

**YAKIMA COUNTY SUPERIOR COURT
LOCAL CIVIL RULES
Effective September 1, 2020**

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**LCR 7
PLEADINGS ALLOWED; FORM OF MOTIONS**

(b) Motions and Other Papers

(1) How made.

(A) Note for Motion Docket

(1) Any party may bring any issue of law on for hearing. The moving party shall file contemporaneously the motion, note for motion docket and any necessary supporting affidavit, and shall serve these upon the opposing party. The moving party shall abide by the following procedure:

(a) File and serve a motion with the clerk and serve on the opposing party not later than five days prior to the day the moving party desires it to be heard. The motion shall briefly state the legal basis for relief requested.

(b) File and serve a Note for Motion Docket using the form found on the court's [Current Local Rules website](#).

(c) File and serve an affidavit or verified statement supporting the motion. The affidavit or verified statement shall briefly and concisely state the facts known to the affiant which form the basis of the motion.

(2) The time for notice of summary judgments, motions for reconsideration, revisions and motions to dismiss for failure to state a claim and motions on the pleadings is designated by [LCR 56](#), [LCR 59](#) and [LCR 87](#).

(3) Motions on a judge's personal motion calendar shall be scheduled through the Court Administrator's Office. A copy of the motion shall be filed with the Court Administrator's Office. Personal motions are those motions required to be heard by

a particular judge because the case has been preassigned or because it relates to a previous ruling by the same judge.

(4) Arguments on motions should not exceed ten minutes per party.

(B) Confirmation Process.

(1) All civil motions, except motions for summary judgment, motions on a judge's personal motion calendar, reconsideration, revisions, domestic relations, probate, guardianship, paternity and adoption matters, must be confirmed by noon two court days prior to the hearing or they will be stricken. To confirm a motion as required by this rule the moving party shall call (509) 574-2690 and leave the following information: the caller's name, the case name, cause number, date and time the motion is scheduled to be heard, and the date and time of the call. Confirmation shall not be effective unless this telephone procedure is used.

(2) Once confirmed, a motion can be stricken by the moving party who shall place a call to the same telephone number listed above and who shall leave the appropriate message. For a motion to be effectively stricken, the call must be made no later than 4:00 p.m. on the afternoon before the motion is scheduled.

(3) The phone number listed above shall be on a dedicated phone line in the Clerk's Office equipped to record messages.

(4) Motions on a judge's personal motion calendar shall be confirmed with the Court Administrator's Office at (509) 574-2705.

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

[Adopted effective January 14, 1991; Amended effective January 1, 1994; Permanently effective September 30, 1994; Amended effective April 19, 1996; September 1, 2003; September 1, 2020.]

LCR 16 MANDATORY MEDIATION OF CIVIL CASES

(a) Applicable Cases. Mediation is required for all cases in which a Case Scheduling Order is required under [LCR 40\(a\)](#).

(b) Procedure and Standard for Opt-out. Parties may not opt-out of mandatory mediation by stipulation. If *all* parties wish to opt-out, they shall note a joint motion for argument to the court. The court will grant the motion only if firmly convinced that the benefits of mediation, i.e., settlement or resolution of contested issues, are outweighed by the costs of mediation.

(c) Timing. Mediation shall be concluded at least 30 days prior to the date set for trial. If the parties fail to timely mediate, the Court Administrator shall strike the trial.

(d) Qualified Mediators. The Court Administrator shall maintain a list of qualified mediators under this rule, which shall include the following information: Each mediator's name, organization, if any, address, telephone number, and fee schedule. A qualified mediator is an

attorney with 10 or more years of civil practice, who has completed mediation training, and who is approved by the judges of this Court.

(e) Selection of Mediator. The parties shall use the services of a Court-approved mediator. The parties are encouraged to agree upon a mediator. If the parties agree upon a mediator, they shall notify the Court Administrator in writing of the agreed upon mediator. If the parties are unable to agree upon a mediator, they shall request that the Court Administrator send out a short list of potential mediators. The process for determining the number of potential mediators on the short list and selecting the mediator shall be the same process as is used to select an arbitrator under the [Superior Court Civil Arbitration Rules \(SCCAR\)](#) and the [Local Civil Arbitration Rules \(LCAR\)](#).

(f) Appointment of Mediator. The Court Administrator shall notify the mediator of his or her appointment, with a copy of the notification to all parties.

(g) Mediation Date and Materials. The mediator shall determine the mediation date, and whether and when the parties are to exchange mediation statements. If mediation statements are to be exchanged, a party may send a separate statement directed to the mediator only.

(h) Procedure of Mediation.

- (1) The mediator shall determine the procedure of the mediation.
- (2) Unless excused by the mediator, the parties and their attorneys shall personally attend all mediation sessions. In every case there must be a person present at the mediation who has authority to negotiate for a settlement on behalf of each party. All insurance companies that may be liable for any portion of a settlement must have a representative with full settlement authority at the mediation or readily available by telephone.
- (3) Parties shall provide their own interpreters, as they deem necessary. Interpreters need not be court certified.
- (4) If a settlement is reached in mediation, the mediator shall prepare a Settlement Agreement, which must be signed by the parties, their attorneys, and their insurers, if any. Promptly after execution of a Settlement Agreement, Plaintiff shall provide written notice to the Court Administrator that the case has settled.

(i) Notice of Compliance. If no settlement results from the mediation, the mediator shall promptly file with the Clerk, with copies to the Court Administrator and all parties, a certificate that there has been compliance with the mediation requirements of this rule but that no settlement has been reached.

(j) Payment of Mediator. The mediator shall be paid by the parties. Payment responsibilities and arrangements are to be determined between the mediator and the parties.

(k) Incorporation of RCW 7.07. The [Uniform Mediation Act, chapter 7.07 RCW](#), applies to mediations conducted under this rule.

[Adopted effective September 1, 2011; Amended effective September 1, 2020.]

LCR 26
GENERAL PROVISIONS GOVERNING DISCOVERY

(h) Use of Discovery Materials. The portions of the discovery filed shall include the cover sheet or first page of the material necessary to identify the document, or shall otherwise be identified in writing.

[Adopted effective January 14, 1991; Amended effective September 1, 2020.]

LCR 38
JURY TRIAL OF RIGHT

(b) Demand for Jury. If a case is subject to arbitration, any party may file a Statement of Arbitrability, using the form found on the court's [Current Local Rules website](#). After arbitration, if any party files a request for a trial de novo pursuant to [RCW 7.06.050\(1\)](#), then any party may file a demand for jury as set forth in [CR 38](#) and [LCAR 7.1](#).

[Adopted effective September 1, 2020.]

LCR 40
PRE-TRIAL PROCEDURES

(a) Notice of Trial and Civil Case Scheduling Order.

(1) Any party may note a case for trial by completing and filing either a Case Scheduling Order (see subsection (3) below) or a Note for Trial Docket (for cases which do not require a Case Scheduling Order) using the forms found on the court's [Current Local Rules website](#). The form shall be filed with the Clerk, with a copy to the Court Administrator and to all parties.

(2) Unless exempted by LCR 40(a)(3), a party noting a case for trial shall consult with all counsel toward filing a Case Scheduling Order. Upon the order being entered, it shall be filed with the Clerk, with a copy to the Court Administrator and to all parties. If the parties cannot agree on how or if the Case Scheduling Order is to be completed, any party may note the issue for a hearing.

(3) A Case Scheduling Order is not required:

(A) When all counsel of record enter and file a stipulation opting out of a case scheduling order;

(B) If so ordered by the court; or

(C) In the following case types:

(1) Proceedings under [chapter 7.06 RCW \(Arbitration of Civil Actions\)](#) and appeals thereof;

(2) Proceedings under [Title 26 RCW \(Domestic Relations\)](#);

(3) Paternity;

(4) Proceedings under [chapter 10.14 RCW \(Harassment\)](#);

- (5) Proceedings under [Title 13 RCW \(Juvenile Courts and Juvenile Offenders\)](#);
- (6) Unlawful detainer;
- (7) Foreign judgment;
- (8) Abstract or transcript of judgment;
- (9) Petition for Writ of Habeas Corpus, Mandamus, Restitution, or Review, or any other Writ;
- (10) Civil commitment under [chapter 71 RCW \(Mental Illness\)](#);
- (11) Proceedings under [chapter 10.77 RCW \(Criminally Insane\)](#);
- (12) Proceedings for isolation and quarantine;
- (13) Guardianship;
- (14) Probate;
- (15) Proceedings under [chapter 36.70C RCW](#);
- (16) Tax Warrants;
- (17) Lower Court Appeals;
- (18) Administrative Law Reviews;
- (19) Appeals of Department of Licensing driver's license revocations;
- (20) Emancipation of minor; and
- (21) Name Changes.

(b) Methods.

(1) *Notice of trial by jury.* To comply with [CR 38\(b\)](#), which refers to a case being “called to be set for trial,” a procedure not used in Yakima County, a case shall be deemed “called to be set for trial” ten days after filing and service of the Note for Trial Docket as above provided. If the Note for Trial Docket indicates a nonjury trial, any party desiring a jury trial shall file a “Demand for Jury,” with the required deposit, before the case is “called to be set for trial” or a jury shall be deemed to have been waived by all parties. A copy of such demand for jury shall also be filed with the Court Administrator.

(2) *Objections to jury trial/Objections to trial date.* An objection to the case being determined by a jury or an objection to the trial date must be made within 15 days of assignment by the Court Administrator of the trial date. An objection is made, for purposes of this rule, by noting a motion objecting thereto.

(3) *Confirmation of Trial Date (Civil & Domestic Relations).* Even though scheduled for trial, no case will be heard unless a party confirms the trial with the Court Administrator **five judicial days** before the trial. Confirmation shall be made by telephone or via email. The Administrator shall have the authority to strike the trial date of any case that is not confirmed.

Telephone Confirmation: (509) 574-2705

Email Address: Superior.Court@co.yakima.wa.us

(4) *Calendar Management; Conflict Notification.* The Court Administrator shall not release the attorneys from responsibility for appearing at a trial on the date it is set any earlier than noon the date before it is set, or 3:00 p.m. on the preceding Friday when set for a Monday, when it appears that the trial cannot proceed due to unavailability of judges or courtrooms, unless the attorneys agree to a rescheduled trial date before that time.

(5) *Notice of Settlement.* It shall be the obligation of counsel in all civil and criminal jury and nonjury cases to notify the Court Administrator in writing or by email when a case is settled or otherwise will not come on for trial as scheduled.

(g) Pre-trial disclosures.

(1) This subsection applies only to those cases in which a court has entered a Case Scheduling Order.

(2) *Enforcement; Sanctions; Dismissal; Terms.*

(A) Disclosure of Possible Lay and Expert Witnesses.

(1) Disclosure of Primary Witnesses. Each party shall, no later than the date for disclosure designated in the order, disclose all persons with factual or expert knowledge whom the party reserves the option to call as witnesses at trial.

(2) Disclosure of Rebuttal Witnesses. Each party shall, no later than the date for disclosure designated in the order, disclose all persons who did not appear relevant until the primary witnesses were disclosed and whom the party reserves the option to call as witnesses at trial.

(3) Scope of Disclosure. Disclosure of witnesses under this rule shall include the following information:

(a) All witnesses. Name, address, and telephone number.

(b) Lay witnesses. A brief description of the anticipated subject matter of the witness' testimony.

(c) Experts. A summary of the expert's opinions and the basis thereof and a brief description of the expert's qualifications. If the expert has prepared a report, the report shall be produced with these disclosures.

(4) 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.

(5) Discovery Not Limited. This rule does not modify a party's responsibility under court rules to reasonably supplement responses to discovery or otherwise to comply with discovery before the deadlines set by this rule.

(6) Failure to Comply. If the Court finds that an attorney or party has failed to comply with the Case Scheduling Order 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.

(7) Definitions. For purpose of the above rule, "terms" means costs, attorney fees, and other expenses incurred or to be incurred as a result of the failure to comply; "monetary sanctions" means a financial penalty payable to the Court; "other sanctions" includes but is not limited to the exclusion of evidence.

(h) Sanctions for Cases Not Completed in Time Allotted. The parties have an obligation to confer and cooperate in determining the length of trial and in trying the case so that all evidence is presented within the time allotted. Should a case go beyond the time allotted, the trial judge may fine the responsible attorney, attorneys, party, or parties. The fine may be as much as \$500 per half day that the trial goes beyond the time allotted.

(i) Pre-trial Organization of Exhibits and Admissibility Without Authentication.

- (1) The week prior to trial, counsel for all parties shall provide a copy of their likely exhibits to all counsel. Counsel shall endeavor to agree on which exhibits are admissible.
- (2) The parties shall prepare original separate exhibit books, copies and an index of proposed exhibits. Sufficient copies should be made for each attorney, the court, and the testifying witness.
- (3) The parties shall arrive at least 30 minutes prior to trial to assist the clerk in numbering all exhibits.
- (4) The parties shall notify the court at the commencement of trial which exhibits are agreed to. Those exhibits will be admitted without need for authentication.

(j) Pre-assignment of Cases. Either party may request, or the court may itself suggest, that a particular case be pre-assigned. Without limiting the court's discretion, the following factors should be considered prior to ordering pre-assignment of a case: (1) The extent that one judge has become familiar with the facts and law of the case; (2) The extent that one judge has made rulings that disposed of one or more claims; (3) The likelihood that the case might require multiple motions which will require familiarity with the case history; (4) The number of experts, especially experts from outside Yakima County; and (5) The complexity of the case.

[Adopted effective January 14, 1991; Amended effective September 1, 2010; September 1, 2020.]

**LCR 47
JURORS**

(a) Examination of Jurors.

- (1) *Voir Dire.* The voir dire examination of prospective jurors shall, as nearly as possible, be limited to those matters having a reasonably direct bearing on prejudice, and shall not be used by counsel:
 - (A) As a means of arguing or trying their cases, or
 - (B) As an effort to indoctrinate, visit with or establish "rapport" with jurors, or
 - (C) For the purpose of questioning concerning anticipated instructions of the court or theories of law, or
 - (D) For the purpose of asking the jurors what kind of verdict they might return under any circumstances.

Questions are to be asked collectively of the entire panel whenever possible.

(e) Challenge.

- (1) *Peremptory Challenges.* All peremptory challenges allowed by law shall be exercised in writing. Each party shall in turn indicate the juror challenged by name and seat number or shall indicate whether a peremptory challenge for the existing panel is waived. The purpose of this rule is to preserve the secrecy of the peremptory challenge process and all parties and their counsel shall conduct themselves to that.

[Adopted effective January 14, 1991; Amended effective September 1, 2020.]

LCR 51
INSTRUCTIONS TO JURY AND DELIBERATION

(a) Proposed.

(1) *Introductory Instruction.* Prior to jury selection, the parties shall submit in writing an agreed instruction to the court briefly outlining the essential factual issues in the case, or if unable to agree, shall submit separate instructions.

(b) Submission.

(1) *Distribution.* All instructions, including Washington Pattern Instructions, shall be submitted in writing. Numbered and assembled sets, with citations, shall be distributed as follows:

(A) The original shall be filed with the Clerk; one copy shall be served on each other party; one copy shall be retained by the party proposing them; and one copy shall be delivered to the judge.

(B) In addition, one unassembled set, without citations or numbers, shall be delivered to the judge. Counsel should also be prepared to email to the judge a set of the instructions without citations or numbers.

(d) Published Instructions.

(1) *Request.*

(A) Request for Pattern Instructions. If a proposed Washington Pattern Instruction is modified, it must so indicate with the citation.

[Adopted effective January 14, 1991; Amended effective September 1, 2020.]

LCR 56
SUMMARY JUDGMENTS

(e) Statement of Points and Authorities and Supporting Affidavits. A statement of points and authorities and supporting affidavits shall be filed and served contemporaneously with the filing of any motion for summary judgment.

(i) Noting Summary Judgment Hearings.

(1) The Court Administrator will assign a specific date and time for all summary judgment motions. The specific date and time for hearing any summary judgment shall be obtained from the Court Administrator prior to noting any such motion. This may be done telephonically. The moving party shall then immediately file and serve the Note for Motion and send a copy to the Court Administrator.

(2) The Court Administrator will schedule summary judgment hearings and designate judges to hear those motions as soon as possible based on the availability of judges. Information regarding the judge scheduled to hear summary judgments will be available and can be obtained from the Court Administrator's office within five days of the scheduled hearing.

(3) In those cases where a judge has prepared for a summary judgment motion that is continued or stricken, or if after hearing the summary judgment motion there remain issues in the case, the Court Administrator will endeavor, but is not required, to assign that judge to hear any subsequent matters in that case, including the trial.

(j) Confirmation of Hearing.

(1) All summary judgment motions must be confirmed. Summary judgment motions will not be heard even though previously noted unless the hearing is confirmed with the Court Administrator. The confirmation is a representation that all pleadings and documents necessary for the motion have been timely filed by that party and the moving party is prepared to have the motion heard at the date and time noted.

(2) Motions must be confirmed with the Court Administrator not later than 4:00 p.m. the Thursday preceding the week in which the motion is scheduled. Once the hearing is confirmed, the motion may not be stricken or continued without approval of the judge assigned to hear the matter.

(k) Summary Judgment Hearing. The judge hearing the motion will determine the amount of time allowed each party for oral argument at the summary judgment hearing. Unless otherwise indicated by the judge, oral argument may not exceed 20 minutes per party.

(l) Disqualification of Judge. The rescheduling of the hearing on a motion for summary judgment because of a party filing a notice of disqualification of the assigned judge does not expand the time provided in [CR 56\(c\)](#) for filing any pleadings or documents with reference to the motion.

[Adopted effective January 14, 1991; Amended as an emergency rule effective June 1, 1995; Amended effective September 1, 1998; September 1, 2001; September 1, 2002; September 1, 2006; September 1, 2020.]

LCR 59
MOTIONS FOR RECONSIDERATION

(e) Hearing on Motion.

(3) *Nature of Hearing.* Any motion for reconsideration not heard within 30 days of the written decision shall be deemed denied unless otherwise ordered by the court. The judge to whom the motion for reconsideration is made shall determine whether the motion shall be heard on oral argument or submitted on the briefs. It will be presumed that there will be no oral argument unless requested by the judge.

[Adopted effective January 14, 1991; Amended September 1, 2020.]

LCR 77
SUPERIOR COURTS AND JUDICIAL OFFICERS

(f) Sessions.

(2) *Presence for Jury Trial.* Attorneys and parties shall be present at 9:30 a.m. on the first day of trial unless otherwise ordered by the court or designated by the Court Administrator on the Trial Notice or court calendar.

(j) Trials and Hearings; Orders in Chambers.

(1) *Post-Trial Briefs.* Any party submitting a brief in support of a post-trial motion shall deliver a copy to the trial judge at the time the original is filed with the clerk, which shall be at least five days prior to hearing on the motion. The responding party shall serve and file any brief in opposition to the motion at least two days prior to the hearing and provide a copy to the trial judge on the date of filing. A reply brief may be filed prior to the hearing.

(k) Motion Practice.

(1) *Law and Motion Day.* Motions in civil cases, except family law matters, are heard Fridays at 1:30 p.m. unless otherwise ordered by the Court or designated by the Court Administrator. Any motion which must be heard by a particular judge shall be set for 1:30 p.m. on Friday before that judge, unless otherwise directed by that judge. The Court may limit the number of motions to be heard on any particular day.

(2) *Call of the Calendar.* All matters on the motion and show cause docket that have been confirmed or set pursuant to court order shall be called. If no one appears when the matter is called, the Court may grant or deny the motion or may strike the motion. Any matter stricken by the Court must be re-noted.

(3) *Continuances.* At the call of the calendar, and upon the request of any party, any motion and/or show cause matter may be continued by the Court to a particular day and time. Hearings on motions continued by order of the Court must be confirmed unless the order specifically states otherwise.

(4) *Telephonic Hearings.*

(A) Telephonic arguments are allowed by approval of the judge hearing the motion, which approval is obtained through the Court Administrator or by order of the court on its own motion.

(B) The party requesting telephonic argument shall be responsible for initiating and paying for the conference call. If the Court orders telephonic argument, the judge shall designate which party is responsible for initiating and paying for the conference call.

(C) For all telephonic hearings, the moving party shall provide a proposed order granting or denying the motion prior to such hearing. The Court may waive the requirement of a written order if all parties stipulate to the request.

[Adopted effective January 14, 1991; Amended effective September 1, 2002; September 1, 2020.]

LCR 79
BOOKS AND RECORDS KEPT BY THE CLERK

(d) Other Books and Records of Clerk.

(1) *Removal of Files.* No file, or portion thereof, may be removed from the office of the clerk except upon a receipt thereof as prescribed by the clerk. No bond, estate or receivership claim, will, property settlement agreement, instrument of conveyance, or other document that the clerk may designate, may be removed from the office of the clerk except upon order of the court first entered. In any event, no documents removed from the clerk's office shall be taken outside of Yakima County without court order except by members of the Washington State Bar Association.

(e) Destruction of Records.

(1) *Disposition of Exhibits.* Within 90 days after the final disposition of any cause, including all appellate processes, each party shall withdraw all exhibits offered by such party, giving the clerk a receipt therefor, which receipt shall constitute a sufficient discharge of the duties of the clerk. In the event a party shall fail to withdraw the exhibits within such time, the clerk is authorized to destroy the same.

[Adopted effective January 14, 1991; Amended effective September 1, 2020.]

LCR 87
MOTION FOR REVISION

(a) Motion Content and Service Deadlines. A party seeking revision of a Court Commissioner's ruling shall, within ten 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 a designation of all pleadings 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 the Court Administrator who shall refer the motion to the appropriate Judge for consideration. The responding party shall have five court days from the receipt of the motion to file a written response with the Clerk and provide copies to all other parties and to the Court Administrator.

(b) Transcript Required. Five court days after the responding party files their written response, the moving party shall file a transcript of the hearing before the commissioner, serve a copy on all opposing parties, and provide a copy to the Court Administrator who shall forward it to the judge deciding the motion. The person preparing the transcript shall certify, under penalty of perjury, that it is an accurate transcription of the record.

(c) 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.

(d) 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.

(e) 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 effective September 1, 2003; Amended effective September 1, 2004; September 1, 2005; September 1, 2010; September 1, 2012; September 1, 2018; September 1, 2020.]