

# **LOCAL COURT RULES FOR SNOHOMISH COUNTY**



Effective September 1, 1989

Including Amendments Effective

September 1, 2009

# TABLE OF RULES

## **PART I. ADMINISTRATIVE RULES (SCLAR)**

[RULE 0.01 Citation-Scope](#)

[RULE 0.02 Organization of the Court](#)

- (a) Departments
- (b) Commissioners and Clerks
- (c) Disqualification of Judge
- (d) Judges Pro Tem
- (e) Order in the Court-Arms-Recording Devices
- (f) Appearances-Business by Mail or Messenger
- (g) Preassignments

[RULE 0.03 Court Administration](#)

[RULE 0.04 Pilot Projects](#)

[RULE 0.05 Presiding Judge](#)

- (a) Election and Term
- (b) Assistant Presiding Judge
- (c) Duties
- (d) Vacancies
- (e) Committees

[RULE 0.06 Court Records](#)

## **PART II. GENERAL RULES (SCLGR)**

[Rule 15 – Sealing and Redaction of Court Records](#)

## **PART III. CIVIL RULES (SCLCR)**

[I. INTRODUCTORY \(RULES 1-2A\) \[RESERVED\]](#)

[II. COMMENCEMENT OF ACTION: SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS  
\(RULES 3-6\) \[RESERVED\]](#)

[III. PLEADINGS AND MOTIONS \(RULES 7-16\)](#)

[RULE 7. Pleadings Allowed; Form of Motions](#)

- (b) Motions and Other Papers

[RULE 10. Form of Pleadings and Other Papers \[Deleted\]](#)

[RULE 11. Signing of Pleadings](#)

- (a) Address of Party Appearing Pro Se
- (b) Notice of Rule Requirements

[RULE 15. Amended and Supplemental Pleadings](#)

- (e) Interlineations

[RULE 16. Status Conferences \[Deleted\]](#)

[IV. PARTIES \(RULES 17-25\) \[RESERVED\]](#)

[V. DEPOSITIONS AND DISCOVERY \(RULES 26-37\)](#)

[RULE 37. Failure to Make Discovery: Sanctions](#)

- (f) Conference of Counsel
- (g) Certificate of Compliance
- (h) Completion of Discovery

[VI. TRIALS \(RULES 38-53.2\)](#)

[RULE 38. Jury Trial of Right](#)

- (b) Demand for Jury

[RULE 39 Trial by Jury or by the Court](#)

- (b) (3) Alternate Trial Procedures

[RULE 40. Assignment of Cases; Setting of Trials-Filing of Pleadings-Time of Trials-Continuances-Settlement](#)

- (a) Notice of Trial; Filing of Pleadings
- (b) Methods; Noting of Non-criminal Cases
- (c) Alternate Trial Procedures
- (d) Trials
- (e) Continuances; Terms
- (g) Jury Trials
- (h) Reduction or Waiver of Jury
- (i) Reporting for Trial
- (j) Civil Trials; Reporting Voir Dire and Closing Arguments

[RULE 41. Dismissal of Actions](#)

- (b) Involuntary Dismissal
- (g) Request for Inactive Case Status

[RULE 43. Telephonic Testimony](#)

- (a) (1) Telephonic Testimony

RULE 47. Jurors [Deleted]

RULE 50. Motion for a Directed Verdict and for Judgment Notwithstanding Verdict or for New Trial [Deleted]

[RULE 51. Instructions to Jury and Deliberations](#)

- (a) Proposed [Reserved]
- (b) Submission
- (c) Proposed Instructions; Form

[RULE 52. Decisions, Findings and Conclusions](#)

[VII. JUDGMENT \(RULES 54-63\)](#)

[RULE 54. Judgments and Costs](#)

- (g) Interlineations

RULE 55. Default Judgments and Decrees; Except for Dissolutions [Deleted]

[RULE 56. Summary Judgment](#)

- (c) Motion and Proceedings
- (h) Procedure Matters Considered to Be Identified
- (i) Notice Requirements Prior to Trial

[RULE 58. Entry of Judgment](#)

- (a) When
- (b) Effective Time

[RULE 59. New Trial, Reconsideration and Amendment of Judgments; Post Trial Motions](#)

- (e) Hearing on Motion

## VIII. PROVISIONAL AND FINAL REMEDIES (RULES 64-71)

### RULE 65. Injunctions

- (b) Temporary Restraining Order; Notice; Hearing Duration

### RULE 69. Execution

- (b) Supplemental Proceedings

## IX. APPEALS (RULES 72-76) [Reserved]

## X. SUPERIOR COURTS AND CLERKS (RULES 77-80)

### RULE 77. Superior Courts and Judicial Officers

- (f) Sessions

### RULE 79. Books and Records Kept by the Clerk

- (d) Other Books and Records of Clerk
- (e) Destruction of Records-Reproduction of Records

## XI. GENERAL PROVISIONS (RULES 81-86)

### RULE 84. Forms

- (a) Requirements

## **PART IV. MANDATORY ARBITRATION RULES (SCLMAR)**

### 1. SCOPE AND PURPOSE OF RULES

#### RULE 1.1 Application of Rules

- (a) Purpose
- (b) "Director" Defined

#### RULE 1.2 Matters Subject to Arbitration

#### RULE 1.3 Relationship to Superior Court Jurisdiction and Other Rules-Motions

### 2. TRANSFER TO ARBITRATION AND ASSIGNMENT OF ARBITRATOR

#### RULE 2.1 Transfer to Arbitration

- (a) Time of Transfer
- (b) Note for Trial Setting and Initial Statement of Arbitrability
- (c) Response to an Initial Statement of Arbitrability
- (d) Failure to File Amendments
- (e) By Stipulation
- (f) Jury Demand
- (g) Trial Calendar

#### RULE 2.2 Court May Determine Arbitrability

- (a) Motions; How made
- (b) Determination of Non-arbitrability
- (c) Determination of Arbitrability

#### RULE 2.3 Assignment of Arbitrator

- (a) Generally; Stipulations
- (b) Response by Parties
- (c) Response by Only One (1) Party
- (d) No Response
- (e) Additional Arbitrators for Additional Parties

### 3. ARBITRATORS

#### RULE 3.1 Qualifications

- (a) Minimum Qualifications
- (b) Arbitration Panel
- (c) Refusal-Disqualification

#### RULE 3.2 Authority of Arbitrators

### 4. PROCEDURE AFTER ASSIGNMENT

#### RULE 4.2 Discovery

- (a) Discovery Pending at the Time Case Is Transferred to Arbitration
- (b) Additional Discovery
- (c) Admissibility of Discovery

### 5. HEARING

#### RULE 5.1 Notice of Hearing

- (a) Notice of Hearing-Time and Place-Continuance
- (b) Confirmation Settlement or Other Disposition
- (c) Waiver of Hearing-Child Support Modification Matters

#### RULE 5.2 Prehearing Statement of Proof-Documents Filed With Court

#### RULE 5.3 Conduct of Hearing-Witnesses-Rules of Evidence

- (a) Oath of Affirmation
- (b) Offers of Settlement
- (c) Recording
- (d) Rules of Evidence; Generally
- (e) Certain Documents Presumed Admissible
- (f) Opposing Party May Subpoena Author or Maker as Witness

### 6. AWARD

#### RULE 6.1 Form and Content of Award

- (a) Form
- (b) Content
- (c) Return of Exhibits

#### RULE 6.2 Filing of Award

#### RULE 6.3 Judgment On Award

- (a) Presentation

### 7. TRIAL DE NOVO

#### RULE 7.1 Request for Trial De Novo

- (b) Calendar

#### RULE 7.2 Procedure at Trial

#### RULE 7.3 Costs and Attorney Fees

### 8. GENERAL PROVISIONS

#### RULE 8.1 Stipulations; Effect on Relief Granted

#### RULE 8.4 Title and Citation

#### RULE 8.6 Compensation of Arbitrator

- (a) Generally
- (b) Form

[RULE 8.7 Administration](#)

- (a) Director

**PART V. SPECIAL PROCEEDINGS RULES (SCLSPR)**

[RULE 93.04 Disposition of Reports-Adoptions](#)

- (a) Proceedings to Dispense With Consent
- (b) Ex Parte; Other Than Final Decrees
- (c) Testimony Required
- (d) Placement and Post Placement Reports
- (e) Stepparent Adoptions
- (f) Release of Adoption Information

[RULE 94.04 Family Law Proceedings](#)

- (a) Applicability of the Rule
- (b) Family Law Proceedings-Courtroom Calendars and Proceedings
- (c) Child Custody or Parenting Plan Proceedings
- (d) Petitioner and Respondent-Affidavits of Income
- (e) Restraining Orders
- (f) Modification Proceedings
- (g) Alternative Dispute Resolution Required in Family Law

[SCLSPR 94.05 – Parentage Actions – Temporary Parenting Plans and Child Support Orders  
Converted to Permanent Orders](#)

- (a) Applicability of the Rule
- (b) Temporary Parenting Plans.
- (c) Temporary Orders of Child support
- (d) Actual Notice to Parties
- (e) Closure of Case File

[RULE 96.01 Civil Contempt Proceedings; Requirements](#)

- (a) Warnings; Failure to Appear
- (b) Personal Service
- (c) Arrest or Other Remedies Upon Failure to Appear

[RULE 96.02 Change of Name Procedure \[Rescinded\]](#)

[RULE 98.04 Estates-Probate](#)

- (a) Ex Parte; Files Required
- (b) Notice Required
- (c) Testimony for Certain Proceedings Required

[RULE 98.16 Estates-Guardianships-Settlement of Claims of Minors](#)

- (a) Appointment of Representation
- (f) Guardianships
- (g) Minor Settlements
- (j) Control and Orders for Remaining Funds

**PART VI. CRIMINAL RULES (SCLCRR)**

**1. SCOPE, PURPOSE AND CONSTRUCTION**

[RULE 1.1 Scope; Application of Civil Rules](#)

[RULE 1.2 Purpose and Construction](#)

**2. PROCEDURES PRIOR TO ARREST AND OTHER SPECIAL PROCEEDINGS**

[RULE 2.2 Warrant of Arrest and Summons](#)

- (b) Issuance of Summons

[3. RIGHTS OF DEFENDANTS](#)

[RULE 3.2A Preliminary Appearance of Defendant](#)

- (a) Generally

[RULE 3.3 Time for Trial](#)

- (c) Time for Arraignment and Trial
- (b) Trial Settings/Confirmation Hearings

[RULE 3.4 Presence of Defendant](#)

- (a) Required
- (d) Record

[4. PROCEDURES PRIOR TO TRIAL](#)

[RULE 4.5 Omnibus Hearing](#)

- (a) Omnibus Calendar
- (d) Criminal Motion Calendar

[5. VENUE \[RESERVED\]](#)

[6. PROCEDURES AT TRIAL](#)

[RULE 6.12 Witnesses](#)

- (f) Not Offered Exhibits

[7. PROCEDURES FOLLOWING CONVICTION](#)

[RULE 7.1 Procedures Before Sentencing](#)

- (e) Sealing of Records

[RULE 7.2 Sentencing; Conditions of Payment of Costs, Fees, Restitution and Fines \[Repealed\]](#)

[8. MISCELLANEOUS \[RESERVED\]](#)

[\*\*PART VII. MENTAL PROCEEDINGS RULES \(SCLMPR\) \[RESERVED\]\*\*](#)

[\*\*PART VIII. JUVENILE COURT RULES \(SCLJuCR\)\*\*](#)

[TITLE 1. SCOPE AND APPLICATION OF RULES](#)

[RULE 1.4 Applicability of Other Rules](#)

- (a) Civil Rules

[TITLE 2. SHELTER CARE PROCEEDINGS \[RESERVED\]](#)

[TITLE 3. DEPENDENCY PROCEEDINGS](#)

[RULE 3.4 Notice and Summons-Scheduling of Factfinding Hearing \[Rescinded\]](#)

[RULE 3.6 Answer to Petition](#)

[RULE 3.6A Preliminary Hearings](#)

[RULE 3.6B Alternative Dispute Resolution \(ADR\) Procedure](#)

- (a) ADR Procedure
- (b) Statement of Issues

(c) Confidentiality

RULE 3.9 Dependency Review Hearings

- (a) Dependency Review Reports
- (b) Non-contested Calendar
- (c) Contested Calendar
- (d) Permanency Planning Hearing

TITLE 4. PROCEEDINGS TO TERMINATE PARENT-CHILD RELATIONSHIP [RESERVED]

RULE 4.2 Pleadings

- (c) Answer

TITLE 5. PROCEEDINGS FOR ALTERNATIVE RESIDENTIAL PLACEMENT [RESERVED]

TITLE 6. JUVENILE OFFENSE PROCEEDINGS-DIVERSION AGREEMENTS [RESERVED]

TITLE 7. JUVENILE OFFENSE PROCEEDINGS IN JUVENILE COURT

RULE 7.12 Disposition Hearing

- (g) Disposition Order
- (h) Fingerprints; When Required

TITLE 8. DECLINING JUVENILE COURT JURISDICTION OVER AN ALLEGED JUVENILE OFFENDER [RESERVED]

TITLE 9. RIGHT TO LAWYER AND EXPERTS IN ALL JUVENILE COURT PROCEEDINGS [RESERVED]

RULE 9.4 GAL/CASA Grievance Procedures

TITLE 10. JUVENILE COURT RECORDS

RULE 10.7 Sealing Juvenile Court Records

TITLE 11. SUPPLEMENTAL PROVISIONS

RULE 11.3 Pre-Trial Conference

- (a) How Initiated
- (b) How conducted
- (c) Presence of Parties
- (d) Presence of Judge
- (e) Pre-trial Order

**PART IX. RULES OF APPEAL OF DECISIONS OF COURTS OF LIMITED JURISDICTION (SCLRALJ)**

TITLE 1. SCOPE AND PURPOSE OF RULES [RESERVED]

TITLE 2. INITIATING AN APPEAL

RULE 2.6 Content of Notice of Appeal

- (a) Content of Notice of Appeal Generally

TITLE 3. ASSIGNMENT OF CASES IN SUPERIOR COURT

RULE 3.1 Notice of Hearing and Assignment

(a) Notice; Hearing; Action That May Be Taken

TITLE 4. AUTHORITY OF COURT OF LIMITED JURISDICTION AND OF SUPERIOR COURT  
PENDING APPEAL-STAYS

RULE 4.1 Authority of Courts Pending Appeal

(a) Motions Made in Superior Court Prior to Assignment for Trial

TITLE 5. RECORDING PROCEEDINGS IN COURT OF LIMITED JURISDICTION [RESERVED]

TITLE 6. RECORD ON APPEAL

RULE 6.3A Transcript of Electronic Record

(h) Transcript Required

TITLE 7. BRIEFS [RESERVED]

TITLE 8. ORAL ARGUMENT [RESERVED]

TITLE 9. SUPERIOR COURT DECISION AND PROCEDURE AFTER DECISION

RULE 9.1 Basis for Decision on Appeal

(f) Forms of Decision

TITLE 10. VIOLATION OF RULES-SANCTIONS AND DISMISSAL [RESERVED]

TITLE 11. SUPPLEMENTAL PROVISIONS [RESERVED]

**PART X. GUARDIAN AD LITEM RULES (SCLGALR)**

RULE 1. Applicability

RULE 2. Duties of the Guardian ad Litem

RULE 3. Roles and Responsibilities of Guardian ad Litem in Title 13 RCW Juvenile Court Proceedings

RULE 4. Authority of Guardian ad Litem

(a) Proposed. [Reserved.]

RULE 5. Registries

RULE 6. Limited Appointments

(a) Proposed. [Reserved.]

RULE 7. Grievance Procedures

\*\*\*\*\*

**[BACK TO START OF TABLE OF RULES](#)**

# **PART I. ADMINISTRATIVE RULES (SCLAR)**

## **RULE 0.01 CITATION-SCOPE**

These rules shall be cited as SCLR (Snohomish County Local Rules). When a rule creates a requirement or duty of an "attorney," "counsel," or "lawyer," the rule shall equally apply to a party pro se.

## **RULE 0.02 ORGANIZATION OF THE COURT**

**(a) Departments.** The Superior Court for Snohomish County is organized into the following departments: A Presiding Judge's Department; Trial Departments; Court Commissioner Departments; and Juvenile Departments. Trial departments may be given special calendar assignments.

**(b) Commissioners and Clerks.** Except where otherwise required by law or court rules, the terms "judge" and "court" include commissioners. The term "clerk" includes deputies and other employees authorized to act on behalf of the clerk. Court Commissioners have the power, authority and jurisdiction established by RCW 2.24.040, including the specific authorization to accept pleas in adult criminal cases.

[Amended effective September 1, 2000]

**(c) Disqualification of Judge.** No Judge shall be challenged or disqualified from hearing a matter except: (1) on written motion and affidavit filed in accordance with R.C.W. 4.12.040, et seq., prior to or at the time of such challenge being made, or (2) when the judge disqualifies himself or herself.

**(d) Judges Pro Tem.** Judges pro tem shall be appointed by the Presiding Judge or designee, when required, in accordance with R.C.W. 2.08.180. Judges pro tem will be appointed from a list approved by the judges.

**(e) Order in the Court-Arms-Recording Devices.**

(1) Sheriff and Bailiff Preserve Order. The Sheriff or law enforcement officers, county security officers, and bailiff shall preserve order in the courtroom without special direction from the court, and may be armed.

(2) Courtroom Security. Commissioned peace or law enforcement officers, county security officers or bailiffs present in court shall be chargeable with maintaining courtroom security, under the direction of the judge, and pursuant thereto shall be permitted to possess firearms.

(3) Arms and Weapons Prohibited. No person, other than a county security officer, bailiff or commissioned peace or law enforcement officer, shall possess in court, or any area within the court's authority to prohibit or designate, any firearm or weapon, as defined by statutes relating to courtroom security, except as provided in this rule, unless such firearm or other weapon is or will be offered as an exhibit.

(4) Recording and Photography. The broadcasting, televising, recording or photographing of proceedings shall be allowed only with the approval of the court.

**(f) Appearances-Business by Mail or Messenger.**

(1) Appearances. All appearances before the court shall be by a party pro se, by an attorney admitted to practice in the State of Washington, by a legal intern authorized under A.P.R. 9, or by an attorney entitled to appear in a matter under A.P.R. 8(b).

(2) Presentation by Mail. Any order, finding, judgment or other document requiring the signature of a judge or commissioner may be presented by mail under the following conditions:

(A) Signature on Pleadings. All such documents shall bear the personal original signature of counsel or party pro se presenting the same, and the endorsement of approval or waiver of notice of presentation signed by all non-presenting parties not previously adjudged in default, or their attorneys.

(B) Covering Letter-Request for File. All such documents shall be accompanied by a covering letter of explanation personally signed by the presenting party pro se or an attorney and shall request the clerk to deliver the file to the judge or commissioner, if deemed appropriate.

(C) Return Envelope. A self-addressed envelope bearing sufficient pre-paid postage for the return of any requested conformed copies shall be enclosed; and if not, all such copies may be discarded. If no such envelope is enclosed,

and for any reason the presented order(s) are not signed, the same may be discarded without further notice.

(D) Fees. A check or money order for all fees, including the clerk's processing fee, shall be included with the above documents.

(3) Presentation by Messenger. No order or judgment may be presented in open court or in chambers to any judge by any person not authorized to appear before the court as specified in these rules; provided, however, that an attorney or party may obtain from a judge or commissioner prior telephone or oral consent to the delivery of an order by a secretary, clerk, or messenger for signature in chambers, provided further, that such matters would not require testimony.

**(g) Preassignments.** Cases involving complex issues of fact or law, or in which substantial pretrial proceedings are anticipated, may be preassigned by the Presiding Judge or designee to a trial department at any time for pretrial proceedings and/or for trial. A preassignment may be made on motion of one or more parties to be decided without oral argument (unless requested by the court) or on motion of the court.

[Amended effective September 1, 1997]

## RULE 0.03 COURT ADMINISTRATION

Administration of the court shall be by such rules, policies and administrative orders, as defined in GR 7(a), as are established by a majority of the judges with notice to the Snohomish County Bar Association. Such rules, policies and administrative orders shall be on file with the Court Administrator and Snohomish County Law Library. They shall be made available to the Snohomish County Bar Newsletter.

[Amended effective September 1, 2002.]

## RULE 0.04 PILOT PROJECTS

Pilot projects in Snohomish County Superior Court shall operate through published procedures approved by the court.

[Adopted effective September 1, 2000]

## RULE 0.05 PRESIDING JUDGE

**(a) Election and Term.** The judges shall meet to elect a Presiding Judge by majority vote. The election shall occur during the month of January of the final year of the term of the current Presiding Judge. Selection criteria will be in accord with those delineated by GR 29. The term of the Presiding Judge shall be a minimum of two years, and begin on January 1.

**(b) Assistant Presiding Judge.** The immediate past Presiding Judge shall serve as the Acting Presiding Judge in the absence, or upon request of the Presiding Judge.

**(c) Duties.** The Presiding Judge and Assistant Presiding Judge shall perform all duties of the position required by General Rule 29.

**(d) Vacancies.** Vacancies in the office of Presiding Judge, or Assistant Presiding Judge shall be filled by majority vote of the judges at the first judges meeting held after the vacancy is known to exist.

**(e) Committees.** The Presiding Judge may create standing or ad-hoc committees to address policy matters relating to specific areas, and appoint Judges to chair and serve on those committees.

[Amended effective September 1, 2005]

## RULE 0.06 COURT RECORDS

**Records Submitted for in Camera Review.** Upon completion of in camera review of documents in a case, the documents shall be sealed by the clerk and maintained as an exhibit. The order sealing shall indicate the documents were presented to the court for in camera review and shall contain the notation: The court records sealed herein shall be maintained as an exhibit.

[Re-adopted effective September 1, 2007]

## **PART II. GENERAL RULES**

### **(SCLGR)**

#### **SCLGR 15 – SEALING AND REDACTION OF COURT RECORDS**

( c ) ( 1 ) Motions to seal or redact court records pursuant to GR 15 shall be noted before a judge or regularly appointed Court Commissioner. Motions to seal or redact may not be heard by a Judge Pro Tem or Court Commissioner Pro Tem unless the motion is brought to seal/redact Juvenile Court records pursuant to RCW 13.50.050 and is unopposed by the State.

( 2 ) Any party or interested person who moves to seal or redact a court record shall propose written Findings of Fact and Conclusions of Law which identify the compelling privacy or safety concerns which are alleged to outweigh the public interest in access to the court record. Copies of the written Motion to Seal or Redact and proposed Findings of Fact and Conclusions of Law shall be served on all other parties and to the court at least six (6) court days before the date fixed for such hearing.

( 3 ) Any party or interested person who moves to redact a court record shall provide the court, the clerk and each opposing party a redacted copy of the court record which is the subject of the motion to redact.

[Effective July 1, 2006 as emergency local court rule; effective September 1, 2006 as permanent local court rule; amended effective December 9, 2009]

## **PART III. CIVIL RULES**

### **(SCLCR)**

#### **I. INTRODUCTORY (RULES 1-2A) [RESERVED]**

## II. COMMENCEMENT OF ACTION: SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS (RULES 3-6) [RESERVED]

## 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) court 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.

[Amended effective January 13, 2010.]

(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.

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

## RULE 11. SIGNING OF PLEADINGS

**(a) Address of Party Appearing Pro Se.** A party appearing pro se shall state on a notice of appearance, pleadings, and other documents filed by such party, his/her mailing address, street address, and telephone number where service of process and other papers may be made upon him/her. A party appearing pro se shall advise the court and other parties by written notice of any changes of address and/or telephone number.

**(b) Notice of Rule Requirements.** When a party physically appears in court, pursuant to process served upon him/her, but without an attorney and without filing a written pleading or other paper, the clerk shall deliver a printed Notice of Appearance form containing the substance of subsection (a) of this rule and approved by the court. This notice shall be completed by the party pro se and filed.

[Amended effective September 1, 1993]

## RULE 15. AMENDED AND SUPPLEMENTAL PLEADINGS

### **(e) Interlineations.**

(1) Pleadings and Other Papers. Interlineations, corrections and deletions on pleadings and all other papers filed with the clerk shall be initialed by the party or counsel filing them.

[Amended effective September 1, 2009]

## IV. PARTIES (RULES 17-25) [RESERVED]

## V. DEPOSITIONS AND DISCOVERY (RULES 26-37)

### RULE 37. FAILURE TO MAKE DISCOVERY: SANCTIONS

**(f) Conference of Counsel.** The court will not entertain any motion or objection with respect to Rules 26 through 37 of the Rules of Civil Procedure, unless it affirmatively appears that counsel have met personally or by telephone, 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 or objection in respect to matters covered by such rules is served, willfully refuses to meet and confer, or having met, willfully refuses or fails to confer in good faith, the court may take appropriate action to encourage future good faith compliance.

**(g) Certificate of Compliance.** At the time of noting a motion or objection for consideration, counsel for the moving or objecting party shall serve and file a certificate of compliance with this rule and enumerate therein the matters remaining for disposition by the court.

**(h) Completion of Discovery.** Unless otherwise stipulated to by the parties, or ordered by the court upon good cause shown and such terms and conditions as are just, all discovery allowed under CR 26 - 37, including responses and supplementation thereto, must be completed no later than 35 calendar days prior to the date assigned for trial. Nothing herein stated shall modify a party's responsibility to promptly supplement responses to discovery rules or otherwise comply with discovery prior to the 35-day cutoff. In any case brought under Title 26 R.C.W. discovery will be completed no later than the date of confirmation required by Rule 40(d)(1).

[Amended effective September 1, 1996; Amended effective September 1, 2009.]

## VI. TRIALS (RULES 38-53.2)

## RULE 38. JURY TRIAL OF RIGHT

### **(b) Demand for Jury.**

(1) Must Be on Separate Document. A Demand for Jury Trial shall be contained in a separate document.

## RULE 39. TRIAL BY JURY OR BY THE COURT

### **(b) (3) Alternate Trial Procedures.**

In any non-criminal and non-domestic case the parties may, no later than 30 days before any scheduled trial date, stipulate that alternate trial procedures may be used as provided for in this rule.

Such stipulation shall provide for:

- (a) Waiver of the right to a jury trial;
- (b) Waiver of any right to appeal the result of the alternate trial procedure;  
and

- (c) Waiver of the right to findings of fact and conclusions of law.

(3) Such stipulations may provide for:

- (a) the waiver of the applicability of the Rules of Evidence and the substitution of other evidentiary rules, including, but not limited to rules used in mandatory arbitration and in American Arbitration Association matters

- (b) limitations on the extent of pretrial discovery;

- (c) the appointment of a special master at the parties' expense; and

- (d) limitations on the number of witnesses and/or the amount of time which any party may have to use at trial.

- (e) Testimony by declaration or deposition only.

(4) In any case where the parties stipulate to the use of an alternate trial procedure under this rule such stipulation shall be presented to the presiding judge, who upon approval of the stipulation, will preassign the case to a trial

judge. After notice of the appointment of the preassigned judge, the parties shall have 14 days within which time any party may withdraw the stipulation or file an affidavit of prejudice against the preassigned judge. If an affidavit of prejudice is filed with notice to the presiding judge, the presiding judge shall reassign the case to another judge. After reassignment of the case, the parties shall have 14 days within which time any party may withdraw the stipulation. any Party which has not already filed an affidavit of prejudice may exercise that right under the same procedures set forth herein.

(5) A withdrawal of the stipulation within the time frame set forth in subsection (4) shall be effective without any further court action. Any later attempt to withdraw the stipulation must have the approval of the preassigned judge.

(6) Stipulation for the use of alternate trial procedures shall be in writing on a form approved by the court. It shall be signed by all parties and by their respective counsel.

[Adopted effective September 1, 2009]

## **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) *Alternative Dispute Resolution.* At time of confirmation the parties shall provide proof of compliance with SCLSPR 94.04 (g).

[Amended effective January 13, 2010.]

**(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.]

## RULE 41. DISMISSAL OF ACTIONS

### **(b) Involuntary Dismissal.**

(2) Dismissal on Clerk's Notice. Any action shall be subject to a dismissal under this rule, unless otherwise provided by order of the court. Such order shall state the date after which the matter will be subject to such dismissal. Hearings under this rule shall be set on the clerk's dismissal calendar of the court commissioner.

### **(g.) Request for Inactive Case Status.**

(1) *How Made.* In civil cases where a point of stability has been reached such that there will be no need for further litigation, but where it may not be in the interests of the parties or of justice to dismiss the case; any party may file a motion requesting that the case be removed from the active pending caseload of the court to an inactive status.

(2) *Form and Scheduling of Motion.* Such motion for inactive case status shall be set on the civil motions calendar of the court commissioner and shall be made pursuant to SCLCR 7.

(3) *Placement in Inactive Case Status.* Placement in an inactive case status under this rule shall be by order of the court. A case in an inactive case status shall not be subject to notice of clerk's dismissal. Every five years following

placement in inactive case status, the clerk will notify all parties that unless requested otherwise by the parties, the court will order the case to be removed from inactive status. A motion for extension of the inactive status shall be made in the same manner as set forth for the initial motion for inactive status pursuant to SCLCR 7.

(4) *Removal from Inactive Case Status.* A case placed in inactive case status under this rule may not be removed from this status except upon order of the court or upon notice by the parties that the case has been disposed. Any party may file a motion requesting that a case be removed from inactive status. Such motion shall be set on the civil motions calendar of the Court Commissioner.

[Adopted effective September 1, 1993; Amended effective September 1, 1999; Amended effective September 1, 2006; Amended effective September 1, 2009.]

## RULE 43. TELEPHONIC TESTIMONY

**(a) (1) Telephonic Testimony.** Telephonic testimony or other means of electronic communication allowing for examination and cross-examination, may be authorized by a court, with or without the parties' consent, upon good cause being shown, and on such conditions as the court deems necessary and appropriate.

[Adopted effective June 11, 2008.]

## RULE 51. INSTRUCTIONS TO JURY AND DELIBERATIONS

**(a) Proposed** [Reserved]

**(b) Submission.** Proposed instructions, including supplemental instructions, and copies shall be submitted as follows:

(1) An original, numbered and with citations, and stamped "original" on the first page shall be provided to the courtroom clerk.

(2) One copy, numbered and with citations, and one copy without citations or numbers shall be provided to the trial judge.

(3) One copy, numbered and uncited in Word compatible electronic format shall be provided to the trial judge, unless this requirement is waived by the court.

(4) One copy, numbered and with citations, shall be served on each opposing counsel or party pro se.

[Amended effective September 1, 2007]

**(c) Proposed Instructions;** The parties may not request instructions simply by reference to the published WPI or WPIC number.

[Amended effective September 1, 2003; Amended effective September 1, 2009]

## RULE 52. DECISIONS, FINDINGS AND CONCLUSIONS

(1) *Findings and Conclusions*; the substantially prevailing party shall prepare proposed findings and conclusions. Any party objecting to proposed Findings of Fact and/or Conclusions of Law shall comply with:

(A) Proposed Changes in Opposition. Provide the court and opposing counsel with a copy of such proposed documents, which indicate all changes the objecting party proposes. Deletions shall be shown by a strike out and additions shown by underlining; or

(B) Alternate Proposed Documents. Provide the court and opposing counsel with a complete set of alternate proposed documents which easily identifies proposed deletions and additions.

(C) Oral objections at the time of presentation, without documentation as provided in (A) or (B) above, will not be permitted.

[Amended effective September 1, 2009]

## VII. JUDGMENT (RULES 54-63)

### RULE 54. JUDGMENTS AND COSTS

#### **(g) Interlineations.**

(1) Orders and Judgments. All interlineations, corrections and deletions in orders and judgments signed by the court and in any document incorporated by reference therein must be initialed by the judge and by counsel for any party affected.

[Amended effective September 1, 2009]

## RULE 56. SUMMARY JUDGMENT

### **(c) Motion and Proceedings.**

#### *(1) Procedure.*

(A) Motions for summary judgment or other relief under CR 56 shall comply in all respects with SCLCR 7 except as modified by this rule.

#### *(B) Time of Hearing.*

(i) Motions for summary judgment are heard at a time and place as set forth in an administrative order of the court.

(ii) Time for Argument. No more than ten (10) minutes per side will be allowed for argument unless additional time is allowed by the court. If more than one (1) hour of judicial time, including preparation and in court time, is required, the moving party shall so advise the 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 court.

[Amended effective October 1, 1990; Amended effective September 1, 1993; Amended effective September 1, 2005; Amended effective September 1, 2009]

## RULE 58. ENTRY OF JUDGMENT

### **(a) When.**

(1) *Judgments and Orders to Be Filed Forthwith.* Unless otherwise authorized by the court, any order, judgment, or decree that has been signed by the court shall not be taken from the courthouse, but must be filed forthwith in the clerk's office or with the clerk in the courtroom, by the attorney or party pro se obtaining said order.

(d) *Judgments on Notes*. An attorney or party pro se filing a judgment on a negotiable instrument must attach to the judgment the original instrument unless the original has been previously filed.

[Amended effective September 1, 2009]

## RULE 59. NEW TRIAL, RECONSIDERATION AND AMENDMENT OF JUDGMENTS; POST TRIAL MOTIONS

### **(e) Hearing on Motion.**

#### *(3) Nature of Hearing.*

(A) Proposed Order. Each party must include in the materials delivered to the judge a proposed order sustaining his/her side of the argument. Should any party desire a copy of the order signed and filed by the judge, a pre-addressed, stamped envelope shall accompany the proposed order.

(B) Oral Argument. At the time of filing a motion under this rule, the moving party shall comply with CR 59(b) by filing a calendar note, setting the motion before the court which heard the motion. Absent order of the court, the motion will be taken under advisement. Oral arguments will be scheduled only if the court requests the same.

[Amended effective October 1, 1990; September 1, 1992; September 1, 1993; September 1, 1998, September 1, 2009]

## VIII. PROVISIONAL AND FINAL REMEDIES (RULES 64-71)

### RULE 65. INJUNCTIONS

#### **(b) Temporary Restraining Order; Notice; Hearing; Duration.**

(1) Notice to Opponent. The party pro se or attorney applying for an emergency order that 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 attorney for the public body and shall request presence at presentation of the order, unless good cause to the contrary is shown. If the

opponent does not appear, the court shall require a full showing with respect to the notice given.

## RULE 69. EXECUTION

### **(b) Supplemental Proceedings.**

(1) Time. Supplemental proceedings shall be noted as set forth in SCLCR 7(b)(2), or at such other time as designated by the court.

(2) Failure to Appear.

(A) Debtor. Failure of the person to be examined to appear may result in issuance of a bench warrant by the court, provided that specific warning of that consequence was contained in the order directing supplemental proceedings. Service of such order must be made personally upon the debtor.

(B) Examining Attorney. Failure of the examining attorney to appear may result in release of the debtor from examination and may result in imposition of terms against the attorney if subsequent supplemental proceedings are scheduled for the same debtor.

[Amended effective September 1, 2007]

## IX. APPEALS (RULES 72-76) [RESERVED]

## X. SUPERIOR COURTS AND CLERKS (RULES 77-80)

### RULE 77. SUPERIOR COURTS AND JUDICIAL OFFICERS

**(f) Sessions.** The court shall be in session generally from 9:00 a.m. - 12:00 p.m. and 1:00 p.m. - 4:30 p.m., Monday - Friday (excluding legal holidays) at the discretion of the judge hearing the matter.

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

## RULE 79. BOOKS AND RECORDS KEPT BY THE CLERK

### **(d) Other Books and Records of Clerk.**

(1) Exhibits; Filing and Substitution. All exhibits and other papers received in evidence during trial must be filed at the time, but the court may, either then or by leave granted thereafter, upon notice, permit a copy of any such exhibit or other paper to be filed or substituted in the files, in lieu of the original.

(A) Exhibits Kept Separate. Exhibits shall be kept by the clerk separate from the file(s) in the case.

(B) Exhibits; Inspection. Unless otherwise ordered by the court, exhibits shall not be inspected in the clerk's office except in the presence of a clerk.

(C) Original Court Record; Copies. An original court record shall not be admitted as an exhibit, but a copy thereof may be so admitted.

(D) Exhibits; Packaged and Labeled. Exhibits containing bloodborn pathogens, drugs, firearms or dangerous weapons shall be properly packaged and labeled before acceptance by the court. To meet packaging and labeling requirements, exhibits shall conform to the following criteria when presented:

(i) Bloodborn pathogens shall be packaged in sturdy plastic containers. If contained in a vial or hypodermic, each shall be placed in an individual sturdy plastic container or styrofoam container. All items shall be labeled to identify the contents as potentially biologically hazardous materials.

(ii) Drugs shall be placed in sealed containers to prevent or reduce emissions from the container. They shall be labeled identifying the contents.

(iii) Firearms shall be unloaded, any breech mechanism or cylinder shall be open, and a secured trigger lock shall be in place.

(iv) Dangerous weapons shall have any sharp or pointed portions sheathed in a manner to prevent injury or contact with the sharp or pointed portions.

(v) Paper bags alone shall not constitute proper packaging.

(2) Unsuitable Materials. Whenever any paper or other material is presented to the clerk for filing but is deemed by the clerk to be improper or inappropriate for filing, the clerk shall affix the file mark thereto and may

forthwith orally apply to the court for a determination of the propriety of filing the material presented. If the court determines that the document or material should not be made a part of the file, an order shall be entered to that effect that the unsuitable document or material shall be retained by the clerk as an exhibit in the cause. The court may order that the unsuitable document or material be sealed, in which event the requirements of GR 15 shall apply.

(3) Same; Not Evidence Unless Ordered. Exhibits filed pursuant to subsection two (2) hereof shall not be evidence in the cause unless by order of the trial judge entered on notice and hearing.

(4) Withdrawal of Files and Exhibits.

(A) Files. The clerk shall permit no file to be taken from the clerk's office or the clerk's custody, except to the courtroom, or to a judge, commissioner, referee, law clerk/bailiff, official court reporter, or the Court Administrator or deputy unless written authority has first been obtained. Files that are in the custody of an attorney for the purpose of a trial or hearing must be returned to the clerk at the conclusion thereof. The court or the clerk, may with discretion and on application in writing, grant written authority to the applicant to withdraw one or more files from the clerk's custody for a period not exceeding ten (10) days. Only the court may authorize the withdrawal of specified clerk's files for a period in excess of ten (10) days. Such applicant shall return the file, and all of its papers, in good order, and shall not remove, even temporarily, any staples from any papers.

(B) Same; Verbatim Report of Proceedings. The Report of Proceedings after having been settled and signed, shall not be withdrawn from the clerk's office.

(C) Exhibits; Temporary Withdrawal. Exhibits may be withdrawn temporarily from the custody of the clerk only by:

(i) The judge having the cause under consideration.

(ii) Official court reporters and law clerks/bailiffs, without court order, for use in connection with duties.

(iii) Attorneys of record, upon court order, after notice to or with the consent of opposing counsel. The clerk shall require an itemized receipt for all exhibits withdrawn, and upon their return, they shall be checked against the original receipt.

(D) Failure to Return Files or Exhibits; Sanctions. If any person fails to return any file or exhibit within the time required, and fails to comply with the clerk's request for return thereof, the clerk may, without notice to the attorney or other person concerned, apply to the Presiding Judge for an order for the immediate return of such files or exhibits. A certified copy of such order, if entered, shall then be served upon the attorney or other person involved.

(E) Exhibits; Permanent Withdrawal. After final judgment and after the time for appeal, and no appeal having been taken, the court, on application of any party or other person entitled to the possession of one or more exhibits, and for good cause shown, may with discretion order the withdrawal of such exhibit(s) and delivery to such party or other person.

(i) Same; Narcotics. When narcotics or dangerous drugs have been admitted in evidence or have been identified, and are being held by the clerk as a part of the records and files in a criminal case, and all proceedings in the cause having been completed, the prosecuting attorney may apply to the court for an order directing the clerk to deliver such drugs to an authorized representative of the law enforcement agency initiating the prosecution, for disposition according to law. If the court finds these facts and is of the opinion that there will be no further need for such drugs, it shall enter an order accordingly. The clerk shall then deliver the drugs and take from the law enforcement agent a receipt which shall be filed in the cause. The clerk shall also file any certificate issued by an authorized federal or state agency and received by a representative thereof showing the nature of such drugs.

(F) Return of Exhibits and Unopened Depositions. In any non-criminal cause, on a stipulation of the parties that when judgment in the cause shall become final, after an appeal, or upon judgment of dismissal, or upon filing of a satisfaction of judgment, the clerk may return all exhibits and unopened depositions or may destroy them. Absent such stipulation of the parties, the clerk is authorized to seek an order, under SCLCR 79(d)(E), upon notice to parties, for withdrawal and destruction of all offered and entered exhibits, opened and unopened depositions.

(G) Original Court Audio Recordings. Audio recordings produced in any court, such as a court of limited jurisdiction, and submitted to the Court Clerk, are original records of the submitting court's proceedings. These recordings will not be withdrawn from the Clerk. The Clerk shall make a copy of such recordings, or, at the Clerk's discretion, the portion of the recordings which relates only to the proceeding at issue.

(5) Sealed Files and Materials. The clerk shall not permit the examination of any sealed file or other sealed materials except by order of the court. Such

order shall include findings to meet the requirements of GR 15 and any applicable statutes.

(6) Videotaped Depositions. Videotaped depositions published in open court shall be treated as court exhibits, with the same retention standards. Except as ordered by the court, if a party wishes such published deposition to be a part of the court file, then the party shall submit a true and accurate transcript of such deposition.

**(e) Destruction of Records.**

(1) Electronically Scanned Records. Records, or portions thereof, and records that have been destroyed pursuant to R.C.W. 36.23.065, may be reproduced and used in accordance with R.C.W. 36.23.067 for a trial or hearing. The party or attorney needing a reproduction of a scanned or microfilmed record or records shall request the clerk at least six (6) court days before the scheduled court date to reproduce the necessary materials.

[Amended effective September 1, 1992; September 1, 1993; June 23, 2008.]

## **XI. GENERAL PROVISIONS (RULES 81-86)**

### **RULE 84. FORMS**

**(a) Requirements.**

(1) Action Documents. Pleadings or other papers requiring action on the part of the clerk, other than file stamping, docketing and placing in the file, shall be considered action documents. Action documents shall include a special caption directly below the case number on the first page, such as "Clerk's Action Required."

## **PART IV. MANDATORY ARBITRATION RULES (SCLMAR)**

# 1. SCOPE AND PURPOSE OF RULES

## RULE 1.1 APPLICATION OF RULES-PURPOSE AND DEFINITION

**(a) Purpose.** The purpose of mandatory arbitration of civil actions under RCW 7.06, as implemented by the Mandatory Arbitration Rules (MAR), is to provide a simplified and economical procedure for obtaining the prompt and equitable resolution of disputes involving claims of fifty thousand dollars (\$50,000) or less, exclusive of attorney fees, interest and costs, and claims in which the sole relief sought is the establishment, modification, or termination of maintenance or child support payments regardless of the number or amount of such payments. Mandatory Arbitration Rules (MAR) as supplemented by these Local Mandatory Arbitration Rules (SCLMAR) are not designed to address every question that may arise during the arbitration process, and the rules give considerable discretion to the arbitrator. The arbitrator should not hesitate to exercise that discretion. Arbitration hearings should be informal and expeditious, consistent with the purpose of relevant statutes and rules.

[Amended effective September 1, 2007]

**(b) "Director" Defined.** In these rules, "Director" means the Director of Arbitration for the Snohomish County Superior Court. The appointment of the Director and other administrative matters are addressed in SCLMAR 8.6.

## RULE 1.2 MATTERS SUBJECT TO ARBITRATION

Pursuant to the authority granted by statute, a claim is subject to mandatory arbitration only if it does not exceed fifty thousand dollars (\$50,000), exclusive of attorney fees, interest and costs; or if it involves solely the establishment, modification, or termination of child support or maintenance payments or arrearages, regardless of the number or amount of such payments; or if it is a small claims matter appealed from District Court.

[Amended effective September 1, 2006]

## RULE 1.3 RELATIONSHIP TO SUPERIOR COURT JURISDICTION AND OTHER RULES-MOTIONS

Except for cases where arbitrability is at issue, where the assignment of an arbitrator is disputed and is not resolved by the Director, motions for involuntary dismissal, or motions for summary judgment, and except as may otherwise be provided under MAR 3.2, all motions relating to civil cases transferred to mandatory arbitration shall be presented to the arbitrator. See also SCLMAR 2.2; SCLMAR 3.2.

[Amended effective September 1, 1993]

## 2. TRANSFER TO ARBITRATION AND ASSIGNMENT OF ARBITRATOR

### RULE 2.1 TRANSFER TO ARBITRATION

**(a) Time of Transfer.** A matter is deemed transferred to Arbitration upon filing of the Note for Trial and Initial Statement of Arbitrability.

**(b) Note for Trial Setting and Initial Statement of Arbitrability.** In every civil case the party filing a notice for trial provided by CR 40(a)(1) and SCLCR 40(b) shall serve the Director and all parties and file with the clerk a Note for Trial and Initial Statement of Arbitrability on the form prescribed by the court.

**(c) Response to an Initial Statement of Arbitrability.** Within fourteen (14) days after the Note for Trial and Initial Statement of Arbitrability has been served and filed, any party disagreeing with the Note for Trial and Initial Statement of Arbitrability shall serve the Director and all parties and file with the clerk a Response to the Note for Trial and Initial Statement of Arbitrability on a form prescribed by the court. In the absence of such response, the Note for Trial and Initial Statement of Arbitrability shall be deemed correct and a non-responding party shall be deemed to have stipulated to arbitration if the Note for Trial and Initial Statement of Arbitrability provides that the case is arbitrable. If a party asserts that a claim exceeds fifty thousand dollars (\$50,000) or seeks relief other than a money judgment (except for the establishment, modification or termination of child support or maintenance payments regardless of the number or amount of such payments), the case is not subject to arbitration except by stipulation. If a party incorrectly asserts in the Note for Trial and Initial Statement of Arbitrability that a case is not arbitrable, the court may at any time prior to trial on its own motion transfer such case to mandatory arbitration and strike any scheduled trial date.

[Amended effective September 1, 2007]

**(d) Failure to File Amendments.** A party failing to serve and file an original Response within the time prescribed may later do so only upon leave of court. A party may amend the Note for Trial and Initial 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 court for good cause shown. The parties may amend a Note for Trial and Initial Statement of Arbitrability or Response from non-arbitrable to arbitrable at any time prior to trial by written stipulation served on the Director and filed with the clerk.

**(e) By Stipulation.** A case in which all parties file a stipulation to arbitrate under MAR 8.1(b) will be placed on the arbitration calendar regardless of the nature of the case or amount in controversy.

**(f) Jury Demand.** Where any party indicates, pursuant to this rule, that the case is arbitrable or stipulates to arbitration, that party may simultaneously demand a jury trial in the form and manner set forth in these local rules. The case shall then be assigned a position on the jury trial calendar as provided in section (g) of this rule. The jury demand must be made and the jury fee paid not later than the time at which the initial statement of arbitrability is filed which indicates the matter is arbitrable or by a party responding to the initial statement when the response to the statement is filed, otherwise the right to trial by jury is waived unless, after the arbitration decision, a jury demand is filed at the time in the manner set forth in SCLMAR 7.1(b)(2)(ii).

**(g) Trial Calendar.** A non-jury case that is assigned to arbitration shall not be assigned a position on the trial calendar except as provided in SCLMAR 7.1. A jury case that is assigned to arbitration shall simultaneously be assigned a position on the jury trial calendar.

[Amended effective October 1, 1993]

## RULE 2.2 COURT MAY DETERMINE ARBITRABILITY

**(a) Motions; How Made.** Motions to establish whether a case is actually subject to arbitration shall be governed by the state and local rules pertaining to civil motions practice. See also SCLMAR 1.3. Such motions shall be noted for hearing on a date not more than twenty-one (21) days from the date the response is filed and served if the Note for Trial and Initial Statement of Arbitrability provides that the case is arbitrable. A party failing to timely note such cases for motion shall be deemed to have stipulated to arbitration unless

otherwise ordered by the court for good cause shown. Such stipulations to arbitration under this rule shall be established by ex parte court order and shall be filed with the clerk and shall be served upon all parties and the Director.

**(b) Determination of Non-arbitrability.** If upon motion the court determines that a case is not arbitrable, all parties shall report to the trial calendar coordinator in court administration to obtain a trial date.

**(c) Determination of Arbitrability.** If upon motion the court determines that a case is arbitrable, the prevailing party shall serve upon the Director an order transferring the case to arbitration and if a non-jury trial date has been set, it shall be stricken by the Director subject to being renoted pursuant to SCLMAR 7.1.[Amended October 1, 1997]

## RULE 2.3 ASSIGNMENT OF ARBITRATOR

**(a) Generally; Stipulations.** When a case is set for arbitration, a list of five (5) proposed arbitrators will be furnished to the parties. Except to determine the proposed arbitrator's availability, the parties shall not contact the arbitrator regarding the matter being arbitrated. A master list of arbitrators will be made available on request. The parties are encouraged to stipulate to an arbitrator. In the absence of a stipulation, the arbitrator will be chosen from among the five (5) proposed arbitrators in the manner defined by this rule.

**(b) Response by Parties.** Each party may, within fourteen (14) days after a list of proposed arbitrators is furnished to the parties, nominate one (1) or two (2) arbitrators and strike two (2) arbitrators from the list. If both parties respond, an arbitrator nominated by both parties will be appointed. If no arbitrator has been nominated by both parties, the Director will appoint an arbitrator from among those not stricken by either party.

**(c) Response by Only One (1) Party.** If only one (1) party responds within fourteen (14) days, the Director will appoint an arbitrator nominated by that party.

**(d) No Response.** If neither party responds within fourteen (14) days, the Director will appoint one (1) of the five (5) proposed arbitrators.

**(e) Additional Arbitrators for Additional Parties.** If there are more than two (2) adverse parties, such parties may request the Director to include additional proposed arbitrators on the list, with the above principles of

selection to be applied. The number of adverse parties and additional proposed arbitrators shall be determined by the Director, subject to review by the Presiding Judge.

[Amended effective October 1, 1993]

## 3. ARBITRATORS

### RULE 3.1 QUALIFICATIONS

**(a) Minimum Qualifications.** An arbitrator must be a member of the Washington State Bar Association who has been admitted to the Bar for a minimum of five (5) years and who is a current member of the Snohomish County Bar Association, or who is a retired Superior Court judge or commissioner. By stipulation the parties to a case may waive the requirement that the arbitrator be a member of the Snohomish County Bar Association if the arbitrator so chosen is a duly qualified member of an arbitration panel established under Local Mandatory Arbitration Rules of another county in the State of Washington. The parties may stipulate to a non-lawyer arbitrator upon approval of the Director.

**(b) Arbitration Panel.** There shall be a panel of arbitrators in such numbers as the Director may from time to time determine. A person desiring to serve as an arbitrator shall complete an information sheet on the form prescribed by the court. A list showing the names of arbitrators available to hear cases and the information sheets will be available for public inspection in the Director's office. The oath of office on the form prescribed by the court must be completed and filed prior to an applicant being placed on the panel.

**(c) Refusal-Disqualification.** The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator must notify the Director immediately 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 of a case to the Director.

[Amended effective September 1, 1993.]

## RULE 3.2 AUTHORITY OF ARBITRATORS

In addition to the authority conferred on arbitrators under MAR 3.2, an arbitrator has the authority to:

1. Determine the time, place and procedure to present a motion before the arbitrator;

2. Require a party or attorney representing such party, or both, to pay the reasonable expenses, including attorney's fees, caused by the failure of such party or attorney, or both, 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, with proof of service of party(s). The aggrieved party shall have ten (10) days thereafter to appeal the award of such expenses in accordance with the procedures 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 a manner described generally under MAR 6.3; and

3. Award attorney's fees as authorized by these rules, by contract or by law. Motions for involuntary dismissal and motions for summary judgment shall be decided by the court and not by the arbitrator. Agreed orders which are dispositive shall be presented to the court.

[Amended effective July 1, 1991; September 1, 1992; September 1, 1993.]

## 4. PROCEDURE AFTER ASSIGNMENT

### RULE 4.2 DISCOVERY

**(a) Discovery Pending at the Time Case Is Transferred to Arbitration.** Except upon stipulation of the parties or as may be otherwise authorized by MAR 4.2 or by SCLMAR 4.2(c) below discovery pending at the time a case is transferred to arbitration is stayed. However, interrogatories with the exact language as set out below are permitted:

1. State the amount of general damages being claimed or the amount and basis of support and arrearages being sought.

2. State each item of special damages being claimed, and the amount thereof.

3. List the name, address, and phone number of each person having knowledge of any facts regarding liability.

4. List the name, address, and phone number of each person having knowledge of any facts regarding damages claimed or the amount and basis of support and arrearages being sought.

5. List the name, address, and phone number of each expert witness you intend to call at the arbitration. For each such 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.

**(b) Additional Discovery.** In determining when additional discovery beyond that directly authorized by MAR 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 Civil Rules except that motions concerning discovery shall be determined by the arbitrator.

**(c) Admissibility of Discovery.** All discovery admissible under the Civil Rules or Rules of Evidence will be admissible at the arbitration hearing whether or not such discovery was produced before or after the appointment of an arbitrator.

[Amended effective September 1, 1993.]

## 5. HEARING

### RULE 5.1 NOTICE OF HEARING

**(a) Notice of Hearing – Time and Place - Continuance.** An arbitration hearing may be scheduled to be heard in Snohomish County, unless otherwise agreed by the parties, at any reasonable time and place chosen by the arbitrator. The arbitrator may grant a continuance without court order for good cause shown. The parties may stipulate to a continuance only with the permission of the arbitrator. The arbitrator shall give reasonable notice of the hearing date and any continuances to the Director and all parties.

**(b) Confirmation-Settlement or Other Disposition.** The parties shall confirm scheduled arbitration hearing dates with the arbitrator at least one (1)

week prior to the hearing. Failure to timely confirm a scheduled arbitration hearing may result in cancellation of the hearing by the arbitrator. The parties shall also promptly notify an arbitrator of any prehearing case settlement or other disposition.

**(c) Waiver of Hearing-Child Support Modification Matters.** In cases of child support modification, the parties may stipulate to waive oral argument and testimony. Such waiver shall be in writing, on a form approved by the court, if any. Such writing shall specify the documents and written materials to be considered by the arbitrator. It shall be submitted prior to the confirmation date as set forth in subsection (b).

[Amended effective September 1, 1994; June 11, 2008.]

## RULE 5.2 PREHEARING STATEMENT OF PROOF- DOCUMENTS FILED WITH COURT

In addition to the requirements of MAR 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. The court file shall remain with the clerk.

## RULE 5.3 CONDUCT OF HEARING- WITNESSES-RULES OF EVIDENCE

**(a) Oath of Affirmation.** The arbitrator shall place a witness under oath of affirmation before the witness presents testimony.

**(b) Offers of Settlement.** The parties shall, prior to conclusion of the arbitration hearing, advise the arbitrator in general terms that an offer of settlement has been made pursuant to RCW 4.84.250. Such advisement shall disclose neither the amount nor the party making such offer of settlement. The corresponding request for attorney fees shall be made to the arbitrator by affidavit only, not later than 5 calendar days after the date of the arbitration hearing and shall be addressed by the arbitrator in the arbitration award.

**(c) Recording.** The hearing may not be recorded or reported, electronically or otherwise, unless approved by the Arbitrator upon good cause being shown, and only then at the expense of the requesting party.

**(d) Rules of Evidence, Generally.** The Rules of Evidence, to the extent determined by the arbitrator to be applicable, should be liberally construed to promote justice. The parties should stipulate to the admission of evidence when there is no genuine issue of relevance or authenticity.

**(e) Certain Documents Presumed Admissible.** The documents listed below, if relevant, are presumed admissible at an arbitration hearing, but only if:

1. The party offering the document serves on all parties a notice, accompanied by a copy of the document and the name, address and telephone number of its author or maker, at least fourteen (14) days prior to the hearing in accordance with MAR 5.2; and

2. The party offering the document similarly furnished all other parties with copies of all related documents from the same author or maker. This rule does not restrict argument or proof relating to the weight of the evidence admitted, nor does it restrict the arbitrator's authority to determine the weight of the evidence after hearing all evidence and the arguments of opposing parties.

The documents presumed admissible under this rule are:

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

2. A bill for drugs, medical appliances or other related expenses on a letterhead or billhead;

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

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

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

6. The written statement of any other witness, including the written report of an expert witness, and including a statement of opinion which the witness would be allowed to express if testifying in person, if it is made by affidavit or by declaration under penalty of perjury; and

7. A document not specifically covered by any of the foregoing provisions but having equivalent circumstantial guarantees of trustworthiness, the admission of which would serve the interests of justice.

**(f) Opposing Party May Subpoena Author or Maker as Witness.** Any other party may subpoena the author or maker of a document admissible under this rule, at that party's expense, and examine the author or maker as if under cross-examination.

[Amended effective September 1, 1993.]

## 6. AWARD

### RULE 6.1 FORM AND CONTENT OF AWARD

**(a) Form.** The award shall be prepared on the form prescribed by the court.

**(b) Content.** The award shall dispose of all issues raised in the pleadings or submitted by the parties and shall do so in specific monetary terms whenever possible.

**(c) Return of Exhibits.** When an award is filed, the arbitrator shall return all exhibits to the parties who offered them during the hearing.

[Amended effective September 1, 1993.]

### RULE 6.2 FILING OF AWARD

A request by an arbitrator for an extension of time for the filing of an award under MAR 6.2 may be presented to the Director, ex parte. The Director may grant or deny the request, subject to review by the Presiding Judge. The arbitrator shall give the parties notice of any extension granted.

### RULE 6.3 JUDGMENT ON AWARD

**(a) Presentation.** A judgment on an award shall be presented to the Civil Motions Judge or court commissioner, by any party, on five (5) days notice in accordance with MAR 6.3.

[Amended effective September 1, 1997.]

## 7. TRIAL DE NOVO

### RULE 7.1 REQUEST FOR TRIAL DE NOVO

#### **(b) Calendar.**

(1) Trial De Novo. When a trial de novo is requested in a non-jury case as provided in MAR 7.1, the party making the request shall simultaneously file a Note for Trial on the form prescribed by the court. If no note for trial is timely filed the party requesting a trial de novo may be subject to sanctions.

[Amended effective September 1, 2001]

#### (2) Trial De Novo-Jury.

(i) When a trial de novo is requested as provided in MAR 7.1, and the case has been set for jury trial at the time of the initial statement of arbitrability, the trial shall be on the date originally assigned pursuant to SCLMAR 2.1(e) unless within thirty (30) days after the request for trial de novo is filed the party originally demanding the jury trial serves, files, and notes a motion to withdraw the jury demand. If such motion is granted the court may advance the trial date. If after twenty (20) days from the filing of an arbitration award, no party has requested a trial de novo under MAR 7.1, the case shall be stricken from the trial calendar.

(ii) When a trial de novo is requested as provided in MAR 7.1 and no jury trial date has been previously set, any jury demand shall be made in the following manner. Such demand shall be served and filed by the appealing party simultaneously with a Note for Trial on the form prescribed by the court, and by a non-appealing party within 14 calendar days after the request for trial de novo is served on that party. If no jury demand is timely filed, it is deemed waived.

(3) Trial De Novo-Service and Filing. When a trial de novo is requested as provided in MAR 7.1 (a), the party making the request shall complete the Request for Trial De Novo form, including the trial setting information, and file the original with the clerk and serve a copy on the Director of Arbitration and all other parties.

[Amended effective September 1, 2002.]

## **RULE 7.2 PROCEDURE AT TRIAL**

(a) The clerk shall automatically seal any award and any memorandum decision/award if a trial de novo is requested.

(b) If the party who requested the trial de novo fails to confirm the trial, or fails to appear at trial, then the opposing party may obtain a judgment on the arbitrator's award with no further notice. If the party opposing the request for trial de novo fails to appear at trial, then the trial shall proceed as in any default.

[Amended effective September 1, 1993.]

## **RULE 7.3 COSTS AND ATTORNEY FEES**

MAR 7.3 shall apply only to costs and reasonable attorney's fees incurred after the filing of the request for a trial de novo.

# **8. GENERAL PROVISIONS**

## **RULE 8.1 STIPULATIONS; EFFECT ON RELIEF GRANTED**

If a case not otherwise subject to mandatory arbitration is transferred to arbitration by stipulation, the arbitrator may grant any relief which could have been granted if the case were determined by a judge.

## **RULE 8.4 TITLE AND CITATION**

These rules are known and cited as the Snohomish County Superior Court Local Mandatory Arbitration Rules. SCLMAR is the official abbreviation.

## **RULE 8.6 COMPENSATION OF ARBITRATOR**

**(a) Generally.** Arbitrators shall be compensated in the same amount and manner as judges pro tem of the Superior Court. Hearing time and reasonable preparation time are compensable, and reasonable costs incurred by the arbitrator are reimbursable.

**(b) Form.** When the award is filed, the arbitrator shall submit to the Director a request for payment on a form prescribed by the court. The Director shall determine the amount of compensation and costs, if any, to be paid. The decision of the Director will be reviewed by the Presiding Judge at the request of the arbitrator. Compensation to the arbitrator shall not exceed one thousand two hundred fifty dollars (\$1,250), and costs reimbursement shall not exceed fifty dollars (\$50.00), without special approval by the Presiding Judge.

[Amended effective September 1, 1993; amended effective September 1, 2007]

## RULE 8.7 ADMINISTRATION

**(a) Director.** The Presiding Judge shall designate a person to serve as Director of Arbitration. The Director, under the supervision of the Presiding Judge or designee, shall supervise arbitration under these rules, and perform any additional duties which may be delegated by the Presiding Judge or designee.

[Amended effective September 1, 1999]

# PART V. SPECIAL PROCEEDINGS RULES (SCLSPR)

## RULE 93.04 DISPOSITION OF REPORTS -ADOPTIONS

**(a) Proceedings to Dispense With Consent.** Applications for dispensing with the consent of a parent or terminating a parent's rights shall be noted on a commissioner's calendar. If such application is contested, the matter shall be referred to the Court Administrator's office to be assigned a trial date.

**(b) Ex Parte; Other Than Final Decrees.** All non-contested adoption proceedings, other than the entry of final decrees, may be heard ex parte. Application shall be made to the Civil Motions law clerk, or such other place as set forth in an administrative order, for a hearing on a final decree of adoption.

**(c) Testimony Required.** Testimony shall be required in the following adoption proceedings:

1. Upon entry of the findings and decree;
2. Contested matters; and
3. Hearings on relinquishments and terminations.

The court may on its own motion require testimony at any stage of an adoption.

**(d) Preplacement and Post Placement Reports.** It shall be the responsibility of the petitioner or counsel to insure delivery to the court of the preplacement, post placement and guardian ad litem reports required for relinquishments, approvals of consent, terminations, or for adoptions. Reports must be delivered to the appropriate department no later than one day prior to the date for hearing in which the report is required, in order for the judge or commissioner to have an opportunity to read and consider the same.

**(e) Stepparent Adoptions.** When the object of an adoption proceeding is to adopt the child of petitioner's spouse, i.e., a stepparent adoption, the Order for Post Placement Report may contain the following provision: "It is further ordered that a formal written report is dispensed with and in lieu thereof the petitioner and spouse shall fill out and sign, and the post placement reporter will complete and file herein a 'Post Placement Report' in the form prescribed by the Snohomish County Superior Court."

**(f) Release of Adoption Information.** Any release of adoption file material must be only by court order. If the applicant is an intermediary previously approved by the court, or an attorney for an adopting parent seeking only a certified copy of the Decree of Adoption, the order may be approved by a judge or court commissioner. All other orders for release must be approved by a judge or full-time commissioner.

[Amended effective October 1, 1997]

## RULE 94.04 FAMILY LAW PROCEEDINGS

**(a) Applicability of the Rule.** This rule applies to all family law proceedings, including paternity actions and non-parental custody and/or visitation actions, defined as follows: Any proceeding in which the court is

requested to adjudicate or enforce the rights of the parties or their children regarding the determination or modification of child custody, visitation, parenting plan, child support or spousal maintenance, or the temporary distribution of property or obligations.

**(b) Family Law Proceedings-Courtroom Calendars and Procedures.**

(1) Family Law Proceedings Motions.

- A. Except as otherwise provided in this rule, all motions and returns on orders to show cause shall be as set forth in SCLCR 7 or SCLCR 56.
- B. Generally. Absent prior authorization from the court, the entirety of all declarations and affidavits from the parties and any non-expert witness in support of motions shall be limited to a sum total of twenty-five (25) pages. The entirety of all declarations and affidavits submitted in response to motions shall be limited to a sum of twenty-five (25) pages. The entirety of all declarations and affidavits submitted in reply shall be limited to a sum total of five (5) pages. All declarations and affidavits must be legibly hand printed or typed in at least twelve (12) point type, double-spaced, and comply with GR14. All pages, including attached declarations and affidavits shall be sequentially numbered. Working copies of previously filed documents/orders are excluded from page limitation.
- C. Exhibits. Exhibits that consist of declarations or affidavits of parties or witnesses shall count towards the above page limit. All other exhibits attached to a declaration or affidavits shall not be counted toward the page limit.
- D. Financial Declarations. Financial declarations and financial documents do not count toward the page limit.
- E. Expert Reports and Evaluations. Declarations, affidavits, and reports from Family Court Investigation, guardians ad litem, police reports, substance abuse evaluations, psychological evaluations and other expert witnesses do not count toward the page limitation.
- F. Sanctions. Failure to comply with this rule may result in sanctions that may include, but are not limited to, striking over limit pleadings.

[Amended effective June 20, 2008.]

(2) Paternity actions brought by the prosecutor shall be heard as set forth in an administrative order of the court.

(3) Return on Show Cause actions in Domestic Violence cases shall be heard as set forth in an administrative order of the court.

**(c) Child Custody or Parenting Plan Proceedings.**

(1) Information Required. In child custody, visitation or parenting plan cases, each party shall timely submit all information, forms, and worksheets required by statute. Any such forms or worksheets that are not complete may be stricken or other sanctions imposed.

(2) Evaluations. The court may order a custody or parenting or residential evaluation, mental health evaluation, alcohol or drug evaluation, mediation, treatment, counseling investigation and/or physical examination. The issue of costs shall be addressed in the order requiring such evaluation, and shall contain an hourly rate and maximum payment if the cost is to be at public expense. Any order failing to comply will be void.

(3) Reference to Family Court; Counseling.

(A) Duties of Parties. It shall be the responsibility of the parties or their counsel to utilize and complete such form as required by the court for reference to Family Court for investigation or other services. The completed and signed order shall be immediately submitted to the Family Court. Such services will not be required or undertaken until such form has been properly and timely submitted.

(B) The completed Family Court report shall be filed with the Court clerk. The attorneys for the parties, or party pro se shall receive one copy of such report.

(4) Child Advocate.

(A) Appointment. Upon motion the court may appoint a guardian ad litem or special advocate. The order shall be on a form as approved by the court and shall designate the appointee, the duties, and make provisions for payment of fees.

(B) Notice. The guardian ad litem or child advocate shall receive notice and copies of all discovery and hearings.

(C) Discharge. The guardian ad litem or child advocate shall be discharged only by order of the court.

(5) Parenting Seminars.

(A) Definition of Applicable Cases. This rule applies to all cases filed under Ch. 26.09, 26.10 or Ch. 26.26 of the RCW filed after September 1, 1994, including dissolutions, legal separations, major modifications and paternity actions (in which paternity has been established) where the parties are parents of children under the age of 18, and where a parenting plan or residential plan is required which involves more than purely financial issues.

(B) Parenting Seminars; Mandatory Attendance. In all cases referred to in Section (A) above, and in those additional cases arising under Title 26 RCW where a court makes a discretionary finding that a parenting seminar would be in the best interest of the children, both parents, and such non-parent parties as the court may direct, shall participate in, and successfully complete, an approved parenting seminar within 60 days after service of a petition, or an initiating motion, on the responding party. Standards for an approved parenting seminar shall be established by Administrative Order of this court. Successful completion shall be evidenced by a certificate of attendance filed by the provider agency with the court.

(C) Special Considerations/Waiver.

(1) In no case shall opposing parties be required to attend a seminar together.

(2) Upon a showing of domestic violence or abuse which would not require mutual decision-making pursuant to RCW 26.09.191, or that a parent's attendance at a seminar is not in the children's best interest, the court shall either:

[a] waive the requirement of completion of the seminar; or

[b] provide an alternative voluntary parenting seminar for battered spouses.

(3) The court may waive the seminar requirement for one or both parents in any case for good cause shown.

(D) Failure to Comply. Delay, refusal or default by one parent does not excuse timely compliance by the other parent. However, a parent who fails to complete the parenting seminar, shall be precluded from confirming the case for trial or presenting any final order affecting the parenting/residential plan, and may be precluded from seeking affirmative relief in this or subsequent proceedings in this file, until the parenting seminar has been successfully completed. Refusal or delay by either parent may constitute contempt of court and result in sanctions imposed by the court, or may result in the imposition of monetary terms, default and/or striking of pleadings.

(6) Judicial Information System background checks. Prior to presenting a permanent parenting plan to the court for entry, the party or parties presenting the final parenting plan shall submit a completed judicial information service (JIS) background check form to Snohomish County Superior Court Family Court Investigations. Such request must be submitted no less than fourteen days prior to the date of presentation of the final parenting plan. Upon receipt of a completed JIS background check form, Family Court Investigations shall complete a search of the Judicial Information System for the existence of any information and proceedings relevant to the placement of the child. This search shall be performed no more than 14 days prior to the proposed date of presentation of the permanent parenting plan. The results of such search shall be available to the judicial officer presiding over the entry of the permanent parenting plan at least two court days prior to the proposed presentation date.

[Amended effective November 14, 2007; Amended effective October 14, 2009]

**(d) Petitioner and Respondent-Affidavits of Income.** Any application or response regarding child support shall be by motion and shall include a completed child support worksheet and other information which might be required by statute. Any application or response regarding spousal maintenance, attorney's fees, or any other financial relief, except child support, shall be by motion and shall include a Financial Affidavit in the form approved by the court. Each party shall attach to this Financial Affidavit copies of sufficient W-2 forms, 1040 forms and copies of wage stubs for prior periods to adequately prove income.

All orders establishing, setting or modifying any temporary or permanent child support obligation must be in the form of a separate order, on mandatory forms where appropriate, with the adopted child support worksheet attached.

**(e) Restraining Orders.**

(1) Where Presented. Applications for Temporary Restraining Orders may be presented ex parte. Motions for relief to be effective during the pendency of litigation shall be noted for hearing on a commissioner's calendar. Agreed restraining orders may be presented ex parte.

(2) Notice to Opponent. If an appearance has been made by a party, notice to the party pro se or counsel must be given prior to application for any immediate temporary restraining order which will be heard by a commissioner ex parte.

(3) Mutual Orders. All immediate temporary restraining orders shall be made mutual where appropriate.

(4) Motions to Quash or Terminate Temporary Restraining Orders. A motion to quash a temporary restraining order or to terminate a restraining order shall be noted for hearing on a commissioner's calendar.

(5) Temporary Restraining Orders; Testimony. No temporary order removing a person from or restraining a person from entering premises in which that person then resides, or has resided within fourteen (14) days of the application; or which affects the custody of a minor child in which another person has parental rights; or which grants to a person possession of property in the name or possession of another; shall be issued except: (a) after a hearing of which the adverse party has been given prior notice deemed adequate by the court hearing the same; or (b) at which sworn testimony or statement is received from a person or persons having personal knowledge of the facts, and the court waives the notice requirement. In general, an ex parte order establishing, vacating or changing child custody or residence may only be entered under one or more of the following circumstances:

A. There is already an existing order entered in a different cause or proceeding, and this order is merely to confirm the status quo in this proceeding;

B. The parties have been separated more than fourteen (14) days, and the moving party has had the actual uninterrupted custody of the children for the last fourteen (14) days, or the other party has voluntarily vacated the family residence more than fourteen (14) days hence;

C. Less than fourteen (14) days have elapsed since separation of the parties, but during this time, the responding party has voluntarily acceded to the present arrangement by removing himself/herself from the family residence, or by leaving the children behind in the physical custody of the moving party; or

D. The parties have not as yet separated or have only recently done so, and there are substantial, documented allegations of physical, emotional, or sexual abuse of the other party or of the children which present a substantial danger of immediate irreparable harm such that an emergency order without notice ought to be entered. The applicant for such an order is expected to appear personally before a commissioner and give testimony in support of the request.

(6) Show Cause Hearings; Testimony. All show cause hearings, except for contempt, domestic violence, and anti-harassment hearings, shall be by affidavit and declaration only. In anti-harassment and domestic violence actions only the parties may testify without cross examination, or make statements as allowed by the court. The court may take testimony if it appears to the court necessary for an adequate determination of the matter.

(7) Agreed or Non-contested Orders and Decrees. In any case in which the respondent has appeared, pro se or through counsel, prior to the entry of an order of default, all orders, findings, or decrees shall be endorsed by the non-presenting party or his/her attorney and shall indicate approval or waiver of notice of presentation.

#### **(f) Modification Proceedings.**

(1) Modification of Temporary Orders. Temporary orders may be modified by motion based upon a change of circumstances.

(2) Entry of Modified Decree by Default. No permanent decree of modification of support, maintenance, visitation, parenting plan, or custody shall be entered by default unless the adverse party was served with at least twenty (20) days notice of such proceedings (sixty (60) days if out of state), together with copies of pleadings.

(3) Custody, Parenting, or Visitation Modifications.

(A) Commencement. A proceeding to modify custody, a parenting plan, visitation or support is commenced by the filing of such documents as is required by various statutes.

(B) Threshold Hearings-Temporary Relief. Any party may, by motion or show cause order, request temporary relief or a threshold hearing based on affidavits. Responsive documents shall be served on the moving party as required by SCLCR 7.

(C) Disposition. Contested matters involving modification of support or maintenance only will be set for arbitration, unless a trial by affidavit is approved by the court upon motion.

**g. Alternative Dispute Resolution Required In Family Law.**

1. *Alternative dispute resolution required in family law.* All contested issues in the following cases shall be submitted to settlement conference, mediation, or other ADR process with a neutral third party: petitions filed under RCW 26.09; 26.10; 26.26 and committed intimate relationship cases and petitions for modifications of final orders exclusive of Child Support/Maintenance Modification actions which are in mandatory arbitration.
2. *When alternative dispute resolution is not required.* ADR shall NOT be required in the following cases:
  - A. For good cause shown upon motion and approval by the court.
  - B. Where a domestic violence restraining order or protection order (excluding Ex-Parte orders) involving the parties has been entered by a court at any time within the previous twelve (12) months.
  - C. Where a domestic violence no contact order exists pursuant to RCW 10.99;
  - D. Where the court upon motion finds that domestic abuse has occurred between the parties and that such abuse would interfere with arm's-length mediation.

Notwithstanding the foregoing, either party may by motion seek a court order requiring mandatory mediation in a case where it would not be required as set forth in (2)(B), (2)(C) or (2)(D) above if the moving party believes that the parties would be able to mediate their dispute fairly under the particular circumstances of the case.

## RULE 94.05 – Parentage Actions – Temporary Parenting Plans and Child Support Orders Converted to Permanent Orders

- (a) Applicability of the Rule.** This rule applies to Temporary Parenting Plans and Orders of Child Support entered in actions commenced pursuant to RCW Chapter 26.26 in which a final Judgment Determining Parentage has entered.
- (b) Temporary Parenting Plans.** A Temporary Parenting Plan entered in a parentage action shall be converted to a Permanent Parenting Plan by an ex parte order entered on Clerk’s motion, without further notice, if: (1) It has not been superseded by a Permanent Parenting Plan, and (2) A Judgment Determining Parentage has entered, and (3) A trial date has not been currently set or the matter noted for trial setting, and (4) Twelve (12) months have elapsed since entry of the Temporary Order.
- (c) Temporary Orders of Child support.** A Temporary Order of Child Support entered in a parentage action shall be converted to a Final Order of Child Support by an ex parte order entered on Clerk’s motion, without further notice, if: (1) It has not been superseded by a Permanent Order of Child Support, and (2) A Judgment Determining Parentage has entered, and (2) A trial date has not been currently set or the matter noted for trial setting, and (3) Twelve (12) months have elapsed since entry of the Temporary Order.
- (d) Actual Notice to Parties.** Each party subject to a Temporary Parenting Plan or Order of Child Support in a Parentage action shall be given actual notice of this rule by including the language of subsections (b) or (c) above, as applicable, in the Temporary Order.
- (e) Closure of Case File.** The Clerk shall close the active case file in any cause in which Temporary Orders have been converted to Final Orders pursuant to this local rule. The Order Converting Temporary Order to Final Order entered by the Court pursuant to this rule shall be mailed by the Clerk to each party at their address of record in the cause.

[Adopted effective September 1, 2006.]

## RULE 96.01 CIVIL CONTEMPT PROCEEDINGS; REQUIREMENTS

The following shall apply to indirect, remedial or civil contempt proceedings brought under RCW 7.21.030 or similar statutes.

**(a) Warnings; Failure to Appear.** The Order to Show Cause shall contain language warning the responding party that failure to appear could result in a warrant for arrest.

**(b) Personal Service.** Unless otherwise authorized by the court, the Order to Show Cause, motion, and affidavits must be personally served upon the responding party.

**(c) Arrest or Other Remedies Upon Failure to Appear.** At the hearing, if the responding party fails to appear and upon showing of proof of service, and if the warning required above is in the order, the court may order an arrest. Other requested remedies may also be ordered upon default, even if a warrant is not authorized.

[Amended effective September 1, 1992.]

## RULE 96.02 CHANGE OF NAME PROCEDURE [RESCINDED]

[Adopted effective October 1, 1990; rescinded September 1, 1993.]

## RULE 98.04 ESTATES-PROBATE

**(a) Ex Parte; Files Required.** All probate matters that are not contested, and in which notice is not required by statute, rule, or a duly filed request for notice under R.C.W. 11.28.240, or where such notice has been waived, may be heard ex parte. It shall be the responsibility of the presenting party to submit to the court the court file if the file contains any pleadings or other documents or proof on which the requested action is based. Applications by mail should be in conformance with SCLAR 0.02(f)(2).

**(b) Notice Required.** All matters in probate proceedings not involving testimony in which notice is required shall be placed on the court commissioners civil calendar.

**(c) Testimony for Certain Proceedings Required.** Sworn testimony of any person or persons having personal knowledge of the facts may be required in certain probate proceedings as determined by the court.

[Amended effective September 1, 1997]

## RULE 98.16 ESTATES-GUARDIANSHIPS-SETTLEMENT OF CLAIMS OF MINORS

**(a) Appointment of Representation.** Appointment of representation of a minor for purposes of a minor settlement shall be by order of the Court.

**(b) [Reserved]**

**(c) [Reserved]**

**(d) [Reserved]**

**(e) [Reserved]**

**(f) Guardianships.**

(1) Ex Parte; Files Required. All guardianship matters that are not contested, and in which notice is not required by statute, rule, or a duly filed request for notice under applicable statutes, or where such notice has been waived, may be heard ex parte. It shall be the responsibility of the presenting party to submit to the judge the court file if the file contains any pleadings or other documents or proof on which the requested action is based.

(2) Notice Required.

(A) Notes for Motion Calendar. All matters in guardianship proceedings not involving testimony in which notice is required shall be noted on the court commissioners civil calendar. The court may, in its discretion, require a guardianship matter be noted for motion.

(3) When Guardian Ad Litem Required.

(A) Certain Proceedings. The appointment of a guardian ad litem shall be made when required by statute and may be required in the guardianship proceedings at other times within the discretion of the court.

(4) Order Appointing Guardian and Execution and Form of Letters of Guardianship. All Orders Appointing Guardians shall contain the following information to ensure the timely and accurate issuance of Letters of Guardianship by the Clerk's Office. The following information shall be completed and placed directly below the case caption or on a separate cover page in all Orders Appointing Guardians:

**\*\*CLERK'S ACTION REQUIRED\*\***

Due Date for Report and Accounting: \_\_\_\_\_

New Letters Expire On:\*\* \_\_\_\_\_

Due Date for Initial Personal Care Plan: \_\_\_\_\_

Due Date for Inventory: \_\_\_\_\_

\*\* All Letters of Guardianship, unless otherwise ordered by the Court, will expire 120 days following the end of the next accounting period.

**(g) Minor Settlements.**

(1) Compliance With SPR 98.16. The requirements of SPR 98.16 will be strictly enforced in all matters in which the court is requested to approve a settlement involving a beneficial interest or claim of a person under the age of eighteen (18).

(2) Petition.

(A) Contents. A petition for approval of a settlement of each minor's claim shall contain:

1. The full name and birth date of each minor;
2. The relation of the guardian ad litem to each minor;
3. A brief statement of the basis for the claim unless a summons and complaint have been previously filed;
4. An itemization of special damages;
5. A statement of the collateral sources for payment of special damages, whether reimbursement is sought and the terms thereof, including the allocation of fractional shares of the costs of recovery;

6. A description of the injuries, length of disability and prognosis of future disability. Medical reports may be attached and incorporated in the petition;
7. The amount of proposed settlement;
8. The amount of attorney's fees requested or agreed upon and an itemization of the court costs and expenses incurred in preparation and prosecution of the claim; and,
9. The proposed distribution of settlement funds.

### (3) Hearing on Approval of Settlement.

(A) Report of Counsel or Guardian Ad Litem. At the time the petition for approval of the settlement is heard, independent counsel or the guardian ad litem should be prepared to advise the court of his/her opinion of the probable chances of recovery, including issues of primary negligence, contributory negligence, reasonableness of attorney's fees, etc., and the basis for such opinion. Reasonably current medical reports shall be available. The minor and custodial parent or the parent designated primary residential parent under the Parenting Act shall be present at the hearing, unless their presence is waived by the court. All hearings shall be reported.

(B) Time of Hearing. Application shall be made to the Civil Motion Judge's law clerk/bailiff for a time to hear the matter or for assignment to a department to hear the matter.

(4) Filing of Receipt. Within 30 days of the approval of the settlement, the petitioner shall file a receipt, signed by a representative of the financial institution, acknowledging receipt of the funds and acknowledging that the financial institution will hold the funds in compliance with the court order and SPR 98.16W. A copy of the receipt shall be provided to the judge approving the settlement. The copy shall bear the stamp of the clerk showing that it has been filed and shall be provided to the judge within two working days of being filed.

### **(i ) [Reserved]**

### **(j) Control and Orders for Remaining Funds.**

(1) \$25,000 or less. [Reserved]

(2) More than \$25,000. [Reserved]

(3) Conditions for use of Trust. A trust established pursuant to SPR 98.16W must meet the following additional requirements:

(A) The selection of the trustee(s) and the terms of the trust shall be approved by the same judge as approved the settlement. If that judge is not available, the presiding judge may assign the matter to a different judge .A working copy of the proposed trust document, note for hearing and trustee's fee schedule shall be furnished to the judge no less than 6 court days in advance of the hearing.

[Amended effective September 1, 2003]

## **PART VI. CRIMINAL RULES (SCLCRR)**

### **1. SCOPE, PURPOSE AND CONSTRUCTION**

#### **RULE 1.1 SCOPE, APPLICATION OF CIVIL RULE**

All local civil rules and Supreme Court Civil Rules shall apply in criminal cases, unless contrary provision is made in these or other rules governing criminal cases.

#### **RULE 1.2 PURPOSE AND CONSTRUCTION**

Where the term "probation" is used herein it will also apply to "community supervision".

### **2. PROCEDURES PRIOR TO ARREST AND OTHER SPECIAL PROCEEDINGS**

#### **RULE 2.2 WARRANT OF ARREST AND SUMMONS**

**(b) Issuance of Summons.** Upon the Prosecuting Attorney's filing with the clerk an information without directing or requesting the issuance of a warrant for the arrest of the defendant, the clerk shall issue, or re-issue, a summons commanding the defendant to appear before the Court at a specified

time and place. Summons shall also issue upon the filing of a motion for modification or revocation of probation, provided that the motion be supported with a properly executed affidavit setting forth the basis for the requested modification or revocation of probation.

## 3. RIGHTS OF DEFENDANTS

### RULE 3.2A PRELIMINARY APPEARANCE OF DEFENDANT

**(a) Generally.** Unless a defendant has appeared or will appear before a court of limited jurisdiction for a preliminary appearance pursuant to JCrR 2.03(a), any defendant, whether detained in jail or subjected to court authorized conditions of release, and any person in whose case the Juvenile Court has entered a written order declining jurisdiction, must be taken or required to appear before the Superior Court in person or by electronic audio-visual device as soon as practicable after the detention is commenced, the conditions of release are imposed, or the order is entered, but in any event before the close of business on the next judicial day. A person is not subject to conditions of release if the person has been served with a summons and the only obligation is to appear in court on a future date.

### RULE 3.3 TIME FOR TRIAL

**(c) Time for Arraignment and Trial.** The in-custody arraignment calendar shall be heard at the time as indicated for such in an administrative order of the court. The out-of-custody arraignment calendar shall be heard at the time as indicated for such in an administrative order of the court. All first appearances, arraignments, setting of bail, and similar matters in criminal cases shall be placed on such calendars. Guilty pleas will be taken at either omnibus hearings or plea calendars.

(1) Setting of Omnibus Hearings. At the time of the arraignment the court shall set the omnibus hearing.

(2) Sentencing. Upon the entry of a plea of guilty, sentencing shall be assigned to a judge by the judge taking the plea.

**(f) Trial Settings/Confirmation Hearings.** Criminal cases shall be set for trial at the time of arraignment, or entry of plea, by the judge hearing such matters.

[Amended effective September 1, 1997]

## RULE 3.4 PRESENCE OF DEFENDANT

**(a) Required-Exception.** Unless otherwise ordered by the court the presence of the defendant shall be required at all proceedings, including omnibus hearing.

**(d) Record.** In any hearing where the defendant is in custody in the Snohomish County Jail and no sworn testimony is to be taken, including but not limited to preliminary appearance, arraignment, re-arraignment, bail review, trial setting or continuance, and/or extradition waiver, the court may in its discretion conduct such hearing with the defendant present in person or by electronic audio-visual device, and may make an electronic, mechanical, or shorthand record thereof in accordance with CR 80.

[Amended effective October 1, 1990.]

## 4. PROCEDURES PRIOR TO TRIAL

### RULE 4.5 OMNIBUS HEARING

**(a) Omnibus Calendar.** The Omnibus Calendar shall be heard at the time indicated for such as set forth in an administrative order of the court, and in such courtroom as may be posted.

**(d) Criminal Motion Calendar.** Motions to suppress, Rule 3.5 hearings, and similar matters, shall be heard at the time indicated for such as set forth in an administrative order of the court and may be assigned to Trial Departments as may appear appropriate to the judge. Matters in criminal cases requiring disposition other than on the regular Arraignment, Omnibus or Criminal Motion Calendars, shall be presented to the Criminal Motions Judge, except for motions for preassignment which shall be presented to the Presiding Judge. Criminal motions shall be confirmed by noon two days prior to the hearing. The moving party must notify the court as soon as possible when a confirmed matter is stricken or continued. Failure to do so may result in the imposition of sanctions or terms. The moving party's motion and brief, if any, must be filed with the court clerk and a copy served on the judge hearing the matter and opposing counsel at least six court days before the hearing.

Responding documents and briefs, if any, must be filed with the court clerk, and a copy served on the judge hearing the matter and the moving party at least two court days before the hearing. Reply documents must be filed and served no later than 12 noon of the court day prior to the hearing.

[Amended effective September 1, 1998]

## 5. VENUE [RESERVED]

## 6. PROCEDURES AT TRIAL

### RULE 6.12 WITNESSES

**(f) Not Offered Exhibits.** All exhibits marked but not offered at trial shall be subject to the same retention requirements as those admitted or rejected.

## 7. PROCEDURES FOLLOWING CONVICTION

### RULE 7.1 PROCEDURES BEFORE SENTENCING

**(e) Sealing of Records.** No sentencing records or reports will be sealed except by order of the court pursuant to the procedures set forth in GR 15.

[Amended effective September 1, 2000]

## 8. MISCELLANEOUS

[RESERVED]

# **PART VII. MENTAL PROCEEDINGS RULES (SCLMPR) [RESERVED]**

# **PART VIII. JUVENILE COURT RULES (SCLJuCR)**

## **TITLE 1. SCOPE AND APPLICATION OF RULES**

### **RULE 1.4 APPLICABILITY OF OTHER RULES**

**(a) Civil Rules.** The computation of any period of time prescribed or allowed by these rules shall be as set forth in CR 6.

[Adopted effective September 1, 1992.]

## **TITLE 2. SHELTER CARE PROCEEDINGS [RESERVED]**

## **TITLE 3. DEPENDENCY PROCEEDINGS**

### **RULE 3.4 NOTICE AND SUMMONS-SCHEDULING OF FACTFINDING HEARING [RESCINDED]**

[Adopted effective September 1, 1992; rescinded effective September 1, 1993.]

### **RULE 3.6 ANSWER TO PETITION**

(a) A written answer to a petition shall be made by each party and shall be filed and served on counsel and parties without counsel no later than 7 days before the preliminary hearing.

[Adopted effective September 1, 1992.]

### **RULE 3.6A PRELIMINARY HEARINGS**

(a) In every matter set for a dependency, guardianship, or termination fact-finding hearing, a preliminary hearing shall first be had to resolve all undisputed facts and to consider matters of law. An estimate of the length of fact-finding hearing shall be made to determine whether the hearing should be rescheduled.

(b) Preliminary hearings shall be set at least 14 days prior to the date of the fact-finding hearing.

(c) Any party not appearing at the preliminary hearing in person or by counsel, after proper notice, may be adjudged in default.

(d) Written court reports setting forth the dispositional plan shall be prepared by the agency having or requesting custody and shall be filed and served on all counsel and parties without counsel 7 days prior to the preliminary hearing.

[Adopted effective September 1, 1992.]

## RULE 3.6B ALTERNATIVE DISPUTE RESOLUTION (ADR) PROCEDURE

**(a) ADR Procedure.** Any time after filing of an answer/response to a petition for dependency or to a petition for termination of parental rights, the dispute resolution process may be initiated by agreement of the parties or by court order. The alternative dispute resolution process "ADR" includes judicial assisted settlement conferences, non-judicial settlement conferences, mediation or formal family conferencing through the DSHS family group conferencing program.

**(b) Statement of Issues.** The parties to ADR shall provide to the court, mediator or facilitator and to each other a statement of the relief each party seeks and a statement of the issues each party want addressed and/or resolved. In a dependency "non-termination matter" this statement may take the form of a proposed order of individual service plan. All parties shall provide the statement of relief and issues at least five days prior to the ADR schedule or by agreement.

**(c) Confidentiality.** Alternative dispute resolution proceedings held pursuant to this rule shall be held in private and shall be confidential. Any person serving as a mediator shall sign a statement of familiarity with applicable statutory confidentiality provisions regarding dependency and termination matters and agreeing to be bound by such provisions.

## RULE 3.9 DEPENDENCY REVIEW HEARINGS

**(a) Dependency Review Reports.** A written review report shall be prepared by the supervising agency which shall be filed and served on all counsel and unrepresented parties not less than 14 calendar days prior to any 6-month review or permanency planning hearings. Responsive documents shall be filed and served on said parties and counsel not less than 7 calendar days prior to any 6-month review or permanency planning hearing. Reply documents, if any, shall be filed and served on said parties and counsel not later than noon 2 court days prior to any 6-month or permanency planning hearing. Courtesy copies of all dependency review reports, responsive and reply documents shall be provided to the assigned judge at the time of filing with the court. The supervising agency shall mail a copy of the written review report to any represented party at the time it is filed with the court.

**(b) Non-contested Calendar.** All dependency reviews not being heard by the Foster Care Citizen Review Board shall be set for hearing on the non-contested calendar to be heard between 5 and 6 months after the beginning of the placement episode or entry of the order of dependency, whichever occurs first; and thereafter between 5 and 6 months after entry of the previous review order. The initial review hearing shall be an in-court review and shall be set 6 months from the beginning date of the placement episode or no more than 90 days from the entry of the disposition order, whichever comes first. A dependency review hearing order consistent with the agency court report may enter at the hearing, subject to court review.

**(c) Contested Calendar.**

i. If a party wishes a contested review hearing, he or she shall obtain a date from the clerk's office and serve a Notice of Contested Hearing on counsel and unrepresented parties at least 1 court day prior to the non-contested calendar date.

ii. The contested hearing date shall be at least 7 days later than the non-contested hearing date, but less than 6 months from the date of the prior review hearing.

iii. If the contested hearing is set for a time beyond the normal review period an order maintaining the status quo will be entered pending the contested hearing.

iv. The Notice of Contested Hearing shall contain the hearing date obtained from the clerk's office, the issues that are contested, and the estimated length of time needed for the hearing. The notice of contested hearing shall be accompanied by documents in support of the issue.

v. The court may set a case on the contested calendar with notice to all parties accompanied by a statement of the reasons for such action.

vi. Failure to timely note a contested review may result in entry of a dependency review hearing order on the non-contested calendar consistent with the agency's court report.

vii. Inability to contact one's client will not be deemed a basis to transfer a matter to a contested calendar. If desired, counsel can file a written statement as to non-contact as a basis for non-agreement, but the matter will be deemed non-contested.

**(d) Permanency Planning Hearing.** In all cases where a child has been placed in substitute care for at least 9 months and an adoption decree, guardianship order, or permanent custody order has not previously been entered, a permanency planning hearing shall be set on the "Permanency Planning Review" calendar no later than 12 months following commencement of the placement episode. Additional permanency planning hearings shall be held at 11 month intervals thereafter for so long as the child remains in substitute care. After receipt of the agency's court report, if a party or GAL contest any issue, they must file and serve on all counsel and unrepresented parties a Notice of Contested Issues no later than 7 calendar days before the hearing. The Notice of Contested Issues shall be accompanied by documents in support of the issue. Any reply documents must be filed and served on all counsel and unrepresented parties not later than noon 2 court days before the contested hearing. Courtesy copies of the Notice of Contested Issues and all reply documents shall be provided to the assigned judge at the time of filing with the court.

**(e) Motions.** Any party may note a motion for hearing on a regularly scheduled contested review calendar. A party wishing to note a motion for hearing shall obtain a date from the clerk's office and shall file and serve the motion, a calendar note, and all supporting documents to all counsel and unrepresented parties at least 6 court days prior to the date set for the hearing. Any reply documents must be filed and served on all counsel and

unrepresented parties not later than noon 2 court days before the contested hearing. Courtesy copies of the motion, supporting documents and all reply documents shall be provided to the assigned judge at the time of filing with the court. Special settings shall be made only with the permission of the assigned judge. The form of motions, procedures, and filing and service requirements shall be as set forth in SCLCR 7 for civil motions.

[Adopted effective September 1, 1992; Amended effective September 1, 2000; Amended effective December 12, 2007]

## TITLE 4. PROCEEDINGS TO TERMINATE PARENT-CHILD RELATIONSHIP

### RULE 4.2 PLEADINGS

**(c) Answer.** A party shall answer a petition for termination as provided in SCLRJuCR 3.6 and 3.6(a) for answering a dependency petition.

[Adopted effective September 1, 1999.]

## TITLE 5. PROCEEDINGS FOR ALTERNATIVE RESIDENTIAL PLACEMENT [RESERVED]

[Amended effective September 1, 1993; rescinded effective September 1, 1997.]

## TITLE 6. JUVENILE OFFENSE PROCEEDINGS - DIVERSION AGREEMENTS [RESERVED]

## TITLE 7. JUVENILE OFFENSE PROCEEDINGS IN JUVENILE COURT

### RULE 7.12 DISPOSITION HEARING

**(g) Disposition Order.** At or after a disposition hearing, a written Disposition Order shall be signed by the judge. Unless otherwise specifically provided for in said Order, the probation counselor is authorized to thereafter fix and establish the amount of restitution and a schedule for the payment of any fines, restitution, court costs or attorney's fees, or the performance of any community service. Once such schedule is proposed in writing by the probation counselor and a copy given to the defendant, such shall be deemed to be incorporated into and a part of the Disposition Order, unless a written request for judicial review is filed within ten (10) days. Thereafter, any failure to comply with said schedule shall be deemed a violation of the Disposition Order

**(h) Fingerprints; When Required.** Unless otherwise ordered by the court, the fingerprints of a juvenile adjudged to have committed an offense which would be a felony if committed by an adult, shall be affixed to such Disposition Order in the form and manner authorized by R.C.W. 10.64.110.

## TITLE 8. DECLINING JUVENILE COURT JURISDICTION OVER AN ALLEGED JUVENILE OFFENDER [RESERVED]

## TITLE 9. RIGHT TO LAWYER AND EXPERTS IN ALL JUVENILE COURT PROCEEDINGS [RESERVED]

### RULE 9.4 GAL/CASA Grievance Procedures

**(a) Scope.** This rule governs grievance procedures for volunteer guardian ad litem (VGAL/CASA) appointed pursuant to RCW 13.34.100, which are beyond the scope of RCW 13.34.100 (8) or RCW 13.34.102 (2) (c).

**(b) Filing a Grievance.** A person with a grievance or complaint beyond the scope of RCW 13.34.100 (8) or RCW 13.34.102 (2) (c) shall file a written complaint or grievance with the Juvenile Court Community Services supervisor.

**(c) Investigating Grievances or Complaints.**

(1) The Juvenile Court community services supervisor shall investigate the complaint or grievance and make an initial determination as to whether the complaint or grievance has potential merit.

(2) If the grievance or complaint is determined not to have potential merit, the grievance or complaint shall not be further reviewed and the complainant shall be so notified.

**(d) Determination as to Potential Merit.** In determining potential merit of the grievance or complaint, the community services supervisor shall determine whether a complaint or grievance against a VGAL alleges:

- 1) Violation of a code of conduct;
- 2) Misrepresentation of qualifications to serve as a VGAL;
- 3) A breach of confidentiality of the parties;
- 4) Falsified information in a report or testimony to the court;
- 5) Gross negligence or recklessness in the preparation of a report to the court;
- 6) Failure to report child abuse, when required;
- 7) Violation of state or local laws or court rules;
- 8) Ex-parte communication with a judicial officer;
- 9) An actual or apparent conflict of interest or impropriety in the performance of VGAL responsibilities;
- 10) A lack of independence, objectivity, and the appearance of fairness in dealings with parties and professionals; and/or
- 11) Any other actions or failure to take action, which would reasonably place the suitability of the person to serve as a Volunteer Guardian Ad Litem in question.

**(e) Notification.** If the grievance or complaint is found to have potential merit, the GAL or appropriate party shall be notified in writing of the grievance or complaint. A copy of the grievance or complaint shall be provided to the VGAL or appropriate party. A written response shall be requested, to be received by the court within 10 business days of the date of the written notice.

**(f) Review of Complaint or Grievance.** Any complaints or grievances found to have potential merit shall be reviewed by the assistant administrator for Juvenile Court. The VGAL, complainant, and any relevant party named in the complaint shall be entitled to respond to the assistant administrator for Juvenile Court to present their position regarding the issues raised in the complaint. Upon receipt of a written response to a grievance or complaint, the assistant administrator shall issue a written determination making findings on the issues in the complaint or grievance.

**(g) Time to Resolution.**

(1) If the grievance or complaint relates to a pending case then it shall be resolved within 25 days of the receipt of the complaint

(2) If the grievance or complaint is made subsequent to the conclusion of a case, it shall be resolved within 60 days of the receipt of the complaint.

**(h) Remedies/Sanctions.** The assistant administrator for Juvenile Court may refer the VGAL for additional training, issue a written admonition, issue a written reprimand, suspend or remove the VGAL from the program, or impose other appropriate sanctions based on the findings. During the pendency of this process, the VGAL may continue on other appointed cases or continue to receive appointments unless otherwise specifically provided by the assistant administrator for Juvenile Court. The assistant administrator may impose an interim suspension during this process. In determining sanctions, any prior complaints or grievances which resulted in sanctions under this rule, RCW 13.34.100 (8), or RCW 13.34.102 (2) (c) or the lack of the same and any mitigating or aggravating factors found shall be considered.

**(i) Confidentiality.** The complaint, investigation, and any initial report shall be confidential until a finding of potential merit.

**(j) Finality of Disposition.** All resolutions to complaints or grievances by the assistant administrator for Juvenile Court shall be final and not subject to further appeal, except removal of a VGAL from the program.

**(k) Appeal.**

(1) A VGAL who has been removed from the program may appeal to the administrator for Superior and Juvenile Court.

(2) A VGAL shall notify the administrator in writing of such appeal within ten (10) days of receipt of a written notice of removal from the program. A notice of appeal shall clearly state the basis for appeal. The administrator for Superior and Juvenile Court, the Presiding Judge and the chair of the judges Juvenile Court Committee shall jointly make a determination on appeals under this rule.

**(l) Notification.** The complainant, the VGAL, and any person named in the complaint over which the court has authority shall be notified in writing of the determination on appeal and any sanctions imposed.

**(m) Record.** The court shall maintain a record of complaints or grievances filed under this rule or under RCW 13.34.100 (8) or RCW 13.34.102 (2) (c) and the disposition of those complaints or grievances.

[Adopted effective September 1, 2005.]

## TITLE 10. JUVENILE COURT RECORDS

### RULE 10.7 SEALING JUVENILE COURT RECORDS

The right to request and obtain an order sealing and/or destroying records in the manner set forth in R.C.W. 13.50.150 shall be extended to those youth who have signed Diversion Agreements to the extent practicable in light of the Juvenile Court's limited involvement with the diversion process.

## TITLE 11. SUPPLEMENTAL PROVISIONS

### RULE 11.3 PRE-TRIAL CONFERENCE

**(a) How Initiated.** If it appears that in any hearing scheduled pursuant to the provisions of R.C.W. 13.04 through 13.40, inclusive, there are disputed issues of law or fact, the court may upon the ex parte motion of any party, or upon its own motion, order that a pre-trial conference be held as hereinafter provided.

**(b) How Conducted.** The attorney personally in charge of each party's case, or the party pro se, and guardian ad litem, if any, shall personally attend all pre-trial conferences, and shall come prepared to discuss in detail and in good faith, and to settle such matters as may aid in the disposition of the action, including, but not limited to the following:

1. An exchange of the names and addresses of prospective witnesses and the substance of their testimony;
2. Admit undisputed facts or legal principles and identify all disputed facts and legal principles;
3. Waive requirements for formal proof of documents and exhibits and submit intended exhibits so that they may be marked and listed in advance by the clerk; and
4. Determine if a written report of any witness shall be admitted in evidence by agreement of the parties or in the manner provided in CrR 6.13.

**(c) Presence of Parties.** All parties represented by counsel, parties pro se, and guardians ad litem, shall be present and readily available during the conference. If counsel cannot agree, the judge shall decide whether the parties are to be present in the conference room.

**(d) Presence of Judge.** The judge shall not be present during the conference, though the judge may attend if requested by any or all parties.

**(e) Pre-trial Order.** At the conclusion of the conference, counsel shall prepare a pre-trial order setting forth the disputed and undisputed facts and legal principles. At their option they may make such order on the record using Juvenile Court recording equipment if such is available.

## **PART IX. RULES OF APPEAL OF DECISIONS OF COURTS OF LIMITED JURISDICTION (SCLRALJ)**

### **TITLE 1. SCOPE AND PURPOSE OF RULES[RESERVED]**

### **TITLE 2. INITIATING AN APPEAL**

#### **RULE 2.6 CONTENT OF NOTICE OF APPEAL**

**(a) Content of Notice of Appeal Generally.** The Notice of Appeal shall include a statement of the errors the appellant claims were made by the court of limited jurisdiction and must identify the locations and ending numerical count from the recording log. Respondent's brief must identify, in like manner, the portions of the record requested to be considered by the court. Identification of the entire record or tape of proceedings will not be acceptable or considered unless a motion to prepare and file transcript is timely granted as hereinafter provided.

## TITLE 3. ASSIGNMENT OF CASES IN SUPERIOR COURT

### RULE 3.1 NOTICE OF HEARING AND ASSIGNMENT

**(a) Notice; Hearing; Action That May Be Taken.** After an appeal has been filed, the clerk shall note the case on the Civil Motion Calendar for a date eighty-five (85) days thereafter, and if a court holiday, the next judicial day. There shall be no continuances without court order. Notice of hearing shall be mailed to each party or counsel of record and shall notify them that at such hearing the following action may be taken:

1. If appellant's brief has not been timely filed, the appeal may be dismissed on either respondent's or the court's motion;
2. If respondent's brief has not been timely filed, the relief sought by the appeal may be granted on appellant's or the court's motion; or
3. The matter will be assigned to a trial department for hearing on a date certain and the parties so notified.

This procedure shall be followed in both civil and criminal matters.

(b) If, two days prior to the hearing above scheduled, all parties notify the confirmation clerk and certify in writing that the briefs are filed and the matter is ready for hearing, then the presence of the parties or counsel at the hearing is not required.

[Amended effective September 1, 1997]

# TITLE 4. AUTHORITY OF COURT OF LIMITED JURISDICTION AND OF SUPERIOR COURT PENDING APPEAL-STAYS

## RULE 4.1 AUTHORITY OF COURTS PENDING APPEAL

**(a) Motions Made in Superior Court Prior to Assignment for Trial.** All motions made prior to assignment to a trial department shall be brought on the Civil Motion Calendar.

[Amended effective September 1, 1997.]

## TITLE 5. RECORDING PROCEEDINGS IN COURT OF LIMITED JURISDICTION [RESERVED]

## TITLE 6. RECORD ON APPEAL

### RULE 6.3A TRANSCRIPT OF ELECTRONIC RECORD

#### **(h) Transcript Required.**

(1) Exceptions. By order of the Superior Court no transcript of the electronic proceeding shall be required unless:

1. The appellant shall serve and file, together with the notice of appeal, a motion to prepare and file transcript;
2. Another party serves and files such motion within ten (10) days of the service upon such party of the notice of appeal; or
3. The party filing and serving such motion notes the same for argument within ten (10) days thereafter.

(2) Contents of Order. The order granting any such motion will:

1. State what the transcript shall contain;
2. State the time when it shall be served and filed; and
3. State who shall provide the transcript.

## TITLE 7. BRIEFS [RESERVED]

## TITLE 8. ORAL ARGUMENT [RESERVED]

## TITLE 9. SUPERIOR COURT DECISION AND PROCEDURE AFTER DECISION

### RULE 9.1 BASIS FOR DECISION ON APPEAL

**(f) Form of Decision.** At the time of oral argument both parties must submit proposed written decisions containing the reasons therefore, supporting their respective positions, and allowing adequate space for interlineations or additions, for immediate entry.

## TITLE 10. VIOLATION OF RULES - SANCTIONS AND DISMISSAL [RESERVED]

## TITLE 11. SUPPLEMENTAL PROVISIONS [RESERVED]

## **PART X. GUARDIAN AD LITEM RULES (SCLGAR)**

## **RULE 1. APPLICABILITY**

These rules for guardians ad litem shall be referred to as SCLGALR. These rules apply to guardians ad litem appointed by the court pursuant to Title 11, attorney guardians ad litem appointed by the court pursuant to Title 13 and guardians ad litem appointed by the court pursuant to Title 26 RCW, and to guardians ad litem appointed pursuant to Special Proceeding Rule (SPR) 98.16W, RCW 4.08.050 and RCW 4.08.060.

These rules do not apply to guardians ad litem or Special Representatives appointed pursuant Chapter 11.96A RCW; Volunteer Guardians ad Litem (VGAL) (CASA) in RCW Title 13 cases, with respect to whom other grievance procedures apply; persons appointed to serve as Custodians for Minors pursuant to Chapter 11.114 RCW, or guardians ad litem to hold funds for incapacitated persons under Title 11 RCW.

Complaints by guardians ad litem or by other persons against guardians ad litem (also referred to as "grievances") covered by this local court rule shall be administered under this local court rule.

## **RULE 2. DUTIES OF THE GUARDIAN AD LITEM**

In addition to compliance with GALR 2 (General Responsibilities of Guardian ad Litem, a guardian ad litem (GAL) shall comply with the court's instructions as set out in the order appointing a guardian ad litem, and shall not provide or require services beyond the scope of the court's instructions unless by motion and on adequate notice to the parties, a guardian ad litem obtains additional instruction, clarification or expansion of the scope of such appointment. An attorney guardian ad litem may assist unrepresented parties with the preparation of final documents in a case for which they were appointed. Non-attorney guardians ad litem may submit a proposed Parenting Plan for the convenience of the court.

## **RULE 3. ROLES AND RESPONSIBILITIES OF ATTORNEY GUARDIAN AD LITEM IN TITLE 13 RCW JUVENILE COURT PROCEEDINGS**

Attorneys appointed as attorney guardians ad litem (AGALS) pursuant to Title 13 RCW in Juvenile Court proceedings shall comply with the terms and conditions for appointment to the AGAL registry as established by the Juvenile Court Committee of the Superior/Juvenile Court. The qualifications and processes for application, selection, education, compensation and retention of

AGALs shall be as set forth in policies adopted by the court. These policies may be obtained by contacting the Programs Manager at Juvenile Court.

## RULE 4. AUTHORITY OF GUARDIAN AD LITEM

**(a) Proposed.** [Reserved.]

## RULE 5. REGISTRIES

The court shall establish registries for the appointment of guardians ad litem for whom this Rule applies. Absent a finding of good cause the court shall appoint from the registry. The qualifications and processes for application, selection, education, compensation, and retention for guardians ad litem on each of the registries shall be as set forth in administrative policies adopted by the court. These administrative policies may be obtained by contacting the Superior Court Program Administrator.

## RULE 6. LIMITED APPOINTMENTS

**(a) Proposed.** [Reserved.]

## RULE 7. GRIEVANCE PROCEDURES

**(a) Filing a Grievance.** A person with a grievance or complaint against a Guardian Ad Litem (GAL) or an Attorney Guardian Ad Litem (AGAL) appointed pursuant to RCW Title 13 or a GAL or AGAL with a grievance or complaint shall file the complaint with the Superior Court Program Administrator.

### **(b) Processing Grievances or Complaints**

(1) Upon receipt of such a complaint, the Program Administrator shall immediately deliver the complaint to the chair of the Superior Court GAL Committee or the Presiding Judge in the absence of GAL Committee Chair.

(2) The GAL Committee Chair or Presiding Judge shall cause the complaint or grievance to be investigated and make an initial determination as to whether the complaint or grievance has potential merit. If the grievance or complaint is determined not to have potential merit, the grievance or complaint shall not be further reviewed and the complainant shall be so notified.

(3) If the grievance or complaint is found to have potential merit, the grievance or complaint shall be referred to the Superior Court GAL Committee for resolution.

(4) Any conduct of a GAL or AGAL pertaining to his/her performance of duties in a specific case, during the pendency of that case, which does not implicate

the suitability of the person to continue to serve as a GAL/AGAL or involve a violation of the GAL or AGAL

Rules or Code of Conduct shall be addressed by a judicial officer in hearings in that specific case.

**(c) Determination as to Potential Merit.** In determining potential merit of the grievance or complaint, the GAL Committee Chair or Presiding Judge shall determine whether a complaint or grievance against a GAL or AGAL alleges:

- 1) Violation of a code of conduct;
- 2) Misrepresentation of qualifications to serve as a GAL or AGAL; 3) A breach of confidentiality of the parties;
- 4) Falsified information in a report or testimony to the court;
- 5) Gross negligence or recklessness in the preparation of a report to the court;
- 6) Failure to report child abuse, when required;
- 7) Violation of state or local laws or court rules;
- 8) Ex-parte communication with a judicial officer;
- 9) An actual or apparent conflict of interest or impropriety in the performance of GAL or AGAL responsibilities;
- 10) A lack of independence, objectivity, and the appearance of fairness in dealings with parties and professionals; and/or
- 11) Any other actions or failure to take action, which would reasonably place the suitability of the person to serve as a GAL or AGAL.

**(d) Notification.** If the grievance or complaint is found to have potential merit, the GAL/AGAL or appropriate party shall be notified in writing of the grievance or complaint. A copy of the grievance or complaint shall be provided to the GAL/AGAL or appropriate party. A written response shall be requested, to be received by the court within 10 business days of the date of the written notice.

**(e) GAL Committee Review.** The GAL/AGAL, Complainant, and any relevant party named in the complaint shall be entitled to respond to the GAL Committee to present their position regarding the issues raised in the complaint. Upon receipt of a written response to a grievance or complaint, the committee shall issue a written determination making a finding on the issues in the complaint or grievance. If a case in which a complaint or grievance is made is pending before a judicial officer serving on the GAL Committee, that judicial officer shall be deemed recused. The judicial officer shall not be informed as to the content of the complaint. In such cases, the Presiding Judge shall appoint another judicial officer to serve on the GAL Committee for the resolution of that specific case.

**(f) Time to Resolution.**

(1) If the grievance or complaint relates to a pending case then it shall be resolved within 25 days of the receipt of the complaint.

(2) If the grievance or complaint is made subsequent to the conclusion of a case, it shall be resolved within 60 days of receipt.

**(g) Remedies/Sanctions.** The GAL Committee may issue a written admonition, a written reprimand, refer the GAL/AGAL to additional training, suspend or remove the GAL/AGAL from the registry, or impose other appropriate sanctions based on the committee findings. A suspension or removal may apply to each registry on which the GAL/AGAL is listed, at the discretion of the GAL Committee. During the pendency of this process a GAL/AGAL may continue to receive appointments and shall continue to serve in appointed cases, unless otherwise specifically directed by the GAL Committee. The GAL Committee may impose an interim suspension during this process. In its determination of sanctions, the GAL Committee shall take into consideration any prior complaints or grievances which resulted in sanctions authorized by this rule or the lack of same and any mitigating or aggravating factors found by the Committee.

**(h) Confidentiality.** The complaint, investigation, and any initial report shall be confidential until a finding of potential merit.

**(i) Finality of disposition.** All resolutions of complaints or grievances by the GAL Committee shall be final and not subject to further appeal, except removal of a GAL/AGAL from a registry.

**(j) Appeal.**

(1) A GAL/AGAL who has been removed from a registry may appeal to the Superior Court bench.

(2) A GAL/AGAL shall notify the Presiding Judge in writing of such appeal within ten (10) days of receipt of a written notice of removal from a registry. The notice of appeal shall clearly state the basis for the appeal.

(3) The Superior Court bench shall consider the written material considered by the GAL Committee and any written communication from the GAL/AGAL relevant to the issues considered by the GAL Committee. Neither the GAL/AGAL nor any complainant may personally appear to argue issues to be considered by the Superior Court bench on such appeal.

**(k) Notification.** The complainant, the GAL/AGAL, and any person named in the complaint over which the committee has authority shall be notified in writing of the GAL Committee determination and any sanctions imposed. Upon the removal of a GAL from the GAL registry pursuant to the disposition of a grievance, the court shall promptly send notice of the removal to the AOC. Upon removal of an AGAL from the AGAL registry the court shall promptly send notice of the removal to the Juvenile Court Program Manager.

**(l) Record.** The court shall maintain a record of complaints or grievances filed and of the disposition of those complaints or grievances.