

LCR 16 PRETRIAL PROCEDURE AND MOTIONS

(a) Hearing Matters Considered.

(6) A pretrial conference shall be held in each case subject to this rule. Lead counsel for each party shall attend the pretrial conference. The assigned judge may consider any matter relating to trial administration, even if not provided in this rule. The conference shall be conducted as a hearing in open court if matters of record are argued and decided. At the conclusion of the conference, a pretrial order, including any discretionary supplemental orders, may be entered.

(c) Public Records Act Cases.

(1) Identification and Scheduling of Public Records Act Cases.

(A) Every case filed under the Public Records Act (PRA) shall be clearly identified as a Public Records Act case on the front page of the first filed pleading and noted on the Case Information Cover Sheet as a Public Records Act cause of action.

(B) At the time the case is filed, the clerk's office will provide the plaintiff with a notice setting a status hearing within 28 days or, if no date is available within twenty-eight days of the case being filed, the next available hearing date. The plaintiff shall provide this notice to all parties. If service of the complaint or motion is completed before the case is filed, the plaintiff shall provide the notice by delivery, mail, facsimile, or e-mail within five days after filing the case.

(C) In the event a Public Records Act case is not identified at filing, the defendant or intervenor may make the identification and request the status hearing be reset.

(D) If a defendant or intervenor has not been served by the time of the status hearing, the court may continue the status hearing up to 21 days.

(E) The status hearing will be held before the assigned judge and will be used to:

(i) Identify issues in dispute;

(ii) Set a hearing date and briefing schedule for resolution of issues;

(iii) Determine whether in camera review is likely to be needed and, if necessary, order the protocol for submission of the records to be reviewed; and

(iv) Refer to mediation if appropriate.

(F) Nothing in this rule affects the right of any party to schedule a hearing to show cause or enjoin, or any other hearing authorized by law or rule.

(2) In Camera Review of Public Records Act Cases.

(A) When commenced. In a Public Records Act case, in camera review will occur only if the assigned judge enters an order requiring such review. Agreement between parties or submission of records to the assigned judge, without an appropriate order, will not trigger in camera review.

(B) Identification of redactions. Records redacted in part must be presented to the judge in a manner that will permit the judge to read the entire record and immediately understand which parts were withheld by redaction and which parts were produced. For example, the redactions may be outlined or indicated with a shaded or colored overlay.

(C) Basis for exemption. The basis for the claim of exemption may appear on the document if doing so would not obliterate text or other information necessary for the court's review.

(d) Transfer of Administrative Appeals.

(1) Land Use Petition Act Cases.

(A) At an initial hearing conducted under RCW 36.70C.080, the parties shall be prepared to address whether they:

- (i) consent to transfer the judicial review to the Court of Appeals; and
- (ii) agree that the judicial review can occur based upon an existing record.

(B) Upon such a showing, the court may transfer the judicial review to the Court of Appeals.

(2) Administrative Procedure Act Cases. The court may transfer judicial review of a final decision of an administrative agency in an adjudicative proceeding under RCW 34.05 to the Court of Appeals in the following circumstances:

(A) Consent of all parties. An APA case shall be certified for transfer to the Court of Appeals if all parties:

- (i) consent to the transfer to the Court of Appeals;
- (ii) agree that the judicial review can occur based on the agency record developed before the administrative body without supplementing the record under RCW 34.05.562; and
- (iii) present, through the court's civil ex parte process:

(a) a consent signed by all parties reflecting such consent and agreement and

(b) a proposed certification for transfer of judicial review to the Court of Appeals.

(B) Motion for certification. If transfer is not agreed to by all parties, a party may file a motion for the court to certify such a transfer under the standards of RCW 34.05.518. The motion shall be scheduled on the assigned judge's civil motion calendar.

(C) Hearing. If neither consent of all parties nor a motion for certification is filed pursuant to the above sections prior to the trial scheduling date, the court shall schedule a hearing to address whether certification for transfer to the Court of Appeals under RCW 34.05.518 is appropriate.

[Amended effective September 1, 1994; September 1, 1997; May 4, 1998; September 1, 1999; September 1, 2000; September 1, 2003; September 1, 2004; September 1, 2006; September 1, 2010; September 1, 2011; September 1, 2013; September 1, 2018; September 1, 2022; September 1, 2023.]