

**Lower Kittitas County District Court**  
**Amended Local Rules Regarding Infractions**

**LIR 3.1 CONTESTED INFRACTION HEARING – PRELIMINARY PROCEEDINGS.**

**(a) Subpoena.** When a party issues a subpoena on a separate pleading to compel an officer to appear at a contested hearing pursuant to IRLJ 3.3(c), said subpoena should be served at least 14 calendar days before the contested hearing. An officer who has been served but is unavailable to attend the contested hearing must communicate their unavailability to both parties at least 4 calendar days prior to the contested hearing.

**Comments**

The purpose of the rule regarding requiring a greater amount of time for serving subpoenas on officers is because the 7-day requirement in IRLJ 3.3(a) is too short a time to reasonably expect officers to either adjust their schedule and/or communicate their unavailability due to work hours and staffing schedules that effectively provide notice to the officer of one day or less. The purpose of the rule establishing a method and timeframe for officers to communicate their unavailability is to have officers cease sending their notice of unavailability to the court and to give both parties adequate notice.

[Effective September 1, 2020]

**(b) Discovery.** Upon written demand of the defendant at least 21 days before a contested hearing, filed with the court and served on the office of the prosecuting authority assigned to the court in which the infraction is filed, the prosecuting authority shall at least 14 days before the hearing provide the defendant or the defendant's lawyer with discovery as provided by IRLJ 3.1(b). Motions to suppress for untimely discovery as provided by IRLJ 3.1(b) must be filed in writing with the court and the prosecuting authority at least four 4 hours prior to the contested hearing being commenced.

**Comments**

The purpose of the rule regarding requiring the method and timeframe for requesting discovery, providing discovery and for making motion to suppress discovery that is untimely provided is to enlarge the time for discovery practice and to allow the lawyer for the plaintiff notice of the issue in order to be present as required by LIR 3.3(b).

[Effective September 1, 2020]

**LIR 3.3(b) CONTESTED INFRACTION HEARING – REPRESENTATION BY LAWYER.** At a contested hearing the plaintiff shall be represented by a lawyer representative of the prosecuting authority when i) a witness has been subpoenaed to appear, ii) where a timely request for a speed measuring device (SMD) expert has been filed with the court and served on the prosecuting authority, or iii) where a motion to suppress untimely discovery has been filed. The court in its discretion may waive the presence of plaintiff's lawyer representative if it deems it appropriate. If the defendant is represented by a lawyer and the lawyer has filed a notice of appearance, that attorney is responsible for appearing on behalf of the defendant unless a notice of association or similar document is filed with the court at least 4 calendar days prior to the contested hearing. The court in its discretion may shorten the time for filing a notice of association if it deems it appropriate.

### Comments

The purpose of the rule regarding requiring the presence of a lawyer for the plaintiff is to minimize questioning of witnesses by the court and for the plaintiff's lawyer to be present to address various legal challenges and issues which require the unique information resource held by the prosecuting authority. The presence of the plaintiff's lawyer is not a "right" of the defendant and the court may waive the presence of the plaintiff's lawyer under any circumstances which it may deem appropriate. The purpose of the rule regarding requiring the method and time frame for notice of association to be filed with the court is to facilitate any necessary communication between the parties and the court that might arise on the day of the contested hearing. The filing of a notice of association by defendant's lawyer is not a "right" of the plaintiff and the court may shorten the time for filing.

[Effective September 1, 2020]

Signed this 30th day of June, 2020, in chambers



Paul R. Sander  
Presiding Judge  
Lower Kittitas County District Court