

Local Rules for Whitman County Superior Court

EFFECTIVE SEPTEMBER 1, 2019

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Whitman County Local Administrative Rules (WCLAR)

WCLAR 1 – Scope and Purpose

(a) Classification of Local Rules

The Local Rules for Whitman County Superior Court are adopted for the management and operation of the court. These Local Rules shall be classified and organized as follows:

Rules	Citation Form	Purpose
Whitman County Local Administrative Rules	WCLAR	Governs the general operation and the internal management of Whitman County Superior Court
Whitman County Local Civil Rules	WCLCR	Governs local procedures in civil cases filed in Whitman County Superior Court
Whitman County Local Criminal Rules	WCLCrR	Governs local procedures in criminal cases filed in Whitman County Superior Court
Whitman County Local Guardian ad Litem Rules	WCLGALR	Governs local procedures concerning cases where the court appoints a Guardian ad Litem

(b) Effective Date

Pursuant to GR 7(a) these amended Whitman County Local Court Rules (WCLAR) take effect on September 1, 2019.

WCLAR 2 – Superior Court Administrator

(a) Appointment

The Whitman County Superior Court Administrator shall be appointed by the Superior Court Judge, and shall serve at the pleasure of the Judge.

(b) Powers and Duties

Under the direction and supervision of the Superior Court Judge, the powers and duties of the Court Administrator shall include, but are not limited to the following:

- (1) Administer all non-judicial activities of the court, including case scheduling and case load management
- (2) Prepare and administer the budget of the court
- (3) Manage and administer the financial affairs of the court
- (4) Represent the court in dealing with the Washington State Administrative Office of the Court
- (5) Assist the Judge in representing the court on all management matters in dealing with governmental bodies and other public and private groups having an interest in the administration of the court
- (6) Provide secretarial services for the Superior Court Judge
- (7) Serve as Bailiff for jury trials and other court proceedings

WCLAR 3 – Addresses of Court and Court Personnel

(a) Physical Address

The Whitman County Superior Court is located on the second floor of the Whitman County Courthouse, 400 N. Main Street, Colfax, WA, 99111

(b) Contact Information

Contact information for the Whitman County Superior Court departments and personnel is as follows:

(1) Superior Court Clerk

Court Clerk	Jill Whelchel Email: Jill.Whelchel@whitmancounty.net
Deputy Clerks	Brenda Cloninger Email: BrendaC@whitmancounty.net
	Lorena Lynch Email: LorenaL@whitmancounty.net
	Kristina Ward Email: Kristina.Ward@whitmancounty.net
Mailing Address	PO Box 390, Colfax, WA, 99111
Telephone	(509) 397-6240
Fax	(509) 397-3546
Web Page	www.whitmancounty.org Department - Clerk

(2) Superior Court Administrator

Administrator	Ginger Devorak Email: GingerD@co.whitman.wa.us
Mailing Address	PO Box 679, Colfax, WA, 99111
Telephone	(509) 397-6244
Fax	(509) 397-2728
Web Page	www.whitmancounty.org Department – Superior Court

(3) Superior Court Judge

Judge	Gary J. Libey Email: Gary.Libey@whitmancounty.net
Mailing Address	PO Box 679, Colfax, WA, 99111
Telephone	(509) 397-6244
Fax	(509) 397-2728
Web Page	www.whitmancounty.org Department – Superior Court

(4) Juvenile Court Services

Administrator	Sherri Aune Email: sherria@co.whitman.wa.us
Mailing Address	PO Box 598, Colfax, WA, 99111
Telephone	(509) 397-5300
Fax	(509) 397-5591
Web Page	www.whitmancounty.org Department – Juvenile Courts & CASA

WCLAR 4 – Sessions of Court

(a) Court Hours

The court will be in session from 9:00am until 12:00pm (noon) and from 1:30pm until 4:30pm, except on law and motion day, when the court will be in session 8:30am until 12:00pm(noon), and from 1:30pm until 5:00pm

(b) Modification of Court Hours

The court may modify court hours as may be deemed appropriate on a case-by-case basis.

WCLAR 5 – LAW AND MOTION DAY

(a) Days Established

Except during the criminal week, Wednesday mornings of each week shall be Civil Law and Motion days, and Friday of each week shall be Criminal Law and Motion days.

(b) Civil Docket

Protection Orders shall be scheduled on Wednesdays, if possible, at 9:30am. Civil cases on the law and motion docket at 10:00am shall include ex-parte matters, adoptions, default and uncontested dissolutions, probate and guardianship issues, discovery motions, unlawful detainer, family law, and other civil motions or issues of law that involve no more than 10 minutes on each side to present. Summary judgment motions shall be specially set with the court administrator and shall not be heard on law and motion day.

(c) Criminal Docket

Criminal matters to be heard on the law and motion docket shall include first appearances, bail hearings, arraignments, omnibus hearings, status and/or scheduling hearings, readiness hearings, sentencings, and criminal motions or issues of law involving no more than 10 minutes on each side to present.

(d) Law and Motion Calendar

The arrangement of law and motion calendar shall be as follows:

Wednesdays	
9:30am	Protection Orders
10:00am	Civil Docket
Fridays	
9:00am	In Custody Criminal (All persons incarcerated)
10:30am	Out of Custody Criminal
11:30am	DSHS/State Child Support Cases (1 st Friday of the month)

(e) Special Settings

Law and motion matters requiring testimony and/or argument exceeding more than 10 minutes per side, including hearings on motions for summary judgment and hearings during the criminal jury trial week shall be specially set by the parties through the court administrator.

(f) Court Commissioners

Court Commissioners and Court Commissioners Pro-Tems shall have full and complete authority as authorized by the Washington State Constitution statute and court rules to perform all judicial functions.

WCLAR 6 – Working Copies to Judge

(a) Delivery

Bench copies of briefs, memoranda of law, affidavits, declarations, exhibits, and other legal documents requiring thorough consideration by the court shall be delivered to the Judge's chamber simultaneously upon filing, but no later than two days in advance of trial or hearing.

(b) Manner of Delivery

Email bench copies to: GingerD@co.whitman.wa.us or;
USPS Mail to: PO Box 679, Colfax, WA, 99111

WCLAR 7 – Setting Cases for Trial and Other Hearings

(a) Civil and Family Law Cases

The Court Administrator is primarily responsible for setting civil and family cases for trial or other hearings that are not set on the law and motion calendar. The Court Administrator will generally be involved in trial setting hearings. Counsel and/or parties involved in scheduling civil and domestic cases are encouraged to confer with one another and with the Court Administrator as to find available dates. In lieu of a trial setting hearing, counsel and/or the parties may schedule trial dates through a joint telephone or other conference directly with the Court Administrator.

(b) Criminal Cases

The scheduling of hearings and trials relating to criminal matters will generally be handled by the Judge in open court and in the presence of the defendant and counsel. Suppression and other evidentiary hearings or special criminal hearings however, shall be scheduled by counsel through a joint email or other conference directly with the Court Administrator.

WCLAR 8 – Exhibits

(a) Pre-Marking

Counsel shall arrange with the clerk for the marking of all exhibits at least two business days prior to trial. Generally, the plaintiff or petitioner will be assigned exhibit numbers 100 through 199, and the defendant or respondent will be assigned exhibit numbers 200 through 299. If three or more parties are involved in the case, the third party will be assigned exhibit numbers 300 through 399, and the fourth party will be assigned exhibit numbers 400 through 499.

(b) Copies

Unless the making of copies is impractical, legible copies of exhibits shall be furnished to opposing counsel and the court, numbered the same as marked by the clerk. This rule shall not apply to rebuttal or impeachment exhibits not required to be offered in the party's case in chief.

(c) Organization

Counsel shall organize the original set of exhibits with numbered tabs in numerical order, and shall provide copies for the court and opposing counsel or party in a loose leaf notebook or similarly organized fashion.

WCLAR 9 – Telephone Hearings

(a) Telephone Hearings Allowed

Hearings on issues not involving witness testimony, and most other pretrial motions, including brief summary judgment motions, may be heard by telephone in lieu of a personal appearance by counsel and/or a party.

(b) Arranging Telephone Hearings

Telephone hearings shall be arranged through the clerk's office

(c) Conduct of Telephone Hearings

The Judge shall initiate the calls for telephone hearings and shall conduct such hearings in open court and on the record by the use of the courtroom speaker telephone system

(d) Cost of Telephone Hearings

Subject to the terms below, each attorney or party appearing by telephone shall bear the cost of the conference call. The court's charge to each attorney or party appearing by telephone shall be \$20.00 for the duration of the call. In appropriate cases, this charge may be waived by the court.

Who will be charged for telephonic appearances?

1. Attorneys and parties who could have been present

Who will not be charged?

1. Witnesses
2. Attorneys and parties who had no means of being present due to incarceration or insufficient notice
3. Any party who has an attorney present
4. Any party who has been granted a waiver by the court. The waiver shall be sought by having the client contact the Court Administrator directly. If granted, the Court Administrator shall notify the Clerk

When will they be charged?

1. In advance
2. If an exception is made and they are not charged in advance, the courtroom clerk shall invoice the attorney or party as soon as possible

While it is helpful to have the request form submitted to the Clerk in advance (<http://www.whitmancounty.org/>-> Clerk) the court will make outgoing phone calls as requested and needed by parties present.

WCLAR 10 – Witness Testimony by Telephone or Other Contemporaneous Transmission from another Location

(a) Witness Testimony by Telephone or Other Manner from Another Location

If allowed by the court pursuant to CR 43(a), witness testimony may be presented by telephone or other contemporaneous transmission from another location in lieu of a personal appearance by the witness.

(b) Arranging Testimony from Another Location

The attorney or party intending to call a witness by telephone or some other manner from another location is responsible for arranging the timing and availability of the witnesses' testimony, and if applicable, for obtaining a telephone number where the witness can be immediately reached. Testimony presented from another location shall be presented in an audible and public manner in open court.

WCLAR 11 – Filing of Non-Paper Items

(a) Non-Paper Items

CD's, DVD's, and other non-paper items shall not be filed in the court file.

A party may transcribe the contents of any CD or other audio recording desired for filing in the format as required by GR 14.

CD's, DVD's, and other non-paper items may be marked as pre-trial exhibits for the court to review subject to the Rules of Evidence and timely notice to the other party.

Except as otherwise Required by law, upon the conclusion of a case and any appeal thereof, the items marked as pre-trial exhibits shall be released to the parties or destroyed by the Clerk if parties fail to obtain said items 30 days after written notice from the Clerk.

WCLAR 12 – Jury Selection Process

(a) Jury Selection Process

Unless otherwise order in a particular case, the “struck jury” method shall be utilized for jury selection in jury trials in Whitman County Superior Court, under this method:

Jurors shall be each given a number and will be seated in numerical order in the spectator section of the courtroom;

The lawyers will be given an equal amount of time to question prospective jurors;

When a juror is struck or excused, the jury panel will consist of the first 12 jurors in numerical order remaining;

If a party passes on a peremptory challenge, the party accepts the first 12 jurors then existing, and that party cannot thereafter exercise a peremptory challenge against any one of these 12 jurors. Passing on a peremptory challenge does not waive the right to exercise an available peremptory challenge against any of the other prospective jurors;

Each party will be granted one additional peremptory challenge for each alternate juror.

WCLAR 13 – Electronic Recording

(a) Electronic Recording

The official record of all court proceedings in Whitman County Superior Court shall be recorded and maintained on electronic or mechanical recording devices.

Whitman County Local Civil Rules (WCLCR)

WCLCR 1 – Motions, Responses, and Replies

(a) Motions

Any party desiring to bring any motion must serve the documents on all parties and the court at least 10 court days before the date fixed for such hearing. Responding documents must be served on all parties and the court no later than 4:30pm, 5 court days before the hearing. Any reply documents must be served on all parties and the court not later than 4:30pm, 3 court days before the hearing. Absent prior approval of the court, responsive or reply materials will not include either audio or video tape recordings.

(b) Late Filing

Any material submitted later than required by this rule, upon objection of counsel, may be rejected by the Court, or the matter may be continued.

(c) Bench Copies

Bench copies of motions, responses, briefs, and supporting documents shall be delivered to the Judge as required by WCLAR 6.

Example:

Typically a motion would need to be served by 4:30pm two Wednesdays before a hearing scheduled on a Wednesday. A response would need to be served by 4:30pm on the immediate Wednesday preceding the Wednesday hearing. A reply would need to be served by 4:30pm on the immediate Friday before the Wednesday hearing.

WCLCR 2 – Mandatory Mediation and Pre-Trial Procedure in Family Law Cases

(a) Mandatory Mediation

All contested issues in every family law case, except matters limited to child support, establishment of paternity, or the existence of adequate cause, shall be submitted to mandatory mediation before proceeding to trial. The mediation requirement or time limits may be waived or modified by the Court upon motion for good cause shown or upon the Court's own motion. Sanctions may be imposed by the Court against a party found not to have participated in mediation in good faith.

(1) Mediation No Stay

Mediation does not stay or otherwise affect the rights and duties of the parties established by statute, court rule, or court order.

(2) Selection of Mediator

The parties may choose their own mediator approved by the Court. Absent an agreement, upon motion of either party, the Court will select a mediator.

(3) Authority of Mediator

The mediator has the authority to set the time, place, manner, duration of the mediation, and retainer required to be paid by both parties before mediation will commence. The mediator also has the right to terminate mediation.

(4) Participation

Only the parties and their counsel shall attend mediation sessions, unless leave is granted by the mediator for other persons to attend and/or participate. The mediator is empowered to exclude non-parties from the premises where the mediation is taking place in order to minimize disruption to the process.

(5) Report

Within 7 days of completion of mediation, a declaration of completion shall be filed with the Court by the mediator. The parties shall be advised by the mediator of the results of mediation in writing. The mediator shall advise the Court whether or not an agreement has been reached on some or all of the issues.

(6) Payment

Mediators shall be paid by the parties in accordance with their agreement, or if none, as determined in mediation or ordered thereafter by the Court.

(7) Proceedings Privileged

The work product of the mediator and all communications to the mediator during the mediation process are confidential and may not be disclosed. The mediator shall not appear to testify in any court action except as may be necessary to secure payment of mediator's fees

(b) Pre-Trial Statement-Contested Dissolutions

In any action for dissolution of a marriage in which property division, the parenting plan, spousal maintenance or child support is an issue, each party shall serve on the other party and file with the Court a written summary setting forth:

- (1) Statement of the issues;
- (2) A statement of the party's proposed resolution of the issues;
- (3) A description and valuation of the assets and liabilities of the parties, together with a proposed division thereof;
- (4) The party's proposed parenting plan;
- (5) Child support calculations

Each party's written summary must be served and filed no later than 4 days before the pre-trial conference or settlement conference, whichever occurs first. Failure to timely serve and file the summary as required may result in sanctions.

WCLCR 3 – Pre-Trial Procedure in Non-Family Law Civil Cases

(a) Pre-Trial Statement

In contested non-family law civil cases, the parties shall jointly prepare and file no later than 5 days prior to the trial a Trial Management Joint Report, which will contain;

- (1) A brief, non-argumentative summary of the case;
- (2) List of issues that are not disputed;
- (3) List of issues that are disputed;
- (4) Index of exhibits (excluding rebuttal or impeachment exhibits);
- (5) List of plaintiff's request for Washington Pattern Jury Instructions;
- (6) List of defendant's request for Washington Pattern Jury Instructions;
- (7) List of names of all lay and expert witnesses, excluding rebuttal witnesses;
- (8) Suggestions by either party for shortening the trial.

(b) Parties to Confer in Completing Report

The attorneys for all parties in the case shall confer in completing the Trial Management Joint Report. If any party fails to cooperate in completing the report, any other party may file and serve the report and note the refusal to cooperate.

(c) Pre-Trial Conference

All parties must attend a pre-trial management conference if scheduled by the Court Administrator.

(d) Form

The Trial Management Joint Report form is available from the court website and from the Court Administrator.

WCLCR 4 – Default and Uncontested Dissolution of Marriage Cases

(a) Default and Uncontested Dissolution of Marriage Cases

The final paperwork in default and uncontested dissolution of marriage cases may be presented to the Judge in chambers or by mail in lieu of an appearance at a court hearing. No default order or decree may be entered prior to 90 days after service and filing of the petition in dissolution of marriage cases.

WCLCR 5 – Summary Judgment

(a) Scheduling

A party filing a motion for summary judgment under CR 56 shall obtain a date for scheduling the hearing with the Court Administrator.

(b) Special Setting

Summary judgment hearing must be specially set and shall not be heard on the law and motion calendar.

Whitman County Local Criminal Rules (WCLCrR)

WCLCrR 1 – Time for Trial and Readiness Hearing

(a) Initial Setting of Trial and Readiness Hearing

At the time of arraignment, unless a delay is requested by either party and granted by the court, the court shall set the date for trial within the time limits prescribed by CrR 3.3.

(b) Readiness Hearing

1. At the time a criminal case is set for trial, the court shall also set a readiness hearing. The readiness hearing shall be set approximately 10 days before the date trial is scheduled to commence. Prior to such hearing, the following matters shall be concluded;
 - i. All plea bargaining,
 - ii. All hearings on motions to suppress and other legal and evidentiary pre-trial issues,
 - iii. The full exchange of discovery
2. At the conclusion of the readiness hearing, the court will no longer accept any plea bargaining arrangement. Thereafter, the case will be tried by jury, unless waived by the defendant, or concluded by guilty plea(s) to the original charge(s), or by a dismissal of the charge(s).
3. A failure of the defendant to be present at the readiness hearing shall result in the issuance of a bench warrant for failure to appear and the vacation of the scheduled trial date.
4. The requirements of this readiness hearing rule can be waived or modified only by order of the court.

WCLCrR 2 – Omnibus Hearing

(a) Motions

The failure of a party to appear for the Omnibus Hearing or to submit a joint Summary Memorandum may constitute a waiver of the subsequent filing of motions or the raising of issues, objections and errors required to be addressed at the Omnibus Hearing under CrR 4.5.

(b) Memorandum

In lieu of a hearing in open court and on the record, the Omnibus Hearing procedure set forth in CrR 4.5 may be complied with by the completion, submission, and filing of joint Summary Memorandum substantially in the form set forth in CrR 4.5(h).

(c) Appearance of Defendant

Unless ordered by the court, the appearance of the defendant at the Omnibus Hearing is optional and not mandatory.

WCLCrR 3 – Other Criminal Hearings

(a) Other Criminal Hearings

Unless otherwise ordered by the court, all Defendants must appear at all other scheduled hearings

Whitman County Local Guardian Ad Litem Rules (WCLGALR)

WCLGALR 1 – Grievance Procedures

The following policies and procedures shall govern the filing, investigating, and adjudication of grievances made by or against guardians ad litem under Titles 11, 13, and 26 RCW:

(a) Submission of Complaints

All complaints must be in writing and must be submitted to the Superior Court Presiding Judge. All complaints must bear the signature, name, and address of the person filing the complaint.

(b) Review of Complaint

Upon receipt of a written complaint, the Presiding Judge shall review the complaint or in the case of a conflict, refer the complaint to another Judge or Court Commissioner.

(c) Findings and Action on Complaints

The reviewing Judge shall either:

1. Make a finding that the complaint is with regard to a case then pending in the court and decline to review the complaint and so inform the complainant. In such instances, the Judge shall advise the complainant that the complaint may only be addressed in the context of the case at bar, either by seeking the removal of the guardian ad litem or by contesting the information or recommendation contained in the guardian ad litem’s report or testimony;
2. Make a finding that the complaint has no merit on its face, and decline to review the complaint and so inform the complainant;

3. Make a finding that the complaint appears to have merit and request, via written letter, a written response from the guardian ad litem or other person, against whom the complaint is brought within 10 business days, detailing the specific issues in the complaint to which the reviewing Judge desires a response. The reviewing Judge shall provide the guardian ad litem or other person against whom the complaint is brought, with a copy of the original complaint. In considering whether any complaint against a guardian ad litem has merit, the review Judge shall consider whether the complaint alleges the guardian ad litem has;
 - i. Violated a code of conduct;
 - ii. Misrepresented his or her qualifications to serve as a guardian ad litem;
 - iii. Breached the confidentiality of the parties;
 - iv. Falsified information in a report or in testimony before court;
 - v. Failed, when required, to report abuse of child;
 - vi. Communicated with a judicial officer ex-parte concerning the case for which he or she is serving as a guardian ad litem;
 - vii. Violated state or local laws or court rules;
 - viii. Taken or failed to take any other action which would reasonable place the suitability of the person to serve as guardian ad litem in question

(d) Response and Findings on Complaint

Upon receipt of a written response to a complaint, the reviewing Judge may schedule a hearing, request additional materials, or enter a decision based upon the review of the record alone. The reviewing Judge shall make a finding as to each of the specific issues in the complaint to which the reviewing Judge desired a response as delineated in the Judge's letter to the person against whom the complaint is brought. Such finding shall state that either there is no merit to the issue based upon the response or that there is merit to the issue.

(e) Forms of Discipline

The reviewing Judge shall have authority to issue a written admonition or a written reprimand, refer the guardian ad litem to additional training, or suspend or remove the guardian ad litem from the registry. In considering an appropriate form of discipline, the Judge shall take into consideration any prior complaints that resulted in an admonition, reprimand, referral to training, or suspension or removal from the registry. If the guardian ad litem against whom the discipline is directed is listed on more than one

registry, the suspension or removal may apply to each registry on which the guardian ad litem is listed, at the direction of the reviewing Judge.

(f) Notice of Decision

The complainant and the person against whom the complaint is brought shall be notified in writing of the reviewing Judge's decision following the receipt of the response to the complaint.

(g) Confidentiality

A complaint shall be deemed confidential for all purposes unless the Judge reviewing the complaint has determined that the complaint has merit. Any record of complaints filed which are not deemed by the Judge to have merit shall be confidential, and shall not be disclosed except by court order, upon good cause shown, after the person against whom the complaint was brought has been given notice and an opportunity to be heard.

(h) Processing Standards

Complaints shall be resolved within 25 days of the date of receipt of the written complaint if a case is pending. Complaints shall be resolved within 60 days of receipt of the written complaint if the complaint is filed after the conclusion of the case.

(i) Removal from Registry

When a guardian ad litem is removed from the court's registry pursuant to the disposition of a grievance hereunder, the Court Administrator shall send notice of such removal to the Administrative Office of the Courts. When the Court Administrator receives notice from the Administrative Office of the Courts that a guardian ad litem on the court's registry has been removed from the registry of any other Washington Superior Court, the Court Administrator shall advise the Judge of such removal.