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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT SEATTLE

7 In Re:

8 LOCAL CIVIL RULES, CRIMINAL RULE
9 CrR 5, AND GENERAL RULE GR 2

GENERAL ORDER ADOPTING
AMENDMENTS TO VARIOUS LOCAL CIVIL
RULES, CRIMINAL RULE CrR 5, AND
GENERAL RULE GR2

10 Pursuant to 28 U.S.C. § 2071, and to Rule 83 of the Federal Rules of Civil Procedure
11 ("Fed.R.Civ.P."), it is hereby ORDERED, that local Civil Rules CR 7 - Pleadings Allowed, Form and
12 Scheduling of Motions, CR 10 - Form of Pleadings, CR 39.1 - Alternative Dispute Resolution, local
13 Criminal Rule CrR 5 - Initial Appearance before the Magistrate Judge and local General Rule GR2, are
14 amended as set forth in the attachment to this Order.

15 These amendments shall take effect at 12:01 a.m. on January 1, 2005, and shall apply to all cases
16 then pending and to cases filed thereafter.

17 DATED this 13th day of December, 2004.

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21 ROBERT S. LASNIK
22 CHIEF UNITED STATES DISTRICT JUDGE

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25 JOHN C. COUGHENOUR
26 UNITED STATES DISTRICT JUDGE

ORDER ADOPTING AMENDMENTS

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5 FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE

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8 MARSHA J. PECHMAN
9 UNITED STATES DISTRICT JUDGE

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12 RONALD B. LEIGHTON
13 UNITED STATES DISTRICT JUDGE

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16 RICARDO S. MARTINEZ
17 UNITED STATES DISTRICT JUDGE

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20 JAMES L. ROBART
21 UNITED STATES DISTRICT JUDGE

CR 7
PLEADINGS ALLOWED; FORM AND SCHEDULING OF MOTIONS

(d) Consideration of Motions and Briefing Schedules

Unless otherwise provided by rule or court order, motions shall be noted for consideration as follows:

(1) Stipulations and agreed motions (see CR 10(g)), motions to file overlength motions or briefs (see CR 7(f)), motions for reconsideration (see CR 7(h)), joint submissions pursuant to the optional procedure established in CR 37(a)(2)(B), motions for default (see CR 55(a)), requests for the clerk to enter default judgment (see CR 55(b)(1)), and motions for the court to enter default judgment where the opposing party has not appeared (see CR 55(b)(2)), shall be noted for consideration for the day they are filed.

(2) The following motions may be noted for consideration no earlier than seven judicial days after filing:

(A) motions for relief from a deadline or limit imposed by an order, federal rule or local rule

(B) motions to amend pleadings;

(C) motions to quash;

(D) motions for protective orders;

(E) motions to withdraw (see GR 2(f)(4));

(F) motions to tax and retax costs (see CR 54(d)); and

(G) motions for default judgment by the court pursuant to CR 55(b)(2) where the opposing party has appeared in the action.

For any motion brought pursuant to this subsection, the moving party shall ensure that the motion papers are received by the opposing party on or before the filing date. Unless otherwise provided by court rule, any papers opposing motions of the type described in this subsection shall be filed and received by the moving party no later than three judicial days before the noting date. Any reply papers shall be filed, and shall be received by the opposing party, no later than the noting date. Service under this subsection may be by facsimile or electronic transmission only upon prior agreement of the parties. All motions filed in a case in which a party is under civil or criminal confinement shall be subject to the briefing schedule under Rule 7(d)(1) or 7(d)(3), not this subsection.

(3) All other motions shall be noted for consideration for a Friday. Unless otherwise specified in this rule, all discovery motions not using the option under CR 37(a)(2)(B), and all other nondispositive motions shall be noted for consideration no earlier than the third Friday after filing and service of the motion; and all dispositive motions shall be noted for consideration no earlier than the fourth Friday after filing and service of the motion. Any opposition papers shall be filed and served not later than the Monday before the noting date. If service is by mail, the opposition papers shall be mailed not later than the Friday preceding the noting date. Any reply papers shall be filed and served no later than the noting date.

CR 10
FORM OF PLEADINGS

(e) Format

All pleadings should include the following:

(1) Margins and Fonts. No less than three inches of space should be left at the top of the first page for the clerk's filing stamp. All other margins should be at least one inch wide, although formatted lines and numbering, attorney information, the name of the judge(s) to whom copies should be sent, and footers may be placed in the margins. Examples of correctly formatted pages are attached as Appendix A. The text of any typed or printed brief must be 12 point or larger and must, with the exception of quotations, be double spaced. Footnotes must be 10 point or larger and may be single spaced.

(2) Title. Each pleading shall contain the words "United States District Court, Western District of Washington" on the first page and, in the space below the docket number, a title indicating the purpose of the paper and the party presenting it.

(3) Bottom Notation. At the left side of the bottom of each page, an abbreviated title of the pleading should be repeated, followed by the case number. The page number should be placed after the abbreviated title or in the middle of the bottom of each page. At the right side of the bottom of each page, the law firm (if any), mailing address and telephone number of the attorney or party preparing the paper should be printed or typed.

(4) Dates and Signature Lines. All pleadings shall be dated, signed as provided by Rule 11 of the Federal Rules of Civil Procedure and as provided in the Electronic Filing Procedures adopted by the Court, and have the signors' names printed or typed under all signature lines.

(5) Numbered Paper. Each pleading shall bear line numbers in the left margin, leaving at least one-half inch of space to the left of the numbers,

(6) Citation to Line Numbers. In all cases where the court is to review the proceedings of an administrative agency, transcripts, deposition testimony, etc., the parties shall, insofar as possible, cite the page and line of any part of the transcript or record to which their pleadings refer.

(7) Any document requiring the signature of the court shall bear the signature of the attorney(s) presenting it preceded by the words "Presented by" on the left-hand side of the last page and shall provide as follows:

"Dated this day of (Insert Month), 20(Insert Year).

UNITED STATES DISTRICT JUDGE
[or UNITED STATES MAGISTRATE
JUDGE]"

(8) Filing of Documents. All documents filed with the court shall be in accordance with the Electronic Filing Procedures for Civil and Criminal Cases adopted by General Order of the Court. The Electronic Filing Procedures are available on the Court's website at www.wawd.uscourts.gov and from the Clerk's Office.

When documents that exceed 100 pages in length are filed electronically. A paper copy of the document shall be delivered to the Clerk's Office for chambers. The copy for chambers shall be clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers." The copies of all papers must indicate in the upper right-hand corner of the first page the name of the district judge or magistrate judge to whom the copies are to be delivered.

Unless the court otherwise directs, the parties shall not provide duplicate copies of state court records in prisoner cases or of an administrative record filed pursuant to CR 79(h).

(9) Format of Originals. Originals of documents filed with the court shall not contain double-sided pages or items other than 8 ½ x 11 inch paper, unless double-sided or larger original documents are being filed as exhibits.

(10) Format of Copies. The judge's courtesy copies of documents filed with the court shall contain no items other than 8 ½ x 11 inch paper, unless larger original documents are being filed as exhibits. Unlike originals, copies may be filed in binders, and the use of tabs as dividers and exhibit markers is not only permitted, but encouraged. The judge's copy shall not be delivered directly to chambers unless the judge has so instructed..

(11) Exhibits. All exhibits submitted in support of or opposition to a motion must be clearly marked with light-colored dividers or tabs as set forth in paragraphs (9) and (10). References in the parties' pleadings to such exhibits should be as specific as possible (i.e., the reference should cite specific page numbers, paragraphs, line numbers, etc.). The judge's copy of the exhibits should be highlighted to reflect testimony or evidence referred to in the parties' pleadings. Copies of exhibits served on other parties need not be highlighted.

ALTERNATIVE DISPUTE RESOLUTION

(b) Attorney Neutrals.

- (5) Neutrals serving under this rule should disclose any interest or relationship likely to affect their impartiality or that might reasonably create an appearance that they are biased against one party or favorable to another. When parties, with knowledge of such disclosures, nevertheless desire a particular neutral to serve and affirmatively waive such disclosures, the neutral may serve; provided, however, that nothing in this provision shall affect the obligations of any District Judge or Magistrate Judge under 28 U.S.C. § 455.

CrR 5
Initial Appearance Before The Magistrate Judge

(a) In General.

(I) Notice of Arrest. Any agency or person who holds any person in this district on federal criminal charges, shall so advise the U.S. Marshal without unnecessary delay. Except with respect to federal parole violations, after receiving notice or other knowledge during business hours of any such federal arrestee or person held on federal charges anywhere in the district, the marshal shall give telephonic notice without unnecessary delay of the date of federal arrest or custody to the courtroom deputy or other designated staff member for the appropriate magistrate judge who will conduct the initial appearance;

(A) After receiving notice from the U.S. Marshal, the courtroom deputy or other designated staff member for the appropriate magistrate judge shall give telephonic notice without unnecessary delay to:

- i. The U.S. Attorney's Office general crimes unit supervisor for all cases;
- ii. During business hours, the U.S. Pretrial Services Office.

Like notice, during business hours, shall also be given by the courtroom deputy or other designated staff member to the U.S. Probation Office duty officer as to any probation, supervised release, or parole violators.

GR 1
REGULAR SESSIONS OF COURT

Regular sessions of court shall be held as follows:

Seattle Continuously throughout the year.

Tacoma Continuously throughout the year.

GR 2
ATTORNEYS

(a) Roll of Attorneys

The bar of this court consists of those heretofore and those hereafter admitted to practice before this court who have taken the oath prescribed by the rules in force when they were admitted or that prescribed by subsection (c) (3) hereof.

(b) Eligibility

Any attorney who is a member in good standing of the Washington State Bar, and any attorney who is a member in good standing of the bar of any state and who is employed by the United States or one of its agencies in a professional capacity and who, while being so employed may have occasion to appear in this court on behalf of the United States or one of its agencies, is eligible for admission to the bar of this court.

(c) Procedure for Admissions

(1) Each applicant for admission to the bar of this court shall file with the clerk a written petition setting forth his residence and office addresses, his general and legal education, and by what courts he has been admitted to practice. The petition shall contain a certification by the applicant that he has read the Federal Rules of Civil and Criminal Procedure and the Local Rules of this court. The petition shall be accompanied by certificates from two reputable persons who are either members of the bar of this court or known to the court, stating how long and under what circumstances they have known the petitioner and what they know of the petitioner's character. If a certificate is presented by a member of the bar of this court, it shall also state when and where he was admitted to practice in this court. The clerk will examine the petitions and certificates and if in compliance with this rule, the petitions for admission will be presented to the court in a group at a session to be arranged by the clerk. Petitions for admission may be presented at other times only upon good cause shown, and not earlier than five days

after the filing of the petition. When a petition is called, one of the members of the bar of this court shall move the admission of the petitioner. If admitted, the petitioner shall in open court take the oath set forth in subsection (3) hereof, and pay the statutory fee.

(2) In the case of an attorney for the United States or one of its agencies who is not a member of the Washington State Bar, his or her petition must contain all information set forth under subsection (1) hereof, except that in lieu of certificates from two members of the bar, the applicant will provide a verification from one of this district's Assistant U. S. Attorneys that the individual is an Attorney for the United States. In addition, the applicant shall state the department or agency by which he or she is employed and the circumstances justifying the proposed admission to the bar of this court. The right of such an attorney to practice before this court is conditional upon his or her continuing to be so employed or becoming a member of the Washington State Bar.

(3) The following is the oath to be taken upon admission to bar of this court:

"I solemnly swear or affirm that I will support and defend the Constitution and the laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will well and faithfully discharge my duties as a lawyer, counsellor and proctor of this court; that I will maintain the respect due to the courts of justice and judicial officers and that I will demean myself uprightly and according to law and the recognized standards of ethics of the legal profession and abide by the Local Rules of this court."

Permission to Participate in a Particular Case

Any member in good standing of the bar of any court of the United States, or of the highest court of any other state, or of any organized territory of the United States, and who neither resides nor maintains an office for the practice of law in the Western District of Washington normally will be permitted upon application and upon a showing of particular need to appear and participate in a particular case if there shall be joined of record in such appearance an associate attorney having an office

in this district and admitted to practice in this court who shall sign all pleadings prior to filing and otherwise comply with CR 10(e) hereof. Attorneys who are admitted to the bar of this court but reside outside the district need not associate with local counsel.

Such application shall be promptly filed with the clerk and shall set forth: (1) the name and address of the applicant's law firm; (2) the basis upon which "particular need" is claimed; (3) a statement that the applicant understands that he is charged with knowing and complying with all applicable local rules; (4) a statement that the applicant has not been disbarred or formally censured by a court of record or by a state bar association; and (5) a statement that there are no pending disciplinary proceedings against the applicant. This application shall be accompanied by a representation by local counsel that he is authorized and will be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present upon any date assigned by the court. Applications filed under this rule will be approved or disapproved by the clerk.

(e) Standards of Professional Conduct

In order to maintain the effective administration of justice and the integrity of the Court, attorneys appearing in this District shall be familiar with and comply with the following materials ("Materials"):

- (1) The Local Rules of this District, including the Local Rules that address attorney conduct and discipline;
- (2) The Washington Rules of Professional Conduct, as promulgated, amended and interpreted by the Washington State Supreme Court (the "RPC"), and the decisions of any court applicable thereto;
- (3) The Federal Rules of Civil and Criminal Procedure;
- (4) The General Orders of the Court.

In applying and construing these Materials, this Court may also consider the published decisions and formal and informal ethics opinions of the Washington State Bar Association, the Model Rules of Professional Conduct of the American Bar Association and Ethics Opinions issued pursuant to those Model Rules, and the decisional law of the state and federal courts.

(f) Attorney Discipline

(1) *Jurisdiction.* Any attorney admitted to practice before this Court, admitted for a particular proceeding and/or who appears before this Court is subject to the disciplinary jurisdiction of this Court.

(2) *Powers of an Individual Judge to Deal with Contempt or Other Misconduct Not Affected.* Nothing contained in this Rule shall be construed to limit or deny the Court the powers necessary to maintain control over proceedings before it, including the contempt powers. Nothing contained in this Rule precludes the Court from imposing sanctions for violations of the Local Rules, the Federal Rules of Civil and Criminal Procedure, or other applicable statutes and rules.

(3) *Grounds for Discipline.* An attorney may be subject to disciplinary action for any of the following:

(A) violations of the Standards of Professional Conduct stated in subsection (e) above;

(B) disbarment, suspension, sanctions or other attorney discipline imposed by any federal or state court, bar association or other governing authority of any state, territory, possession or the District of Columbia, or any other governing authority or administrative body which regulates the practice of attorneys;

(C) conviction of any felony or a misdemeanor involving dishonesty or corruption, including, but not limited to, those matters listed in Rule 7.1(a)(2)(B)-(C) of the Washington Rules for Enforcement of Lawyer Conduct ("ELC");

(D) misrepresentation or concealment of a material fact made in an application for admission to the Bar of this Court or in a *pro hac vice* or reinstatement application;

violation of this Court's Oath of Attorney.

(4) *Types of Discipline.* Discipline may consist of one or more of the following:

disbarment from the practice of law before this Court;

(B) suspension from the practice of law before this Court for a specified period;

(C) interim suspension from the practice of law before this Court, defined as the temporary suspension of a lawyer from the practice of law pending imposition of final discipline. Examples of situations in which the Court will consider interim suspension include:

(i) suspension upon conviction of a serious crime or,

(ii) suspension when the lawyer's continuing conduct is likely to cause immediate and serious injury to a client or the public;

(D) reprimand, defined as a form of public discipline which declares the conduct of the lawyer improper, but does not limit the lawyer's right to practice before this Court;

(E) admonition, defined as a form of non-public discipline which declares the conduct of the lawyer improper, but does not limit the lawyer's right to practice before this Court;

(F) The following types of discipline may be imposed alone or in conjunction with other types of discipline. If imposed alone or in conjunction with a reprimand, these types of discipline need not be made public by the Court:

(i) probation, with or without conditions;

(ii) restitution;

finest and/or assessment of costs; and

referral to another appropriate disciplinary authority.

Any discipline imposed may be subject to specific conditions, which may include, but are not limited to, continuing legal education requirements, counseling and/or supervision of practice.

(5) *Discipline Initiated by the Court.*

(A) *Authority of the Court.* The powers of the Committee on Discipline and the Special Disciplinary Counsel, as described herein, arise from the Court's inherent authority to govern the conduct of attorneys practicing law before it. The powers of the Committee of Discipline and the Special Disciplinary Counsel shall be governed by and subject to the Federal Rules of Civil Procedure, the Local Rules of this Court, any General Orders this Court may promulgate to administer these Rules on Professional Conduct and Attorney Discipline, and the Court's general supervisory authority over the entire process for imposing attorney discipline.

(B) *Committee of Discipline.* The Court will maintain a Committee on Discipline (the "Committee"). The Committee shall consist of at least three attorneys who are members of the Bar of the Court. However, in the event of any vacancy or vacancies, the Committee may continue to perform any of the functions authorized by this Rule as long as there are at least two members in office.

Committee members shall be appointed by the Chief Judge, who shall designate one of their members to serve as the chair. A Committee member shall serve for a term of three years, but may continue in office, upon order of the Chief Judge, beyond said three-year term to complete pending matters in which a member is participating. Should any Committee member not complete a three-year term, that member's replacement shall complete the length of the term remaining.

The Committee shall have no duties or obligations in cases involving reciprocal discipline or discipline based upon a criminal conviction, unless the Court specifically refers such a matter to the Committee.

Committee members shall not be compensated for their time, unless otherwise ordered by the Court. Committee members shall be reimbursed for costs and expenses incurred in performing their duties under this Rule.

(C) *Grievances and Initial Investigation.* A grievance alleging that an attorney has violated any of the standards of conduct specified in this Rule may be referred to the Committee from any United States District Court Judge, Bankruptcy Judge, or Magistrate Judge. The grievance shall be in writing and addressed to the Committee in care of the Clerk of Court. The Clerk shall promptly serve a copy of the grievance on the attorney affected and provide a copy to the Chair of the Committee. If, at any time during the initial evaluation and investigation of a grievance, the Committee determines that the grievance would be more appropriately addressed by the Washington State Bar Association or other governing authority or administrative body which governs the practice of attorneys, the Committee shall inform the Chief Judge and the Judge who referred the grievance of this determination and may either refer the matter to another authority or recommend dismissal of the grievance to the Court, with or without prejudice.

(i) The Committee shall promptly conduct such initial evaluation of the grievance as it deems appropriate to determine whether the grievance warrants further investigation. The Committee shall inform the Chief Judge of the results of its initial evaluation and its decision to pursue or not pursue further investigation.

(ii) If the Committee determines that the grievance warrants further investigation, it shall promptly conduct such investigation and prepare a written report to the Chief Judge. The Committee is authorized to administer oaths and affirmations, to issue subpoenas to compel attendance by witnesses and responding attorneys, and to compel production of documents. The costs of these activities will initially be borne by the Court. However, the Court shall have the authority to order that the costs be paid by the attorney, if the attorney is disciplined.

(iii) The report shall include copies of statements of witnesses, all documentary evidence relative to the grievance, and a summary of findings.

(iv) No report shall be submitted until the respondent attorney has had a reasonable opportunity to submit to the investigators any evidence or statements relative to the grievance. Such evidence or statements shall be attached to the investigation report.

(v) The report shall recommend one of the following courses of action:

(a) if the conduct complained of warrants discipline, the filing of a formal complaint and a hearing;

(b) if the conduct complained of does not warrant a formal complaint and hearing, but does require intervention, an appropriate disposition of the grievance by the Court;

(c) if the conduct complained of does not warrant either a formal complaint and hearing or intervention is not warranted, the dismissal of the grievance.

(vi) If the Committee determines that disciplinary action against the attorney should be pursued, it shall request that the Chief Judge appoint a member of the Bar of this Court who is not a Committee member to act as Special Disciplinary Counsel.

(vii) The Committee, the Special Disciplinary Counsel and the Court shall maintain the confidentiality of grievances alleging grounds for discipline throughout the initial investigation, unless and until the Court determines that the matter should be referred for filing of a formal complaint and a summons and formal complaint have been filed. Nothing in this paragraph shall be construed to limit the Committee's ability to investigate grievances as provided in this section.

(D) *Appointment of Special Disciplinary Counsel.* At the request of the Committee, the Chief Judge may appoint a member of the Bar of the Court who is not a Committee member as Special Disciplinary Counsel to supervise and conduct such further investigation as may be appropriate, prosecute the matter before the Court, and defend any order of discipline on appeal. The Special Disciplinary Counsel shall be compensated by the Court upon terms to be agreed to in advance by the Court and the Special Disciplinary Counsel.

(i) The Special Disciplinary Counsel is authorized to prosecute allegations involving attorney discipline. Subject to the Federal Rules of Civil Procedure and the Local Rules of this Court, the Special Disciplinary Counsel is

authorized to perform all acts necessary to execute his or her duties, including, but not limited to administering oaths and affirmations, issuing subpoenas to compel attendance by witnesses and responding attorneys, and compelling production of documents. The costs of these activities will initially be borne by the Court. However, the Court shall have the authority to order that the costs be paid by the attorney, if the attorney is disciplined. All powers of the Special Disciplinary Counsel are subject to the authority of the Court to control all matters involving attorney discipline.

(ii) Promptly after appointment, the Special Disciplinary Counsel shall prepare a summons and formal complaint. The complaint will be filed with the Court as a miscellaneous administrative action and an Article III judge (excluding the Chief Judge and any judge who initiated the grievance) shall be assigned to preside over the matter. The Chief Judge may, in his or her discretion, assign an Article III judge from another United States District Court if he or she deems it necessary to maintain an appearance of impartiality in the disciplinary matter.

(iii) *Applicable Rules.* The Federal Rules of Civil Procedure and the Local Rules of this Court will apply to any action prosecuted by the Special Disciplinary Counsel, subject to such modifications as the assigned Judge may order. The Federal Rules of Evidence will apply without modification.

(iv) The Special Disciplinary Counsel is authorized to conduct further investigation, as necessary, regarding the alleged misconduct of the respondent attorney and shall be responsible for presenting evidence to the Court relative to the complaint.

(E) *Immunity.* The investigation, prosecution and determination of a disciplinary matter are inherently quasi-judicial functions and involve the exercise of discretionary judgment. As delegates of the Court performing those quasi-judicial functions, Committee members, the Special Disciplinary Counsel and all other investigators and staff are immune from civil suit and liability for any conduct in the course of their official duties to the maximum extent allowed by law. To the fullest extent allowed by law, Committee Members and the Special Disciplinary Counsel shall be indemnified and defended for any claims that may be brought against them arising out of their good faith execution of their duties pursuant to this Rule.

(F) *Notice and Hearing.*

(i) *Complaint.* The complaint shall be sufficiently clear and specific as to inform the respondent attorney of the alleged misconduct. A copy of the summons and complaint shall be served, in conformity with Fed. R. Civ. P. 4, upon the respondent attorney.

(a) *Provision for Default Service.* If reasonable attempts to serve the summons and complaint in conformance with the requirements of Fed. R. Civ. P.4 have not been successful, substitute service shall be made at any last known address the attorney has provided pursuant to the admission to practice law requirements in any state or federal district court where the attorney is admitted to practice law, including any state bar association or other official state registry of attorneys.

(b) Additional methods of substitute service shall be by order of the Court.

(ii) *Case Management.* After the complaint is filed and a judge has been assigned, the Court shall schedule a case management conference at the earliest opportunity to determine the extent to which the case should be expedited and to what extent the Federal Rules of Civil Procedure, including the rules governing discovery, should be applied or modified for the proceeding. The Court shall establish a discovery schedule, if applicable, a hearing date, and all other dates for the proceedings.

(iii) *Standard of Proof.* Proof of the alleged conduct shall be by clear and convincing evidence.

Jury. There is no right to a jury at the disciplinary hearing.

(G) *Confidentiality.* The Court may, in its discretion, order that the proceedings remain under seal at the request of the respondent attorney or the Special Disciplinary Counsel. The sealing of a disciplinary file shall not limit the Court's ability to notify other jurisdictions of the imposition of discipline.

(H) *Imposition of Discipline.* Within a reasonable time after the hearing, the Court shall make findings of fact and conclusions of law and specify the disciplinary action, if any, to be taken.

(i) The appropriate disciplinary sanction to be imposed is within the Court's discretion. However, in determining the proper disciplinary sanction, the Court may refer to the American Bar Association Standards for Imposing Lawyer Sanctions (the "ABA Standards"). In addition, the Court may, in its discretion, use as a guide any federal or state case law the Court deems helpful.

The Court may impose disciplinary sanctions only after:

(a) The respondent attorney is afforded the opportunity to present evidence and argument in mitigation; and

(b) The Special Disciplinary Counsel is afforded the opportunity to present evidence and argument regarding factors in favor of mitigation or aggravation of discipline.

The respondent attorney and the Special Disciplinary Counsel should refer to the mitigating and aggravating factors outlined in the ABA Standards when presenting evidence in mitigation or aggravation of the discipline to be imposed.

(6) *Reciprocal Discipline.*

(A) For purposes of this section, “discipline by any other jurisdiction” refers to discipline imposed by any federal or state court, bar association or other governing authority of any state, territory, possession or the District of Columbia, or any other governing authority or administrative body which regulates the practice of attorneys.

(B) For purposes of this section, “discipline by any other jurisdiction” refers only to suspension, disbarment or other disciplinary action which temporarily or permanently deprives an attorney of the right to practice law.

(C) Upon receipt of a copy of an order or other official notification that he or she has been subjected to discipline or by any other jurisdiction, an attorney who is also subject to the disciplinary jurisdiction of this Court shall provide the Clerk of Court with a copy of such disciplinary letter, notice or order.

(D) Any attorney subject to the disciplinary jurisdiction of this Court who resigns from the Bar of any other jurisdiction while disciplinary proceedings are pending against the attorney in that jurisdiction shall promptly notify the Clerk of Court of such resignation.

(E) Upon receipt of reliable information that an attorney subject to the disciplinary jurisdiction of this Court has been subjected to discipline by any other jurisdiction, or has resigned from the Bar of any other jurisdiction while an investigation or proceeding for discipline was pending, the Chief Judge, or other district judge who may be assigned to the matter, may issue an Order to Show Cause why reciprocal discipline should not be imposed by this Court. The Order to Show Cause shall contain:

(i) a copy of the order or other official notification from the other jurisdiction;

(ii) an order directing the attorney to show cause within 30 days why reciprocal discipline should not be imposed by this Court;

(iii) an order directing that the attorney produce a certified copy of the entire record from the other jurisdiction or imposing the burden of persuading the Court that less than the entire record will suffice; and

(iv) notification that failure by the attorney to file a timely response to the Order to Show Cause may be deemed to be acquiescence to reciprocal discipline.

(F) If the attorney files a response stating that he or she does not contest the imposition of reciprocal discipline from this Court, or if the attorney does not respond to the Order to Show Cause within the time specified, then the Court may issue an order of reciprocal discipline. In fashioning the sanction to be imposed, the Court may be guided by the discipline imposed by the other jurisdiction. The order imposing reciprocal discipline shall be filed by the Chief Judge or other district judge who may be assigned to the matter.

(G) If the attorney files a written response to the Order to Show Cause within the time specified, stating that he or she contests the entry of an order of reciprocal discipline, then the Chief Judge, or other district judge who may be assigned, shall determine whether an order of reciprocal discipline shall be entered. The judge shall impose an order of reciprocal discipline, unless the attorney demonstrates by clear and convincing evidence that one or more of the following elements appear from the record on which the original discipline is predicated;

(i) the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(ii) there was such an infirmity of proof establishing the misconduct as to give rise to a clear conviction that the Court should not accept as final the other jurisdiction's conclusion(s) on that subject;

(iii) the imposition of like discipline would result in a grave injustice;
or

(iv) other substantial reasons exist so as to justify not accepting the other jurisdiction's conclusion(s).

(H) The Court may, in its discretion, refer a matter of reciprocal discipline to the Committee on Discipline for evaluation pursuant to subparagraph (5) of this Rule. Nothing in this Rule requires the Court to make such a referral.

(7) *Discipline Based Upon a Criminal Conviction.*

(A) Any attorney subject to the disciplinary jurisdiction of this Court shall promptly notify the Clerk of Court of the attorney's conviction of any felony or a misdemeanor involving dishonesty or corruption, including, but not limited to, those matters listed in Rule 7.1(a)(2) (B)-(C) of the ELC (hereafter, "crime" or criminal conviction").

(B) Upon receipt of reliable proof that an attorney has been convicted of any of those matters identified in paragraph A above, the Court shall enter an order of interim suspension, suspending the attorney from engaging in the practice of law in this Court pending further order. Upon good cause shown, the Court may set aside such suspension where it appears to be in the interest of justice to do so.

(C) The Court shall forthwith issue an order to the subject attorney directing the attorney to show cause why the conviction or the facts underlying the conviction do not affect the attorney's fitness to practice law and why the attorney should not be subject to discipline based upon the conviction. The Order to Show Cause shall contain:

(i) a copy of the notification to the Court that the attorney has been convicted of a crime;

(ii) an order directing the attorney to show cause within 30 days why the criminal conviction or underlying facts do not affect the attorney's fitness to practice law and why discipline should not be imposed by this Court;

(iii) notification that failure by the attorney to file a timely response to the Order to Show Cause may be deemed acquiescence to discipline based upon the criminal conviction.

(D) If the attorney files a response stating that he or she does not contest the imposition of discipline by this Court based upon the criminal conviction, or if the attorney does not respond to the Order to Show Cause within the time specified, then the Court may issue an order of discipline.

(E) If the attorney files a written response to the Order to Show Cause within the time specified, stating that the criminal conviction or its underlying facts do not affect the attorney's fitness to practice law or stating that he or she contests the entry of an order of discipline, then the Court shall determine whether discipline should be imposed.

(F) The discipline to be imposed shall be within the Court's discretion. The Court may consider the underlying facts of the criminal conviction, the sentence imposed on the attorney, the gravity of the criminal offense, whether the crime involved dishonesty or corruption, the effect of the crime on the attorney's ability and fitness to practice law, and any other element the Court deems relevant to its determination.

(G) Upon the Court's receipt of reliable proof demonstrating that the underlying criminal conviction has been reversed or vacated, any suspension order entered under subparagraph (7)(B) and any other discipline imposed solely as a result of the conviction may be vacated.

(H) The Court may, in its discretion, refer a matter involving an attorney's criminal conviction to the Committee of Discipline for evaluation pursuant to subparagraph (5) of this Rule. Nothing in this Rule requires the Court to make such a referral.

(8) *Disciplinary Orders and Notices.*

(A) Any order of discipline, except for non-public forms of discipline, as stated in subparagraph (4)(E)-(F) herein, shall be a public record.

(B) The Court shall cause copies of all orders and notices of discipline, except for an admonition, to be given to the Clerk of the Court, the Clerk of the United States District Court for the Eastern District of Washington, the Clerk of the United States Court of Appeals for the Ninth Circuit, the Washington State Bar Association, and the appropriate disciplinary bodies in the jurisdictions in which the Court knows the disciplined attorney is admitted to practice.

(9) *Reinstatement following discipline under this Rule.*

(A) No attorney who has been suspended or disbarred under this Rule may resume practice before the Court until reinstated by order of the Court.

(B) Any attorney who has been disbarred under this Rule may not apply for reinstatement until the expiration of such period of time as the Court shall have specified in the order of disbarment.

(C) Any attorney who has been disbarred or suspended from practice pursuant to the provisions of subparagraph (6) (reciprocal discipline) may apply for reinstatement based upon a change of the attorney's status in the jurisdiction whose imposition of discipline upon the attorney was the basis for the imposition of reciprocal discipline by the Court.

(D) Petitions for reinstatement by disbarred or suspended attorneys shall be filed with the Chief Judge. Upon receipt of a petition, the Chief Judge shall set the matter for hearing by the Chief Judge or another designated judge. At such hearing, the petitioner shall have the burden of demonstrating that he or she is qualified to practice law before this Court. Following the conclusion of the hearing, the Court shall enter an appropriate order.

(E) Expenses incurred in the investigation and proceedings for reinstatement may be assessed by the Court against the petitioning attorney, regardless of the outcome of the proceedings.

(g) Appearance and Withdrawal of Attorneys

(1) Whenever a party has appeared by attorney, he cannot thereafter appear or act in his own behalf in the cause, or take any step therein, unless an order of substitution shall first have been made by the court, after notice to the attorney of such party, and to the opposite party; provided, that the court may in its discretion hear a party in open court, notwithstanding the fact that he has appeared, or is represented by attorney.

(2) When an attorney dies, or is removed or suspended, or ceases to act as such, a party to an action for whom he was acting as attorney must, before any further proceedings are had in the action on his behalf, appoint another attorney or appear in person, unless such party is already represented by another

attorney. Where there has simply been a change or addition of counsel within the same law office, an order of substitution is not required.

(3) The authority and duty of attorneys of record shall continue until there shall be a substitution of some other attorney of record, except as herein otherwise expressly provided, and shall continue after final judgment for all proper purposes.

(4)(A) No attorney shall withdraw an appearance in any cause, civil or criminal, except by leave of court. Leave shall be obtained by filing a motion or a stipulation for withdrawal or, if appropriate, by complying with the requirement of CrR5(d)(2). A motion for withdrawal shall be noted in accordance with CR7(d)(2) or CrR 12(c)(7) and shall include a certification that the motion was served on the client and opposing counsel. A stipulation for withdrawal shall also include a certification that it has been served upon the client. The attorney will ordinarily be permitted to withdraw until sixty days before the discovery cut off date in a civil case.

(B) If the attorney for a corporation is seeking to withdraw, the attorney shall certify to the court that he or she has advised the corporation that it is required by law to be represented by an attorney admitted to practice before this court and that failure to obtain a replacement attorney by the date the withdrawal is effective may result in dismissal of the corporation's claims for failure to prosecute and/or entry of default against the corporation as to any claims of other.

Entry of Appearance

An attorney eligible to appear may enter an appearance in a civil case by signing any pleading or other paper described in Rule 5(a), Federal Rules of Civil Procedure, filed by or on behalf of the party the attorney represents, or by filing a written praecipe noting the entry of his appearance and listing his correct address and telephone number.

Legal Interns

(1 Admission to Limited Practice.

Qualified law students and graduates of approved law schools may be admitted to the status of legal intern and be granted a limited license to engage in the practice of law only as provided in this rule. To qualify, an applicant must:

(A) Be a student duly enrolled and in good academic

standing at an approved law school with legal studies completed amounting to not less than two-thirds of a prescribed three-year course of study or five-eighths of a prescribed four-year course of study; or

(B) Make the application before expiration of nine months following graduation from an approved law school, and submit satisfactory evidence thereof to the court; and

(C) Certify in writing under oath that the applicant has read, is familiar with, and will abide by, the Washington State Rules of Professional Conduct and this rule.

Procedure.

The applicant shall submit an application, for which no fee shall be required, setting forth the applicant's qualifications.

(A) The application shall give the name of, and shall be signed by, the supervising lawyer who, in doing so, shall assume the responsibilities of supervising lawyer set forth in this rule if the applicant is granted a limited license as a legal intern. The supervising lawyer shall be relieved of such responsibilities upon the termination of the limited license or at an earlier time if the supervising lawyer or the applicant gives written notice to the court requesting that the supervising lawyer be so relieved.

(B) Upon receipt of the application, it shall be examined and evaluated by a district judge or magistrate judge, who shall endorse thereon its approval or disapproval.

Scope of Practice.

A legal intern shall be authorized to engage in the limited practice of law only as authorized by the provisions of this rule. A legal intern shall be subject to all laws and rules governing lawyers admitted to this court and shall be personally responsible for all services performed as an intern.

(A) A judge may exclude a legal intern from active participation in a case filed with the court in the interest of orderly administration of justice or for the protection of a litigant or witness, and shall thereupon grant a continuance to secure the attendance of the supervising lawyer.

(B) No legal intern may receive payment from a client for the intern's services. However, nothing contained herein shall prevent a legal intern from being paid for services by the

intern's employer or to prevent the employer from making such charges for the service of the legal intern as may otherwise be proper. A legal intern, the intern's supervising lawyer or a lawyer from the same office shall, before the intern undertakes to perform any services for a client, inform the client of the legal intern's status, and obtain the client's consent to be represented by a legal intern.

(C) A legal intern may advise or negotiate on behalf of a person referred to the intern by the supervising lawyer. A legal intern may prepare necessary pleadings, motions, briefs or other documents. It is not necessary in such instances for the supervising lawyer to be present.

(D) A legal intern may participate in all court proceedings, including depositions, provided the supervising lawyer or another lawyer from the same office is present. Unless otherwise ordered by the court, the supervising lawyer or another lawyer from the same office shall be present while a legal intern is participating in court proceedings. *Ex parte* and agreed orders may be presented to the court by a legal intern without the presence of the supervising lawyer or another lawyer from the same office.

(4) Supervising Lawyer.

The supervising lawyer shall be admitted to practice before this court. The supervising lawyer shall have been actively engaged in the practice of law for at least three years at the time the application is filed.

(A) The supervising lawyer or another lawyer from the same office shall direct, supervise and review all of the work of the legal intern and both shall assume personal professional responsibility for any work undertaken by the legal intern while under the lawyer's supervision. All pleadings, motions, briefs, and other documents prepared by the legal intern shall be reviewed by the supervising lawyer or a lawyer from the same office as the supervising lawyer. When a legal intern signs any correspondence or legal document, the intern's signature shall be followed by the title "legal intern" and, if the document is prepared for presentation to a court or for filing with the clerk thereof, the document shall also be signed by the supervising lawyer or lawyer from the same office as the supervising lawyer.

(B) Supervision shall not require that the supervising lawyer be present in the room while the legal intern is advising or negotiating on behalf of a person referred to the intern by the supervising lawyer, or while the legal intern is preparing

the necessary pleadings, motions, briefs, or other documents.

(C) As a general rule, no supervising lawyer shall have supervision over more than one legal intern at any one time. However, in the case of (i) the Federal Public Defender or the U.S. Attorney, the supervising lawyer may have supervision over two legal interns at one time, or (ii) a clinical course offered by an approved law school where such course has been approved by its dean and is directed by a member of its faculty, each full-time clinical supervising lawyer may have supervision over ten legal interns at one time.

(D) A lawyer currently acting as a supervising lawyer may be terminated as a supervising lawyer at the discretion of the court. When an intern's supervisor is so terminated, the intern shall cease performing any services under this rule and shall cease holding himself or herself out as a legal intern until written notice of a substitute supervising lawyer, signed by the intern and by the new and qualified supervising lawyer, is given to the court.

(E) The failure of a supervising lawyer, or lawyer acting as a supervising lawyer, to provide adequate supervision or to comply with the duties set forth in this rule shall be grounds for disciplinary action by the court.

(F) For purposes of the attorney-client privilege, an intern shall be considered a subordinate of the lawyer providing supervision for the intern.

(G) For purposes of this provisions of this rule which permit a lawyer from the same office as the supervising lawyer to sign documents or be present with a legal intern during court appearances, the lawyer so acting must be one who meets all of the qualifications for becoming a supervising lawyer under this rule.

(5) Term of Limited Admission to Practice.

A limited admission to practice as a legal intern shall be valid, unless revoked, for a period of not more than twenty-four consecutive months, provided that a person shall not serve as a legal intern more than twelve months after graduation from law school.

(A) A limited admission to practice before the court is granted at the sufferance of the court and may be revoked at any time upon the court's own motion.

(B) An intern shall immediately cease performing any services under this rule and shall cease holding himself out as a legal intern (i) upon termination for any reason of the intern's limited license under this rule; or (ii) upon the resignation of the intern's supervising lawyer; or (iii) upon the suspension or termination by the court of the supervising lawyer's status as supervising lawyer; or (iv) upon the withdrawal of approval of the intern pursuant to this rule.