

PREFACE

These pocket parts bring the Rules Practice volumes of Washington Practice—Volumes 2, 2A, 3, 3A, 4, 4A, and 4B—up to date.

Rule amendments are current through January 1, 2025; case annotations are current through 559 P.3d (December 2024).

As a result of the COVID-19 pandemic, the use of electronic records, remote trials, and remote appearances became commonplace, and some of the procedures implemented on an emergent basis during the pandemic have now been adopted on a permanent basis. Amendments to state court rules and developments of note will of course be addressed in these volumes, but practitioners should always consult local rules.

The past year brought a large number of rule amendments, as well as an ever-expanding body of case law interpreting the rules. Approximately 68 rule amendments and 5 new rules are covered in this update. Some of the more significant developments in the past year include the following:

General Rules (GR)

- New caselaw continues to interpret and apply GR 37 (Jury Selection), and clarify that application of the rule is not limited to jurors who appear to be of racial or ethnic minorities.
- GR 39 (Remission of Legal Financial Obligations) was again amended.
- New GR 41 (Jury Selection by Using Remote Technology) was adopted, effective July 9, 2024.

Admission and Practice Rules (APR)

- APR 28 regulations regarding Limited License Legal Technicians (LLLT) were again amended to address ongoing issues arising from the sunset of the LLLT program.

Rules of Professional Conduct (RPC)

- In direct response to newsworthy developments on the federal level and in other states, RPC 1.2, Comment [18], and RPC 8.4, Comment [8], were amended to clearly reflect that the ability of Washington lawyers to counsel and represent clients on conduct the lawyer reasonably believes is permitted under Washington law is not limited to laws regarding marijuana.

Rules for Enforcement of Lawyer Conduct (ELC)

- In a case applying ELC 11.12, the Supreme Court addressed the role of the Disciplinary Board in the context of potential remand to hearing officers.

Rules of Appellate Procedure (RAP)

- Various rules were amended to reflect the implementation of electronic filing, including RAPs 9.5, 9.7, 10.2, 18.5, and 18.6.
- RAP 9.6 (Designation of Clerk’s Papers and Exhibits) was amended to add the appointment of counsel to the list of events that start the 30-day clock for the designation of clerk’s papers, and to add new subparagraph (b).
- New RAP 9.14 (Appellate Counsel Access To Trial Court Record And Exhibits) was adopted, effective October 1, 2024.
- RAP 10.4 (Preparation and Filing of Brief by Party) was amended to permit the inclusion of pictorial images, which may be in color.
- RAP 12.4 (Motion for Reconsideration of Decision Terminating Review) was amended to add language specifically prohibiting motions for reconsideration on decisions made by a single judge.
- RAP 13.5 (Discretionary Review of Interlocutory Decision) was amended to address the impact of timely motions for reconsideration on the filing deadline.
- RAP 18.8 (Waiver of Rules and Extension and Reduction of Time) was amended to permit streamlined requests for extension of time under limited circumstances.
- The appellate courts continue to grapple with issues arising from racial bias and inequities at all levels of court proceedings. It is safe to say that the trend towards reducing marginalization in the justice system will continue.

Civil Rules for Superior Court (CR)

- Various rules were amended to incorporate language regarding proceedings and hearings by remote means, including CR 7, CR 26, and CR 43.
- The Author’s Commentary to CR 3 (Commencement of Action) and CR 4 (Process) were amended to discuss *Pecelj v. Sparks*, 32 Wash. App. 2d 404, 556 P.3d 179 (Div. 1 2024), where the defendant was served, before filing, with a summons and complaint but the complaint was subsequently amended before filing.
- Several important amendments were made to CR 26 (General Provisions Governing Discovery). Effective October 1, 2024, CR 26(b)(5) was amended to prohibit the tactical withholding of expert witness disclosures in cases where a case schedule is imposed; CR 26(e) imposes a self-executing, ongoing duty to “seasonably” supplement, or correct, all discovery responses; and CR 26(g) specifically prohibits general objections and requires a privilege log for every assertion of privilege. The rule was also amended to address appearances by remote means.
- CR 30 (Depositions Upon Oral Examination) and CR 45 (Subpoena) were amended to address depositions by remote means. Practitioners should note that the amendments

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include changes to the form subpoena included in CR 45.

- CR 39 (Trial by Jury or by the Court) was amended to add new subsection (d), trials by remote means.

Superior Court Civil Arbitration Rules (SCCAR) (formerly Mandatory Arbitration Rules (MAR))

- Several cases addressed the statutory requirement that requests for trial de novo be signed by the party in addition to counsel, as well as the arbitrator’s lack of authority to re-open an issued award.

Guardian ad Litem Rules (GALR)

- Most of the GALR were substantially amended to conform with current statutes.

Criminal Rules for Superior Court (CrR)

- CrR 4.2, “Statement on Guilty Plea” form, was amended.

Juvenile Court Rules (JuCR)

- JuCR 7.7 (Statement of Juvenile on Plea of Guilty) was substantially amended, to comply with major legislative changes to juvenile sentencing, offender registration, and restitution.
- New JuCR 11.23 (Proceedings Using Remote Technology Authorized) was adopted, effective July 9, 2024.

Administrative Rules for Courts of Limited Jurisdiction (ARLJ)

- ARLJ 3 was substantially amended, and now includes many critical definitions that, in turn, impact other rule sets, including the CRLJ and CrRLJ. The rule should be carefully consulted.
- New ARLJ 15 (Appearances by Participants) was adopted, effective July 9, 2024, and establishes physical, in-person appearance as the “default” or norm in courts of limited jurisdiction. The emphasis on in-person appearance is in stark contrast to the superior courts, with many procedural differences.

Civil Rules for Courts of Limited Jurisdiction (CRLJ)

- Various rules were amended to incorporate language permitting proceedings by remote means only with court authorization, including CRLJ 7 and CRLJ 26. Other rules were amended to incorporate changes necessitated by the adoption of electronic filing and service, including CRLJ 41.
- CRLJ 38 (Jury trial) was amended to add new subsection (i), permitting trials to be conducted by remote technology upon agreement of the parties or order of the court.
- CRLJ 43 (Taking of Testimony) was amended to delete language that permitted testimony by contemporaneous electronic means in certain conditions, emphasizing the import of ARLJ 15 (mentioned above).

- CRLJ 56 (Summary Judgment) was amended to require service of a copy of the rule along with the motion for summary judgment.

Criminal Rules for Courts of Limited Jurisdiction (CrRLJ)

- Many rules were amended to conform rule language with that of other rules. Other rules were amended to incorporate changes necessitated by the adoption of electronic filing and service, and to reinforce physical, in-person appearance as the “default” or norm in courts of limited jurisdiction.

Infraction Rules for Courts of Limited Jurisdiction (IRLJ)

- Many rules were amended to conform rule language with that of other rules. Other rules were amended to incorporate changes necessitated by the adoption of electronic filing and service, and to reinforce physical, in-person appearance as the “default” or norm in courts of limited jurisdiction.

Standards for Indigent Defense (SID)

- The Certification of Compliance form included in the Standards for Indigent Defense (CrR 3.1, CrRLJ 3.1, JuCR 9.2) was again amended. Note: The Standards continue to include references to the MPRs (now CCRs) but are no longer included in that rule set.

CONCLUSION

On a personal note, I want to again thank my friend Karl Tegland for entrusting the Rules Practice volumes to me. Karl has told me many times how much his work benefitted over the years from the input he has received from lawyers and judges, and I encourage those in the profession to provide me with the same type of feedback and input.

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