application*. This rule only applies to the entry of Findings of Fact and Conclusions of Law when the same are required under CR 52 and does not apply to entry of orders or judgments unless Findings of Fact and Conclusions of Law are required.

[Adopted Effective April 1, 1986; Amended Effective September 1, 2011; September 2, 2014; Re-Formatted Effective September 1, 2023]

Local Civil Rule 53.2
COURT COMMISSIONERS

A. Revision by the Court.

1. *Motion Content and Service Deadlines.* A party seeking revision of a Court Commissioner's ruling shall within ten (10) days of entry of the written order, file and serve a Motion for Revision. The motion must set forth specific grounds for each claimed error and argument and legal authorities in support thereof. The motion shall be accompanied by a copy of the order for which revision is sought, along with copies of all papers which were before the Commissioner in support, or in opposition in the original proceedings. A copy of the motion and all supporting documents shall be provided to all other parties to the proceedings and to Court Administration at e-mail: Reconsideration-Revision@co.benton.wa.us, who shall refer the motion to the appropriate Judge for consideration. The opposing party has ten (10) days after service of the motion to file and serve opposing documents and a proposed order, on:

    a. opposing counsel or the opposing party if not represented at the time of filing of the motion; and
    b. to Court Administration at email: Reconsideration-Revision@co.benton.wa.us. The 10-day period may be extended an additional ten (10) days for a total of twenty (20) days either by the court for good cause or by the parties' written stipulation.

2. *Transcript Required.* When seeking revision of a ruling of the Court Commissioner which was based on testimony, such testimony must be transcribed and attached to the motion. If the transcript is not timely available, the moving party must set forth arrangements which have been made to secure the transcript.

3. *Review is De Novo.* Review of the Commissioner's order shall be de novo based on the pleadings and transcript submitted and without oral argument unless requested by the reviewing Judge.

4. *Scope of Motion.* The Judge may deny the motion, revise any order or judgment which is related to the issue raised by the motion for revision or remand to the Commissioner for further proceedings. The Judge may not consider evidence or issues which were not before the Commissioner or not raised by the motion for revision. The Judge may consider a request for attorney fees by either party for the revision proceedings.

5. *Effect of Commissioner's Order.* The Court Commissioner's written order shall remain effective unless and until revised by the Judge or unless stayed by the Judge pending proceedings related to the motion for revision.

[Adopted September 1, 2003; September 1, 2021; Re-Formatted Effective September 1, 2023]

Local Civil Rule 56

SUMMARY JUDGMENT

A. Motion and Proceedings.

1. *Briefs.* Briefs, or statements of points and authorities, shall be mandatory with respect to all motions for summary judgment. The original is to be filed with the Superior Court Clerk. Bench copies shall be submitted in accordance with LCR 5 (which is no later than the time and date for confirming the motion under LCR 56(A)(2)(b)), below.

2. *Continuance and Confirmation.* In the event a motion for summary judgment or partial summary judgment is noted, and the non-moving party believes that a continuance is warranted, the non-moving party shall file a motion for a continuance, supporting the same with sworn pleadings. Said motion shall be heard at least one week before the scheduled date of the summary judgment hearing.

    a. In the event the moving party unreasonably refuses to continue the case or the opposing party unreasonably is not prepared for the hearing, terms may be assessed.
    b. The moving party shall confirm with the Clerk that the motion will be heard on the date set during the time periods set forth in LCR 7(A). However, the Clerk shall not allow more than two (2) summary judgment hearings and two (2) over-ten-minute hearings to be confirmed for any one date. The maximum for such motions may be changed by resolution of the judges. A moving party contacting the clerk to confirm a summary judgment for a date for which the maximum number of summary judgments and over-ten-minute hearings have previously been confirmed may continue the hearing to the next reasonably available setting and provide notice of the continuance to the other parties in the action and shall re-confirm the continued setting in accordance with the above rules. Twenty-eight (28) days' notice is not required for setting a new hearing hereunder. The new hearing date may be after the last date specified for filing dispositive motions in the Civil Case Schedule Order, but in no event less than fourteen (14) days before trial.

3. *Motion - Contents of*. The moving party shall specify with particularity the documentary evidence, including depositions, on which the motion is based.

4. *Continuance After Confirmation*. Once confirmed, no summary judgment hearing shall be continued without permission of the presiding Judge, and the moving party must appear at the docket.

[Adopted Effective April 1, 1986; Amended Effective September 1, 1998; September 1, 2003; September 1, 2006; September 1, 2009; September 1, 2011; September 1, 2013; September 2, 2014; September 1, 2017; September 1, 2020; Re-Formatted Effective September 1, 2023]

Local Civil Rule 58
ENTRY OF JUDGMENT

A. Timing.

1. *Judgments and Orders to be Filed Forthwith*. Any order, judgment or decree which has been signed by the Court shall not be taken from the courthouse but must be filed forthwith by the attorney obtaining it with the Clerk's Office or with the clerk in the courtroom. If signed outside the courthouse, the attorney procuring the order shall deliver or mail it to the appropriate Clerk the same day, or file it by the next judicial day.

2. *Settlement*. Upon settlement of any action, a judgment of dismissal shall be entered forthwith.

B. Effective Time.

1. *Effective on Filing in Clerk's Office*. Judgments, orders and decrees shall be effective from the time of filing in the Clerk's Office, unless filed in accordance with CR 5(e).

2. *Not to be Entered Until Signed.* The Clerk will enter no judgment or decree until the same has been signed by the Judge.

[Adopted Effective April 1, 1986; Amended Effective September 1, 2015; Re-Formatted Effective September 1, 2023]

Local Civil Rule 59
NEW TRIAL, RECONSIDERATION, AND AMENDMENT OF JUDGMENTS

A. Time for Motion.

1. Motions for a new trial, reconsideration or for judgment NOV shall not be noted for hearing at the time the motion and supporting documents are filed. See CR 59(b).

2. Motions for a new trial, reconsideration or for judgment NOV shall be accompanied by supporting documents to include; a statement of points and authorities, any other relevant documents and a proposed order.

B. Time for Serving Affidavits.

1. On the same day the motion for a new trial, reconsideration or for judgment NOV and supporting documents are filed or are sent by mail to be filed, whichever occurs earlier, the motion and supporting documents, including a proposed order, shall be served, or caused to be served, on (1) opposing counsel or the opposing party if not represented at the time of filing of the motion, and (2) the appropriate judicial officer via Court Administration at e-mail: Reconsideration-Revision@co.benton.wa.us. The proposed order shall be in Word format. Proof of service shall be timely filed with the clerk's office.

2. The opposing party has ten (10) days after service to file and serve opposing documents to include: a statement of points and authorities, and other relevant documents and a proposed order, on (i) opposing counsel or the opposing party if not represented at the time of filing of the motion and (ii) the appropriate judicial officer via Court Administration at email: Reconsideration-Revision@co.benton.wa.us. Proof of service shall be timely filed with the court clerk's office. The proposed order shall be in Word format. The 10-day period may be extended an additional ten (10) days for a total of twenty (20) days either by the court for good cause or by the parties' written stipulation.

C. Hearing on Motion.

1. The judicial officer may (i) grant or deny the motion or (ii) call for oral argument. If the judicial officer calls for oral argument, the parties will be notified by Court Administration of the need to schedule a special set hearing and will work with the Administrative Assistant to schedule the special set hearing; when the date and time of the special set hearing are known, the moving party shall file a note for special set hearing with the court clerk's office, serve the same on opposing counsel or the opposing party (if unrepresented) and provide a copy of the same by e-mail to the Administrative Assistant.

[Adopted Effective April 1, 1986; Amended Effective September 1, 2015; September 1, 2020; September 1, 2021; Amended & Re-Formatted Effective September 1, 2023]

Local Civil Rule 60
UNLAWFUL DETAINER ORDER ON MOTION TO STAY WRIT
[RESCINDED]

[Adopted Effective September 1, 2020; Rescinded Effective September 1, 2023]

Local Civil Rule 64
SEIZURE OF PERSON OR PROPERTY

A. All bench warrants issued in a civil proceeding shall be valid for one year from the date of issuance, unless quashed earlier. All such warrants issued in a civil proceeding shall contain substantially the following language: This warrant shall expire at the end of one year from the date of issuance.

[Adopted Effective August 1, 1990; Amended Effective September 1, 2003; Re-Formatted Effective September 1, 2023]

Local Civil Rule 65
INJUNCTIONS

A. **Temporary Restraining Order; Hearing - Duration.** The party applying for an emergency order which would require or forbid the doing of some act, if a public body is involved, or if the opponent's counsel is known, shall notify the opponent or opposing counsel and shall request opponent's presence at the presentation of the order, unless good cause to the contrary is shown. If the opponent does not appear, the judge shall require a full showing with respect to the notice given. Presentation of all applications for temporary restraining orders (except in domestic relation cases) shall be presented on the ex parte docket.

[Adopted Effective April 1, 1986; Amended Effective September 1, 2018, September 1, 2021; Re-Formatted Effective September 1, 2023]

Local Civil Rule 77
SUPERIOR COURTS AND JUDICIAL OFFICERS

A. **Court Hours.** Court will be in session, unless otherwise ordered on all judicial days except Saturdays and Sundays. Court hours will be from 8:00 a.m. to 4:30 p.m., except the Court shall be closed for lunch from 12:00 p.m. to 1:00 p.m. The hours of operation for both the Benton and Franklin County Clerks of the Court can be found on their respective Websites. Counsel shall be present in court at 8:30 a.m. on the first day of a jury trial. In criminal cases, defense counsel shall have the defendant in court at 8:30 a.m. the first day of trial unless the defendant is in custody. The Court Administration office shall be open 8:00 a.m. to 4:00 p.m., except the office shall be closed for lunch from 12:00 p.m. to 1:00 p.m.

[Adopted Effective April 1, 1986; Amended Effective September 1, 1998; September 1, 2003; September 1, 2004; September 1, 2005; September 1, 2009; September 1, 2011; September 1, 2018; September 1, 2021; September 1, 2022; Re-Formatted Effective September 1, 2023]

Local Civil Rule 79
BOOKS AND RECORDS KEPT BY THE CLERK

A. Other Books and Records of Clerk.

1. *Exhibits.*

    a. Temporary Withdrawal: Exhibits may be withdrawn temporarily from the Clerk's office only by:
        i. The Judge having the cause under consideration;
        ii. Official court reporters for use in connection with their duties, without court order; and
        iii. An attorney of record, upon court order.
        iv. Videotaped Depositions: Videotaped depositions published in open court shall be treated as court exhibits, with the same retention standards. A party who wishes to make a published videotaped deposition part of the court file must submit a certified transcript of the deposition.

2. *Return of Contraband Exhibits.* When contraband, alcoholic beverages, tobacco products or controlled substances are being held by the Clerk of the Court as part of the records and files in any criminal case, and all proceedings in the case have been completed, the court may order the Clerk to deliver such contraband or substances to an authorized representative of the law enforcement agency initiating the prosecution for disposition according to law.

3. *Return of Exhibits and Unopened Depositions*. When a civil case is finally concluded, and upon stipulation of the parties or court order, the Clerk of the Court may return all exhibits and unopened depositions, or destroy the same.

4. *Disposition of Exhibits.* After final disposition of a civil cause, the Court, after a hearing, may order the clerk to destroy or otherwise dispose of physical evidence which cannot, because of bulk or weight, be retained in the case file provided that all parties of record are given thirty (30) days written notice of any such hearing.

5. *Return of Administrative Records.* When a case for review of an administrative record is finally completed, the Clerk shall return the administrative record to the officer or agency certifying the same to the court.

6. *Verbatim Record of Proceedings.* A verbatim report of proceedings shall not be withdrawn from the Clerk's office except by court order.

7. *Transcripts.* A request for a copy of a transcript prepared by a court reporter in the possession of the Clerk of the Court, shall be referred to the court reporter that prepared said transcript.

8. *Electronic Recording of Proceedings.* The court Clerks shall maintain custody of electronic recordings created in any civil or criminal proceedings.

9. *Video Recording of Proceedings.* The court Clerks shall maintain custody of video recordings offered and/or admitted as evidence in any civil or criminal proceedings.

[Adopted Effective April 1, 1986; Amended Effective September 1, 2002; September 1, 2007; September 2, 2014; September 1, 2018; September 1, 2020; September 1, 2022; Amended & Re-Formatted Effective September 1, 2023]

Local Civil Rule 81
APPLICABILITY IN GENERAL

A. To What Proceedings Applicable.

1. *Generally.* In general, procedure in this Court shall be in accordance with pertinent Washington Court Rules as heretofore or hereafter adopted by the Supreme Court of Washington. These local rules are intended only to supplement those rules and are numbered, insofar as possible, to conform to the CR numbering system. The Rules shall also apply to criminal cases insofar as they are applicable.

2. *Suspension of Rules.* The Court may modify or suspend any of these Rules in any given case, upon good cause being shown therefore, or upon the Court's own motion.

[Adopted Effective April 1, 1986; Amended Effective September 1, 2003; Re-Formatted Effective September 1, 2023]

DOMESTIC RELATIONS [RE-FORMATTED]

General Rules
Local Civil Rule 94.04W

[Adopted effective April 1, 1986; Amended effective September 1, 1998; September 1, 1999; September 1, 2001; September 1, 2003; September 1, 2005; September 1, 2007; September 1, 2009; September 1, 2010; September 1, 2011; September 1, 201; September 1, 2013; September 2, 2014; September 1, 2016; September 1, 2017; September 1, 2018; September 1, 2019; Re-Formatted Effective September 1, 2020]

Local Civil Rule 94.05W
MANDATORY PARENTING SEMINARS

[Adopted Effective January 1, 1997; Amended Effective September 1, 1999; September 1, 2018; September 1, 2019; Re-Formatted Effective September 1, 2020]

Local Civil Rule 94.06W
MANDATORY MEDIATION OF CHILD PLACEMENT AND VISITATION ISSUES

[Adopted Effective September 1, 1998; Amended effective September 1, 2008; September 1, 2011; September 1, 2013; September 2, 2014; September 1, 2015; September 1, 2016; September 1, 2018; September 1, 2019; Re-Formatted Effective September 1, 2020]

Local Civil Rule 94.07W
DOMESTIC RELATIONS MOTIONS

[Adopted Effective September 1, 2007; Amended Effective September 1, 2013; September 2, 2014; September 1, 2015; September 1, 2017; September 1, 2018; September 1, 2019; Re-Formatted Effective September 1, 2020]

IV. LOCAL DOMESTIC RULES
LCR 94.04(W)
These rules herein supersede civil rules unless stated otherwise herein.

All forms can be found on the Benton/Franklin Superior Court Website:
https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0

Local Domestic Rule 1
GENERAL RULES

A. **Applicability.** These Rules (LCR 94.04(W)) shall apply to proceedings under RCW Title 26 and non-statutory family law proceedings (*e.g.*, committed intimate relationship, common law defacto parentage, etc.) pending or filed on or after September 1, 2023.

B. **Update of Address.** Each party must update their address with the County Clerk's office immediately upon a change of address. If a party moved due to domestic violence or the threat of domestic violence, that party must provide the Court with an address where they will receive mail. The change of address must also be mailed or otherwise provided to the opposing party within seventy-two (72) hours of the address change.

C. **Issues Regarding Venue/Jurisdiction.** If venue or jurisdiction is an issue, either party may apply to the Court for an expedited hearing on this issue, which shall be heard promptly prior to a hearing on the merits.

1. *Hearing Requirement.* If a Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) hearing is required, both parties shall complete and file a UCCJEA information form. The parties must also provide a copy to the Administrative Assistant in Court Administration. See UCCJEA Information Form as prescribed by the Court and available on Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).

D. **Automatic Temporary Restraining Order.** The Clerk of the Court shall issue an Automatic Temporary Restraining Order in all domestic matters except child support actions. See Automatic Temporary Restraining Order as prescribed by the Court and available on Benton/Franklin Suprerior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).

1. *Effective Date.* The petitioner is subject to the order from the time of its entry upon filing of the summons and petition. The petitioner shall cause a copy of the Automatic Temporary Restraining Order to be served on each respondent. Each respondent is subject to the order from the time that it is served.

E. **Domestic Case Scheduling Order.** Except as otherwise provided in these Rules or ordered by the Court, when an initial pleading is filed and a new case file is opened, the Domestic Case Manager will prepare a domestic case schedule format and the Superior Court Clerk will issue and file the Domestic Case Scheduling Order and will provide one copy to the party filing the initial pleading (except for Petitions to Modify Child Support).

1. *Service.* The party filing the initial pleading shall promptly provide a copy of the Domestic Case Scheduling Order to all other parties by (a) causing a copy of the Domestic Case Scheduling Order to be served on the other parties along with the initial pleading, or (b) causing the Domestic Case Scheduling Order to be served on the other parties within ten (10) days after the later filing of the initial pleading or service of any response to the initial pleading, whether that response is a notice of appearance or an answer.

2. *Amendment Procedures.* The Court, either on motion of a party consistent with the procedure set forth herein, or on its own initiative, may modify the Domestic Case Scheduling Order for good cause:
   a. To continue a settlement conference, trial, and/or amend the case schedule order, the party seeking to modify the order shall contact all other parties to determine if there is an agreement. Whether the other parties are in agreement or not, the party seeking to modify dates for settlement conference and/or trial shall then contact Superior Court Administration to determine available dates.
   b. Once the available dates are identified by the Case Manager, the party seeking to modify dates may move for relief by filing and serving a motion to modify along with a declaration and attach a Certificate of Case Manager's Pre-Approved Dates and note the motion on the Domestic Relations docket. See Certificate of Case Manager's Pre-Approved Dates as prescribed by the court and available on the Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).
   c. Parties are to either enter their stipulation or file their motion within one (1) week of receiving the pre-approved dates from the Case Manager. The dates provided to the parties by way of the certificate will expire thirty (30) days

after the Case Manager's signature or as otherwise noted on the form. All orders to continue trial/amend the case schedule order shall be provided to the Case Manager within three (3) court days of entry of the order.

3. *Form of Order.* Mandatory court appearances are noted in bold on the Scheduling Order as prescribed by the Court and available on the Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).

4. *Disclosures*. By the deadline set forth in the Domestic Case Scheduling Order, the parties shall file and serve the opposing party with a copy the following documents: (1) proposed Child Support Worksheets; (2) tax returns and W-2 statements for the past two (2) calendar years; (3) partnership and corporate tax returns, if any, for the past two (2) calendar years, to include all schedules and attachments; (4) wage stubs for the past six (6) months or since January 1 of the calendar year, whichever period is greater; and (5) declaration of Financial Documents Given to Opposing Party in the form prescribed by the Court and available on Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0). Failure to file and give to the opposing party or their attorney the Declaration of Financial Documents may subject the non-complying party and/or their attorney to sanctions or other equitable relief the Court deems necessary.

F. Mandatory Parenting Seminars. In all cases, except those that exclusively pertain to child support, all parties shall complete a parenting seminar conducted by a Court-approved provider. A list of approved providers may be located at the Benton County Website provided in the General Rule above. Parties shall not be required to attend a seminar together.

1. *Timing.* Parties shall complete an approved parenting seminar within sixty (60) days of service of a petition or motion initiating the action. In paternity actions initiated by the prosecuting attorney's office, the parenting seminar shall be required only when paternity is established or acknowledged, and a parenting plan is requested. The class will be completed prior to entry of a permanent parenting or residential plan. The Court may waive a party's attendance or extend the time required for good cause.

2. *Cost.* Each party attending a seminar shall pay a fee charged by the approved provider and sanctioned by the Court, which may be waived for indigent parties.

3. *Failure to Comply.* Willful refusal to timely participate in a parenting seminar may constitute contempt and subject the contemnor to terms including but not limited to: imposition of monetary terms, striking of pleadings, limiting non-complying parent's visitation, or denial of affirmative relief to a party not in compliance with this Rule.

Local Domestic Rule 2

MOTIONS AND HEARINGS

A. Motions for Immediate Orders.

1. *Irreparable Injury.* Immediate (or emergency) orders in family law matters that restrain one party from the family home or from contact with the other party or children shall not be entered unless the Court finds (and the order provides) that irreparable injury could result if the order is not entered.

2. *Present Danger to Child.* Immediate (or emergency) orders in family law matters that request changing the custody of minor child(ren) shall not be entered unless the Court finds a clear showing of present danger to a child (children) and/or that the custodial person will, unless custody change is immediate, remove the said child (children) from the State of Washington.

B. Family Law Motions. Family law motions shall be scheduled on the family law/domestic relations dockets in Benton and Franklin Counties in accordance with the docket schedule approved by the Superior Court judges. Docket days and times are available through the Superior Court Administration Office and also on the Court's website at the Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).

1. *Timelines for Filing Motions*. The moving party shall file with the Clerk and serve on the opposing party/counsel the motion, note for motion, and all supporting documents at least twenty-one (21) calendar days prior to the hearing date. The opposing party's strict response must be filed and served by 12:00 p.m. eleven (11) calendar days prior to the hearing. Documents filed in strict reply to the response must be filed and served by 3:00 p.m. five (5) calendar days prior to the hearing. The Court will not consider any issues raised for the first time in the strict reply document. The Court, either on its own or after an objection, will determine whether an averment, argument, or evidence is a new issue for purposes of this Rule, thereby striking it from consideration.

2. *Confirmation/Strike Process.* Motions must be confirmed by the moving party no later than 3:00 p.m. five (5) calendar days prior to the hearing or the motion will be stricken or continued at the Court's discretion. The moving party shall confirm the motion by completing and filing on eMotion a "READ FIRST." See Read First as prescribed by the court and available on the Benton/Franklin Superior Court's website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0). If the moving party fails to appear after confirming the motion, the Court may strike the motion, deny the motion, impose terms, and/or order any other relief the court deems appropriate. If the responding party fails to appear, the Court may grant the relief requested.

3. *Which docket do I set my hearing on?*

a. Franklin County family law motions (Over Ten and Under Ten) shall be noted on the same docket (but designated as over or under 10 on the Read First) for Monday at 8:30 a.m.
b. Franklin County relocation motions and relocation trials shall be scheduled using the special set process as detailed on the Court's website (see link, above).
c. Benton County family law motions requiring more than ten (10) minutes for argument shall be noted on the Domestic Docket - Over 10 as follows:
    i. Tuesdays at 8:15 a.m. – Petitioner last name beginning with A-L
    ii. Tuesdays at 1:15 p.m. – Petitioner last name beginning with M-Z.
d. Benton County family law motions requiring less than ten (10) minutes for argument, shall be noted on the Domestic Docket – Under 10 on Wednesdays at 8:30 a.m.
e. Benton County Cases that have no attorneys involved for either party, will be set on the Pro Se Docket on Tuesdays at 1:30 p.m.
f. Benton County relocation motions, post-secondary support motions, and motions requiring more than twenty (20) minutes shall be heard only on the Domestic Docket – Over 20 on Wednesdays at 9:00 a.m. Benton County relocation trials shall be scheduled using the special set process on the Court's website: (https://www.co.benton.wa.us/pview.aspx?id=55275&catID=0).

4. *Time for Argument.* The Court shall have complete discretion to administer the docket as justice so requires, including ruling on motions without oral argument, with limited oral argument, expanded oral argument, or in the ordinary course, as follows:
a. Each side on the Over 10 docket is allowed seven (7) minutes for argument.
b. Each side on the Under 10 docket is allowed three (3) minutes for argument.
c. Each side on the Over 20 docket is allowed fifteen (15) minutes for argument.
d. Court shall notify litigants in advance of a ruling without oral argument by indicating it on the docket if time permits, otherwise, the Court shall notify the litigants at roll call at the start of the docket.

5. *Page Limits.* Absent prior authorization from the Court, the moving party (litigant filing the motion requesting relief) shall be limited to twenty-five (25) pages and the responding party shall be limited to twenty (20) pages, per motion. Failure to comply with this Rule is sanctionable; the Court, in its discretion, may impose terms, strike all pleadings of that noncomplying party, or any other relief the Court deems appropriate. Motions to exceed the page limit shall be made in writing, at least one (1) week before the hearing on the merits, and in no event shall exceed thirty-five (35) pages. The following documents do not count towards the page limit:
a. cover pages (declaration of counsel cover page, fax cover page, etc.);
b. financial declarations;
c. child support worksheets and attachments;

d. financial documents (including but not limited to paystubs, W-2s, bank records, and tax returns and attachments);
e. Information on Temporary Parenting Plan form;
f. expert reports and evaluations (including declarations, affidavits, and reports from Family Court Investigator, Guardians ad Litem and a Parenting Evaluator);
g. school records/letters, grade reports, school attendance reports; and
h. pleadings from other filed cases, (*e.g.*, Petition for Domestic Violence Protection Order; however, if the pleading is a declaration or affidavit from another court case, then those pages shall count towards the page limit), and copies of pleadings clearly marked as previously filed for a motion already ruled upon and supplied only as a convenience.

6. *Pleading format.* All declarations and affidavits must comply with General Rule 14 (format for pleadings and other papers), be legibly hand-printed or typed in at least twelve (12) point type.

7. *eMotion and bench copies.* Each party must upload to eMotion (link below), and serve on the other parties, copies of the documents they will rely upon at the hearing, including the Read First. Parties shall also upload a ready-to-sign copy of the order they seek to have entered. All bench copies and proposed orders must be submitted by 3:00 p.m. five (5) court days prior to the scheduled hearing. No bench copies shall be submitted to the Court unless a copy has been served upon opposing counsel or party if unrepresented. Bench copies submitted electronically are deleted from the eMotion system forty-five (45) days after the associated hearing.
   a. Bench copies shall be submitted at: http://motion.co.franklin.wa.us/login/php. Parties without access to a computer and the Internet shall deliver bench copies to Court Administration at the Benton County Justice Center. Bench copies submitted on paper are destroyed after the associated hearing.
   b. When hearings are continued, the parties shall amend the hearing date associated with all bench copies submitted electronically. The Court will not move/resubmit the copies submitted via eMotion.
   c. For agreed final orders/default orders, ready-to-sign orders shall be submitted to Court Administration (paper form only) by 3:00 p.m. five (5) court days prior to the hearing. The parties shall use the Final Order Submission cover sheet. See Final Order Submission (for final documents/orders) as prescribed by the court and available on Benton/Franklin Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).
   d. If a party fails to submit bench copies as set forth above, the Court may continue the hearing, decide the motion based solely on the properly provided documents, impose terms/fees and/or enter other orders as may be appropriate.

8. *Reopening motions.* No party shall remake the same motion to a different Judge or Commissioner without identifying the motion previously made, including when it was made, to which judicial officer it was made, what the order or decision was, and any new facts or other circumstances that would lawfully justify seeking a different ruling from the previous Judge or Commissioner.

9. *Orders to Show Cause Notice***.** No notice is required to the other party when simply obtaining an Order to Show Cause to set a motion hearing and there are no actual orders being taken in the Order beyond setting the motion hearing itself. This rule does not affect service of process rules.

10. *Orders shortening time*. The time requirements for notice and hearing on a motion may be shortened only by court order and for good cause shown, which requires:
    a. separate pleading for the motion to shorten time;
    b. declaration setting forth all relevant facts establishing good cause (meaning, what actual harm is likely to result if the motion is heard on a normal schedule);
    c. declaration demonstrating that as soon as the moving party was aware they will be seeking an order shortening time, that party contacted the opposing party/ies to give notice in the form most likely to result in actual notice; and
    d. the notice included all information required in this rule and the following:
        i. the specific date and time the order shortening time will be heard;
        ii. a copy of pleadings to be filed and proposed orders to be sought; and,
        iii. an averment by the movant that either the matter cannot be temporarily resolved pending a regularly set hearing or that the parties attempted to reach a temporary resolution and are at an impasse; and
        iv. the court may deny or grant the motion and impose such conditions as the court deems reasonable (including setting a briefing schedule). All other rules not specifically in conflict with this rule remain in effect.

Local Domestic Rule 3
GUARDIANS AD LITEM (GALs), FAMILY COURT INVESTIGATORS (FCI), AND COURT ORDERED EVALUATIONS

A. Guardian ad Litem/Family Court Investigator. Upon motion of the parties or on the Court's own motion, the Court may appoint a Guardian ad Litem (GAL) or a Family Court Investigator (FCI). All Guardians ad Litem shall be in good standing on the Benton and Franklin Counties Superior Court Guardian ad Litem Registry. A list of court-approved Guardians ad Litem can be located on the Court's website: (https://www.co.benton.wa.us/pview.aspx?id=55188&catid=0).

1. *Deadline and scope.* When the Court appoints a Family Court Investigator or County-paid GAL, the FCI or County-paid GAL shall submit a preliminary report to the parties and the court within 30 days of appointment, unless the order provides otherwise. The order appointing a Family Court Investigator or County-paid GAL

shall be limited in scope and shall be limited to gathering documents and outlining the facts relevant to the statutory factors, if any. If Child Protective Services and/or law enforcement are conducting parallel investigation(s), the FCI/County-paid GAL shall note such in the report, but these parallel investigations do not guarantee a continuance of the deadline for the FCI/County-paid GAL report.

2. *Service and notice required.* Pursuant to applicable rules, from the date of the appointment, the GAL/FCI shall receive copies of all documents that are to be served on parties, copies of all discovery, and notice of all hearings and presentations related to the residential schedule, decision making, or other child-related issues (other than support). Any party who requires the GAL/FCI at a trial related to child residential schedule, shall prepare and serve a subpoena on the GAL/FCI for mandatory appearance by GAL/FCI.

3. *Discharge.* Unless otherwise set forth in these rules, the GAL/FCI shall be discharged only by order of the Court upon motion, completion of a declaration by the GAL/FCI, or upon completion of the parenting plan, which requires the GAL/FCI's signature.

4. *GAL/FCI disapproval of parenting plan.* In any case where a GAL/FCI has been appointed and does not agree with an Agreed Final Parenting Plan, with the exception of a case being determined by a judicial officer after trial, prior to entry of the final parenting plan or residential schedule, the GAL/FCI must sign a declaration indicating the GAL/FCI has reviewed the final order does not approve or approves in part, and state the reasons therefor.

B. **Evaluations, tests, assessments, and other third-party observations.** Upon motion of a party or the Court's own motion, the Court may order a custody or parenting evaluation, mental health evaluation, alcohol or drug evaluation, mediation, treatment, counseling, physical examination, or other evaluation or assessment permitted by law, including the applicable portions of the Family Court Chapter, RCW 26.12. The Court will determine the need for appointment of professionals and direct either or both parties to pay for services deemed necessary. The issue of costs shall be addressed in the order requiring said services. Such motions and corresponding responses must include six months of pay stubs, two years of tax returns, and a current financial declaration if there is not an agreement on allocation of the cost of such evaluation(s).

Local Domestic Rule 4
MEDIATION

A. **Mediation Required for All Disputed Issues.** All disputed issues, including petitions alleging Committed Intimate Relationships, shall be submitted to mandatory mediation except for child support and post-secondary support. Mediation shall be completed pursuant to the Domestic Case Scheduling Order. A list of court-approved mediators may be found at: (https://www.co.benton.wa.us/pview.aspx?id=55181&catid=45). This may be

waived only by written order after a motion and hearing demonstrating good cause. The parties shall provide a copy of the Order with their settlement position statement before settlement conference.

B. **Attendance.** Attendance by the parties at mediation sessions is mandatory. Mediation shall include the parties (and their counsel) only, but may, by written agreement of the parties and the mediator, at least 24 hours before the mediation, include other persons.

C. **Pre-Mediation Exchange of Information.** The parties are required to provide to the mediator their respective positions/requests at least forty-eight (48) hours prior to attending mediation (including exchanging information necessary to carry out good faith mediation). The mediator may adjust this timeline in their discretion. If assets/debts are at issue, the parties should make good faith efforts to identify which assets/debts are at issue in the matter well in advance of mediation in order to promote the efficient use of time. A litigant's failure to engage in good faith efforts in this regard may subject that person to contempt of the domestic case schedule order and violation of this Rule.

D. **Declaration of Completion.** Within seven (7) days of completion, a declaration of completion shall be filed by the mediator. The mediator shall advise the Court only whether an agreement has been reached by the parties or not.

E. **Mediation Unsuccessful.** If the parties fail to reach an agreement in mediation of the issues of placement and visitation, a Guardian Ad Litem or a Family Court Investigator may be ordered upon proper motion of either party or the Court.

F. **Confidentiality.** The work product of the mediator and all communications during mediation shall be privileged and not subject to compulsory disclosure. The mediator shall not appear or testify in any court proceedings. However, if the mediator believes that one party has acted in bad faith, the mediator is permitted (but not required) to disclose the acts of bad faith to the Court in a written declaration, sworn under penalty of perjury.

Local Domestic Rule 5
ARBITRATION
[Reserved]

Local Domestic Rule 6
MANDATORY SETTLEMENT & PRE-TRIAL CONFERENCES

A. **Combined Settlement and Pretrial Conferences**. A combined settlement and pretrial conference shall be held in all contested family law/domestic relations cases. The purpose of the conference is to explore settlement of all issues and to identify disputed issues. Parties are not bound by the settlement recommendations of the Court but are required to attend and participate.

1. *Attendance by all Counsel and Parties is Mandatory*. Failure to appear at the settlement conference, without prior permission of the court, shall constitute an act of default. The present party may file a motion for default pursuant to CR 55. Notice of default and the proposed final documents are required pursuant to Court/Civil Rules to be serviced on the opposing party.

2. *Submitting Position Statements*. Both parties shall exchange position statements prior to the Settlement Conference. The Parties shall submit with Court Administration (or eMotion) and serve/exchange their position statement, three (3) days prior to the settlement conference. **Position statements shall not be filed in the court file.** No fax copies will be accepted by the court. See Position Statement for Settlement Conference as prescribed by the court and available on Benton/Franklin Superior Court website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).

3. *Court Imposed Sanctions.* Failure to appear at the settlement conference (without prior permission of the court) or failure to timely submit a Position Statement, may subject the non-complying party and/or their attorney to a sanction of $200, paid to the Clerk of the Court. Payment shall be due within twenty (20) days of the order. A party or attorney may petition the Court for relief from sanctions, which shall be filed within the same 20-day period and shall be noted for hearing.

4. *If No Settlement is Reached*. At the conclusion of the settlement conference, if the case is not then settled, a Joint Pretrial Statement and Pretrial Order will be prepared cooperatively between the parties and the Court. The Pretrial Order must be signed by the Judicial Officer. Exhibit and witness lists shall be filed and served, and exhibits served, not later than two (2) weeks before the trial date, unless otherwise stated in the Pretrial Order. See Order re: Pretrial Statement as prescribed by the court and available on Benton/Franklin Superior Court's website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).

Local Domestic Rule 7
TRIAL

A. **Assets and debts.** If distribution of assets and/or debts is an issue, each party shall, one (1) day before trial, serve the other party and upload to eMotion (or provide to Court Administration if the party is unrepresented), a list of assets and debts known to the party and that party's good faith position as to the fair market value of each. The parties shall also designate the asset or debt as community property or separate property and shall designate their position as to distribution of the assets and/or debts.

B. **Trial brief.** If a party intends to submit a trial brief, the party shall file and serve a trial

brief the day before trial begins detailing the legal points and authorities related to the issues to be resolved at trial.

C. Procedure at conclusion of trial. Unless otherwise directed by the Trial Court Judge, within thirty (30) days of the judge giving his or her written decision, the moving party (party who started the most recent petition) that started the action shall submit proposed final documents to the other (responding) party and then follow (a) or (b) below:

1. If the responding party does not agree to the proposed final documents, they have fifteen (15) days after they have received them to object by delivering a copy of their proposed changes/objections to the other party. Once the moving party receives the objections, the moving party shall deliver their proposed final documents along with a copy of the objections and proposed changes from the other party, to the trial judge at Superior Court Administration, 7122 W. Okanogan Place, Suite A130, Kennewick, WA 99336. If objections are made, the court may schedule a hearing, sign or modify the proposed documents.

2. If no objections are made within the thirty (30) day period, the moving party may send the proposed final documents, along with proof that the proposed final documents were delivered to the other party, to the trial judge at Superior Court Administration, 7122 W. Okanogan Place, Suite A130, Kennewick, WA 99336. The trial judge may sign the proposed final documents and forward them to the clerk for filing, or the trial judge may return the final documents, if missing information, to all the parties, noting the requested changes and additions.

3. Unless advised by the Court, or agreement of the parties, if the moving party does not submit final documents within the thirty (30) days of trial, the other party may do so and should schedule their case for Entry of Final Documents before the Trial Court Judge via a special set hearing (scheduled through Court Administration). The moving party should be notified of the hearing and should be given at least fourteen (14) days' notice of said hearing. Proof of such notice should be brought to the hearing, along with the prepared final documents.

4. If the Trial Court Judge gives their Trial ruling by an oral ruling, and a transcript is to be ordered, then the rules herein shall commence within twenty-four (24) hours of the parties receiving the transcript of the Judge's oral ruling.

5. If there is a pending issue post-Trial to be resolved via the regular domestic docket, such as final orders of child support, then the rules herein shall still apply to the other final documents. Once the post-Trial issues are argued and a decision is provided by the Court the same application/process herein above shall commence within twenty-four (24) hours of the final decisions related to those post-Trial issues.

6. Any clarification of submission of finals shall be submitted to the Trial Court Judge via Court Administration for further ruling/direction (the other party shall be copied on all communication to the Trial Court Judge).

D. Informal Trial. Pursuant to General Rule 40, parties may mutually consent to an informal trial for some or all issues as permitted by the Rule.

1. *Consent procedure.* To mutually consent to an Informal Trial, the parties shall, at least thirty (30) days prior to the trial date: (1) sign, file in the case, and serve on the other party, a Family Law Informal Trial Selection Form. See Family Law Informal Trial Selection Form as prescribed by the Court and available on Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0); and (2) once both parties have consented to an Informal Trial by complying with the requirements of this Rule, one or both of the parties may move for an Informal Trial on the motion docket, or they may make the request during the scheduled settlement conference.

2. *Modifying procedures of an Informal Trial*. If one or more of the parties who have mutually consented to an Informal Trial desire that the procedures set forth in General Rule 40 be modified (including but not limited to limitations on declarations and witnesses) they shall specially set a hearing (scheduled through Court Administration) to commence at least twenty-eight (28) days prior to the date for the Informal Trial. It may be heard by any judicial officer, but, if possible, it shall be set with the same judicial officer who will preside over the trial. If the parties begin an informal trial without moving to modify the procedures in General Rule 40, it is presumed that by doing so the parties are expressing an intent to follow General Rule 40 without modification.

3. *Exhibits and trial declarations.* Both parties shall provide a list of their exhibits and a copy of each exhibit (in organized fashion) that they intend the Court to consider at least fourteen (14) days prior to trial. The list shall be filed with the Court; copies of the exhibits shall not be filed with the Court. All issues related to rebuttal evidence and exhibits, if any, shall be resolved by the trial judge within their discretion.

Local Domestic Rule 8
POST-DECREE MATTERS

A. Modification of Final Divorce Orders/Dissolution Decree. Any motions filed after a case has been closed (post-decree or final) requesting to vacate, change, modify, or clarify a Final Divorce Order or Dissolution Decree shall require an Order to Show Cause to set the motion hearing. As part of any petition to modify spousal maintenance, unless the party is disputing cause/adequate cause to modify, each party shall disclose within sixty (60) days of filing the petition and response their year-to-date paystubs as well as tax returns for the preceding two (2) years of tax returns.

B. **Modification of Final Order of Child Support.** If a petition to modify any order, judgment, or decree as to support of minor children only, then it shall be heard upon affidavit only, unless the either party has obtained leave of Court to hear said matter upon oral testimony, in which event the notice of hearing shall so provide. As part of any petition to modify child support, unless the party is disputing cause/adequate cause to modify, each party shall disclose within sixty (60) days of filing the petition and response their year-to-date paystubs as well as tax returns for the preceding two (2) years of tax returns.

C. **Modification of Final Parenting Plan or Final Residential Schedule.**

1. *Actions for Modification of Residential Schedule or Final Parenting Plan.* A Domestic Case Schedule Order shall be issued on petition/motion to modify a final residential schedule/parenting plan. A motion for modification of the residential schedule of a final parenting plan or final residential schedule shall be brought on by noting the adequate cause hearing required by RCW 26.09.270 on the motion calendar. The notice shall inform the other party of the time and place of hearing, the right of the other party to file opposing affidavits, and that the Court will take the following action:
   a. If adequate cause for the requested modification is not established by the affidavits, the petition for modification of the parenting plan or residential schedule will be denied.
   b. If adequate cause for hearing is established by the affidavits, an order will be issued fixing a trial date and requiring the other party to show cause why the petition for modification should not be granted.

2. *Motions for Temporary Change of Residential Time.* Except with respect to pending actions for dissolution, legal separation, or a decree of invalidity, motions for temporary change of residential time will not be heard until adequate cause has been established, unless an immediate restraining order has been granted. Once adequate cause is established, the Court may proceed immediately to the hearing of the motion for temporary change of residential time or continue the same, as justice requires.

IF YOU DO NOT FOLLOW THE COURT RULES, YOU MAY BE SANCTIONED BY THE COURT.

The rules herein have in total been previously modified as follows:
[Adopted Effective January 1, 1997; Amended Effective September 1, 1999; September 1, 2018; September 1, 2019] [Adopted Effective September 1, 2007; Amended Effective September 1, 2013; September 2, 2014; September 1, 2015; September 1, 2017; September 1, 2018; September 1, 2019] [Adopted Effective September 1, 1998; Amended effective September 1, 2008; September 1, 2011; September 1, 2013; September 2, 2014; September 1, 2015; September 1, 2016; September

1, 2018; September 1, 2019; September 1, 2021; September 1, 2022; February 1, 2023; Amended & Re-Formatted Effective September 1, 2023]

MANDATORY FORMS PER LOCAL COURT RULES

– UCCJEA Form
– Automatic Temporary Restraining Order
– Domestic Case Scheduling Order & Attachment
– Declaration of Financial Documents Given to Opposing Party
– Read First
– Position Statement for Settlement Conference
– Order re: Pre-Trial Statement
– Family Law Informal Trial Selection Form
– Final Order Submission (for final documents / orders)

All forms can be found on the Benton/Franklin Superior Court Website:
https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0

Local Civil Rule 95.00W
DOMESTIC RELATIONS WAIVER OF AGE TO MARRY

A. Applications for waiver of minimum age to marry shall be made through the Juvenile Department of the Superior Court. Application shall contain such information and supporting documentation as may be prescribed by the Director of Juvenile Court. Before Court hearing, applicants must give evidence of completion of a program of premarital counseling by a licensed counselor, a counseling agency, or their rabbi, priest or minister, together with such counselor's recommendation, and shall be interviewed by a probation counselor of the Juvenile Department who may offer recommendations to the Court.

[Adopted Effective April 1, 1986]

Local Civil Rule 96.00W
CHANGE OF NAME OF STEPCHILD

A. When a change of name to that of the stepfather is sought for a child under eighteen (18) years of age, notice must be given to the natural father in the manner of giving notice to a non-consenting parent in an adoption, and in addition, written consent will be required of any child over fourteen (14) years of age.

[Adopted Effective April 1, 1986]

V. LOCAL SPECIAL PROCEEDINGS RULES (LSPR)

Local Special Proceedings Rule 98.18
COURT-CREATED TRUSTS

A. Special Needs Trusts and Trusts governed by SPR 98.16W shall be approved in accord with the following requirements:

1. A copy of the proposed trust document, note for hearing and trustee's fee schedule shall be submitted to the Guardianship Monitoring Program three (3) weeks in advance of the hearing.

2. An independent Guardian Ad Litem, specifically qualified in the area of court-created trusts, must be appointed to evaluate the proposed trust unless:
   a. The Court has ordered that the trust be drafted by independent trust counsel; or
   b. The basis for eligibility for a special needs trust is a physical disability only and the adult beneficiary is competent. However, the Court may, in its discretion, appoint a Guardian ad Litem for an otherwise competent beneficiary if it determines that he or she may not fully appreciate all the issues involved in creating the trust.

3. The proponent of a trust must identify any other roles expected for trustees or members of a trust advisory committee in the life of the beneficiary. This would include caregivers, professional advisors, family or others who might receive direct or indirect economic benefit from trust expenditures.

4. The order approving the trust may only be entered in a file with a probate/guardianship type "4" case assignment number to facilitate tracking. The order must have space designated on the face page to highlight due dates for accountings and other required filings. The trust document must be filed in the Superior Court file.

5. The trustee is required to furnish annual accountings to the Court for approval with notice to any interested parties.

6. The trust may not provide for removal to another venue or jurisdiction without order of this Court.

7. A parent of a minor beneficiary who is not the sole trustee or, if co-trustee, is not able to authorize a trust disbursement without Court approval.

8. The appointment of any successor trustee is subject to approval of the Court.

9. A trustee, other than a bank or trust company, is required to post a bond in the full amount of trust funds not placed in blocked accounts.

10. Amendment of the trust shall only be by order of this Court.

11. The trustee must file an inventory with the Court within thirty (30) days of the funding of the trust. An amended inventory must be filed within thirty (30) days if additional funding, in excess of $3,000, takes place after the filing of the initial inventory.

12. The trustee must file with the Court an outline of the beneficiary's projected needs and significant trust expenditures within thirty (30) days of their appointment and annually at the time of each accounting to the Court.

13. Annual reports shall be approved through the Guardianship Monitoring Program (GMP).
    a. If an interested party requests a hearing, then either party shall note a hearing for review and approval of the annual report.
    b. If a hearing for approval of an annual report is noted, the GMP shall receive for review bench copies of annual reports at least three (3) weeks prior to hearing.

[Adopted Effective September 1, 2009; September 1, 2022; Amended & Re-Formatted Effect September 1, 2023]

Local Special Proceedings Rule 98.19
CONSERVATORSHIP & ADULT GUARDIANSHIP INITIAL AND PERIODIC REPORTING – INVENTORIES, ACCOUNTINGS AND PLANS

A. **Forms.** Parties are required to use the state guardianship/conservatorship forms as available at: https://www.courts.wa.gov/forms/?fa=forms.static&staticID=14#Guardianship. The court may provide additional forms for local practice: (https://www.co.benton.wa.us/pview.aspx?id=55180&catid=45)
Do not delete language from the standard State forms. Parties may bold or underline additional language and strike (by lining through) inapplicable language.

B. **Presentment.**

1. The original of any report, account or care plan shall be filed in the Clerk's Office.

2. A copy of the report, accounting or care plan shall be clearly marked "BENCH COPY" provided to the Superior Court Guardianship Monitoring Program together

with an original and one copy of a proposed order approving the report, accounting and/or care plan and a stamped, self-addressed envelope.

3. Copies of any supporting documentation for accountings shall be provided to the Superior Court Guardianship Monitoring Program. This shall include hard copies of monthly bank statements, canceled checks or substitute images thereof provided by the financial institution, and receipts as appropriate. If the guardian/conservator of the estate is a bank or trust agency/company, it may file a computer printed statement of account in lieu of receipts or canceled checks. However, it must still complete the Guardian's/Conservator's Report, Accounting and Proposed Budget form. Guardians/Conservators shall retain copies of the supporting documentation for four (4) years. Upon request of the Court, supporting documentation shall be re-submitted to the Guardianship Monitoring Program.

C. Final Accounting. Submission of final reports shall be done in accordance with the court's process as provided on Benton/Franklin Superior Court website: https://www.co.benton.wa.us/pview.aspx?id=55176.

D. Termination of Conservatorship Due to Death of Person Subject to Conservatorship – Obligations. Pursuant to RCW 11.130.570 (11) and (12), the Conservator shall file a final report and a petition for discharge with the Clerk and bench copies submitted to the Guardianship Monitoring Program at least twenty-one (21) days before the order of discharge is presented to the Court.

1. If an interested party requests a hearing, then either party shall note a hearing for review and approval of the petition for discharge.

2. If a hearing for approval of a petition for discharge is noted, the GMP shall receive bench copies of the final report at least twenty-one (21) days prior to hearing.

E. Termination of a Minor Conservatorship – Obligations. Pursuant to RCW 11.130.570(10), the Conservator shall file a final report and petition for discharge with the Clerk and bench copies submitted to Guardianship Monitoring Program at least twenty-one (21) days before the order of discharge is presented to the court.

1. If an interested party requests a hearing, then either party shall note a hearing for review and approval of the petition for discharge.

2. If a hearing for approval of a petition for discharge is noted, the GMP shall receive bench copies of the final report at least twenty-one (21) days prior to hearing.

F. Termination When Conservator is Removed or Resigns – Obligations. Pursuant to RCW 11.130.570 (10), the Conservator shall file a final report and petition for discharge with the Clerk and bench copies submitted to Guardianship Monitoring Program at least 21 days before the order of discharge is presented to the court.

1. If an interested party requests a hearing, then either party shall note a hearing for review and approval of the petition for discharge.

2. If a hearing for approval of a petition for discharge is noted, the GMP shall receive bench copies of the final report at least twenty-one (21) days prior to hearing.

G. Attorney of Record - Withdrawal. The attorney representing the Adult Guardianship/Conservatorship shall be considered the attorney of record until his or her withdrawal.

H. Show Cause Hearings - Compliance with Reporting.

1. The Guardianship Monitoring Program office shall record all due dates for guardian/conservator's reports, and filings as set by the court. This shall include, but not be limited to, an inventory, care plan, report and accounting or receipt for blocked account.

2. *Order to Show Cause – Failure to Timely File Reports*. If reports and/or filings are not presented timely, an order to show cause on the appropriate docket shall be sent to the attorney of record for the guardian/conservator or the guardian/conservator if not represented. Appearance on the docket is mandatory. The attorney and/or the guardian/conservator shall have at least five (5) business days' notice, in accordance with CR 6(d), to appear.
   a. *Attendance at Show Cause Hearing.* Attendance at the show cause hearing is mandatory unless the guardian/conservator files the required document(s) referenced in the order to show cause at least five (5) days in advance of the hearing date, and the GMP strikes or continues the hearing.
   b. *Sanctions Regarding Noncompliance.* The Court has discretion and may then take appropriate action to address the noncompliance including, but not limited to: imposing monetary sanctions, increasing the bond, suspending the duties of the guardian/conservator, appointing a guardian ad litem, and/or removing the guardian/conservator or other appropriate sanctions.

I. Order to Appear at Review Hearing – Deficient Reports/Other. If after initial review of a guardian's/conservator's report or other filing, it is found unacceptable by the Court, the guardian/conservator shall be notified of the additional information or corrective action required. Additionally, the Court may issue an order requiring the guardian/conservator to appear at a review hearing set on the appropriate docket to address identified deficiencies in the report or other issues related to the guardian's/conservator's duties. The Court may then take appropriate action to resolve any concerns regarding the guardian's/conservator's performance of their fiduciary duties.

1. *Attendance at Review Hearing.* Attendance at the review hearing is mandatory.

2. *Sanctions at Review Hearing.* The court may then take appropriate action to resolve any concerns regarding the guardian's/conservator's performance of their fiduciary duties including but not limited to imposing monetary sanctions, increasing the bond, suspending the duties of the guardian/conservator, appointing a guardian ad litem/court visitor, and/or removing the guardian/conservator

[Adopted Effective September 1, 2009; Amended September 1, 2013; September 1, 2015; September 1, 2016; September 1, 2021; September 1, 2022; Amended & Re-Formatted Effective September 1, 2023]

Local Special Proceedings Rule 98. 20
CONSERVATORSHIP & ADULT GUARDIANSHIP DOCKET PROCEDURES

A. Docket Date/Time. The Probate & Guardianship/Conservatorship Docket will be heard at dates and time as determined by the Court and published on the Court's website: https://www.co.benton.wa.us/pview.aspx?id=1756&catid=47

B. Court Forms. Parties are required to use the state guardianship/conservatorship forms if available at: https://www.courts.wa.gov/forms/?fa=forms.static&staticID=14#Guardianship. The court may provide additional forms for local practice: https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0

C. Notice of Issue/Note for Motion Docket.

1. The Notice of Issue/Note for Motion Docket shall designate in the caption whether the matter is "under ten" or "over ten." The parties may waive oral argument. (LCR 7(A)(7)(k)). A party desiring oral argument shall so indicate by including the words "ORAL ARGUMENT REQUESTED" in the caption of its motion or responsive memorandum.

2. The moving party's e-mail address, for use by Court Administration, must be provided below the party's signature on the Notice of Issue/Note for Motion docket. The responding party's e-mail address, for use by Court Administration, must be provided below the party's signature line on the responsive memorandum.

D. Timelines for Filing Motions Other than Summary Judgment Motions.

1. The moving party shall file with the Clerk and serve the opposing party/counsel the motion, note for motion docket, proposed order and all supporting documents:
   a. In Benton County no later than twelve (12) calendar days prior to hearing date.

b. In Franklin County no later than ten (10) calendar days prior to the hearing date.

2. The opposing party's response must be filed and served no later than noon:
   a. In Benton County on the Thursday of the week immediately preceding the week the hearing is scheduled.
   b. In Franklin County on the Friday of the week immediately preceding the week the hearing is scheduled.

3. Documents filed in strict reply to the response must be filed and served no later than noon:
   a. In Benton County on the Monday of the week the hearing is scheduled.
   b. In Franklin County on the Tuesday of the week the hearing is scheduled.

4. The Court will not consider any issues raised for the first time in the strict reply document.

5. Except as stated in paragraph 4 above, the deadlines for filing and confirming summary judgment motions shall be as set forth in CR 56 and LCR 56.

E. **Service by E-Mail.** Attorneys may serve other attorneys via email and may serve non-attorney litigants via email only with the consent of the non-attorney litigant in writing or by email.

F. **Proposed Orders – Required**. Every party must submit a proposed order with the motion or response. The word "Proposed" must be in the title of the document. The Clerk shall file proposed orders. Litigants shall upload proposed orders to eMotion and for GUARDIANSHIP/CONSERVATORSHIP/PROBATE cases email Word versions of proposed order to Court Administration at: courtadmin@co.benton.wa.us. A copy of any email message sent to Court Administration shall be sent to all opposing attorneys and/or as applicable all unrepresented litigants.

G. **Bench copies – Required**. Bench copies of all documents shall be submitted via eMotion, no later than noon on the date the reply is due. Litigants are encouraged to upload to eMotion earlier. If a party/counsel is unable to access eMotion, bench copies of all documents related to a hearing shall be delivered to Court Administration at the Benton County Justice Center no later than noon on the date the reply is due and shall detail the hearing date and time on the first page of the documents in the top right-hand corner.

H. **Read First.** The moving party shall confirm the motion by completing and filing on eMotion a "READ FIRST" document, as prescribed by the Court and available on the Benton/Franklin Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).

1. Confirmation will not be effective unless this procedure is used. All cases that are

confirmed will be either argued or an agreed order shall be entered. All cases that are not confirmed will be either stricken or continued.

2. If the moving party fails to appear after confirming the motion, the court may strike the motion, deny the motion, impose terms, and/or order any other relief the court deems appropriate. If the responding party fails to appear, the court may grant the relief requested.

I. Order of Dockets. The dockets will be called in order of the cases listed. All participants for each case are to be ready at the time their hearings begin.

J. Striking of Motions Before Docket Day. Moving parties may strike guardianship/conservatorship/probate hearings, for Benton County matters, by calling the Guardianship/Conservatorship/Probate Clerk or by sending an email to clerk@co.benton.wa.us, no later than Monday at 12:00 pm. For Franklin County matters, email to civilclerk@franklincountywa.gov no later than Tuesday at 12:00 pm.

K. Orders. If an order is not signed at the hearing on a matter, entry of the order shall be as follows:

1. *Submission*. Within seven (7) days after the decisions rendered, the prevailing party shall send a proposed order to the opposing counsel and/or unrepresented party. If the prevailing party fails to a submit proposed order in a timely manner, the other party may do so, and shall send it to the opposing counsel and/or unrepresented party.

2. *Objections*. If the party who did not initially prepare the proposed order objects to it, that party shall, within five (5) days after receipt of the same, deliver to the other party a pleading outlining the objections, and proposed substitute order. Upon receipt of same, the party who initially prepared the proposed order shall send the initial order, the substitute order and the pleading outlining the objections to the judge, file the documents with the clerk, and give notice of that action to the other party. The judge may enter an order as proposed or as modified by the judge or set the matter for hearing.

3. *Entry of Order*. If there are no objections received within the five (5) day period aforesaid, the party who initially prepared the order shall send it to the judge who shall forthwith sign the initial proposed order, forward it to the Clerk for filing, and cause conformed copies to be sent to all counsel and/or unrepresented parties.

[Adopted Effective September 1, 2021; September 1, 2022; Amended & Re-Formatted Effective September 1, 2023]

Local Special Proceedings Rule 98.21

EMERGENCY MINOR GUARDIANSHIP & MINOR GUARDIANSHIP MATTERS

All forms can be found on the Benton/Franklin Superior Court Website:
https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0

A. **Forms**. Parties are required to use the state forms for Emergency / Minor Guardianship & Conservatorship matters. The court may provide additional forms for local practice.

B. When an initial Petition for an Emergency Minor Guardianship or Minor Guardianship is filed, the Clerk shall issue "Local Court Instructions" and provide a copy to the Petitioner at the time of filing. Petitioner shall serve the "Local Court Instructions" on all parties requiring service. See Instructions Form as prescribed by the Court and available on the Benton/Franklin Court's website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).

C. **Update of Address.** Each party (petitioner, parents of minor, legal guardian/custodian of minor, or other person entitled to personal service under the Uniform Guardianship Act for minor guardianship matters) shall update their address with the Clerk's office immediately upon a change of address. See Notice of Address Change Form as prescribed by the Court and available on the Benton/Franklin Court's Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0). If a party moved due to domestic violence or the threat of domestic violence, that party must provide the Clerk with an address where they will receive mail. The change of address must also be mailed or otherwise provided to the opposing party within seventy-two (72) hours of the address change.

D. **Order Setting Case Schedule.**

1. An "Order Setting Case Schedule" shall be issued by the Court when a case is contested by one or more parties, and only after the following actions are complete at the Court's discretion:
   a. Proof of service on all parties requiring service has been filed;
   b. Washington State Patrol Criminal history report(s) of proposed guardian(s) and all adults residing in the proposed guardian's home has been filed in the court file;
   c. Order Directing DCYF to Release CPS Information has been filed;
   d. Court Visitor (if required or appropriate) has been appointed; and
   e. Any other item the Court determines necessary prior to entry of a scheduling order.

2. The Order Setting Case Schedule will set dates for Pre-Trial and Trial, but at the Court's discretion may also include dates for: Status Review; a Second Pre-Trial, or Review of Emergency Minor Guardianship, as appropriate.

3. Court Administration will provide copies to all relevant parties.

4. The Court, either on motion of a party or on its own motion, may modify the Case Schedule Order for good cause. Parties shall contact Court Administration for approved dates if the parties are requesting a modification of the Case Schedule Order. The parties shall attach the Certificate of Pre-Approved Dates. Case Manager's Certificate of Pre-Approved Dates Form as prescribed by the Court and available on the Benton/Franklin Court's website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0).

E. Motions.

1. *Timelines for motions.*

   a. Timeline for moving party. The moving party shall, at least fourteen (14) days prior to the hearing date, file with the Clerk and serve on the opposing party/parties (or their counsel, if they are represented) the party's motion and all supporting documents, including a declaration (FL All Family 135 available at: (https://www.courts.wa.gov/forms/?fa=forms.static&staticID=14).

   b. Timeline for responding to motion. A party opposing or otherwise responding to any relief requested in the motion shall file their response, and supporting materials, with the Clerk and must also serve all other parties (or their counsel if they are represented) with said materials by 12:00 p.m. at least seven (7) days prior to the hearing date. Any statement in response to a motion must be submitted by declaration (FL All Family 135). If the responding party is opposed to the motion and is asking the Court to do anything other than deny the motion, they shall file their own motion and comply with these rules as a "moving party."

   c. Timeline for replying to response. If the moving party desires to file a written reply to the opposing party's responsive materials, it shall be filed and served on the opposing party by 12:00 p.m. at least two (2) business days prior to the hearing date.

2. *Bench Copies for the Court by eMotion*. In addition to filing motions, responses, replies and supporting documents for each with the Clerk's Office, Bench Copies for the Court shall be submitted via eMotion. To "eMotion" a document means to submit an electronic Bench Copy to the Judge via the internet at: http://motion.co.franklin.wa.us/login/php. Parties without access to a computer and internet shall deliver Bench Copies to Court Administration at the Benton County Justice Center.

3. *Proposed Orders*.

   a. Serve proposed order. The moving party shall serve their proposed order by 12:00 p.m. at least two (2) days prior to the hearing date to all interested parties.

b. Bench Copy and Original for the Court: The moving party shall also submit a Bench Copy of their proposed order to the Court via eMotion at: http://motion.co.franklin.wa.us/login/php by 12:00 p.m. at least two (2) days prior to the hearing date. Parties without access to a computer or internet shall bring the original proposed order to the hearing to hand up to the judicial officer at the time of the hearing.

3. *Motions not subject to the above-described timeline***.** Motions for: Court Appointed Counsel; for Court Visitor / Guardian Ad Litem; Release of DCYF records / CPS background checks; and/or Immediate Emergency Minor Guardianship Order.

F. Appointment of Counsel.

1. If a parent or child who is twelve (12) years of age or older is seeking appointed counsel, the court will determine whether that individual is indigent or otherwise qualifies for appointed counsel.

2. Generally, the individual seeking counsel will be asked to complete an "Indigency Screening Form" as well as an "Appointment of Counsel Personal Information Form." Once received, the Court will then forward an Order to the Office of Public Defense assigning them to appoint counsel for the individual. See Appointment of Counsel Personal Information prescribed by the Court and available on the Benton/Franklin Superior Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0). Also, Indigency Screening Forms as prescribed by Washington Courts: https://www.courts.wa.gov/forms/.

G. Court Visitor / Guardian Ad Litem (GAL). Assignment of a Court Visitor or Guardian Ad Litem will generally occur during a hearing (unless a motion is made ex parte). If the motion for a Court Visitor or GAL is approved, the Court will enter an order naming an individual from a rotating list maintained by Court Administration. Said order will be electronically delivered to that assigned individual so that they can confirm their availability for the appointment with Court Administration. The order naming the Court Visitor or GAL will also schedule a review date approximately eight (8) weeks after appointment to review whether a report has been completed. If the Court Visitor or GAL appointment is granted ex parte, it will be the responsibility of the party requesting the appointment to ensure that the parties entitled to notice are served with a copy of this order and hearing date.

H. Pre-Trial Hearing and Trial Priority Docket. The purpose of the Pre-Trial Hearing is to determine whether the case is ready to proceed to trial. The parties are required to complete a Joint Trial Management Report (see Minor Guardianship Trial Management Report - Form as prescribed by the Court and available on the Benton/Franklin Court Website: (https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0)). All issues impacting whether the case is ready for trial (e.g., witness availability, exchange of discovery,

preparation of exhibits, scheduling conflicts, etc.) shall be considered and discussed between the parties in advance where feasible. Ideally, the parties would complete the Joint Trial Management Report form jointly; however, if cooperation is not feasible, each party must complete the form individually. If the Court determines that the case is ready to proceed to trial, the Court shall schedule a date for the parties to appear on the Trial Priority Docket. (See LCR 41). The attendance of all parties planning to participate in the trial is REQUIRED at both the Pre-Trial hearing and Trial Priority Docket. Parties failing to appear at either the Pre-Trial hearing or Trial Priority Docket hearing will be subject to sanctions or default.

[Adopted Effective September 1, 2023]

Local Special Proceedings Rule 98.30
UNLAWFUL DETAINER CASES – EVICTION RESOLUTION PROGRAM

A. The Court may adopt an eviction resolution program (ERP) by issuing a standing order. Show Cause hearings in unlawful detainer cases may be continued at the court's discretion to afford the tenant an opportunity to obtain counsel. The Standing Order can be found on the Court's website at: https://www.co.benton.wa.us/pview.aspx?id=55164&catid=45 or https://www.co.benton.wa.us/pview.aspx?id=55202&catid=0

[Adopted Effective September 1, 2021; Amended & Re-Formatted Effective September 1, 2023]

VI. LOCAL GUARDIAN AD LITEM/COURT VISITOR RULES

Local Guardian Ad Litem/Local Court Visitor Rule 1
SCOPE

A. This rule covers the maintenance and administration of the Guardian ad Litem and Court Visitor Registries maintained by Superior Court Administration pursuant to RCW 4.08.060 as amended, RCW 8.25.270 as amended, RCW 11.88.090 as amended or, if repealed, then pursuant to applicable law if any, Superior Court Guardian ad Litem Rules GAL/CV Rules as amended, and RCW 26.12/RCW 11.130.155 as amended; and the GAL registry maintained by the Juvenile Court Administrator's office pursuant to RCW 13.34 as amended.

B. These rules shall be supplemented by administrative rules and policies adopted by the Court.

[Adopted Effective September 1, 2003; Amended Effective September 1,2013; September 1, 2016; September 1, 2021; September 1, 2022; Re-Formatted Effective September 1, 2023]

Local Guardian Ad Litem/Court Visitor Rule 2
REGISTRY ADMINISTRATION

A. The Court shall maintain and administer Guardian ad Litem/Court Visitor registries for Guardianship/Conservatorship, and Family Law cases. These registries shall not include Adoption Guardians ad Litem, Juvenile Court Guardians ad Litem, or Court Appointed Special Advocates, which shall continue to be administered independently by their respective programs. These requirements and procedures also apply to persons not listed on a registry who are appointed to serve as a Guardian ad Litem in a field for which there is a registry.

B. The Court shall maintain a completed application form, and background information records pertaining to each person on a registry. Persons listed on a registry or registries shall reapply and update background information annually on a date specified for each registry. Background Information Records shall be available for public inspection to the extent required by law.

C. Persons shall be selected to serve on each registry at the discretion of the Court giving due consideration to:

1. Having a sufficient number of Guardians ad Litem/Court Visitors available to fulfill the requests for appointment; and

2. Achieving and maintaining a high level of knowledge, skill and competence within each given field. In some cases there may be more qualified applicants than will be needed or would benefit the program, so that not all persons applying will be selected.

D. The Court may sponsor or approve training which registry applicants shall be required to attend to maintain and improve their level of proficiency. Title 11 Guardian ad Litem/Court Visitor registry applicants must complete any training required by RCW 11.130.155 as amended or, if repealed, as required by applicable law if any, prior to placement of the applicant's name on the guardian ad litem/court visitor registry.

E. Each registry may be reconstituted periodically. The Court may remove persons listed on a registry and allow additional applicants to be added to a registry at the discretion of the Court.

F. The Court may impose an application fee and/or charge a fee for the training programs.

[Adopted Effective September 1, 2003; Amended Effective September 1, 2004; September 1, 2015; September 1, 2017; September 1, 2018; September 1, 2021; September 1, 2022; Re-Formatted Effective September 1, 2023]

Local Guardian Ad Litem Rule 5
APPOINTMENT OF GUARDIAN AD LITEM/COURT VISITOR

A. Equitable Distribution of Workload/Appointment of Guardian ad Litem/Court Visitor from registry.

1. *Guardianship/Conservatorship (Title 11) Registry.*

   a. A party needing an appointment of a Guardian ad Litem (GAL)/Court Visitor (CV) from the Guardian ad Litem/Court Visitor registry shall provide by e-mail, fax or letter a written request to the Superior Court Administration, which office shall, except in extraordinary circumstances, provide to the requesting party a Notice of GAL/CV Rotation which lists the names of the next three (3) Guardians ad Litem or Court Visitors whose names appear next on the Registry and meets the requirements of RCW 11.130.155 as amended or, if repealed, the applicable law if any.

   b. The requesting party shall contact the GALS/CVS in the order listed to determine their availability and suitability to the appointment. Once a GAL/CV has accepted the appointment, the requesting party shall return the Notice of GAL/CV Rotation form to Court Administration with the name of the selected GAL/CV indicated clearly on the form. It is the requestor's responsibility to have an Order of Appointment approved by the Court on an ex-parte docket and parties served per statute.

   c. The Guardian ad Litem/Court Visitor appointed shall serve upon the parties a Statement of Qualifications in conformance with RCW 11.130.280 and RCW 11.130.380 as amended or, if repealed, the applicable law if any.

   d. Guardians ad Litem/Court Visitors appointed pursuant to RCW Title 11 shall be compensated in accordance with the law in the event it is shown by motion supported by affidavit that the county should be responsible for such costs, the fees shall not exceed the case cap set by the Court. If additional fees beyond the case cap are requested, such request shall be by a separate motion supported by appropriate affidavits and shall be made before fees beyond the case cap are incurred. Failure to get pre-approval shall result in waiver of all such fees exceeding the case cap. Case caps established by the Court can be found on the Court's website: https://bentoncountywa.municipalone.com/pview.aspx?id=55178&catID=0. The order authorizing disbursal of County funds shall provide that those fees shall be reimbursed to the county in the event the estate obtains, within a reasonable period of time, sufficient assets.

   e. Should any person appointed herein fail to accept such appointment more than twice in a calendar year, or fail to accept a County pay appointment if the Guardian ad Litem/Court Visitor is selected on the rotational registry, such persons name will be deleted from the registry at the Court's discretion.

2. *Family Law (Title 26) Registry*. Guardians ad Litem appointed pursuant to RCW Title 26 shall be appointed in the following manner:

   a. Upon either the motion of the Court or a party to an action and subsequent decision of the Court to appoint a Guardian ad Litem, each party to the action shall request a strike list from the registry, using the form Title 26 GAL Strike List Request located at: https://www.co.benton.wa.us/pview.aspx?id=55188. Each party to the action will then be provided with a strike list of three (3) names randomly selected from the registry along with background information as specified in RCW 26.12.175(3), including their hourly rate for services. Each party may, within seven (7) judicial days, strike one name from the list. If more than one name remains on the list, the Court shall select the first named Guardian ad Litem not stricken by a party. In the event all three names are stricken, the Court shall select the alternate named Guardian ad Litem on the list as placed on the list pursuant to section (c) below. Parties shall file the Benton and Franklin Counties Order Appointing Guardian ad Litem within thirty (30) days of the selection by the Court. The Order Appointing Guardian ad Litem can be located at: https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0. Guardian ad Litem retainer fee and intake packets must be received by the Guardian ad Litem prior to the filing of the Order Appointing Guardian ad Litem. The Guardian ad Litem shall immediately begin their work upon filing of the Order Appointing Guardian ad Litem. Additionally, for each strike list issued, one additional name shall be randomly selected as the alternate Guardian ad Litem.

   b. The Court may, for good cause and upon written finding, appoint a specific Guardian ad Litem to a case upon recommendation of the parties. Good cause may include expertise in a particular area, previous appointment of a Guardian ad Litem to the specific case, or such other reason as determined by the Court. The hourly rate for services charged by a Guardian ad Litem does not constitute good cause for the appointment of a specific Guardian ad Litem upon recommendation of the parties.

   c. Title 26 Guardians ad Litem are required to accept up to two (2) county-paid abuse and neglect cases in a calendar year. Appointments shall be made in alphabetical rotation in the event that the Court's Family Court Investigator (FCI) is unable to accept the case. Failure to accept county-paid appointments may result in removal from the Registry at the Court's discretion.

3. *Procedure to Address Complaints by Guardians ad Litem.* Complaints by Guardians ad Litem regarding registry or appointment matters shall be made in writing and be addressed to the Court Administrator. The Administrative Presiding Judge, Assistant Administrative Presiding Judge or Court Administrator shall

provide written response to the complainant within forty-five (45) business days of receipt of the complaint.

[Adopted Effective September 1, 2002; Amended Effective September 1, 2003; September 1, 2004; September 1, 2009; September 1, 2010; September 1, 2011; September 2, 2014; September 1, 2015; September 1, 2017; September 1, 2018; September 1, 2021; September 1, 2022; Amended & Re-Formatted Effective September 1, 2023]

Local Guardian Ad Litem/Court Visitor Rule 7
GRIEVANCE PROCEDURE

A. **Purpose Statement.** The procedure for handling grievances and/or imposing discipline against a Guardian ad Litem/Court Visitor provided hereunder are intended to facilitate a process which is fair, expedited, and protective of all participants as well as respectful of judicial time and resources.

B. **Procedures for Filing a Grievance.** Only a party to a case may file a grievance against a Guardian ad Litem/Court Visitor. Grievances against Guardians ad Litem/Court Visitor shall be made in writing, be signed under the penalty of perjury, and be addressed to the Court Administrator. Neither the grievance nor any documentation related to the grievance, including a decision on the grievance, shall be filed in the court file.

1. *The grievance must include the following information.*

   a. The name, mailing address, telephone number, and e-mail address (if any) of the party filing the grievance;
   b. The case number and case name;
   c. The name of the Judge or Court Commissioner hearing the case;
   d. The trial date;
   e. Whether the party filing the grievance has discussed the grievance with the Guardian ad Litem/Court Visitor;
   f. What action the Guardian ad Litem/Court Visitor has taken to address the grievance;
   g. Which provision(s) of the Order Appointing Guardian ad Litem/Court Visitor or of these rules the party filing the grievance is claiming the Guardian ad Litem/Court Visitor has violated;
   h. A complete statement of the specific facts underlying each alleged violation, as set forth in subsection (C) below; and
   i. What the party filing the grievance is requesting be done to correct the problem complained of and why.

2. The grievance must state with specificity the act or failure to act of concern to the

complaining party as it relates to the grounds outlined below which are also grounds for denial of listing on, removal from or temporarily suspending the Guardian ad item/Court Visitor from the registry:

a. There has been a violation of the Guardian ad Litem/Court Visitor Code of Conduct;
b. There has been a misrepresentation of his or her qualification to be a Guardian ad Litem/Court Visitor; or
c. Has not met the annual update requirements set forth in LGAL Rule 2 (B); and/or
d. Any reason that would place the suitability of the person to act as Guardian ad Litem/Court Visitor in question, including, but not limited to the following:
    i. Breach of confidentiality;
    ii. Falsifying information on the application;
    iii. Falsifying information in a Court report;
    iv. Failure to report abuse of a child;
    v. Ex-parte communication;
    vi. Representing the court in a public forum, without prior approval of the Court;
    vii. Violation of state, or local laws, rules of the policy, while a Guardian ad Litem/Court Visitor; and
    viii. Dissemination of Bi-Pen (Bi-County Police Information) records.

C. Initial Screening of Grievance. The Court Administrator shall forthwith forward the grievance to the Administrative Presiding Judge for initial screening. If it is clear on the face of the grievance that the grievance is without merit, the Administrative Presiding Judge shall dismiss the grievance, providing a copy of such dismissal to the complaining party and the affected Guardian ad Litem/Court Visitor. The Administrative Presiding Judge shall endeavor to complete the initial screening within fourteen (14) days of filing of the grievance. The matter will be closed and the grievance shall be held as a confidential, sealed record in the files of the Court Administrator unless merit has been found.

D. Grievances Filed During the Pendency of a Case.

1. If a grievance is not dismissed under section C above and the grievance pertains to a pending case or if trial in the pending case is underway, the Court Administrator shall, within three (3) business days of receipt, forward the grievance to the Administrative Presiding Judge or if trial is underway, to the judicial officer assigned to hear the trial, to handle the grievance, with a copy being sent to the affected Guardian ad Litem/Court Visitor.

    If the grievance is forwarded to the Administrative Presiding Judge, he/she shall assign responsibility for the investigation and decision on the grievance to the Administrative Presiding Judge, the Assistant Administrative Presiding Judge,

another judicial officer, or a committee composed of three (3) judicial officers of the Administrative Presiding Judge's choosing. Whomever the grievance is forwarded to shall be known as the "judicial officer for the grievance."

2. The Guardian ad Litem/Court Visitor shall be allowed to file a response to the grievance within fourteen (14) days of receiving notice from the court by forwarding a copy of the response to the complaining party with the original response being sent to the Court Administrator who will deliver the same to the judicial officer for the grievance. In addition, an appropriate investigation may be made by the judicial officer, including, but not limited to, interviews with the complainant, the Guardian ad Litem/Court Visitor, and other persons with relevant knowledge.

3. Upon receipt of the response from the Guardian ad Litem/Court Visitor or upon passage of the fourteen (14) day response period, whichever is sooner, the judicial officer assigned to the grievance shall review the response, complete the investigation and thereafter issue a final written or oral disposition of the matter. The judicial officer for the grievance will endeavor to issue a final decision within no later than forty-five (45) days after the filing of the grievance.

   The original of a written disposition or a transcript of an oral disposition shall be placed in the confidential grievance file with copies of the written disposition being forwarded to the complaining party and to the Guardian ad Litem/Court Visitor.

4. If the final disposition is that the grievance should be dismissed, the procedure with regard to retention of the grievance set forth in section C above shall be followed. If, as part of the final disposition, there has been a finding that the grievance was not brought in good faith or was otherwise frivolous or designed to impact the pending proceedings through increased costs to the other party or Guardian ad Litem/Court Visitor, terms in the form of costs or other sanctions may be imposed against the grieving party.

5. If, upon a finding by a preponderance of the evidence that one or more of the grounds in section (B)(2) have been established, and the final disposition is that the grievance was brought in good faith and has been determined to be well-founded, there shall be a method of discipline to be imposed upon the Guardian ad Litem/Court Visitor set forth in the disposition which shall take effect immediately. Accepted forms of discipline shall consist of one or more of the following:

   a. A verbal or written reprimand;
   b. Removal from the pending case;
   c. Suspension of the Guardian ad Litem/Court Visitor from the registry for a period not to exceed one (1) year;
   d. Suspension of the Guardian ad Litem/Court Visitor from the registry until such time as the Guardian ad Litem/Court Visitor has provided satisfactory

proof of completing additional training in a specific area described in the disposition;

e. Imposition of terms in the form of costs or other monetary sanctions; and/or

f. Permanent removal of the Guardian ad Litem/Court Visitor from the registry for Title 11, Title 13, and/or Title 26 cases.

If the discipline imposed is permanent removal from any Guardian ad Litem/Court Visitor registry, notification of same shall be forwarded to the Office of the Administrator for the Courts for circulation to other counties. The grievance file shall include the original grievance, the Guardian ad Litem's/Court Visitor's response, and the written initial and final dispositions of the matter and shall be maintained by the Court Administrator for a period for no less than six (6) years.

6. A Guardian ad Litem/Court Visitor who ceases to be on the registry and who still has active or incomplete cases shall immediately report this circumstance to the Court Administrator who will forthwith reassign such cases.

7. Timelines stated herein may be modified by the Administrative Presiding Judge or judicial officer for the grievance for good cause. In calculating times, items mailed shall be deemed received by the addressee three (3) days after the date of mailing.

E. Grievances Filed After the Conclusion of a Case or After Discharge of the Guardian ad Litem/Court Visitor. If the grievance pertains to a case in which final orders have been entered or an order discharging the Guardian ad Litem/Court Visitor has been entered, the Court Administrator shall, within three (3) business days, forward the grievance to the judicial officer who presided over the trial in the case or who signed the final orders/order of discharge which a copy to the affected Guardian ad Litem/Court Visitor, as the judicial officer for the grievance. Thereafter, the procedures set forth in section D shall be followed.

VI. Interim Suspension for Grievances handled under sections D and E. For all grievances received and processed under sections D and E above, at the discretion of the Administrative Presiding Judge or the judicial officer for the grievance as set forth in this rule, the Guardian ad Litem's/Court Visitor's participation in the registry may be suspended pending resolution of the grievance. A Guardian ad Litem/Court Visitor whose participation is suspended pending resolution and who still has active or incomplete cases shall immediately report this circumstance to the Superior Court Administrator who may reassign such cases upon instruction from the judicial officer assigned to the grievance.

VII. Reconsideration of Decision Under Sections D and E. A Guardian ad Litem/Court Visitor seeking reconsideration of the decision shall do so in writing to the Superior Court Administrator, who shall forward the request and supporting documents to the judicial officer for the grievance for final decision. The Guardian ad Litem/Court Visitor shall be notified in writing of the final decision.

[Adopted Effective September 1, 2002; Amended Effective September 1, 2003; September 1, 2010, September 2, 2014; September 1, 2015; September 1, 2017; September 1, 2022; Re-Formatted Effective September 1, 2023]

LOCAL MANDATORY ARBITRATION RULES [RE-FORMATTED]

Local Mandatory Arbitration Rule 1.1
APPLICATION OF RULES

[Adopted Effective September 1, 1996; Amended Effective March 1, 1997; September 1, 2003; January 1, 2006; September 1, 2018; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 1.2
MATTERS SUBJECT TO ARBITRATION

[Adopted Effective September 1, 1996; Amended Effective March 1, 1997; January 1, 2006; September 1, 2018; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 2.1
TRANSFER TO ARBITRATION

[Adopted Effective September 1, 1996; Amended Effective September 1, 1998; September 1, 1999; September 1, 2002; September 1, 2003; September 1, 2011; September 1, 2015; September 1, 2021; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 2.3
ASSIGNMENT TO ARBITRATOR

[Adopted Effective September 1, 1996; Amended Effective September 1, 1998; September 1, 2006; September 1, 2021; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 3.1
QUALIFICATIONS OF ARBITRATORS

[Adopted Effective September 1, 1996; September 1, 2003; September 1, 2011; September 1, 2021; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 3.2
AUTHORITY OF ARBITRATORS

[Adopted Effective September 1, 1996; September 1, 2011; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 4.2
DISCOVERY

[Adopted Effective September 1, 1996; Amended Effective September 1, 1998; September 1, 2003; September 1, 2010; September 1, 2011; September 1, 2018; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 4.4

[Adopted Effective September 1, 1996; Amended Effective September 1, 1998; September 1, 2021; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 5.1
NOTICE OF HEARING

[Adopted Effective September 1, 1996; Amended Effective September 1, 1998; September 1, 2003; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 5.2
PRE-HEARING STATEMENT OF PROOF - DOCUMENT FILED WITH COURT

[Adopted Effective September 1, 1996; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 6.1
FORM AND CONTENT OF AWARD

[Adopted Effective September 1, 1996; Amended Effective September 1, 2003; September 1, 2008; September 1, 2018; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 6.2
FILING OF AWARD

[Adopted Effective September 1, 1996; Amended Effective September 1, 2015; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 7.1
REQUEST FOR TRIAL DE NOVO – CALENDAR – JURY DEMAND

[Adopted Effective September 1, 1996; Amended Effective September 1, 1998; September 1, 2000; September 1, 2003; September 1, 2015; September 1, 2019; September 1, 2021; September 1, 2022; Re-Formatted Effective September 1, 2023]

Local Mandatory Arbitration Rule 8.3
EFFECTIVE DATE [RESCINDED]

[Adopted Effective September 1, 1996; Amended Effective September 1, 2003; Rescinded Effective September 1, 2023]

Local Mandatory Arbitration Rule 8.4
TITLE AND CITATION [RESCINDED]

[Adopted Effective September 1, 1996; Rescinded Effective September 1, 2023]

Local Mandatory Arbitration Rule 8.6
COMPENSATION OF ARBITRATOR [RESCINDED]

[Adopted Effective September 1, 1996; Amended Effective September 1, 2009; September 2, 2014; September 1, 2016; September 1, 2021; Rescinded Effective September 1, 2023]

Local Mandatory Arbitration Rule 8.7
ADMINISTRATION

[Adopted Effective September 1, 1996; Amended Effective September 2, 2014; September 1, 2017; Re-Formatted Effective September 1, 2023]

VII. LOCAL CIVIL ARBITRATION RULES (LCAR)

Local Civil Arbitration Rule 1
SCOPE AND PURPOSE OF RULES

A. **Application of Rules**. The purpose of arbitration of civil actions under RCW 7.06 as implemented by the Arbitration Rules is to provide a simplified and economical procedure for obtaining the prompt and equitable resolution of disputes involving claims not exceeding one hundred thousand dollars ($100,000.00). The Arbitration Rules as supplemented by these local rules are not designed to address every question which may arise during the arbitration process and the rules give considerable discretion to the arbitrator. The arbitrator should not hesitate to be informal and expeditious, consistent with the purpose of the statute and rules.

B. **Matters Subject to Arbitration.** By implementation of these rules the Superior Court of Washington for Benton and Franklin Counties authorizes arbitration under RCW 7.06.010 and approves such arbitration in civil actions in which no party asserts, on the party's own behalf, a claim in excess of one hundred thousand dollars ($100,000.00) exclusive of interest, attorney's fees, and costs under RCW 7.06.020 as amended.

Local Civil Arbitration Rule 2
TRANSFER TO ARBITRATION AND ASSIGNMENT OF ARBITRATOR

A. **Transfer of Arbitration**. In every civil case, following the commencement of the action, but no later than the date set forth in the case schedule order pursuant to LCR 4 or for cases filed on or before December 31, 2000 where no case schedule order has been issued, no

later than sixty (60) days prior to a properly noted and set trial, any party may, upon the form prescribed by the court and maintained in Court Administration, complete a statement of arbitrability.

B. Forms and Eligibility.

1. *Form***.** The party filing the statement of arbitrability shall provide the following information (and any other information required in the form required by Court Administration):

    a. *Type of Case*. What type of case (example – commercial, personal injury, construction, etc.);
    b. *Eligibility.* Whether the case is subject to arbitration (claim under $100,000) or if any claim in excess is being waived;
    c. *File Date.* The date the case was filed in Superior Court;
    d. *Service.* The date the last party was served;
    e. *Attorneys.* The name, address, email, and phone number of each attorney (lead) on the case;
    f. *Self-Represented Parties.* The name, address, email, and phone number of each self-represented party.

2. *Filing the Statement of Arbitrability.* The statement of arbitrability shall be filed in the Superior Court Clerk's Office and a duplicate copy delivered to Court Administration and the opposing party or parties. A party failing to file and serve a statement of arbitrability within the time prescribed shall be deemed to have waived arbitration and may only subject the matter to mandatory arbitration thereafter upon leave of the court for good cause shown. An Order and Statement of Arbitrability shall be entered and the arbitration fee paid with the Superior Clerk's office.

3. *Response to Statement of Arbitrability*. Any party disagreeing with the statement of arbitrability shall serve and file a response on the form prescribed by the Court. A duplicate copy of the response shall be delivered to Court Administration. In the absence of such a response, the statement of arbitrability shall be deemed correct. Any response opposing the statement of arbitrability shall be filed within ten (10) court days after receipt of the statement of arbitrability. A notice of issue shall be filed with any response objecting to the statement of arbitrability, noting the matter for hearing on the issue of arbitrability within ten (10) court days of filing the response.

4. *Failure to File – Amendments*. A person failing to serve and file an original response within the times prescribed may later do so only upon leave of the court. A party may amend a statement of arbitrability or response at any time before assignment of an arbitrator or assignment of a trial date, and thereafter only upon leave of the court for good cause shown.

5. *Transfer to Arbitration Occurs for Purposes of Application of Local Rules***.** The case is transferred to arbitration upon the filing of a statement of arbitrability indicating that the case is subject to arbitration. This transfer shall also trigger the restriction on discovery contained in SCCAR 4.2 and LCAR 4(I). Any pause or removal from arbitration will require a court order.

6. *Civil Case Schedule Order Stricken***.** Any civil case schedule order entered in an action pursuant to LCR 4 shall be stricken upon the filing of a statement of arbitrability unless an objection occurs. An amended case schedule order will be issued upon order of the court removing the case from arbitration.

C. Assignment to Arbitrator. When a case is transferred to arbitration, but not less than ninety (90) days following filing and service on all parties subject to arbitration, a list of five proposed arbitrators will be furnished to all parties. A master list of arbitrators will be available at: https://www.co.benton.wa.us/pview.aspx?id=55166&catid=0.

1. *Selection***.** After a list of proposed arbitrators is furnished to the parties, each party may, within ten (10) court days of the date mailed by the court, select one or two proposed arbitrators and strike one or two proposed arbitrators from the list. If both parties respond, an arbitrator selected by both parties will be appointed. If no arbitrator is nominated by both parties, Court Administration will appoint the first proposed arbitrator from the strike list.

2. *Single Response*. If only one party responds within ten (10) court days of the date mailed by the court, Court Administration will appoint an arbitrator nominated by that party.

3. *No Response.* If neither party responds within 10 court days of the date mailed by the court, Court Administration will appoint the first proposed arbitrator on the strike list.

4. *Three or More Adverse Parties.* If there are more than two adverse parties not represented by the same attorney, two additional proposed arbitrators shall be added to the list with the above principles of selection to be applied. The number of adverse parties not represented by the same attorney shall be determined by Court Administration, subject to review by a superior court judge.

5. *Confidential Selections.* Parties do not have to serve choices upon each other, and Court Administration must keep selections confidential. Court Administration must retain returned lists of proposed arbitrators until the time for appeal has expired or a request for trial de novo is received, whichever is sooner.

Local Civil Arbitration Rule 3
ARBITRATORS

A. **Qualifications of Arbitrator.** There shall be a panel of arbitrators in such numbers as the administrative committee may from time to time determine. A list showing the names of arbitrators available to hear cases and the application of an individual arbitrator will be available, for public inspection, in Court Administration upon written request. The arbitration presiding judge may also remove an arbitrator from the list of arbitrators available to hear cases. Unless otherwise stipulated, an arbitrator must be a member of the Washington State Bar for five (5) years or a retired judge.

1. *Application*. A person desiring to serve as an arbitrator shall complete an application, oath of arbitrator, and attestation as prescribed by Court Administration. The oath of office on the form prescribed by the Court must be completed and signed by the arbitration presiding judge prior to an applicant being placed on the panel.

2. *Refusal; Disqualification*. The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator must notify Court Administration within three court days of receipt of the notice of appointment if refusing to serve or if any cause exists for the arbitrator's disqualification from the case upon any of the grounds of interest, relationship, bias or prejudice set forth in CJC Canon 3(c) governing the disqualification of Judges. If disqualified, the arbitrator must immediately return all materials in a case to Court Administration. A party may challenge the qualifications of an arbitrator by motion to the Court if the motion is made within 10 court days of the appointment of the arbitrator.

B. **Authority of Arbitrators.** An arbitrator has the authority to determine the time, place, and procedure to present a motion before the arbitrator.

1. All motions shall be presented to the arbitrator, unless:
   a. Arbitrability is at issue;
   b. Assignment of the arbitrator is disputed;
   c. Motion is for involuntary dismissal;
   d. Motion is for summary judgment;
   e. Motion is for failure to state a cause of action; or
   f. Motion is to add or change parties.

2. An arbitrator has the authority to require a party and/or attorney to pay the reasonable expenses, including attorney fees, caused by the failure of such party and/or attorney to obey an order of the arbitrator unless the arbitrator finds that the failure was substantially justified or that other circumstances make an award of expenses unjust. The arbitrator shall make a special award for such expenses and shall file such award with the Clerk of the superior court, with proof of service on each party. The aggrieved party shall have ten (10) days thereafter to appeal the award of such expense in accordance with the procedure described in RCW 2.24.050. If, within ten (10) days after the award is filed no party appeals, a judgment shall be entered in the manner described generally under SCCAR 6.3.

3. An arbitrator also has the authority to

a. award attorney fees, as authorized by these rules, by contract, or by law;
b. to determine the time and place for the arbitration hearing;
c. award, by judgment or offset, the fee paid by a party to initiate arbitration where the arbitrability is clear and the party responsible for filing the statement of arbitrability unreasonably delayed the filing of a statement of arbitrability, regardless of which party substantially prevails; and
d. arbitrators shall have immunity to the same extent as provided for Superior Court Judges in Washington State.

Local Civil Arbitration Rule 4
PROCEDURES AFTER ASSIGNMENT

A. Discovery. In determining when additional discovery beyond that directly authorized by SCCAR 4.2 is reasonably necessary, the arbitrator shall balance the benefits of discovery against the burdens and expenses. The arbitrator shall consider the nature and complexity of the case, the amount in controversy, values at stake, the discovery that has already occurred, the burdens on the party from whom discovery is sought, and the possibility of unfair surprise which may result if discovery is restricted. Authorized discovery shall be conducted in accordance with the Superior Court Civil Rules, except motions concerning discovery shall be determined by the arbitrator. Except as provided in SCCAR 4.2, discovery pending when a case is transferred to arbitration is stayed except on stipulation of the parties. All discovery admissible under the Superior Court Civil Rules and Washington Rules of Evidence is admissible at arbitration, whether produced before or after the appointment of the arbitrator.

1. *The following interrogatories may be submitted to any party*:

a. State the amount of general damages being claimed;
b. State each item of special damages being claimed and the amount thereof;
c. List the name, address, and telephone number of each person having knowledge of any facts regarding liability;
d. List the name, address, and telephone number of each person having knowledge of any facts regarding damages claimed;
e. List the name, address, and telephone number of each expert witness you intend to call at the arbitration hearing. For each expert, state the subject matter on which the expert is expected to testify; state the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion;
f. If you are claiming bodily injury damages, please describe your present physical condition as the same relates to the incident giving rise to your complaint and being specific as to the area(s) of your body you claim was injured;

g. If you are claiming bodily injury damages, please list the name, address, and telephone number of each and every health care provider with whom you treated, consulted with, or were examined by: (a) in the ten (10) years preceding the incident giving rise to your complaint; and (b) from the date of said incident to the present date;

h. Identify the existence of and the contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part of all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment; and any documents affecting coverage (such as denying coverage, extending coverage, or reserving rights) from or on behalf of such person to the covered person or the covered person's representative. For purposes of this section, an application for insurance shall not be treated as part of an insurance agreement; and

i. Identify all parties who you contend have not been properly served with the summons and complaint.

2. Discovery produced pursuant to this subsection shall not be disclosed to the arbitrator except in cases where there are bona fide issues of coverage, offset and setoff submitted to the arbitrator for determination. Upon request, all records reflecting the treatments, consultations, and examinations must be produced unless the requester is provided a medical authorization sufficient to allow the requester to obtain independent access to said records at his or her own expense. Alternatively, the requesting party may also request records through depositions upon written questions as allowed by CR 31.

3. Only these interrogatories, with the exact language as set out above, are permitted.

Local Civil Arbitration Rule 4
HEARINGS

A. Notice of Hearing. The arbitrator shall set the time, date, and place of the hearing and shall give reasonable notice of the hearing date to the parties.

1. *Time for Hearing*.

a. Except by stipulation or for good cause shown, the hearing shall be scheduled to take place not sooner than 21 days, nor later than 63 days, from the date of the assignment of the case to the arbitrator; however, in no instance shall the original hearing date be set later than 120 days from the appointment of the arbitrator.

b. The arbitrator may grant a continuance of the hearing date not to exceed 60 days beyond the original hearing date.

c. In the absence of agreement of the parties and arbitrator on the date for any hearing, the arbitrator shall have the authority to set a hearing date over the objection of the parties which is consistent with this rule.

d. Any setting of the original hearing date later than 120 days from the appointment of the arbitrator or any continuance of a hearing date more than 60 days from the original hearing date must be noted on the civil motion docket before the Presiding Judge and will be granted only for good cause shown.

2. *Confirmation of Hearing*. Parties must confirm the hearing date with the arbitrator one week prior to hearing. Failure to confirm the hearing with the arbitrator may result in the cancellation of hearing at the arbitrator's discretion. Parties must notify arbitrator of a settlement reached prior to the scheduled hearing date in accordance with LCAR (E)(1)(a).

3. *Pre-Hearing Statement of Proof/Document filed with the Court.* In addition to the requirements of SCCAR 5.2, each party shall also furnish the arbitrator with copies of pleadings and other documents contained in the court file which that party deems relevant.

4. *Notice of Settlement*. After any settlement that fully resolves all claims against all parties, the plaintiff shall, within 5 days or before the arbitration hearing, whichever is sooner, file and serve a written notice of settlement on the form prescribed by the Court. The notice shall be filed with both the arbitrator and the Court. Where notice cannot be filed with the arbitrator before the arbitration hearing, the plaintiff shall notify the arbitrator of the settlement by telephone prior to the hearing, and the written notice shall be filed and served within five days after the settlement.

5. *Dismissal by the Court*. Order dismissing all claims against all parties shall be entered in the time outlined below:
   a. Within 60 days after written notice of settlement is filed;
   b. Within 60 days after the scheduled arbitration hearing date, or
   c. Within 60 days after Court Administration's request for proof of written settlement; whichever is earlier.

6. *Court's Own Motion for Dismissal.* Court Administration will file a motion for dismissal with a notice of hearing to the attorneys of record that the case will be dismissed by the Court for want of prosecution if the order dismissing is not entered in the time described in LCAR (E)(1)(e).

Local Civil Arbitration Rule 5
AWARDS

A. Form and Content of Award.

1. *Exhibits*. All exhibits offered during the hearing shall be returned to the offering parties.

2. *Attorney Fees/Statutory Costs.* Any motion for actual attorney fees/statutory costs, whether pursuant to contract, statute, or recognized ground in equity, must be presented to the arbitrator as follows:
   a. Any motion for an award of attorney fees/statutory costs must be submitted to the arbitrator and served on opposing counsel within five (5) court days of receipt of the award. There shall be no extension of this time, unless the moving party makes a request for an extension before the five-day period has expired, in writing, and served on both the arbitrator and opposing counsel;
   b. Any response to the motion for attorney fees/statutory costs must be submitted to the arbitrator and served on opposing counsel within five (5) court days after receipt of the motion;
   c. The arbitrator shall render a decision on the motion, in writing, within ten (10) court days after receipt of the motion;
   d. If the arbitrator awards attorney fees/statutory costs, the arbitrator shall file an amended award. If attorney fees are denied, the decision shall be filed and served on the parties;
   e. It is within the arbitrator's discretion to hold a hearing on the issue of attorney fees; and
   f. The time for appeal of the arbitrator's decision in any case where attorney fees/statutory costs have been timely requested, as set forth above, shall not run until the service and filing of the amended award, or the denial thereof.

3. *Transfer Back to Superior Court*. If at any time the arbitrator determines that there are no longer issues for the arbitrator to determine, the arbitrator may issue an order directing that the case be transferred back to Superior Court. Any party may, by motion filed with the court clerk within ten (10) days of such an order, request that a Superior Court judge review such an order.

4. *Filing of Award*. The Clerk shall file all arbitration awards under seal.
   a. A request by an arbitrator for an extension of the time for the filing of an award under SCCAR 6.2 may be presented to a superior court judge ex parte.
   b. The arbitrator shall give the parties notice of an extension granted. The Arbitrator shall provide Notice of the Filing to Court Administration.

5. *Compensation of Arbitrator.*
   a. *Generally.* Arbitrators shall be compensated in the same amount and manner as judges pro tempore of the superior court; provided, however, that said compensation shall not exceed $1,000.00 for any case unless approved by the arbitration presiding judge.
   b. *Compensation*: Compensation may be requested for hearing time and reasonable preparation time. Arbitrators may be reimbursed a sum not to exceed $25.00 for costs incurred.

c. *Form***:** When the award is filed, the arbitrator shall submit to Court Administration a request for payment on a form prescribed by the Court. Request for compensation must be received by Court Administration no later than thirty (30) days from the date of filing the arbitration award.

d. *Request for Increase of Fees by Arbitrator*: Arbitrators are to submit all requests for increase of fees by motion. The motion shall be submitted to Court Administration (paper form, with copy, and proposed order). Court Administration will deliver the motion to the arbitration presiding judge. Once the arbitration presiding judge makes a decision on the order, Court Administration will process the order (for billing purposes) and send copies of the order to the parties. Requests for increase of fees will not be accepted at ex-parte.

Local Civil Arbitration Rule 6
TRIAL DE NOVO

A. Request for Trial De Novo – Calendar – Jury Demand.

1. *Assignment of Trial Date*. If there is a request for a trial de novo, or the case is otherwise removed from the Mandatory Arbitration calendar, the Court will assign a trial date.

2. *Appeal Period – Attorney Fees*. In any case in which a party makes a motion for attorney fees pursuant to LCAR (C)(2)(b), the 20-day period for appeal shall not commence until the arbitrator has filed and served either the amended award or the written denial thereof.

3. *Case Schedule*. Cases originally governed by a Case Schedule pursuant to LCR 4, will again become subject to a Case Schedule if a trial de novo is requested. Promptly after the request for trial de novo is filed, Court Administration will mail or e-mail to all parties an Amended Case Schedule, which will govern the case until the trial de novo.

   i. The Amended Case Schedule will include the following deadlines**:**

SCHEDULE		DUE DATE
1.	Plaintiff's Disclosure of Lay and Expert Witnesses	1 months
2.	Defendant's Disclosure of Lay and Expert Witnesses	3 months
3.	Disclosure of Plaintiff's Rebuttal Witnesses	4 months
4.	Disclosure of Defendant's Rebuttal Witnesses	5 months
5.	Discovery Cutoff	5 ½ months
6.	Settlement Position Statement filed by all parties	6 months
7.	Last Date for Hearing Dispositive Pretrial Motions	6 months
8.	Settlement Conference	6 ½ months
9.	Last Date for Filing and Serving Trial Management Report	7 months
10.	Pretrial Conference	7 months

11. Trial Memoranda, Motions in Limine, Jury Instructions ..... 2 wks. to trial
12. Trial Priority Hearing……1 week to trial
13. Trial Date ..... 9 months

4. *Jury Demand*. Jury Demands shall be filed as set forth under CR 38.

5. *Administration*. The Court Administrator, under the supervision of the Administrative Presiding Judge, shall implement the procedures mandated by these rules and perform any additional duties which may be designated by the Arbitration Presiding Judge.
   a. Duties of Administrative Presiding Judge. In the administration of the mandatory arbitration program for Benton and Franklin Counties Superior Court, the Administrative Presiding Judge shall have the power and duty to:
      i. Supervise the Court Administrator in the implantation of mandatory arbitration;
      ii. Select and appoint attorneys to the panel of arbitrators;
      iii. Remove a person from the panel of arbitrators;
      iv. Establish procedures for selecting an arbitrator not inconsistent with the Mandatory Arbitration Rules or these rules; and
      v. Review the administration and operation of the arbitration program periodically and make changes as he/she deems appropriate to improve the program.

VIII. LOCAL CRIMINAL RULES

All forms can be found on the Benton/Franklin Superior Court Website:
https://www.co.benton.wa.us/pview.aspx?id=55110&catID=0

Local Criminal Rule 2.3
REVIEW OF SEALED AFFIDAVITS AND SEARCH WARRANTS

A. **Review.** The court may review orders sealing search warrants and/or affidavits in support thereof at any time upon the request of the prosecuting attorney or upon motion of the court.

B. **Notice to and Response from Prosecuting Attorney.** In each case in which the court reviews a previously entered order sealing a search warrant and/or affidavit in support thereof, the prosecuting attorney will be provided at least fourteen (14) days prior written notice of such review. Prior to such review the prosecuting attorney may submit to the court a memorandum generally setting forth the state's position with regard to unsealing all portions of or none of the sealed affidavit and/or search warrant.

C. **Filing of Responsive Memoranda.** The original of any memorandum submitted pursuant to subsection (B.) will be filed, unsealed, with the order sealing the affidavit and/or search

warrant, and the prosecuting attorney will provide a bench copy to the court. The court will consider any requests by the state to seal all or portions of any affidavits or declarations filed in support of the state's memorandum, and, if granted, enter an appropriate order.

D. **Order on Review.** After considering the state's position and reviewing in camera the order and the affidavit and/or search warrant sealed pursuant thereto, the court will enter an order that (a) the affidavit and/or search warrant continue to be sealed as previously ordered, (b) designated portions of the affidavit and/or search warrant continue to be sealed and that the remainder thereof be unsealed, or (c) the affidavit and/or search warrant be unsealed.

[Adopted Effective September 1, 2004; Re-Formatted Effective September 1, 2023]

Local Criminal Rule 3.1
RIGHT TO AND ASSIGNMENT OF COUNSEL

A. **Services Other than Counsel.** Pursuant to the authority under CrR 3.1(f), all requests and approval for expert services expenditures are hereby delegated to the Franklin County Office of Public Defense for Franklin County matters and to the Benton County Office of Public Defense for Benton County matters. Upon finding that investigative, expert or other services are necessary to an adequate defense and that defendant is financially unable to obtain them, the Franklin County Office of Public Defense and the Benton County Office of Public Defense shall, for their respective County, authorize the services. Where services are denied in whole or in part, the defendant may move for *de novo* review to the Presiding Judge. Should the defendant seek an order sealing the moving papers, defendant shall present, along with the moving papers, a motion and proposed order sealing the documents to the Presiding Judge via Court Administration.

B. **Upon Appeal.** In cases involving appeals from another court to the Superior Court in which the defendant wishes counsel to be appointed in the Superior court on the basis of indigence, the following will apply:

1. The trial attorney shall be responsible for:
    a. Perfecting the appeal to the Superior Court;
    b. Noting the issue of appointment of counsel upon the next criminal motion docket following the perfection of the appeal;
    c. Preparing an affidavit of indigence;
    d. Representing the defendant at such hearing; and
    e. The defendant shall be present at the hearing upon the motion to establish indigence.

[Adopted Effective April 1, 1986; Amended Effective September 1, 2003; September 1, 2009; Amended & Re-Formatted Effective September 1, 2023]

Local Criminal Rule 3.2
RELEASE OF ACCUSED

A. **New Conditions of Release.** In the event that bail is forfeited for any reason, new conditions of release must be entered and a new bond posted. No order reinstating a previously forfeited bond shall be issued by the court; however, the court may, for good cause shown, vacate the judgment of forfeiture.

B. **Separate Bond Required**. All case filings wherein conditions of release requiring bail are set shall require a separate and distinct bond posted by the surety in the specific amount specified for each case. A bond in the aggregate amount for multiple cases will not be allowed nor shall any order be presented to the court that fails to specify the exact amount of bail for each matter addressed in the order.

C. **Bench Warrant after Failing to Appear in Response to a Summons**. Any time a defendant fails to appear in response to a summons where it is shown that the summons was not deliverable to the address where sent, and a bench warrant is issued, bail shall be initially set at the sum of $100.00.

[Adopted Effective April 1, 1986; Amended Effective September 1, 2004; September 1, 2009; September 1, 2017; Amended & Re-Formatted Effective September 1, 2023]

Local Criminal Rule 3.4
COURT APPEARANCE OF DEFENDANTS

A. All preliminary and timely arrangements for the court appearances of any defendant held in custody shall be the responsibility of the Prosecutor in charge of the case.

[Adopted Effective April 1, 1986; Re-Formatted Effective September 1, 2023]

Local Criminal Rule 4.2
PLEAS

A. **Court Commissioners.** Superior Court Commissioners appointed under Article 4, Section 23 of the Washington State Constitution or RCW 2.24.010 are authorized to accept and enter a plea of guilty.

[Adopted Effective April 1, 1986; Amended Effective September 1, 2000; September 1, 2003; September 1, 2021; Amended & Re-Formatted Effective September 1, 2023]

Local Criminal Rule 4.5
OMNIBUS HEARINGS

A. General Provisions.

1. If there will be no pre-trial motions or hearings in a case, and all parties agree that an omnibus hearing would not be beneficial, then prior to the Omnibus hearing date, the Omnibus Order shall be presented along with a stipulation and order striking the Omnibus hearing which shall be signed by the prosecuting attorney and defense counsel or the pro se defendant.

2. If it is necessary to hold a suppression hearing or a CrR 3.5 hearing, counsel or the pro se party desiring the relevant hearing shall have that hearing scheduled and heard before the parties submit the *Joint Pre-trial Report* at the pre-trial hearing. *See* Local Criminal Rule 8.5

[Adopted Effective April 1, 1986, Amended Effective September 1, 2011; September 1, 2018; September 1, 2019; September 1, 2021; February 1, 2023; Amended & Re-Formatted Effective September 1, 2023]

Local Criminal Rule 4.5.1
CRIMINAL SPECIAL SET HEARINGS

A. General Provisions. No request by a party for a special setting in a criminal matter will be considered unless the parties have jointly emailed to specialsets@co.benton.wa.us and have followed the Special Set Process as outlined on the Benton/Franklin Superior Court's website at: https://www.co.benton.wa.us/pview.aspx?id=55143&catid=45.

1. Upon receipt of the request for a special set criminal hearing, the parties will be notified of the date and time of the setting and the Judicial Officer who is anticipated to be assigned to the matter. The Court may substitute any judicial officer who is not otherwise disqualified or recused on a matter to preside over the special set if necessary for scheduling purposes.

2. All bench copies of briefings, motions and/pleadings which are to be considered at the time of the hearing must be uploaded to eMotion no less than two (2) court days prior to the special set hearing.

[Adopted Effective September 1, 2021; Amended & Re-Formatted Effective September 1, 2023]

Local Criminal Rule 4.9
PRE-TRIAL CONFERENCE [RESCINDED]

[Adopted Effective April 1, 1986; Amended Effective September 1, 2009; September 2, 2014; September 1, 2018; September 1, 2021; Rescinded Effective September 1, 2023]

Local Criminal Rule 7.1
PROCEDURE BEFORE SENTENCING [RESCINDED]

[Adopted Effective April 1, 1986; Amended Effective September 1, 2003; Rescinded Effective September 1, 2023]

Local Criminal Rule 7.2
SENTENCING [RESCINDED]

[Adopted Effective April 1, 1986; Reserved Effective September 1, 2021; Rescinded Effective September 1,2023]

Local Criminal Rule 8.2
EXPEDITED CONSIDERATION OF MOTIONS

A. As necessary, to expedite the business of the court and in order to ensure the best use of judicial and court resources, criminal matters may be noted on a shortened-time basis on the daily preliminary docket, provided the note for motion docket cites to this rule.

[Adopted Effective September 1, 2017; Re-Formatted Effective September 1, 2023]

Local Criminal Rule 8.5
CRIMINAL DOCKET AND 3.5/3.6 DOCKET PROCEDURES, PRE-TRIAL AND TRIAL READINESS PROCEDURES FOR CRIMINAL PROCEEDINGS FOR ADULT CASES

A. Trials.

The term "trial," as used in this rule, includes both bench and jury trials, where a party has a right to a jury trial.

B. Criminal.

1. *Docket Processes (Criminal Docket and 3.5/3.6 Docket).*
   a. *Docket Operation*. The Court will call the docket in numerical order with the following exception: at 9:00 a.m. (or as soon thereafter as it can be done) the Court in each county will address all out-of-custody arraignment matters. For those defendants who have multiple matters before the Court, all of that Defendant's cases will be called together with the first case that appears numerically on the docket. If a matter is not ready to proceed when called, it will be either continued or stricken as the Court deems appropriate.

b. *Arraignments*. Defendants shall appear in-person for arraignments unless the Court finds good cause to waive that requirement, *e.g.* the defendant's residence is out of state. *See* CrR 3.4 (b).

c. *Continuances/Waivers of Speedy Trial.* Waivers of speedy trial, continuances at defense request and agreed continuances shall be memorialized in writing using the form provided by the court.

d. *Pre-Trial Setting.* Pre-trials shall be set at least two weeks before trial, such that when a Joint Pre-Trial Report is filed, the Trial Readiness hearing will be set on the second Monday (for Benton County cases) after pre-trial and for the second Wednesday (for Franklin County cases) after pre-trial provided that such settings respect the rights of the parties as provided by law and/or court rule.

e. *Guilty Pleas and Sentencings.* Defendants shall appear in-person for any change of plea and/or sentencing.

f. *3.5/3.6 Hearings*. The procedures detailed on the Court's website shall be followed. For those procedures, see the following link: https://www.co.benton.wa.us/pview.aspx?id=55170&catid=45.

g. *Disqualifications*. If an affidavit of prejudice or notice of disqualification is or has been filed in a case against a judicial officer handling the criminal docket or 3.5/3.6 docket, the matter shall be continued one week for good cause unless the judicial officer advises the parties that a conflict judge is available. Parties may not request a conflict judge for a docket. Parties shall not contact Court Administration to determine if a conflict judge has been assigned. In the case of a critical state hearing where continuance would affect a fundamental right of a party or person with an interest in the matter and provided the Court has notice thereof, the Court may vary this procedure.

2. *Pre-Trial*. *Cases with a previously filed Joint Pre-Trial (Covid) Report (JPTR.* If, by the effective date of this rule, the parties have already filed a JPTR and have a trial readiness hearing date set, then the following shall be done (if not yet done) before the next Trial Readiness hearing:

a. Each party shall file and serve a witness list;

b. The deputy prosecuting attorney shall, pursuant to CrR 4.7(a)(1)(vi), provide "any record of prior criminal convictions known to the prosecuting attorney of the defendant and of persons whom the prosecuting attorney intends to call as witnesses at the time of the…trial";

c. Each party shall comply with Paras. 4- 9*infra*, if and as applicable.

3. *Cases without a Joint Pre-Trial Report (JPTR).*

a. *Pre-Trial Hearing*. If, by the effective date of this rule, the parties have not filed a JPTR, then the following shall be done before the initial Trial Readiness hearing is scheduled:

i. When discovery is completed and all pre-trial motions have been heard and resolved, the parties are then ready for trial. At that time,

the parties shall provide a completed and signed *Joint Pre-Trial Report*[1] to the Court at the pre-trial hearing on a criminal docket.

ii. The Court shall review the JPTR and, if approved, the Court will sign the JPTR, advise the parties on the record of the date for the Trial Readiness hearing and enter the date on the first page of the JPTR.

iii. Once approved, the JPTR shall be filed with the Clerk of the Court. On the same day as the pre-trial hearing, the deputy prosecuting attorney (DPA) on the case shall ensure a copy of the JPTR is e-mailed to the Judicial Assistant for Benton-Franklin Counties Superior Court (BFCSC). The opposing counsel or unrepresented party (if out of custody) shall be included in the e-mail; if the unrepresented party is in custody, the DPA shall forward a copy of the e-mail and JPTR to the party in custody.

4. *Pre-Trial Motions.* Except for motions in limine, all other pre-trial motions not required by law or court rule to be heard by the trial judge shall be resolved prior to entry of the JPTR.

5. *Trial Readiness Hearing.*

a. *Trial Readiness Hearing Status Form:* Each party shall complete a *Trial Readiness Hearing Status Form* and shall, no later than noon on the Wednesday five (5) court days before the next scheduled Trial Readiness hearing/docket, upload a bench copy of the same on eMotion. This form shall not be filed with the Clerk.

6. *Obligation to Check Trial Calendar*. Court Administration has created and will maintain a publicly available Trial Calendar with all criminal trials set for the next six (6) weeks. Court Administration will endeavor to update the Trial Calendar no later than 5 p.m. every Monday, subject to change at the Court's discretion. Parties have an obligation to check the Trial Calendar on the Court's website: (https://www.co.benton.wa.us/pview.aspx?id=55107&catid=0) prior to the Trial Readiness hearing so that parties are ready to address the court regarding trial dates.

7. *Stand-By Trials*. There will be times when the Court has the ability to place a trial on stand-by, meaning that the stand-by trial will proceed only in the event another scheduled trial concludes early or does not proceed as scheduled. The Court intends to set "qualifying" cases on stand-by status which means the parties will be ready to proceed with trial, either bench or jury, on the next available court day from when the parties are notified by Court Administration (which will be by noon each day) that their case will proceed to trial. "Qualifying" cases are cases that the Court determines have no need of a questionnaire, are scheduled to last up to four days, have no expert witnesses and have no out-of-state witnesses.

8. *Pick-and-Try and Pick-and-Send*. The Court will also utilize pick-and-send and pick-and-try trials as resources are available. The Court will notify the parties at the time of Trial Readiness if their trial(s) are chosen for pick-and-send or pick-and-try.

9. *Trial Obligations – To be completed no later than two (2) court days prior to trial*:
   a. Trial Memorandum. The parties have discretion to file and serve a trial memorandum. If a party files a trial memorandum, a bench copy of the same must also be uploaded to eMotion no later than 4:00 p.m. on the Thursday before trial in Benton County and no later than 4:00 p.m. on the Monday before trial in Franklin County.
   b. Motions In Limine. Unless motions in limine are scheduled for a special set hearing before trial, motions in limine must be filed and a bench copy uploaded to eMotion no later than 4:00 p.m. on the Thursday before trial for Benton County cases, and 4:00 p.m. on the Monday before trial for Franklin County cases and will be argued at the commencement of trial.
   c. Special Questionnaire (if applicable). The parties shall forward the agreed-upon special questionnaire in Word format by e-mail to the Judicial Assistant for BFCSC no later than 4:00 p.m. on the Thursday before trial in Benton County and no later than 4:00 p.m. on the Monday before trial in Franklin County.

10. *General Obligations of the Parties*. Parties have an on-going responsibility to notify the Judicial Assistant by email as soon as it is known that a trial, which has previously been set at a Trial Readiness docket, will be stricken or moved for any reason as well as provide any other relevant updates which will impact the calling of a jury, *e.g.* an anticipated change of plea or unavailability of a witness, so that the Trial Calendar can be timely updated and other trials may proceed.

11. *Sanctions, Enforcement, and Non-Compliance Hearing*. Failure to submit bench copies as required may subject the non-complying party and/or their attorney to a sanction of $200, paid to the Clerk of the Court. Payment shall be due within twenty (20) days of the order. A party or attorney may petition the Court for relief from sanctions, which shall be filed within the same twenty (20) day period and shall be noted for hearing. The Court may also continue the hearing, impose any other terms and enter other orders as may be appropriate.

[Adopted Effective September 1, 2005; Amended Effective September 1, 2011; September 1, 2021; February 1, 2023; Amended & Re-Formatted Effective September 1, 2023]

IX. LOCAL JUVENILE COURT RULES (LJuCr)

TITLE I. GENERAL PROVISIONS, SCOPE, AND APPLICATION OF RULES

Local Juvenile Court Rule 1.1
SCOPE OF RULES, PURPOSE OF RULES, EFFECTIVE DATE AND AMENDMENTS

A. **Scope.** These local rules relate to the procedure in the Juvenile Court of Benton and Franklin Counties and shall supplement the State Superior Juvenile Court Rules. These rules shall also govern the policy and administration of the Juvenile Court.

B. **Purpose.** The express purpose of the local rules is to develop standardized policy and procedures to ensure the fair and efficient operation of the Benton-Franklin Juvenile Division of the Superior Court of the State of Washington in Benton and Franklin County.

C. **Effective Date.** These rules shall take effect on the 1st day of April 1988. All previous existing local Juvenile Court rules are hereby superseded and declared void by the adoption of these rules.

D. **Amendments.** The Judges of the Benton-Franklin County Superior Court may from time to time amend these rules.

[Adopted Effective April 1, 1988; Amended & Re-Formatted Effective September 1, 2003]

Local Juvenile Court Rule 1.6
JUVENILE COURT ADMINISTRATOR DUTIES AND AUTHORITY

A. **Juvenile Court Administrator**

1. In accordance with RCW 13.04.035, the Juvenile Court will be directed by an Administrator who is appointed by the Judges of the Superior Court and shall serve at their pleasure.

2. The Administrator shall direct the Juvenile Court in accordance with the policies and rules of the Judges and shall be directly responsible to the presiding Juvenile Court Judge for all departmental operations and for the carrying out of court rules and policies.

3. The Administrator shall establish written departmental rules and procedures to carry out the statutory duties of the court and to comply with court rules and policy. Such written rules and procedures shall be approved by the Superior Court Judges.

4. In accordance with RCW 13.04.040, the Administrator shall appoint probation counselors who shall serve at the pleasure of the Administrator. The Administrator may also designate a Deputy Administrator subject to concurrence of the Judges.

5. The Administrator shall have the authority to organize the personnel of the department as the Administrator may deem appropriate for the carrying out of the statutory duties of the court and to comply with court rules and policy.

6. The Administrator shall have the authority to administer the approved budget of the department, to contract for expenditures, and authorize payment in accordance with state law and county policy. All contracts are subject to review as to form by the respective County Prosecuting Attorney.

7. The Administrator shall have the authority to establish written working agreements with other agencies regarding the carrying out of the statutory work of the court. Such written working agreements are subject to review as to form by the respective County Prosecuting Attorney.

8. The Administrator shall, in accordance with RCW 13.04.037, adopt written standards for the regulation and government of the juvenile detention facility and services and shall appoint a detention counselor who shall have charge of the detention facility and shall be responsible to the Administrator for compliance with the adopted detention standards. Such standards shall be reviewed, and the detention facilities shall be inspected annually by the Administrator.

9. The Administrator shall establish written departmental rules concerning the assignment and use of all equipment, including all motor vehicles registered or assigned to the Juvenile Court to ensure the equipment is being used for the business of the court and in accordance with state law and county policy.

10. The Administrator shall establish written rules regarding employee working hours and conditions. The Administrator may authorize or prescribe deviations from the normal workday as the business of the court or department may require. The Administrator shall represent the court in any negotiations with employees regarding working conditions, hours and rules.

11. The Administrator shall establish written rules for employee discipline, which may include, but are not limited to, verbal and/or written reprimand, suspension without pay or termination, in accordance with state law and county policy.

12. The Administrator shall establish and maintain a central record keeping system. Written rules and procedures shall be established governing the record keeping system. Such rules and procedures shall be subject to review by the Judges. Such record keeping system may be computerized.

13. The Administrator shall prepare annually a plan for the Juvenile court, which shall include a proposed budget for the next calendar year.

14. The Administrator shall perform such other duties as required by the Judges.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2016]

Local Juvenile Court Rule 1.7
COURT FORMS

A. **Generally.** It shall be the policy of the court to use standardized court forms whenever possible. Pursuant to RCW 13.34.035, standardized forms are required in all dependency matters. Standardized forms are found at: https://www.courts.wa.gov/forms/ and on the Benton Franklin County Superior Court Website.

B. **Review.** All court forms shall be subject to review by the Judges and Court Commissioners.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2015; September 1, 2021]

Local Juvenile Court Rule 1.8
PUBLICATION

A. **Generally.** Any party may file with the Clerk of the Court a Motion and Affidavit requesting an Order for the publication of Notice and/or Summons.

B. **Procedure.** Upon the issuing of an Order to publish with the Clerk of Court, the Clerk shall forward the notice and summons and order for publication to the newspaper that is named in said order. Upon receipt of an Affidavit of Publication, the Clerk shall file the original affidavit and provide copies to appropriate parties.

C. **Costs.** The costs of publication shall be borne by the county in which the underlying case was filed. Nothing in this Rule shall prevent the court from ordering a party to reimburse the county for the costs of publication.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2013; September 1, 2021; Re-Formatted Effective September 1, 2023]

Local Juvenile Court Rule 1.9
CONTINUANCES

A. **Generally.** Continuances or other delays may be granted only as follows:

1. Upon agreement of the parties, which must be approved by the Court.

2. On the motion of a party, the court may continue a juvenile offender matter when required in the due administration of justice and none of the parties to the action will be substantially prejudiced in the presentation of their case.

3. On the motion of a party, the court may continue an action pursuant to RCW 13.32A, RCW 13.34, or RCW 13.50 when good cause is established and none of the parties to the action will be substantially prejudiced in the presentation of their case.

4. The court must state its reasons on the record for granting a motion for a continuance.

5. All continuances in Dependency and Termination cases shall be to a date certain and confirmed by written order.

B. Trial Dates/Fact Finding Hearings. Unless an agreed order is presented, all motions for a continuance of a trial date in offender matters or fact-finding hearings pursuant to RCW 13.32A, RCW 13.34 or RCW 13.50 shall be presented in open court by the moving party.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2016; September 1, 2021; September 1, 2023]

Local Juvenile Court Rule 1.10
ISSUANCE AND SERVICE

A. Generally.

1. Juvenile offenders and their parent(s), guardian(s), or custodian(s) may be served by mail, postage prepaid. The respective Clerk of the Court shall be responsible for the mailing of the necessary documents and for the filing of an Affidavit of Mailing. The respective Prosecuting Attorney's office shall be responsible for the preparation of such documents.
   a. Exceptions. The above procedure shall apply to all offender matters except diversion terminations and community supervision violations. In those matters, juvenile court/diversion unit staff shall be responsible for the preparation of the appropriate documents, including the Notice/Summons.

2. Parties to juvenile dependency, guardianship and termination of parental rights proceedings and matters must be personally served. If personal service is not possible despite diligent efforts, the Attorney General's Office may file a motion for either service by mail or service by publication. If service is by mail or publication, the respective Clerk of the Court shall be responsible for the filing of an Affidavit of Mailing and the returned receipt or an Affidavit of Publication. The Attorney General's Office shall be responsible for preparing the appropriate

documents for dependency, guardianship, and termination of parental rights matters.

B. Failure to Appear on Summons – Offender Matters.

1. If a person fails to appear in response to a Notice/Summons, or if service is not effectuated within a reasonable time, a warrant for arrest may be issued if the person represents a serious threat to community safety, and the relevant requirements of JuCr 7.16 have been met. A reasonable time to effectuate service shall be defined as service within ten (10) days of the filing of the information.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2013; September 1, 2015; September 20, 2020; September 1, 2021; September 1, 2023]

Local Juvenile Court Rule 1.12
BRIEFS AND OTHER DOCUMENTS

A. All original pleadings, including, motions, briefs, proposed findings of fact and conclusions of law and proposed judgments, pertaining to dependency, termination, guardianship and juvenile offender proceedings shall be served and filed with the respective Superior Court Clerk. The originals of all social worker court reports and GAL Reports shall be filed with the Superior Court Clerk and bench copies submitted to the Court via uploading to jMotion. Unless a party does not have access to a computer or the Internet, bench copies of all such documents (except as stated herein) shall be submitted electronically via the internet at: https://jmotion.co.franklin.wa.us/ for dependency matters and for juvenile offender matters. In juvenile offender matters, a copy will also be given to Juvenile Legal Process. When hearings are continued, it is the responsibility of the parties to amend the hearing date in jMotion associated with all bench copies submitted electronically.

B. Parties without access to a computer and the Internet shall deliver bench copies to the Benton Franklin Counties Juvenile Court Legal Process Staff, 5606 W. Canal Place, Suite 106, Kennewick, WA 99336. All bench copies must be submitted not later than 9:00 a.m. one court day prior to the scheduled hearing, proceeding or trial. No bench copies shall be submitted to the Court unless prior thereto or simultaneously therewith a copy thereof has been served upon or mailed to opposing counsel.

C. Bench copies of the following documents need not be provided: Notices of hearings, notes for dockets, proposed statements of respondent on plea of guilty, proposed judgments and sentences, probation violation reports, preliminary disposition reports, detention reports, review hearing reports, decline reports, juvenile offender diagnostic/predisposition reports, and proposed orders establishing conditions of release. Bench copies of trial exhibits to be offered in termination trials may, but need not be submitted, and if submitted, may but need not be submitted electronically.

D. As used in this rule, juvenile probation counselors and staff of the Juvenile Court are not parties. This rule shall not apply to BECCA matters including Children in Need of Services, At-Risk Youth, and Truancy.

E. Pursuant to GR 30(b)(4) participants in dependency, termination and guardianship cases are deemed to electronically accept service of all documents as of the time and date the documents are uploaded to jMotion. This does not preclude parties from serving documents as authorized in CR 5. This shall not apply to service of original process.

[Adopted Effective September 1, 2012; Amended Effective September 1, 2013; September 1, 2015; September 1, 2016; September 1, 2021; September 1, 2023]

Local Juvenile Court Rule 1.13
LEGAL PROCESSING UNIT

A. Participants in dependency, termination, and guardianship cases are required to contact the Benton-Franklin Counties Juvenile Court Legal Process Unit (LPU) Staff, 5606 W. Canal Place, Suite 106, Kennewick, WA 99336, to request available court dates for the setting of a motion hearing. Parties shall submit a copy of the motion and the note for docket (with a date that LPU provided) to the Benton-Franklin Counties Juvenile Court Legal Process Staff upon filing with the appropriate clerk's office.

[Adopted Effective September 1, 2022]

TITLE II. SHELTER CARE PROCEEDINGS

Local Juvenile Court Rule 2.3
SHELTER CARE HEARINGS

A. **Generally.** A shelter care hearing shall be held in all cases where a child has been taken into custody pursuant to RCW 13.34.060 and/or RCW 26.44.050 and a petition has been filed. The hearing shall be held within 72 hours, excluding weekends and holidays.

1. In all cases initiated by a lay person filing a dependency petition and the taking of a child into custody pursuant to the above-referenced statute, a social worker shall be assigned to the matter to provide a recommendation to the court as to the need for shelter care. Juvenile court staff shall immediately notify the Attorney General's office of any dependency cases initiated by an individual or agency other than the Department of Social and Health Services.

B. **Notice.** Notice shall be given to all parties as required by RCW 13.34.060 and JuCr 2.3.

C. **Procedure.** At the hearing the court shall:

1. Advise the parties of their rights pursuant to statute and court rules;

2. Enter an order of shelter care and continuing the matter for a contested proceeding;

3. At the contested hearing, the court shall take testimony and/or admit documentary evidence concerning the circumstances for taking the child into custody and the need for shelter care; and

4. Consider the recommendation made to the court by the Department of Social and Health Services.

D. **Enter an appropriate Order.** Continuing Shelter Care hearings will be set within 30 days. Parties' reports shall be filed and uploaded to jMotion no later than 5 days prior to the hearing and any response shall be filed and uploaded by 4:00 p.m. one (1) judicial day prior.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2006; September 1, 2021; September 1, 2023]

Local Juvenile Court Rule 2.4
CASE SCHEDULE

A. At the initial shelter care hearing, case hearing dates and related dates through the disposition hearing will be approved by the Court and entered on the Dependency Order Setting Case Schedule. All parties will be provided a copy of the case schedule at the shelter care hearing.

[Adopted Effective September 1, 2003; Amended Effective September 1, 2006]

TITLE III. DEPENDENCY PROCEEDINGS

Local Juvenile Court Rule 3.2
DEPENDENCY PETITIONS

A. **Generally.** Any person may file a petition alleging a dependency. Each petition shall be verified by the individual filing the petition as including allegations, which are supported by documents and/or statements by third parties. Each petition must contain a statement of facts constituting a dependency, and the names and residence, if known to the petitioner, of the parents, guardian or custodian of the alleged dependent child. A layperson requesting to file a petition shall be initially referred to the Department of Social and Health Services to file a CPS referral for appropriate investigation.

B. **Verification.** All petitions shall be verified and contain a statement of facts constituting such dependency.

1. Upon filing of a dependency petition, the State Office of Public Defense will appoint counsel for the parent, guardians, or custodians; OCLA will appoint counsel for the child when appropriate; and the Court will appoint a Guardian ad Litem for the child when appropriate. The parent, guardian or custodian must complete the financial statement documents as requested by the court for further court approval of appointment of counsel. The Court may revoke appointment of counsel when a party fails to:
   a. remain in contact with appointed counsel;
   b. appear at Shelter Care;
   c. appear at Uncontested Fact-Finding; or
   d. appear at Contested Fact-Finding.

[Adopted Effective September 1, 2003; Amended Effective September 1, 2006; September 1, 2021; September 1, 2023]

Local Juvenile Court Rule 3.3
CASE CONFERENCE

A. **Generally.** Unless waived, all parties and court appointed GALs shall participate in a case conference to address the following issues:

1. Placement of the child;
2. Visitation;
3. Services being recommended for the children and parents;
4. Whether other case issues can be agreed and stipulated to;
5. Whether entry of a dependency Fact-Finding order is agreed to;
6. Whether disposition order provisions are agreed to; and
7. Any other outstanding issues.

B. **Conference Date.** Unless waived, the case conference shall be set within four weeks after the filing of the petition on the date established by the case schedule order.

[Adopted Effective September 1, 2003; Amended Effective September 1, 2006; September 1, 2016; September 1, 2023]

Local Juvenile Court Rule 3.4
TELEPHONE STATUS CONFERENCE [RESCINDED]

[Adopted Effective September 1, 2003; Amended Effective September 1, 2006; September 1, 2016; September 1, 2021; Rescinded Effective September 1, 2023]

Local Juvenile Court Rule 3.5
UNCONTESTED FACT-FINDING DATE

A. **Generally.** Default and agreed orders may be entered.

1. Petitioner shall provide their proposed Fact-Finding order to the Respondents at least five (5) days prior to the hearing.
2. Cases not resolved by default or agreed orders shall continue to currently set Contested Fact-Finding, and the Court will set a Pretrial Readiness hearing two weeks prior Contested Fact-Finding.

B. **Uncontested Docket Date.** The uncontested fact-finding hearing shall be held pursuant to the Order Setting Case Schedule.

C. **Presence of parties and their attorneys presumed**. All parties and their legal counsel/GAL shall be present at Uncontested Fact-Finding absent good cause shown.

D. **Witness and Exhibit Lists.** The parties shall exchange witness and exhibit lists pursuant to the Order Setting Case Schedule. Witness lists shall include the names, addresses, and telephone numbers of the witnesses.

[Adopted Effective September 1, 2003; Amended Effective September 1, 2006; September 1, 2016; September 1, 2021; September 1, 2023]

Local Juvenile Court Rule 3.6
CONTESTED FACT FINDING HEARINGS

A. **Generally.** Unless an agreed order or default order has been entered, the Court shall hold a fact-finding trial as to whether the child is dependent pursuant to statutory definitions.

B. **Hearing Date.** Contested fact finding trials shall commence within 75 days of the filing of the petition, unless continued by the Court due to exceptional circumstances.

C. **Presence of parties and their attorneys presumed**. All parties and their legal counsel/GAL shall be present at Contested Fact-Finding absent good cause shown.

[Adopted Effective September 1, 2003; Amended Effective September 1, 2006; September 1, 2016; September 1, 2017; September 1, 2023]

Local Juvenile Court Rule 3.7
DISPOSITION HEARING

A. **Generally.** After a child is agreed to be dependent or found by the Court to be dependent, a hearing shall be held to address disposition issues, including but not limited to, placement of the child, visitation, and services to be provided to the family during the course of the dependency. A court report, consisting of a written evaluation of matters relevant to the disposition of the case shall be made. The court report shall include all social records and shall be made available to the Court.

B. **Contents.** Court reports and predisposition reports will address the factors listed in RCW 13.34.120.

C. **Times.** All dispositional hearings will be held immediately following the fact-finding hearing unless there is good cause to continue the matter for up to fourteen days. The Court may continue the dispositional hearing longer than fourteen days if there is good cause shown.

1. Reports including the agency's proposed court report shall be provided and/or mailed to the Court, the parties, and counsel no later than ten (10) working days prior to the dispositional hearing, pursuant to LJCR 1.12.

2. Petitioner shall provide their proposed Disposition order to the Respondent(s) at least five (5) days prior to the hearing.

3. Parties and other respondents shall provide written responses, accompanied by supporting documentation to all matters contained in the court report, GAL reports and filed motions of which they have substantial disagreement no later than 9:00 a.m. one (1) court day prior to the review or disposition hearing. Failure to file a written response will not be considered good cause for a continuance.

D. **Initial Review Hearing.** The initial review hearing shall be held no later than six (6) months from the initial out of home placement or no more than ninety days from the entry of the disposition order, whichever comes first. The court shall schedule the initial review hearing at the time of the dispositional hearing.

E. **Review Hearing.** The Court shall schedule a review hearing at the time of the dispositional hearing.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2003; September 1, 2006, September 1, 2012, September 1, 2016; September 1, 2020; September 1, 2023]

Local Juvenile Court Rule 3.8
DEPENDENCY REVIEW HEARING

A. **Generally.** The status of all children found to be dependent shall be reviewed by the Court at least every six (6) months at a hearing where it shall be determined whether court supervision should continue. The Court shall receive a written evaluation of matters relevant and material to the need for further court supervision and placement of the child.

B. **Sources.** A written evaluation may be ordered by the court from the following sources:

1. Washington State Department of Child, Youth and Families or related agency; or

2. Any other source that can provide relevant and material information on the issue of the need for further Court supervision and placement of the child.

3. Written responses to the evaluation from the parties will include supporting documentation, if applicable, and will be provided to the court via jMotion not later than 9:00 a.m. one (1) court day prior a review hearing.

C. **Contents.** All written evaluations will address the factors listed in RCW 13.34.130.

D. **Times.** All dependency review hearings shall be set as to date and time in open court at the time of the previous hearing.

1. All court reports will be provided to the court, parties, GAL's and counsel no later than ten (10) working days prior to the review hearing.

2. Addendums to court reports or GAL reports may be provided to the Court and the parties not later than 9:00 a.m. one (1) court day prior to the hearing. Otherwise, the information must be provided to the court verbally at the hearing, but additional information offered verbally may result in a continuance of the hearing, upon request of a party and if approved by the Court.

3. Parties and other respondents shall provide written responses, accompanied by supporting documentation, to all matters contained in the court report, GAL reports and filed motions of which they have substantial disagreement not later than 9:00 a.m. one (1) court day prior to the review or disposition hearing. Failure to file a written response will not be considered good cause for a continuance.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2006; September 1, 2012; September 1, 2016; September 1, 2021; September 1, 2023]

Local Juvenile Court Rule 3.9
GUARDIANSHIP IN JUVENILE COURT

A. **Generally.** Any party to a dependency proceeding may file a petition requesting that guardianship be created as to a dependent child pursuant to RCW 13.36.030.

B. **Procedure.** Once a guardianship petition has been filed with the Clerk of the Court, the petitioner shall:

1. Notify the Department of Social and Health Services;

2. Schedule a date and time for a hearing on the petition and file a Notice and Summons stating such information.

C. **Order.** If the court establishes a guardianship pursuant to RCW 13.36.030, et. seq., the court shall enter an Order to that effect that addresses the matters required by statute, including RCW 13.36.050.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2006; September 1, 2012; September 1, 2015; September 1, 2021]

Local Juvenile Court Rule 3.10
FINAL PARENTING PLANS

A. Upon the Court granting concurrent jurisdiction from the dependency court, a party to a dependency action may file the necessary pleadings for entry of an agreed final parenting plan in the dependency court, pursuant to RCW 13.34.155 and RCW 26.

[Adopted Effective September 1, 2013; Amended Effective September 1, 2016]

TITLE IV. PROCEEDINGS TO TERMINATE PARENT-CHILD RELATIONSHIP

Local Juvenile Court Rule 4.1
INVOKING JURISDICTION OF JUVENILE COURT

A. **Generally.** Juvenile Court jurisdiction is invoked over a proceeding to terminate a parent-child relationship and to establish a Chapter 13.36 guardianship by filing a petition.

B. **New and Separate Cause Number.** All petitions to terminate a parent-child relationship and to establish a Chapter 13.36 guardianship filed with the Court shall be assigned a new and separate cause number, and the respective Superior Court Clerk shall open a file separate from any original dependency file.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2006; September 1, 2013; September 1, 2015]

Local Juvenile Court Rule 4.2
PLEADINGS

A. **Petition.** All petitions to terminate a parent-child relationship shall contain the elements required in JuCr 3.3, be verified, and shall state the facts and circumstances which underlie each of the allegations required by RCW 13.34.180 and 13.34.190. Petitions involving voluntary relinquishment of parental rights shall attach the relinquishment rights and consent form signed by the parent(s).

B. **Answer.** All petitions to terminate a parent-child relationship and to establish a Chapter 13.36 guardianship shall be answered by the parties. All answers shall be in written form and shall conform to the Superior Court Civil Rules. Failure to answer the petition may constitute grounds for entry of termination or guardianship by default in the Juvenile Court's discretion.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2015]

Local Juvenile Court Rule 4.3
NOTICE OF TERMINATION HEARING

A. **Generally.** Notice of the termination hearing and a copy of the petition shall be served on all parties in the manner defined by RCW 13.34.070(7) and (8) or published in the manner defined by RCW 13.34.080. Notice of the date and time of the termination hearing and any pre-trial hearings shall be sent to all parties in the manner defined by RCW 13.34.070(7) and (8) if their addresses or location can be ascertained.

B. **Indian Children.** If the petitioner knows or has reason to know that the child involved is an enrolled or enrollable member of an Indian tribe, the petitioner shall notify the Bureau of Indian Affairs (BIA) in the manner required by RCW 13.34.070(10), 25 U.S.C. 1912 and 13.38.070.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2015; September 1, 2016]

Local Juvenile Court Rule 4.4
DISCOVERY IN PROCEEDINGS TO TERMINATE PARENT-CHILD RELATIONSHIP

A. **Generally.** Discovery shall be conducted according to the Superior Court Civil Rules. Witness lists and exhibit lists shall be provided per the Order Setting Case Schedule. Failure to provide a witness list may result in sanctions in the discretion of the Juvenile Court.

[Adopted Effective April 1, 1988; September 1, 2015]

Local Juvenile Court Rule 4.5
SCHEDULING THE TERMINATION HEARING OF PARENTAL RIGHTS HEARING/PRE-TRIAL HEARING

A. At the initial hearing, case hearing dates and related dates through the trial date will be approved by the Court and entered on the Termination Order Setting Case Schedule. All parties will be provided a copy of the case schedule at the initial hearing.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2006]

TITLE VI. JUVENILE OFFENSE PROCEEDINGS DIVERSION AGREEMENTS

Local Juvenile Court Rule 6.6
TERMINATION/MODIFICATION OF DIVERSION AGREEMENTS

A. **Generally.** Diversion unit(s) shall have the authority to file with the Clerk of the Court a petition and affidavit alleging a substantial violation of a juvenile's diversion agreement and seek termination or modification of the agreement.

B. **Procedure.** Once the petition and affidavit alleging violation of a juvenile's diversion agreement has been filed, the diversion unit shall immediately inform the respective Prosecuting Attorney's Office and the appropriate Juvenile Court unit to ensure the matter is scheduled and all appropriate parties are notified of the hearing date, time and place.

1. The diversion unit will prepare a written report on the alleged violations. Copies will be provided to all appropriate parties.

2. A representative of the diversion unit familiar with the particular case will be present at such hearing.

C. **Issuance of Notice/Summons.** The Clerk of the Court shall be delegated the authority to issue Notice/Summons pursuant to a petition to terminate/modify a diversion agreement without the need for a formal order from the court.

[Adopted Effective April 1, 1988]

TITLE VII. JUVENILE OFFENSE PROCEEDINGS IN JUVENILE COURT

Local Juvenile Court Rule 7.3
DETENTION AND RELEASE

A. **Generally.** No juvenile offender or alleged juvenile offender will be released from court-ordered detention unless a written Order to that effect has been approved by the parties and signed by a Court Commissioner or Superior Court Judge.

B. **Procedure.** The Juvenile Court detention staff, probation counselors and Prosecuting Attorneys will establish written procedures to be followed. Such procedures will be subject to review by the judges.

[Adopted Effective April 1, 1988]

Local Juvenile Court Rule 7.6
ARRAIGNMENT AND PLEAS

A. **Generally.** Unless waived pursuant to these rules, an arraignment hearing shall be held no later than twenty-one (21) days after the information is filed. Attendance by the alleged juvenile offender is mandatory. At arraignment, the juvenile shall be arraigned on the charges set forth in the information. If a juvenile is detained, his/her arraignment hearing shall be held no later than fourteen (14) days after the information is filed.

B. **Procedure.**

1. The juvenile and his/her counsel shall review, prepare and complete the following forms and present them to the court at the hearing:
   a. Juvenile's Acknowledgement of Advisement of Rights and Notice/Advisement of Records;

2. At arraignment, the court shall:
   a. Appoint or confirm assignment of counsel;
   b. Confirm the juvenile is aware of his/her rights, and the record provisions of RCW 13.50;
   c. Take a plea from the juvenile of either guilty, not guilty, or not guilty by reason of insanity;
   d. Determine if discovery has been given; and
   e. Set the next appropriate court date.

3. *Group Arraignments.* The court may advise juvenile respondents of their rights and explain the record provisions of RCW 13.50 in a group proceeding. All other portions of the arraignment shall be accomplished individually.

C. **Name and Date of Birth.** The juvenile respondent shall be asked his/her true name and date of birth. If the juvenile alleges that his/her true name and/or date of birth is other than indicated on the information, it shall be entered in the Minutes of the court and subsequent proceedings shall be had against the respondent by their true name and date of birth.

D. **Reading.** The information shall be read to the juvenile respondent, unless the reading is waived, and a copy shall be provided to the respondent and his/her counsel.

[Adopted Effective April 1, 1988; Amended & Re-Formatted Effective September 1, 2023]

Local Juvenile Court Rule 7.7
PLEAS OF GUILTY

A. **Procedure.** The juvenile respondent and his/her counsel shall prepare and complete a Statement of Juvenile on Plea of Guilty before appearing in court. The juvenile respondent and his/her counsel shall present the completed statement to the court. After receiving the completed statement, the court shall conduct a detailed inquiry addressing:

1. The meaning and effect of a plea of guilty;
2. The elements of the offense alleged;
3. The juvenile's acknowledgement of his/her guilt on each and every element of the offense alleged;
4. The standard sentencing range and the maximum punishment for the offense alleged;
5. The juvenile's understanding of and the meaning of the prosecutor's recommendation; and
6. Any other appropriate matters.

Upon acceptance of the plea, the court shall have the juvenile respondent sign the statement in open court. The statement shall be filed with the Clerk of the Court.

B. **Withdrawal of Plea of Guilty.** A motion to withdraw a plea of guilty may be made only before disposition is imposed and upon a showing of good cause. The Court may set aside an Order of Disposition and permit a juvenile respondent to withdraw his/her plea of guilty to correct an injustice.

C. **Form.** The Statement of Juvenile on Plea of Guilty will conform substantially with JuCr 7.7.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2016; September 1, 2023]

Local Juvenile Court Rule 7.12
DISPOSITIONAL HEARING – OFFENDER PROCEEDINGS

A. **Time.** If the respondent pleads guilty or is found guilty of the allegations in the information, the Court shall enter its findings upon the record and proceed immediately to the disposition unless:

1. The Court believes additional information is necessary;
2. The Court believes additional time is needed to determine an appropriate custody or living situation;
3. Commitment is to be considered and additional time is necessary to seek alternatives; or
4. The Court deems a continuance is otherwise necessary.

C. Restitution, Court Costs and Victim's Assessment. The Court shall address the Respondent's ability to pay, make inquiry pursuant to current status of the law, and may receive information from the juvenile justice staff, to assist in the determination of the amount of restitution, court costs and victim's assessment. The Court shall fix the amount of restitution, court costs and victim's assessment at the dispositional hearing or subsequent hearing.

D. Manifest Injustice Findings. If the Court imposes a sentence based upon a finding of manifest injustice, the Court shall set forth those portions of the record material to the disposition.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2016; September 1, 2017; September 1, 2023]

Local Juvenile Court Rule 7.15
MOTIONS – JUVENILE OFFENSE PROCEEDINGS

A. Generally. Motions, including motions to suppress evidence, motion regarding admissions, and other motions requiring testimony, shall be heard at the time of trial unless otherwise set by the Court.

B. Except for motions to amend Conditions of Release, all motions shall be filed together with a brief and/or declaration which shall include a summary of the facts upon which the motions are based, not later than five (5) days before the hearing. Reply briefs shall be served and filed with the Court no later than 9:00 a.m. the court day before the hearing.

C. Motions to amend Conditions of Release shall be filed, along with a Note for Docket and a brief and/or declaration which shall include a summary of the facts upon which the motion is based not later than 72 hours before the hearing unless the Court finds emergent circumstances involving serious threat to safety of the community or the Respondent requiring an immediate hearing.

[Adopted Effective April 1, 1988; September 1, 2023]

Local Juvenile Court Rule 7.16

BAIL

A. **Generally**. All juveniles held in detention on probable cause shall have the right to have bail addressed in their first court appearance. If bail is granted, it may be posted by either cash or bond. The juvenile will be released from detention to an approved party only on the referral or cause number for which bail is posted. The court may impose additional conditions of release pursuant to RCW 13.40.040(4).

B. **Procedure.** The following steps shall be followed:

1. The issue of bail shall be first addressed at the first appearance hearing.

2. If bail is authorized by the Court, it shall be posted with the respective County Clerk during normal business hours or with the Benton-Franklin Counties Detention Center when the respective County Clerk's Office is closed. Prior to release, the juvenile shall be advised of the next hearing date, any other conditions of release and that failure to appear may result in bail forfeiture and prosecution for bail jumping. When a bond is filed with the Clerk of the Court in Benton or Franklin County, the Clerk in the respective County shall issue a certified copy of the original bond to juvenile detention.

3. A juvenile detainee will not be released from detention unless detention staff has physical possession of the certified copy of the original bond from the Clerk of the Court, a verified receipt for posted bail from the Clerk of the Court or an original authorized bond or cash bail is posted with detention during hours that the county Clerk's Office is closed bond or by cash, ten dollars of the amount posted as bail shall be collected in cash as a nonrefundable bail fee.

4. Pursuant to the provisions of RCW 13.40.056, when bail is posted, by bond or by case, ten dollars of the amount posted as bail shall be collected in cash as a nonrefundable bail fee.

C. **Forms.** Forms for this procedure shall be subject to review by the judges.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2006; September 1, 2013]

Local Juvenile Court Rule 7.17
BENCH WARRANTS

Suspended pending Supreme Court JuCr 7.16

[Adopted Effective April 1, 1988; Amended Effective September 1, 2013; September 1, 2021; Suspended Effective September 1, 2023]

Local Juvenile Court Rule 7.18
VIOLATIONS OF COMMUNITY SUPERVISION

A. **Generally.** Probation counselors shall have the authority to file with the respective Clerk of the Court a motion and affidavit alleging a violation of community supervision.

B. **Procedure.** Once the motion and affidavit alleging a violation of community supervision has been filed, the probation counselor shall contact the appropriate juvenile court unit to ensure the matter is scheduled and all appropriate parties are notified of the hearing date, time and place.

1. The probation counselor shall prepare a written report of the alleged violations. Copies will be provided to all appropriate parties no later than one (1) day prior to the hearing.

2. The probation counselor shall be present at such hearing to respond to questions concerning the matter.

C. **Violations of community supervision.** All juvenile respondents placed on community supervision shall strictly follow the terms and conditions of his/her probation contract as well as any instructions of his/her probation counselor, including placement. If a juvenile respondent voluntarily and without authority absents himself/herself from a placement pursuant to the terms of his/her community supervision, this will be deemed a violation of the juvenile's community supervision. In addition, if the juvenile's behavior poses a serious risk to community safety, and the relevant requirements of JuCr 7.16 have been met, a warrant of arrest may be issued.

A juvenile respondent placed in confinement as a result of a warrant of arrest issued pursuant to this rule shall not be released unless ordered by the court.

D. **Warrants.** The court may order a warrant for the arrest of a juvenile respondent. A warrant may be served by law enforcement or a probation counselor.

E. **Guidelines.** The following guidelines are established for probation counselors with respect to alleged violations of community supervision:

1. *A minor or technical violation and the respondent's whereabouts are known*: file the appropriate motion and have the respective Clerk of the Court issue a Summons.

2. *A serious violation of the criminal law or condition of community supervision, the respondent's alleged behavior poses a serious risk to community safety and the respondent's whereabouts are known/unknown*: the probation counselor shall draft a motion, statement and order for warrant regarding violation of disposition requesting a warrant be issued. The motion will be heard at a

probation violation warrant hearing that will be set for the next available first appearance docket.

F. Issuance of Notice/Summons. The respective Clerk of the Court shall be delegated the authority to issue Notice/Summons pursuant to a motion alleging violations of community supervision without the need for a formal order from the court.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2013; September 1, 2021; September 1, 2023]

TITLE VIII. DECLINING JUVENILE COURT JURISDICTION OVER AN ALLEGED JUVENILE OFFENDER

Local Juvenile Court Rule 8.3
DECLINING JUVENILE COURT JURISDICTION OVER AN ALLEGED JUVENILE OFFENDER

A. Generally. In accordance with RCW 13.40.110 and Juvenile Court Rule 8.1, any party may file an appropriate motion and supporting affidavit to decline jurisdiction with the respective Clerk of the Court.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2013; September 1, 2021; September 1, 2023]

TITLE IX. RIGHT TO LAWYER AND EXPERTS IN ALL JUVENILE COURT PROCEEDINGS

Local Juvenile Court Rule 9.2
RIGHT TO COUNSEL

A. Appointments. All minors under the age of eighteen (18) are presumed to be indigent. The Court may review the presumption of indigency with good cause shown. Legal counsel shall be provided at public expense subject to the court's review of indigency, in the following circumstances:

1. For a juvenile respondent:
   a. Alleged to be a juvenile offender;
   b. Alleged to have violated the terms of his/her community supervision;
   c. Who may be a party to a diversion agreement who has not waived his right to counsel for the purpose of advising him as to whether he/she desires to participate in the diversion process or to decline to participate;

d. When the Prosecuting Attorney or diversion unit has filed a petition to terminate or modify a diversion agreement;
e. When a dependency petition has been filed alleging the child to be dependent pursuant to RCW 13.34.040, and the child is eight (8) years of age or older and a guardian ad litem has not been appointed to represent the best interests of the child;
f. When an at-risk youth or child in need of services petition has been filed;
g. When a petition to terminate the rights of the parent or parents of the juvenile have been filed and the corresponding dependency;
h. When a petition asking for creation of a guardianship over the child has been filed pursuant to RCW 13.36 and the child is eight (8) years of age or older and a guardian ad litem has not been appointed to represent the best interests of the child.

2. For a parent, guardian or custodian:
   a. Who is a party to a:
      i. Dependency proceeding;
      ii. Proceeding for the termination of the parent-child relationship;
      iii. Proceeding pursuant to RCW 13.40 and a juvenile under the age of twelve (12) for whom a parent, guardian or custodian is responsible is requesting to waive a right or object to a proceeding;
      iv. Proceeding pursuant to RCW 13.36 requesting a guardianship be created;
      v. Proceeding and who requests that the court appoint counsel because of an inability to obtain counsel due to financial hardship and the court finds the party indigent;
      vi. Proceeding pursuant to RCW 13.32A requesting a CHINS at parent request.

3. Whenever ordered by the court.

B. **Retained counsel**. Any party may be represented by retained counsel in any proceeding before the Juvenile Court.

C. **Procedure for Appointment of Counsel.** Except as provided above in Section 9.2(A)(1), at or prior to the initial appearance of the parties, the court or a representative of the court may inquire as to the financial status of any party who requests counsel to be appointed. Upon the filing of a motion and affidavit for assignment of a lawyer by a party, the court may schedule a hearing on the subject of the parents, guardian, or custodian and/or the child's ability to pay all or part of the expense of counsel. Upon a finding that the party requesting appointment of counsel is indigent, the court shall appoint counsel. If it appears that the party can partially afford counsel, the court shall appoint counsel but may direct that the party pay an amount certain to the Clerk of the Court. An appropriate form may be used to determine the financial status of a party.

D. **Notice of Appearance.** Attorneys, representing parties in juvenile matters, except for appointed attorneys, must serve prompt written notice of their appearance upon all other parties or their counsel of record, the Legal Process Unit of the court and file the same with the Clerk of the Court.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2015; September 1, 2016; September 1, 2021; September 1, 2023]

Local Juvenile Court Rule 9.4
APPOINTMENT OF NON-LAWYER GUARDIAN AD LITEM

A. **Generally.** It shall be the policy of the court to appoint a non-lawyer guardian ad litem for a juvenile in lieu of an attorney in all proceedings other than offender matters involving juveniles under the age of eight (8) years. The court may appoint a non-lawyer guardian ad litem in lieu of or in addition to an attorney in all proceedings other than offender matters involving juveniles who are eight (8) years of age or older.

B. **Procedure.**

1. *Dependency/Guardianship/Termination Proceedings:* The court may appoint a guardian ad litem for a child after the court has entered a finding of dependency pursuant to RCW 13.34 or at any other appropriate stage of a proceeding. In cases involving more than one child from the same family unit, the court may appoint one guardian ad litem to represent the interests of all the children.

2. *Other Proceedings:* The court may appoint a guardian ad litem when it deems such an appointment necessary.

C. **Role.** The guardian ad litem shall be an advocate on behalf of and in the best interests of the child. The guardian ad litem shall serve as a participant in court proceedings. A guardian ad litem shall be entitled to full access to all parties and relevant records and to receive notice as a party.

D. **Certification.** No guardian ad litem shall be appointed to a child until he/she has successfully completed an approved training course supervised by the court and administered an oath of office by the court. A guardian ad litem shall be free of influence from anyone interested in the result of the proceeding.

E. **Reports.** In all proceedings, the guardian ad litem shall submit a written report to the court addressing all relevant factors and making a recommendation to the court as to an appropriate disposition in the best interests of the child. All reports submitted by a guardian ad litem will be provided to the court and parties no later than ten (10) days prior to the scheduled hearing. A report received within five (5) days of a hearing may constitute good cause of a continuance if a party requests a continuance.

F. Representation by Attorney. A guardian ad litem may be represented by an attorney.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2008; September 1, 2015; September 1, 2016; September 1, 2021]

TITLE X. JUVENILE COURT RECORDS

Local Juvenile Court Rule 10.2
RECORDING JUVENILE COURT PROCEEDINGS

A. Generally. All proceedings in the Benton-Franklin County Superior Court Juvenile Division shall be recorded unless waived pursuant to statute.

1. The electronic recording devise installed at the court is approved for all hearings and for all purposes.

B. Request for Transcript. Upon written motion by any party to a proceeding, the court may order a written verbatim transcript to be prepared. The individual preparing the transcript shall certify that it accurately reflects the electronic record of the proceeding.

1. *Dependency, Guardianship, or Termination of Parental Rights, Proceedings*: All written verbatim transcripts prepared for proceedings involving dependent children, or termination of parental rights proceedings shall be sealed. An individual may inspect such a transcript only after obtaining written court order.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2015]

Local Juvenile Court Rule 10.3
INSPECTION/RELEASE OF INFORMATION

A. Generally. All records, other than the official court record, are confidential and may be released only as provided in state statute and court rule. All requests for information shall be made in writing. Such requests shall state the reason for the inspection or release of information and all parties to the underlying cause shall be provided written notice of the request by the requesting party.

B. Procedure.

1. *Juvenile Offender Matters:* The agency receiving the written request shall refer the written request to the originating agency of the records. The agency will review the request and decide if the request is proper pursuant to statute and court rule. The

requesting party shall be notified in writing as to the appropriateness of his/her request by the originating agency.

2. *Juvenile Dependency/Termination of Parental Rights Matters:* The agency receiving the written request shall refer the written request to the originating agency. The agency will review the request and decide if the request is proper pursuant to statute and court rule. The requesting party shall be notified in writing as to the appropriateness of his/her request by the originating agency.

C. Release. Only complete information will be released.

D. Research Requests. Requests for information concerning legitimate research for educational, scientific or public purposes may be approved by the court if:

1. The individual or agency is engaged in legitimate research for educational, scientific or public purposes; and

2. The anonymity of all persons mentioned in the records/information will be preserved.

3. The Juvenile Court Administrator shall establish written policy and procedure addressing research requests.

[Adopted Effective April 1, 1988; Amended Effective September 1, 2015]

Local Juvenile Court Rule 10.10
NOTICE AND ADVISEMENT - JUVENILE OFFENDER RECORDS

A. Generally. Any juvenile to whom the record provisions of RCW 13.50.050 may apply shall be given written notice of his or her rights under the referenced statute.

B. Procedure. The following procedure shall be followed:

1. In the case of a juvenile offender, a written form signed by the juvenile in which a juvenile is advised of rights pursuant to RCW 13.50.050 and acknowledges being so advised shall be filed with the Clerk of the Court at the time of his or her arraignment.

2. In the case of a juvenile referred to a diversion unit, a similar written form as in the above paragraph shall be signed by the juvenile and filed as part of the diversion agreement.

[Adopted Effective April 1, 1988]

TITLE XI. SUPPLEMENTAL PROVISIONS [RESERVED]