

Snohomish County Superior Court

Local Court Rules - Change

Permanent Rule Effective September 1, 2009

PART III. CIVIL RULES

(SCLCR)

III. PLEADINGS AND MOTIONS (RULES 7-16)

RULE 7. PLEADINGS ALLOWED; FORM OF MOTIONS

(b) Motions and Other Papers.

(1) How Made.

(A) Reapplication on Same Facts. Except as stated below, when a motion has been ruled upon in whole or in part, the same motion may not be later presented to another judge. If the prior ruling was made without prejudice or when the prior motion has been granted conditionally, and the condition has not been met, any subsequent motion may be presented as set forth below. Reapplication shall be made in the same manner as a motion to reconsider. **NOTE: SEE SCLCR 59 FOR MOTIONS FOR RECONSIDERATION.**

(B) Subsequent Motion; Different Facts. If a subsequent motion is made upon alleged different facts, the moving party must show by affidavit what motion was previously made, when and to which judge, what order or decision was made on it, and what new facts are claimed to be shown. For failure to comply with this requirement, the subsequent motion may be stricken, any order made upon such subsequent motion may be set aside, or provide such other relief as the court deems appropriate.

(2) Form.

(A) Notes for Civil Motion Calendar; The motion documents must include an order to show cause or a note for motion calendar, the motion, and supporting documents. The note for motion calendar must be on the form approved by the court. The note for motion calendar must identify the type or nature of the relief being sought. The note or other document shall provide a certificate of mailing of all documents relating to the motion. The certificate shall state the person and address to whom such mailing was made, and who performed the mailing. Such mailing may not be by a party to the action.

(B) Notes for Family Law Motion Calendar. Any Party desiring to bring any family law motion, other than a motion to reconsider (governed by SCLCR 59), on the family law motion calendar must file such motion documents with the Clerk and serve all parties and the court at least twelve (12) days before the date fixed for such hearing. Responding documents and briefs must be filed with the clerk and copies served on all parties and the court no later than 12:00 noon five (5) days before the hearing. Copies of any additional responding or reply documents must be filed with the clerk and served on all parties and the Court not later than 12:00 noon three (3) court days before the hearing.

(C) 1. **Filing.** A party filing a Land Use Petition Appeal (LUPA) shall note a motion and an initial hearing, pursuant to RCW 36.70C.080, within seven days after serving the LUPA petition on the parties identified in RCW 36.70C.040(2). The motion and initial hearing will be set no sooner than 35 days and no later than 50 days after service of the parties. At the same time, the party filing the petition shall deliver working copies for the Superior Court Presiding Judge to Court Administration for pre-assignment of a Judge for the initial hearing.

2. **Motion.** The Motion shall include the following:

- (1) Request for pre-assignment for initial LUPA Hearing
- (2) Specific relief and/or action sought at this time
- (3) List of the names, e-mail addresses (if known), telephone numbers and mailing addresses of all other attorneys in the case and/or all other parties requiring notification regarding this case
- (4) Proposed outline of hearing/filing deadlines based on the filing date as directed by statute.
- (5) Any other matters required by RCW 36.70C.080

3. **Pre-assignment.** The presiding judge will assign the case to a judge who will handle the initial hearing and all other hearings in the

case. The assigned judge may reschedule the initial hearing, if necessary, based on the assigned judge's availability.

4. **Other parties.** The other parties shall note all matters required by RCW 36.70C.080 to be heard at the initial hearing

(D) The motion documents must include an order to show cause or a note for motion calendar, the motion, and supporting documents. The note for motion calendar must be on the form approved by the court. The note for motion calendar must be signed by the attorney or party pro se filing the same, with the designation of the party represented. The note for motion calendar must identify the type or nature of relief being sought. The note or other document shall provide a certification of mailing of all documents related to the motion. The certificate shall state the person and address to who such mailing was made, and who performed the mailing. Such mailing may not be made by a party to the action. Absent prior approval of the court, materials will not include audio or video tape recordings.

(E) Working copies of the motion and all documents in support or opposition shall be delivered by the party filing such documents to the judicial officer who is to consider the motion no later than the day they are to be served on all other parties. All working copies shall state, in red ink in the upper right corner, the following: the date and time of such hearing, the jurist assigned, if any, and the Department or room number of the department where the motion is to be heard.

(F) Late Filing; Terms. Any material offered at a time later than required by this rule may be stricken by the court and not considered. If the court decides to allow the late filing and consider the materials, the court may continue the matter or impose other appropriate remedies including terms, or both.

(G) Motion; Contents Of. A motion must contain the following (motions shall comply with any applicable mandatory form requirements):

1. Relief Requested. The specific relief the court is requested to grant;
2. Statement of Grounds. A concise statement of the grounds upon which the motion is based;
3. Statement of Issues. A concise statement of the issue(s) of law upon which the court is requested to rule;

4. Evidence Relied Upon. The evidence on which the motion or reply is based, shall be identified with particularity. Absent prior court approval, this evidence shall not include audio or video tape recordings. Deposition testimony, discovery pleadings, and documentary evidence relied upon must be quoted verbatim, or a photocopy of relevant pages thereof must be attached to the motion. Deposition testimony in connection with a motion shall not require publication thereof unless a challenge is made thereto and good cause is shown for such publication by an opposing party. Depositions used in this fashion shall remain unopened and not a part of the court file unless otherwise ordered by the court; and

5. Legal Authority. Any legal authority relied upon must be cited. Provided, that items 2. through 5. above may be contained in a memorandum of authority in support of the motion.

(H) Confirmation Process.

1. *Manner of Confirming.* In order that a motion, or an order to show cause, or matter be argued or ruled upon, a party pro se or attorney for the moving party must confirm before 12 noon two (2) court days prior to the hearing; otherwise the matter will be stricken. Only by stipulation of the parties and agreement of the court may an unconfirmed matter be heard. Confirmations shall be made electronically, in a format approved by the court, or by telephone. The case name, cause number, date and time of the motion, title or type of motion, calendar on which the motion appears, the name and telephone number of the person confirming, and E-mail address of the person confirming when confirmation is accomplished electronically, is information which must be provided to the person or recording taking the confirmation .

2. *Strikes or Continuances.* The court must be notified immediately if any confirmed matter will be stricken or continued. No confirmed matter may be continued after 5:00 p.m. two court days before the hearing, except by leave of the court. Failure to notify of such continuance or strike of a confirmed motion may result in sanctions and/or terms.

(I) Time of Hearing.

1. Times, days, and locations of various motions shall be as set forth in an administrative order of the court. All Family Law/Domestic Motions shall be noted for hearing on a Court Commissioner's calendar.

However, motions for summary judgment, except for motions to establish parentage, and motions to revise the ruling of a Court Commissioner shall be noted on the Judge's Civil Motion calendar (except for motions to revise a juvenile court commissioner's order which shall be specially set on a Juvenile Judge's calendar) and motions for preassignment, motions regarding trial settings, motions regarding the timeliness of the demand for jury and motions for trial continuance shall be noted before the Presiding Judge. Initial TEDRA hearings pursuant to RCW 11.96A.100(8) shall be noted on the Judge's Civil Motion calendar. The following are to be noted on the Court Commissioner Civil Calendar: Defaults, Discovery Motions & enforcement thereof, Supplemental Proceedings, Unlawful Detainer or Eviction, Probate, Guardianship & Receiver actions, Motions to Amend Pleadings and Petitions for Restoration of the Right to Possess Firearms. Summary judgment motions in private parentage actions shall be noted on the Court Commissioner's family law motions calendar. All other civil motions shall be noted on the Judges Civil Motions Calendar.

2. *Unopposed Matters.* If no one appears in opposition to a motion at the time set for hearing, the court may enter the order sought, unless the court deems it inappropriate to do so. If no one appears in support of a motion, the court may strike the matter or deny the motion unless the court deems it inappropriate to do so.

3. *Hearing Order.* Motions will be heard in the order designated by the court. Upon stipulation of all parties, or as ordered by the court, a motion may be presented without oral argument.

4. *Time of Argument; Special Setting.* No more than five (5) minutes per side will be allowed for argument unless specially permitted by the court. If more than one half (1/2) hour of judicial time, including preparation and in-court time, is required, the moving party shall at the earliest possible opportunity advise the confirmation clerk or law clerk/bailiff of the judge who will be hearing that calendar. The matter may then be preassigned, specially set, or placed on the trial calendar, at the discretion of the Presiding Judge or designee. If placed on the trial calendar, unless otherwise authorized by the court, the parties or their attorneys shall be present for the trial calendar call on the day of the setting.

(J) Presentation of Order; Each party shall have a proposed order prepared at the time the motion is called for hearing. Unless specifically authorized by the court, the prevailing party shall present a proposed order before the conclusion of the calendar on which the matter was heard.

(K) Motions for Revision. A party seeking revision of a commissioner's ruling shall, within the time specified by statute, file and serve on all other parties a motion and completed calendar note. The filing of the written order of the commissioner shall commence the running of the time. Review of rulings shall be de novo on the pleadings submitted to the commissioner. A transcript or recording of proceedings held before the commissioner shall not be filed or considered by the Court, unless specifically authorized by the judge hearing a motion to revise. Any motion for revision shall state each particular finding of fact, conclusion of law, order or ruling for which revision is sought. Any such motion shall additionally contain a brief statement, for each such claimed error, which states the movant's claim of the correct finding, conclusion, order, or ruling. The Motion for Revision shall be filed timely and shall be scheduled by the movant to be heard not more than 14 days after the motion is filed. Working Copies of the motion and all papers which were before the commissioner in support or opposition shall be delivered as provided in SCLCR 7(2)(F).

(L) Responsive Materials.

1. Responding documents and briefs must be filed with the clerk and copies served on all parties and the court no later than 12 noon two (2) court days prior to the hearing. Copies of any documents replying to the response must be filed with the clerk and served on all parties and the court not later than 12 noon of the court day prior to the hearing.

2. Absent prior approval of the court, responsive or reply materials will not include either audio or video tape recordings.