

Snohomish County Superior Court

Local Court Rules - Change

Permanent Rule Effective September 1, 2009

PART III. CIVIL RULES (SCLCR)

VI. TRIALS (RULES 38-53.2)

RULE 40. ASSIGNMENT OF CASES; SETTING OF TRIALS- FILING OF PLEADINGS-TIME OF TRIALS-CONTINUANCES- SETTLEMENT

(a) Notice of Trial; Filing of Pleadings. The attorney noting a case for trial shall thereby certify that in accordance with CR 40 the issues of fact and law have been completed by service of necessary pleadings. Immediately upon the filing and serving of a Note for Trial and Initial Statement of Arbitrability, in the form approved by the court, all parties must file any pleadings which they have served.

(b) Methods; Noting of Non-criminal Cases.

(1) The original Note for Trial and Initial Statement of Arbitrability, in the form approved by the court, is to be filed and served in the manner provided in CR 40 and a copy shall be served upon the Director of Arbitration. Such note SHALL be in the form of, and contain ALL requested information in such form as is required by the court. Presence of counsel is not required. In the event of non-appearance, the matter shall be set regularly and counsel of record indicated on the Note for Trial and Initial Statement of Arbitrability form will be notified by mail of the trial date and, where appropriate, of assignment to arbitration.

(2) If after two years, a case has not been resolved or noted for trial under this rule, the court may require the parties to appear to show cause why the matter should not be set for trial or the court should not take other appropriate action. Any trial set pursuant to this subsection shall be deemed confirmed by the court. Such hearings shall be set on the clerk's dismissal calendar of the court commissioner, unless otherwise ordered.

(c) Trials.

(1) *Confirmation.* It shall be the duty of each attorney of record or party pro se in a case set for trial to jointly or separately confirm, no sooner than 12 noon of the first court day of the week and no later than 12 noon of the last court day of the week two weeks prior to the trial date, in such written or electronic form as approved by the court. The court may strike the trial date and may impose sanctions and/or terms against the parties or counsel for failure to so confirm.

(2) *Statement of Issues.* [See SCLSPR 94.04 (g) for RCW 26 cases.]

(d) Continuances; Terms. When a case is set for trial it shall be tried on such date or dismissed unless good cause is shown, in writing, for a continuance. See CR 40(d). In cases where one or more parties request a continuance on the day of trial by jury, where the cause is known or in the exercise of reasonable diligence should have been known prior to such date, the court may impose terms on such party(s), including the cost of unutilized juror attendance. For any trial continuance not on the record, or made at the trial call, the parties shall memorialize such continuance by an order within five (5) days of such continuance. Any motion for continuance of trial shall be acknowledged in writing or signed by all moving parties. Any responses agreeing to a motion for continuance shall be acknowledged in writing or signed by all responding parties.

(e) Jury Trials. (1) *Trial Assignment.* All jury cases shall be set for trial to commence on days established as jury trial days by the Presiding Judge unless otherwise provided by the court for good cause shown.

(f) Reduction or Waiver of Jury. If a jury is to be waived or reduced from a twelve (12) to a six (6) member panel, the Court Administrator MUST be so notified no later than 12 noon on the last court day of the week prior to the trial date, except as approved by the court.

(g) Reporting for Trial. All parties shall report to the Presiding Department at 9:00 a.m. on the date set for trial for assignment to a trial department unless otherwise notified by the Court Administrator. If no trial department is available for trial at such time, the Presiding Judge shall hold or excuse the parties for such time as circumstances dictate.

(h) Civil Trials; Reporting Voir Dire and Closing Arguments. Counsel must advise the court prior to trial if they wish to have voir dire, opening statements and closing arguments reported. Approval of such request shall be within the discretion of the court.

[Amended effective September 1, 1999; Amended effective September 1, 2009]