



# Western Washington District Court Newsletter

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## Court News

New District Judges in the Western District of Washington

The following United States District Judges were sworn in at the Western District of Washington:

Tiffany M. Cartwright was sworn in as a United States District Judge for the Western District of Washington on August 30, 2023. Judge Cartwright will sit in Tacoma. Please view this [short biography](#) for more information on Judge Cartwright.

Kymerly K. Evanson was sworn in as a United States District Judge for the Western District of Washington on September 7, 2023. Judge Evanson will sit in Seattle. Please view this [short biography](#) for more information on Judge Evanson.

## Amendments to Local Criminal Rules

The Court posted the amendments to the Local Criminal Rules on the [Local Rules and General Orders page](#). You can review [the redlined version of the amendments](#) or review a [comparison chart of all the major changes](#).

## CM/ECF Filing News

Motion for Leave to Proceed In Forma Pauperis Update (Add all parties)

The Court modified the **Motion for Leave to Proceed In Forma Pauperis** filing event to allow you to add any additional parties who may have been omitted during the Attorney Case Opening process. When filing the motion, CM/ECF prompts you to answer this question:

**You are responsible for adding ALL parties in this case.**

Have you added all parties named in this filing?

- YES
- NO

Next Clear

If you failed to add any parties listed in the caption of your initiating document during Attorney Case Opening, answer **NO** on this screen. CM/ECF then returns you to the screen where you can **Search for a party/Add Party**. Add the omitted party or parties before clicking **Next** to proceed through the rest of the filing event. Note that you are responsible for adding all parties named in the case.

## CM/ECF Filing News cont.

### Notice of Intent to Enter a Guilty Plea

The Court created a new **Notice of Intent to Enter a Guilty Plea** event in compliance with [amended Local Criminal Rule 11\(b\)](#) (see details on page 3).

### Criminal Events → Other Filings → Notices

[Notice of Intent to Enter a Guilty Plea](#)

This amended rule requires defense counsel to file a notice if a defendant chooses to plead guilty without a written Plea Agreement. The event allows you to select the party you represent and upload the PDF document. For more details on the amended LCrR 11(b), see page 3: [LCrR 11\(b\): Entering a Plea Without an Agreement](#).

### CM/ECF Training Classes Temporarily Suspended

We will not be able to offer CM/ECF training classes between August and November 2023 due to national system maintenance. The training CM/ECF application will also be unavailable for the same period of time. To learn how to e-file while the training classes and application are unavailable, check out the [CM/ECF Training Videos](#) and [other resources](#) on the Court's website, or feel free to contact ECF Support at 206-370-8440, x2 or [cmecf@wawd.uscourts.gov](mailto:cmecf@wawd.uscourts.gov) with specific e-filing questions.

### Local Criminal Rules Amendments (LCrR)

The Local Criminal Rules (LCrR) were updated with several amendments. You can review all amendments including a redlined version and a comparison chart of changes on our [Local Rules and General Order page](#). Below you will find a summary of changes.

### Incorporation of Local Civil Rules into Local Criminal Rules

LCR Rule	LCrR Rule Incorporation
LCR 1(c) Definitions	CrR 1
LCR 1(d) Prohibition of Bias	CrR 1
LCR 3(c) Initial Case Assignment	CrR 5(a)(3)
LCR 3(f) Motions to Recuse	CrR 12(d)
LCR 5(b) Service by Electronic Means LCR 5(d) Electronic Filing and Signing LCR 5(f) Proof of Service	Edited to remove duplication and direct contradiction with Fed. R. Crim. P. 49 (Serving and Filing Papers). Remaining language moved to CrR 49.
LCR 5(g)(2) Sealing Requirements	CrR 49.1
LCR 5(g)(6) Withdrawing Unsealed Document	
LCR 6 Computing and Extending Time	CrR 45

# CM/ECF Filing News cont.

Incorporation of Local Civil Rules into Local Criminal Rules cont.

LCR Rule	LCrR Rule Incorporation
LCR 10 Form of Pleadings, Motions and Other Filings	CrR 12(e)
LCR 11 Signing Filings; Sanctions	CrR 62.5
LCR 47(a) Examination of Jurors	CrR 24
LCR 65.1 Bonds	CrR 46
LCR 67 Registry Funds	CrR 38
LCR 77 Conducting Business; Clerk’s Authority	CrR 56
LCR 78 Photography, Broadcasting, and Personal Electronic Devices in the Courthouse	Incorporated into CrR 53 to track Fed. R. Crim. P. 53.
LCR 79(f) Files-Custody and Withdrawal	CrR 55
LCR 79(g) Custody and Disposition of Exhibits, Depositions	
LCR 83.1 Attorneys; Admission to Practice	CrR 62.1
LCR 83.2(b) Withdrawal of Attorneys	CrR 62.2
LCR 83.3 Standards of Professional Conduct; Continuing Eligibility to Practice; Attorney Discipline	CrR 62.3
LCR 83.4 Legal Interns	CrR 62.3

## Local Criminal Rules Amendment summaries

### Introduction

Summary: New Introduction to the Rules. Addresses authority of the local rules and duties regarding professionalism; directs parties to other sources of Court information.

### LCrR 1(a): Scope

Summary: Removes references to the Local Civil Rules (LCR) that apply to criminal matters. Parties will not need to reference the LCR when dealing with criminal cases. LCR previously located here are now incorporated within the LCrR (see Incorporation of Local Civil Rules section).

### LCrR 1(b): Definitions

Summary: Adds additional definitions to assist parties when reviewing the rules.

### LCrR 5(h): Release From Custody—Bail/Detention

Summary: Specifies when the Court can schedule or hold a detention hearing and when the person should be released from custody.

*At the initial appearance, the court can schedule or hold a detention hearing only if the case involves one of the circumstances in 18 U.S.C. § 3142(f). If the record does not establish that the case involves one of the circumstances in § 3142(f), the magistrate judge must immediately release the person pursuant to 18 U.S.C. §§ 3142(b) or 3142(c).*

*(1) On federal criminal charges, see CrR 46.*

*(2) On Probation and Supervised Release violations, see Fed. R. Crim. P. 32.1 and 46.*

## CM/ECF Filing News cont.

Local Criminal Rules Amendment summaries cont.

### LCrR 5(i): **Request to Recall Warrant of Removal**

Summary: Specifies that the United States Attorney's Office must notify the Court when a charging district has dropped all charges against defendant(s).

*The United States Attorney's Office must immediately notify the Court whenever it becomes aware that a charging district has dropped all charges against a defendant who has been ordered transferred to that district under Fed. R. Crim. P. 5(c)(3) but the transfer has not taken place. The United States Attorney should do so by filing a Request to Recall Warrant of Removal in the case in which the transfer was ordered and notifying the Magistrate Judge on duty when the Request is filed.*

### LCrR 11(b): **Entering a Plea Without an Agreement**

Summary: Specifies responsibilities of defense counsel when a defendant pleads guilty without a written plea agreement.

#### *(b) Entering a Plea Without an Agreement*

##### *(1) through (3) Reserved*

*(4) If a defendant chooses to plead guilty without a written Plea Agreement, defense counsel must file a Notice of Intent to Enter a Guilty Plea, which includes the following information:*

*(A) The counts and offenses to which the defendant intends to plead guilty;*

*(B) The elements of each offense;*

*(C) The minimum and maximum penalties of each offense;*

*(D) Known collateral consequences of the guilty plea;*

*(E) A statement of facts the defendant is prepared to admit under oath; ~~and~~*

*(F) A statement by counsel that he or she has reviewed the rights the defendant waives upon entry of a guilty plea; and*

*~~(A)~~(G) A statement verifying that counsel has relayed all plea offers and that the defendant did not accept them.*

### LCrR 12(b): **Motion Procedure**

Summary: Specifies noting dates and response/reply deadlines for pleadings and pretrial motions. Specifies word limits of pleadings and requirement to include total word counts within signature blocks when word limits apply.

### LCrR 16(a): **Discovery Conference**

Summary: Provides the option of a videoconference for discovery conference.

*At every arraignment at which the defendant enters a plea of not guilty, or other time set by the court, the attorney for the defendant shall notify the court and the attorney for the United States, on the record, or thereafter in writing, whether discovery by the defendant is requested. If so requested, at the Fed. R. Crim. P. 16.1(a) discovery conference no later than 14 days after the arraignment, the attorney for the defendant and the attorney for the government shall, if reasonably feasible, comply with the obligations imposed by subsections 16(a)(2) and 16(a)(3) of this rule and try to agree on a timetable and procedures for pretrial disclosure to the opposing party of any additional information in their custody or control or which by due diligence may become known to them. This conference shall be in person **or conducted virtually via videoconference technology**. If, however, it is impractical to meet in person **or via videoconference**, the conference may be conducted via telephone.*

### LCrR 16(a)(1): **Proposed Topics for Discussion**

Summary: Indicates Appendix C and D within the LCrR provide examples of case scheduling orders, including an example scheduling order for a complex case due to the volume of discovery or the nature of the case.

*Appendix C to the Local Criminal Rules is an example case scheduling order. Appendix D to the Local Criminal Rules is an example case scheduling order for complex cases due to the volume of discovery or the nature of the case, regardless of being designated as complex by the court.*

## CM/ECF Filing News cont.

### LCrR 16(d): **Expert Disclosures**

Summary: Specifies responsibilities and deadlines related to expert disclosures and proposed case scheduling order.

*(1) Within 7 days of the discovery conference or 21 days from the date of arraignment, whichever is earlier, the parties shall submit to the Court a proposed case scheduling order with expert disclosures under Fed. R. Crim. P. 16(a)(1)(G) and Fed. R. Crim. P. 16(b)(1)(C), along with any other case scheduling timelines that the parties believe are appropriate.*

*(2) If no proposed case scheduling order setting expert disclosure due dates is submitted (i) the government shall disclose no later than 30 days before trial any expert testimony it intends to use at trial in its case-in-chief under Fed. R. Crim. P. 16(a)(1)(G); (ii) the defendant shall disclose no later than 14 days before trial any expert testimony it intends to use at trial in its case-in-chief under Fed. R. Crim. P. 16(b)(1)(C); and (iii) the government shall disclose no later than 7 days before trial any expert testimony it intends to use in rebuttal under Fed. R. Crim. P. 16(a)(1)(G).*

### LCrR 23.1: **Expert Disclosures, Jury Instructions, Exhibit Lists, Witness Lists, Trial Brief, and Motions in Limine**

Summary: Combines previous sections (23.2: Motions in Limine, 23.3: Exhibit Lists and Witnesses) into one section and updates section title and references to previous sections related to expert disclosures.

*Unless a scheduling order with different deadlines has been adopted, the parties shall abide by the following deadlines.*

*(1) Expert Disclosures. See CrR 16(d)(2) for when parties fail to submit a proposed case scheduling order setting expert disclosure dates.*

*(2) Proposed Instructions. See CrR 30.*

### LCrR 24(d): **Contacting Jurors**

Summary: Addresses requirement for leave to contact jurors post-trial.

*Counsel shall not contact or interview jurors or cause jurors to be contacted or interviewed after trial without first having been granted leave to do so by the court.*

### LCrR 26(a): **Procedure at Trial**

Summary: Clarifies that requirement to rise upon making an objection only applies to those who are able. If unable, advance notice should be provided to the court.

*(2) Unless otherwise permitted by the court, counsel shall conduct the examination of witnesses and argument to the court or jury from the lectern, and counsel shall rise upon making objections or otherwise addressing the court, unless unable to do so due to a disability-related or health-related condition. Advance notice should be provided, when appropriate. See <https://www.wawd.uscourts.gov/visitors/access> for information regarding accommodations.*

### LCrR 30(f): **Jury Note**

Summary: Specifies procedure following receipt of a note from the jury by the Court.

*If the jury sends the court a note, the court shall notify the parties. In open court, but outside the jury's presence, the court shall allow each side to be heard on the note and the court's proposed response to it. If the court determines that the note requires an answer, the court shall give the answer to the jury in open court with the parties present. The court may instead give the answer in writing if there is no objection from the parties.*

*Both the note and any written response should be entered on the docket as part of the trial record.*

### LCrR 32.1: **Revoking or Modifying Probation or Supervised Release**

Summary: Adds additional sections (b)(2) **Evidentiary Hearing** addressing responsibilities of the U.S. Probation and Pretrial Service Office and (d) **Confidentiality** designating what should be filed under sealed, how long it should remain sealed, and to whom and when the sentencing report should be disclosed.

## CM/ECF Filing News cont.

### LCrR 35(d): **Motions to modify an imposed term of imprisonment under 18 U.S.C. § 3582(c)**

Summary: Specifies obligations of movant, opponents, and reply brief deadline.

*(1) Obligations of movant. A party moving to modify an imposed term of imprisonment under 18 U.S.C. § 3582(c) shall serve the motion on each party that has appeared in the action. The argument in support of the motion may be submitted as part of the motion itself and need not be made in a separate document. If the motion requires consideration of facts not appearing in the record, the movant shall serve and file copies of all evidence offered in support of the motion. The movant shall note the motion for 40 days after the motion is filed.*

*(2) Obligations of opponent. A party opposing the motion shall have 30 days to file an opposition to the motion and any supporting material.*

*(3) Reply brief. The moving party may, but is not required to, file a reply brief in support of the motion within 10 days of the opposition, together with any supporting material.*

### LCrR 41(d)(3): **Search Warrant Applications by Telephone or Other Reliable Electronic Means**

Summary: Specifies that the affiant may be required to appear personally to present the search warrant application at the discretion of the magistrate judge.

*The presumption is that search warrant applications will be presented to the magistrate judge via a written affidavit sworn to by telephone or other reliable electronic means. At the discretion of the magistrate judge, the affiant may be required to appear personally to present the search warrant application. If the preparation of a written affidavit is not possible, the testimony may be recorded. Whenever possible, the magistrate judge shall have voice recording equipment available to record all telephonic applications for search warrants ...*

*(B) The magistrate judge must decide whether the circumstances are such that it is reasonable to dispense with the written affidavit and permit the warrant application to be presented via a telephonic search warrant application. One factor the*

*magistrate judge should consider in making this determination is the possibility that if a search warrant were not issued pursuant to the telephone application, there would be a significant risk that evidence would be destroyed ...*

*If the warrant application is made by sworn oral testimony, whether by telephone or in person, on the first day following the issuance of such a search warrant, the magistrate judge shall have a duplicate recording made of the oral testimony, and furnish that recording to the United States Attorney's Office who shall cause a transcription of the recording to be made and returned to the magistrate judge.*

### LCrR 55(a): **Files—Custody and Withdrawal**

Summary: Outlines procedures for custody and withdrawal of files.

*All files and records of the court shall remain in the custody of the clerk and no record or paper belonging to the files of the court shall be taken from the custody of the clerk without a special order of the court or judge and a proper receipt signed by the person obtaining the record or paper. No such order will be made except upon urgent grounds stated in a written application for such order.*

*Custody and Disposition of Exhibits, Depositions – After being marked for identification, all exhibits, except weapons, drugs, or other sensitive materials, shall be placed in the custody of the clerk during the duration of the trial, unless otherwise ordered by the court. Any weapons or other sensitive exhibits shall be held in the custody of the counsel offering the exhibits during the trial. Upon completion of the trial, all exhibits shall be returned to counsel offering them, unless otherwise ordered by the court. A party or his attorney who has custody of an exhibit shall keep it available for the use of the court or an appellate court, and shall grant the reasonable request of any party to examine or reproduce the exhibit for use in the proceeding. This obligation shall continue until any appeal has been finally resolved or time for filing a notice of appeal or petition for writ of certiorari has expired.*