

## LCR 40 ASSIGNMENT OF CASES

### (b) STATUS CONFERENCES, MEDIATION, TRIAL SETTING CONFERENCES

#### 1. Status Conferences.

1.1 A status conference may be assigned at the time a case is filed, by notice from the court administrator's office, or upon motion of any party.

1.2 At the status conference, the court may set a discovery schedule, mediation deadline, a trial setting conference date, and other dates and deadlines as necessary, or may transfer the case to arbitration.

#### 2. Mediation.

2.1 **Presumption of Mediation.** It is presumed that all contested civil and family law matters, with the following exceptions, will have completed mediation prior to a trial date being assigned:

- Dependencies and termination of parental rights;
- Uniform Parentage actions, up until establishment of paternity;
- Matters in which a domestic violence or sexual assault protection order is in place;
- Petitions for Civil Commitment (Sexual Predators);
- Actions regarding seizure of property by the State;
- Matters that have been previously mediated consistent with the standards set forth in this rule; and
- By court order upon motion of any party, upon the court's determination that there is good cause not to require mediation.

Any party may move the court for an order that there is good cause to require mediation in any matter, including those cases designated as exceptions above.

2.2 **Mediators.** Parties may stipulate to a mediator from the Mediation Panel established by the court or other mediator not on the Mediation Panel who has qualifications and knowledge of the subject matter. If the parties cannot agree, the court shall upon motion by any party appoint a mediator. Appointment of a mediator is subject to the mediator's right to decline to serve.

2.3 **Cost of Mediation.** Parties may stipulate to the allocation of mediation costs. If the parties are unable to agree, the court will order the same upon motion of any party.

#### 2.4 **Mediation Orders and Process.**

2.4.1 **Mediation Status and Terms.** If the parties agree as to mediation status and/or terms, they may so stipulate and submit an agreed order for the court's approval prior to

the mediation deadline. If the parties are unable to agree to the status and/or all terms of mediation, a party may file and note a motion for entry of an order setting the status and terms of mediation.

**2.4.2 Litigation Process During Period of Mediation.** Pending mediation, all litigation processes such as discovery, motions for temporary orders, and motions for dispositive orders shall continue.

**2.4.3 RCW ch. 7.07.** All mediations undertaken pursuant to this Rule are subject to the provisions of RCW ch. 7.07, the Uniform Mediation Act, including its requirements regarding privilege and confidentiality.

**2.4.4 Civil Mediation Statements.** In civil actions, all parties shall prepare and deliver a Civil Mediation Statement to the mediator and opposing parties, no later than five working days prior to the mediation. The statement shall not be filed with the court.

**2.4.5 Family Law Mediation Statement or Family Law Information Form.** In family law actions, all parties shall prepare and deliver a Family Law Mediation Statement or Family Law Information Form to the mediator, opposing parties, and the State of Washington, if the State is a party, no later than five working days prior to the mediation. The Family Law Information Form is available on the Mason County Superior Court website. The statement or form shall not be filed with the court.

**2.4.6 Appearance at Mediation.** The parties shall appear in person at mediation unless otherwise agreed to by the parties or the court orders in advance that they may be present by telephone or electronic means sufficient to allow full participation. Each party shall ensure the presence of a person or persons with decision making authority at the mediation.

**2.4.7 Mediation Report.** Within five days after completion of mediation, the parties shall file a Mediation Report indicating whether the case has been resolved. A copy of the Mediation Report shall be provided to the court administrator's office.

### 3. **Discovery.**

Discovery shall be completed in accordance with the case schedule set at the time the case is filed or at a status conference. Exceptions will be made only upon prior approval of the court, and for good cause.

### 4. **Trial Setting Conference.**

4.1 A date for a trial setting conference may be set at the time case is filed, at a status conference, by notice from the court administrator's office, or upon motion of any party. A party may also request an accelerated trial date by motion at any time prior to the trial setting conference date.

4.2 Trial setting conferences shall not be continued absent a showing of good cause

and upon prior approval of the court.

4.3 At the trial setting conference, the court shall consider compliance with dates and deadlines, the status of mediation, and readiness for trial.

5. **Sanctions for Noncompliance.**

Failure to comply with deadlines, dates, or other requirements set out in these rules, or failure to appear at a conference set by the court, may result in sanctions being imposed, including terms. The court may also strike a trial date if mediation has not been completed by the applicable deadline.

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