

## **PCLR 7 MOTIONS: JUDGES AND COMMISSIONERS**

### **(a) Judges' Motions and Trial Assignments**

**(1) When Heard.** All motions, except motions during trial or those motions heard by the Commissioners as set forth below, shall be heard on the assigned judicial department's motion calendar. All contested motions to change venue and all discovery motions shall be heard before the assigned judicial department. Any agreed orders regarding motions to change venue may be presented to the Ex Parte Division. No contested summary judgment motions, motions to dismiss, or other such motions which might effectively terminate a case shall be heard except by the assigned judicial department, unless otherwise directed by the Presiding Judge or by the assigned judicial department. Motions are heard on Friday mornings at 9:00 a.m., unless specially set by the assigned judicial department. In the event a Friday is a non-judicial day, motions shall be heard on the judicial day immediately preceding the Friday.

**(2) Recess Schedule.** Motions and assignments regularly scheduled for a time when a judicial department is at recess shall be heard in the manner and in accordance with the schedule determined by the Judges.

### **(3) Scheduling Motions and Trial Assignments.**

**(A) Motions.** Motions shall be scheduled for hearing by filing a Note for Motion Docket, in a form approved by the court, and containing all information required by such form. The Note for Motion Docket shall be filed with the motion and supporting documents and served upon the opposing party at the same time. The Note for Motion Docket, motion, and supporting documents shall be filed with the Clerk and served on the opposing party no later than the close of business on the seventh court day before the day set for hearing. For example, if the motion is scheduled for a Friday, it shall be filed by the close of business on the Wednesday of the week before the hearing date unless there is an intervening court holiday. This rule shall not relieve the moving party from any greater notice or filing requirements established by law or court rule. See [PCLR 7\(c\)\(1\)\(2\) & \(3\)](#) regarding Motions for Reconsideration to be heard before a judge. See also [PCLSPR 98.20](#) regarding periodic guardianship hearings.

**(B) Trial Assignments.** If the attorneys or any self-represented party fails to appear on the date set for assignment of a trial date, the case shall be dismissed without prejudice unless the assignment of a trial date has been previously obtained or the case has been fully resolved with the entry of all final documents.

**(4) Failure to File or Serve - Sanctions.** If the motion, supporting documents, and Note for Motion Docket are not all filed with the clerk, the court may strike the motion. No motion shall be heard unless proof of service upon the opposing party is filed no later than the time set forth for confirmation of motions under PCLR 7(a)(9) or there is an admission of such service by the opposing party. The court may also, in its discretion, impose terms upon the offending party.

**(5) Opposing Papers.** Any party opposing a motion shall file and serve responsive papers in opposition to a motion not later than 12:00 noon three (3) court days before the date the motion is scheduled for hearing.

**(6) Reply.** Any papers in strict reply shall be served no later than 12:00 noon two (2) court days before the date the motion is scheduled for hearing.

**(7) Working Copies.** The assigned judicial department shall be furnished with a working copy of all motion papers. The working copies shall be delivered either directly to the judicial department or to the Court Administrator's office. Anyone e-filing motion papers shall be responsible for ensuring working copies are timely provided to the assigned judicial department. All working copies are to be delivered no later than the date and time they are required to be served on opposing parties. The working copies of papers in support or opposition shall be marked on the upper right corner of the first page with the date of hearing and the name of the Judge. A fax or email transmittal of working copies shall not be acceptable delivery. For a motion that is re-noted, a new set of working copies shall be provided, absent permission of the Court.

**(8) Page Limits.** The initial motion and opposing memorandum shall not exceed twelve (12) pages without authorization of the court; reply memoranda shall not exceed five (5) pages without the authority of the court. Provided, however, for Motions for Summary Judgment pursuant to [CR 56](#) the parties' moving and opposing memoranda shall not exceed twenty-four (24) pages without authorization of the court; reply memoranda shall not exceed twelve (12) pages without authority of the court.

**(9) Confirmation of Motions.** All motions shall be confirmed by the moving party ~~during the week of the hearing~~ no earlier than five (5) court days prior to the motion, but no later than 12:00 noon three (3) court days prior to the hearing (e.g. for a Friday motion without any intervening holidays, no earlier than the Friday the week before, and no later than the Tuesday the week of the hearing by 12:00 noon). Attorneys and any self-represented party shall confirm motions by contacting the judicial assistant of the assigned judicial department or electronically, through the internet by those with LINX accounts and PIN (Personal Identification Numbers), in accordance with the procedures adopted by the Pierce County Superior Court Clerk's Office. Motions filed by those persons physically confined under a court order shall be deemed confirmed at filing. The court may strike motions that are not timely confirmed. For information regarding confirmation of motions before a Court Commissioner, please refer to PCLR 7(b)(1)(D)(iii) for show cause calendar motions or PCLSPR 94.04(c)(6) for family law motions.

**(10) Procedures for Hearing.** The cases on the motion docket for each motion day shall be called and oral argument may be presented. Motions may be continued by the court, at the court's discretion, for hearing at other specified times. The trial court may, in its discretion or for good cause shown, waive oral argument for civil motions. Motions requiring more than ten (10) minutes for argument may be placed at the end of the calendar.

#### **(11) Motions for Summary Judgment**

**(A) Scheduling the Motion.** The Note for Motion Docket shall be filed with the motion and supporting documents and served upon the opposing party at the same time. The Note for Motion Docket, motion, and supporting documents shall be filed with the Clerk and served on the opposing party no later than the close of business on the 28<sup>th</sup> day before the day set for hearing. For example, if the motion is scheduled for a Friday, it shall be filed by the close of business on the fourth Friday before the hearing date.

**(A)(B) Confirmation of Motions.** All motions for summary judgment shall be confirmed in the manner prescribed by [PCLR 7\(a\)\(9\)](#) above. Any motion for summary judgment not confirmed shall be stricken. No hearing upon a motion for summary judgment shall be continued except upon the explicit permission of the assigned Judge. Any summary judgment motion that is continued shall be reconfirmed as set forth above.

**(B)(C) Testimony.** If testimony transcribed at any pretrial deposition is used in support of or in opposition to a motion for summary judgment, such testimony shall be presented by affidavit containing excerpts of the testimony relied upon by the party using such testimony, with reference to the line and the page of source.

**(C)(D) Page Limits.** See [PCLR 7\(a\)\(8\)](#) regarding Motion for Summary Judgment page limits.

**(12) Motions for Revision of a Commissioner's Order or Judgment** (this rule does not apply to [CR 54\(b\)](#) revision motions). At the time a motion for revision is filed, the moving party shall provide the reviewing court copies of all documents submitted by all parties that were considered by the Court Commissioner in making the decision sought to be revised.

**(A) Timing.** Within ten (10) days of the entry of a written order or judgment by a Court Commissioner, either party may file a motion for revision pursuant to Local Rule 7(a)(3)(A), absent an order shortening time. The transcript, if required, shall be filed as per subsection (E) of this rule. Such motion shall be scheduled for argument on the assigned judicial department's ~~calendar next available motion date but no sooner than seven (7) court days from the Commissioner's written order or judgment sought to be revised, unless upon an order shortening time, and~~ no later than 30 days from the Commissioner's written order or judgment sought to be revised except for good cause shown.

**(B) Validity of Commissioner's Orders.** All orders granted by a Court Commissioner shall remain valid and in effect pending the outcome of the motion for revision, unless stayed pending the outcome of a motion for revision by the Court Commissioner granting the order, the Presiding Judge, or the assigned Judicial Department to whom the motion for revision has been assigned.

**(C) Content of Motion.** All motions and cross-motions shall state with specificity any portion of the Commissioner's order or judgment sought to be revised, identifying those portions by paragraph or page and line numbers. Any portion not so specified shall be binding as if no revision motion has been made.

**(D) Costs and Fees.** The judicial department has the right to award reasonable costs or attorneys fees where allowed on all motions for revision without the necessity of a written motion.

**(E) Transcript Required.** When seeking revision of a ruling of a Court Commissioner which was based upon sworn testimony, such testimony shall be transcribed in accordance with [RAP 9.2\(e\) and \(f\), GR 35, and PCLGR 35](#). The transcript shall be filed no later than six (6) court days prior to the scheduled hearing date.

**(13) Juvenile Court Orders and Judgments.** Revision of orders and judgments made by a Court Commissioner sitting in the Juvenile Court Division shall be heard by a Judge sitting in the Juvenile Court Division.

**(b) Commissioners' Motions**

**(1) Civil Divisions A, B, C, D, and Ex Parte.** Court Commissioners hear and decide all matters brought before these divisions as set forth below.

**(A) Working Copies No Longer Required.** For all Civil Divisions, working copies shall no longer be submitted. Except as provided in [\(E\)](#) below, every attorney and self-represented party shall submit in advance a Hearing Information Form; family law cases shall use the Family Law Hearing Information Form ([Form T](#)) described in [\(E\)](#) below; ~~all~~ other civil matters shall use the Civil Hearing Information Form ([Form U](#)) described in [\(E\)](#) below. Failure to timely provide the appropriate Hearing Information Form may result in the hearing being stricken or continued.

**(B) Subject Matter.** The function of these Civil Divisions is to hear applications for show cause orders, motions for temporary orders, petitions to modify child support, initial determination of adequate cause and show cause hearings on Petitions to Modify Parenting Plans and Non-parental Custody Petitions, temporary relocation hearings, probates, trust and guardianship matters (except for annual periodic reviews and initial hearings under TEDRA if live testimony is to be presented or the hearing will likely last longer than twenty minutes, which are heard by the assigned Judicial Department on its Friday motion docket), minor settlements, unlawful detainer actions, applications for appointment of a receiver, restraining orders, defaults eligible for presentation in the Ex Parte Division wherein no notice is required, supplemental proceedings, paternity actions, contested show cause proceedings, domestic violence, vulnerable adult protection hearings, initial and uncontested sexual assault protection hearings, anti-harassment and anti-stalking protection hearings, uncontested/default dissolutions, committed intimate relationships (meretricious

relationships), domestic partnerships, parenting plans, and ex parte matters. Court Commissioners do not hear discovery motions.

**(C) Schedule.** The [Schedule of Commissioners' Calendars](#) for each division is contained in Appendix, [Form Q](#), and at the Pierce County Superior Court website: <http://www.co.pierce.wa.us/1024/Commissioner-Calendars-by-Division>. The Schedule of the Commissioners' Calendars may be changed without formal republication of these rules or appendices. Parties and counsel are advised to verify calendar schedules before noting matters for hearing and by viewing the Pierce County Superior Court website for any revisions to the Commissioners' Calendars. Incorrectly scheduled matters shall be stricken.

**(D) How Motions Initiated.** Attorneys shall electronically file a Note for Commissioners Calendar by using the electronic filing and scheduling process provided by LINX via the public website (<https://linxonline.co.pierce.wa.us/linxweb/Main.cfm>) or from a public kiosk in the Clerk's Office for all Commissioners' dockets held at the County-City Building, 930 Tacoma Avenue South, Tacoma, WA 98402, except for the self-represented dissolution docket, domestic violence, vulnerable adult protection orders, and sexual assault protection orders. See also [PCLSPR 94.04](#) regarding family law motions, [PCLSPR 98.04](#) regarding Estates and Probates, [PCLSPR 98.16W](#) regarding Settlements of Minors and Incapacitated Persons, [PCLSPR 98.18](#) regarding Court Created Trusts, and [PCLSPR 98.20](#) regarding Guardianships for specific procedures about these types of motions on the Commissioners' dockets. Self-represented parties may contact the Clerk's Office for a LINX e-filing account or use the Clerk's Office kiosk to file and schedule a Note for Commissioners Calendar. **Waiver of Requirement to E-file.** See [PCLGR 30\(b\)\(5\)\(C\)](#).

**(i) Docketing for Morning Show Cause Calendars.** Matters heard on the show cause calendar at 9:00 a.m. shall be docketed by electronically filing and scheduling in accordance with [PCLR 7\(b\)\(1\)\(D\)](#) a Note for Commissioner's Calendar at least fourteen (14) calendar days before the hearing, simultaneously with a motion and/or notice of hearing and any supporting pleadings, unless this is a renote of a motion or notice of hearing previously filed in which event only the Note for Commissioner's Calendar shall be e-filed. The morning show cause cases heard shall be limited in number. Case caps shall be calculated in LINX based on the number of cases rather than the Note for Commissioner's Calendar. Leave may be granted by a duly appointed Commissioner, not a Commissioner Pro Tem, to exceed the number of cases heard on any given day in that Commissioner's Division.

**(ii) Counter Motions for Morning Show Cause Calendars.** In the event there is an existing motion and the responding party wishes to file a counter motion to be heard the same date they may do so without leave of the court by electronically filing and scheduling in accordance with [PCLR 7\(b\)\(1\)\(D\)](#) a Note for Commissioner's Calendar, as long as the counter motion and all supporting pleadings are filed and served at least fourteen (14) calendar days before the hearing. Any necessary Order to Show Cause for the counter motion shall be signed by the Ex Parte Division.

**(iii) Confirmation of Show Cause Calendar Motions.** All motions docketed for the morning show cause calendars shall be confirmed by the moving party not later than 12:00 noon two (2) court days prior to the hearing. Attorneys and any self-represented party shall confirm motions by contacting the Commissioner Services Department or electronically, through the internet by those with LINX accounts and PIN (Personal Identification Numbers), in accordance with the procedures adopted by the Pierce County Superior Court Clerk's Office. Motions filed by those persons physically confined under a court order shall be deemed confirmed at filing. The court may strike motions that are not timely confirmed.

**(E) Family Law Hearing Information Form ([Form T](#)).** For matters docketed on the morning show cause calendars in Civil Divisions A, B, and C, whether by Note for Commissioner's Calendar or by the Order Setting Case Schedule, a Family Law Hearing Information Form (Form T) shall be filed and served listing all motions, petitions, and supporting documents, including affidavits, declarations, certified statements, Guardian ad litem reports, sealed financial source documents, sealed confidential reports, and

responsive and reply documents the attorneys or self-represented parties want the court to review for the hearing. Pleadings for the morning show cause calendars are subject to page limits pursuant to [PCLSPR 94.04\(c\)\(5\)](#).

Both the moving party and the responding party shall file their Family Law Hearing Information Forms ([Form T](#)) by using the Clerk's electronic filing process as defined in [PCLGR 30\(b\)\(5\)\(C\)](#) no later than 12:00 noon two (2) court days prior to the scheduled hearing. Proposed orders are addressed in (G) below.

**(F) Civil Hearing Information Form ([Form U](#)).** For matters docketed on the afternoon probate/trust, guardianship, ~~unlawful detainer~~, sale of structured settlement, ~~and~~ minor settlement, ~~vulnerable adult protection order, parentage, and domestic violence protection order~~ calendars in Civil Divisions A, ~~B,~~ ~~and C,~~ a Civil Hearing Information Form (Form U) shall be filed and served listing all motions, petitions, and supporting documents, including affidavits, declarations, certified statements, Guardian ad litem reports, and responsive and reply documents the attorneys or self-represented parties want the court to review for the hearing. Both the moving party and the responding party shall file their Civil Hearing Information Forms (Form U) by using the Clerk's electronic filing process as defined in [PCLGR 30\(b\)\(5\)\(C\)](#) no later than 12:00 noon two (2) court days prior to the scheduled hearing. ~~Exceptions from this requirement are the Prosecutor's afternoon calendars in Civil Division C and responsive pleadings in unlawful detainer and civil protection order matters.~~ Proposed orders are addressed in (G) below.

**(G) Proposed Orders.** In all family law and unlawful detainer matters, attorneys and self-represented parties shall have proposed orders prepared for presentation to the court at the time of the hearing. For probate/trust, guardianship, and minor settlement cases, proposed orders shall be provided when submitting the Civil Hearing Information Form (Form U).

**(2) Juvenile Division Calendars.** Court Commissioners hear and decide matters arising under the juvenile laws and other matters at the request of the Presiding Juvenile Court Judge, including finalization of adoptions.

**(3) Civil Mental Health Division.** Court Commissioners hear matters arising in this division as set forth in [PCLR 0.4\(a\)\(3\)](#), except where a trial by jury is requested. Jury trials are assigned to one of the judicial departments by the Court Administrator.

**(c) Motions held before Judges or Commissioners**

**(1) Motions for Reconsideration.** A Motion for Reconsideration shall be heard by the Judge or Commissioner who initially ruled on the motion or to the Presiding Judge or his/her designee upon a showing of good cause. Temporary assignment of the Judge or Commissioner to a location other than the courthouse shall not be considered good cause. No Motions for Reconsideration of Pro Tem Commissioners' rulings are permitted.

**(2) Time for Motions for Reconsideration.** A Motion for Reconsideration shall be filed within 10 days and noted for hearing within 30 days after entry of the judgment, decree, or order. The motion shall be noted on the civil motion docket of the Judge or Commissioner that heard the original motion. Though noted on the civil motion docket, no hearing on the motion will be held unless specifically requested by the Court, as per PCLR 7(c)(3). A proposed order shall be delivered along with working copies in accordance with [PCLR 7\(a\)\(7\)](#) or [7\(b\)\(1\)\(E\)](#).

**(3) Disposition of Motion for Reconsideration.** No response to a motion for reconsideration shall be filed unless requested by the Court. No motion for reconsideration will be granted without such a request. If a response is called for, a reply may be filed within two days of service of the response. Motions for Reconsideration will be decided on briefs and affidavits only, unless the Court requests oral argument. In that event, the Court will contact the parties to set a hearing date.

**(4) Motion and Order to Shorten Time.**

**(A) Motions to Shorten Time.** All Motions to Shorten Time shall be in writing and supported by declaration or affidavit that (a) states the reasons why the matter should be heard on shortened time and (b)

sets forth the manner and method by which notice, or attempted notice, was provided to all other parties regarding presentation of the Motion to Shorten Time. If the moving party has been unable to notify all parties of the Motion to Shorten Time, it is within the judicial officer's discretion to proceed with the Motion to Shorten Time.

**(B) Judicial Department Motions.** If the underlying motion is to be heard by a Judge, the moving party shall contact that department's judicial assistant to obtain a date and time for the hearing on the Motion to Shorten Time. The moving party shall make a good-faith effort to notify all other parties of the date, time, and place of the hearing. The Motion to Shorten Time and the underlying motion shall be filed and served pursuant to [PCLGR 30](#), except that hard copies shall also be delivered to the assigned judicial department. If the assigned judicial department is not available to hear the Motion to Shorten Time, the matter shall be heard by the Presiding Judge. If the Presiding Judge is not available, the moving party shall contact Superior Court Administration for additional information as to which Judge can hear the Motion to Shorten Time.

**(C) Commissioner Motions.** If the underlying motion is to be heard by a Commissioner, the Motion to Shorten Time and the underlying motion shall be presented to the Ex Parte Division. The Motion to Shorten Time shall be heard by a duly appointed Court Commissioner and not a Commissioner Pro Tem. If granted, a copy of the Order Shortening Time and Note for Commissioner Docket shall be given to the Commissioner Services Department.

**(D) Notice.** The party requesting the Order to Shorten Time shall notify all other parties of the Motion to Shorten Time and the date, time, and place of the hearing on the motion. Any party opposing the Motion to Shorten Time shall appear or respond by declaration or affidavit setting forth the basis of the opposition. Failure to appear or respond to the Motion to Shorten Time does not preclude a party from requesting terms.

**(E) Service.** If the Motion to Shorten Time is heard without notice to other parties and granted by the appropriate judicial officer, the moving party shall provide a copy of the pleadings relating to the Motion to Shorten Time as well as to the underlying motion to all other parties as soon as possible or as otherwise directed by the Court.

**(5) Reapplication.** No party shall reargue the same motion to a different judicial officer without showing by affidavit what motion was previously made, when and to which judicial officer, what the order or decision was, and any new facts or other circumstances that would justify seeking a different ruling from another judicial officer.

**(6) Temporary Restraining Orders and Injunctive Relief.** See [PCLR 65](#).