

RULE 40. ASSIGNMENT OF CASES

(B) Methods – Specific Types of Civil Cases NOT Subject to Court-Ordered Case Scheduling Order.

(1) This rule shall apply to all cases filed on or after January 1, 2017.

(2) With respect to the following types of cases, unless otherwise provided in these rules or ordered by the Court, an attorney or party desiring to place a case on the trial readiness calendar shall file a “Notice to Set for Trial” on a form prescribed and approved by the court.

- (A) Change of Name;
- (B) Proceedings under RCW Title 26;
- (C) Anti-harassment protection order RCW 10.14;
- (D) Uniform Reciprocal Enforcement of Support Act (URESAs) and Uniform Interstate Family Support Act (UIFSA);
- (E) Unlawful detainer under RCW 59.12 and/or 59.16;
- (F) Foreign judgment;
- (G) Abstract or transcript of judgment;
- (H) Petition for Writ of Habeas Corpus, Mandamus, Restitution, or Review, or any other Writ;
- (I) Civil commitment;
- (J) Proceedings under RCW chapter 10.77;
- (K) Proceedings under RCW chapter 70.96A;
- (L) Proceedings for isolation and quarantine;
- (M) Vulnerable adult protection under RCW 74.34;
- (N) Proceedings referred to referee under RCW 4.48;
- (O) Adoptions;
- (P) Sexual assault protection under RCW 7.90;
- (Q) Actions brought under the Public Records Act (RCW 42.56);
- (R) Will contests, guardianships, probate and TEDRA Matters;
- (S) Marriage Age Waiver Petitions;
- (T) Receivership proceedings (filed as an independent action and not under an existing proceeding);
- (U) Work permits;
- (V) Appeals from lower courts and land use appeals;
- (W) Petition to approve minor/incapacitated adult settlement (when filed as an independent action and not under an existing proceeding) and/or emancipation of minors, and/or for transfer of structured settlements under RCW 19.205;
- (X) Tax foreclosures;
- (Y) Injunction;
- (Z) Condemnation; and

(AA) Cases which were served on the respondents prior to filing and are being filed with the clerk for the sole purpose of obtaining a simultaneous order of default and/or default judgement. [Amended effective January 1, 2017]

(3) Certification. The attorney by filing a Notice to Set for Trial certifies that the case is fully at issue with all necessary parties joined, all anticipated discovery has been or will be completed before trial and that all other counsel have been served with copy of the Notice.

(4) Response to Notice to Set for Trial. An attorney who objects to a case being set for trial, or who otherwise disagrees with the information on the "Notice," shall file and serve a "Response to Notice to Set for Trial" on a form prescribed by the court within 10 days of the date of service of the "Notice." The Response shall be noted for hearing the objection not more than 25 days after the date of service of the "Notice to Set for Trial." No Response is necessary if counsel agrees with the "Notice to Set for Trial." See Rule 38 re: Demand for Jury. [Amended September 1, 2004]

(5) Call for Trial. Any case placed on the readiness calendar will be subject to call for trial or to be assigned a specific date for trial. The court will give reasonable notice of the trial date assigned.

(6) Continuances. When a case has been called from the readiness calendar and set, it shall proceed to trial or be dismissed, unless good cause is shown for continuance, or the court may impose such terms as are reasonable and in addition may impose costs upon counsel who has filed a Notice to Set for Trial, or who has failed to object thereto and is not prepared to proceed to trial. No request for continuance will be considered without the written acknowledgement of the client on the pleadings and an affidavit giving the particulars necessitating a continuance in accordance with CR 40(d) and (e). Continued cases may be removed from the trial calendar at the discretion of the court and, if removed, will be re-calendared only upon filing a new Notice to Set for Trial.

(7) Mandatory Settlement Conferences. All cases involving dissolution of marriage or modification of prior decrees, except those meeting the requirements for accelerated setting (see Notice form) will be scheduled for a mandatory settlement conference following the filing of a Notice to Set for Trial. No case subject to this section will be set for trial without a pre-trial settlement conference first being held unless a judicial waiver is obtained. [Amended effective September 1, 1996]

(A) Settlement Conference Affidavit. Each party must complete the Pre-Trial Domestic Relations Settlement Conference Affidavit on the form available from the Superior Court Administrator. The original must be filed with the Superior Court Clerk and a copy served on the opposing attorney or party if not represented by an attorney, no later than 4:00 p.m. one week prior to the scheduled conference. At the same time, a copy of the Affidavit, to be used by the judge or commissioner conducting the conference, must be filed with the Superior Court Administrator. Failure to file and serve the Affidavit one week prior to the conference shall subject the person failing to do so to an assessment of not less than \$150.00 and up to \$500.00. Failure to file an affidavit and/or appear at the conference may subject a party or attorney to additional sanctions. [Amended effective September 1, 2014]

(C) Methods – General Cases Subject to Court-Ordered Case Scheduling Order.

(1) Case Assignment Notice. Except as otherwise provided in these rules or ordered by the Court, when an initial pleading in a case not specifically listed in LR 40(b)(1) is filed and a new civil case file is opened and assigned to a judicial department by the Clerk, the attorney or filing party shall simultaneously prepare and file a Notice Assigning Case to Judicial Department and Setting Scheduling Conference Date (referred to hereinafter as “Case Assignment Notice”) in a form prescribed and approved by the Court. Unless otherwise ordered by the Court, the Scheduling Conference Date shall be scheduled for a date which is no less than four (4) months, nor more than six (6) months, from the date of filing the initial pleading. The clerk shall place the Scheduling Conference Date on the assigned department’s civil motion docket for said date, which may not be changed without prior approval of the Court.

(2) Service of Case Assignment Notice. The party filing the initial pleading shall promptly provide a copy of the Case Assignment Notice to all other parties by (i) serving a copy of the Case Assignment Notice on the other parties along with the initial pleading, or (ii) serving the Case Assignment Notice on the other parties within 10 days after filing the initial pleading.

(3) Service on Joined Parties. A party who joins an additional party in an action shall serve the additional party with the current Case Assignment Notice together with the first pleading served on the additional party.

(4) Scheduling Conference. All counsel and/or self-represented litigants shall appear personally at the Scheduling Conference unless prior permission is obtained from the assigned judicial department. At least five (5) court days prior to the Scheduling Conference, the parties shall file a Joint Status Report. A courtesy copy of the Joint Status Report shall be provided to the assigned judicial department at least five (5) days prior to the Scheduling conference. The Joint Status Report shall include: (i) confirmation of service on all parties; (ii) confirmation of joinder of all parties, claims, and defenses; (iii) confirmation of filing a jury demand with accompanying fee, if applicable; (iv) verification as to whether the case is subject to mandatory arbitration; and (v) verification of the anticipated length of trial. At the Scheduling Conference, the Court shall determine whether the case is subject to mandatory arbitration and immediately refer any such cases for mandatory arbitration. For those cases not subject to mandatory arbitration, unless good cause is shown, the Court shall enter a Case Scheduling Order substantially as follows, with specific provisions subject to adjustment at the assigned judge’s discretion to wit:

For the purposes of the following table, “SC” refers to Scheduling Conference date. “T” refers to Trial date.

Plaintiff/Petitioner’s Disclosure of Primary Witnesses	SC + 3 weeks
Defendant/Respondent’s Disclosure of Primary Witnesses	SC + 6 weeks
Disclosure of Rebuttal Witnesses	SC + 9 weeks
Discovery Cutoff	T – 12 weeks
Deadline for Filing Motion to Change Trial Date	T – 12 weeks
Exchange of Witness and Exhibit Lists and Documentary Exhibits	T – 6 weeks

Deadline for Hearing Dispositive Pretrial Motions	T – 6 weeks
Trial Memoranda and Motions in Limine	T – 2 weeks
Trial date	SC + min. 8 max. 10 months

(5) Amendment of Case Scheduling Order. The Court, either on motion of a party or on its own initiative, or at any conference requested by the parties, may modify the Case Scheduling Order for good cause shown. The Court shall freely grant a motion to amend the Case Scheduling Order when justice so requires. Any such motion shall include a proposed Amended Case Scheduling Order. If a Case Scheduling Order is modified on the Court’s own motion, the judicial assistant for the assigned department will prepare and file the Amended Case Scheduling Order and promptly mail it to all parties. Parties may not amend a Case Scheduling Order by stipulation without approval of the Court.

(6) Enforcement. The assigned judicial department, on its own initiative or on motion of a party, may impose sanctions or terms for failure to comply with the Case Scheduling Order established by these rules. If the court finds that an attorney or self-represented party has failed to comply with the Case Scheduling Order and has no reasonable excuse, the court may order the attorney or party to pay monetary sanctions to the court, or terms to any other party who has incurred expense as a result of the failure to comply, or both; in addition, the court may impose such other sanctions as justice requires. As used in this rule, “terms” means costs, attorney fees, and other expenses incurred or to be incurred as a result of the failure to comply; the term “monetary sanctions” means a financial penalty payable to the court; the term “other sanctions” includes but is not limited to the exclusion of evidence.

(7) Continuances. When a trial date has been set pursuant to LR 40(c)(4), it shall proceed to trial or be dismissed, unless good cause is shown for continuance. If the court determines a continuance is required, the court may impose such terms as are reasonable and in addition may impose costs upon any counsel and/or party who is not prepared to proceed to trial. No request for continuance will be considered without the written acknowledgement of the client on the pleadings and an affidavit giving the particulars necessitating a continuance in accordance with CR 40(d) and (e). Continued cases shall be provided a new trial date at the time the continuance is granted and an Amended Case Scheduling Order shall be issued at the discretion of the trial court. [Amended effective January 1, 2017]

(D) Preferences

(1) Criminal cases shall be accorded priority and shall be assigned trial dates in accordance with CrR 3.3(f).