

Terms of Use

Please read the following carefully. By using or accessing E-Motion™ software “Software”, the user confirms that he/she agrees to these terms.

1. Intended Use

The only intended and authorized use of Software is the submission of bench copies of motions, supporting documents and other pleadings, and the review thereof by the judicial officers of the Benton and Franklin Counties Superior Court (“the Court”).

IMPORTANT NOTICE: The submission of documents through E- Motion™ is NOT a substitute for filing documents with the Court Clerk. The ORIGINAL of every document submitted through E- Motion™ Software MUST be filed with the Clerk of the appropriate court (unless a local court rule expressly provides that the document is not to be filed with the clerk’s office).

Any other use is not authorized and will subject the user to civil and criminal liability.

Users must not use the Software to harm Benton or Franklin Counties, the Court, the Software or others. Users must not: damage, disable, overburden, or impair the Software (or any network connected to the Software); resell or redistribute the Software or any part of it; use any unauthorized means to modify, reroute, or gain access to the Software or attempt to carry out these activities; or use any automated process or Software (such as a bot, a spider, periodic caching of information, or metasearching) to access or use Software. Users may be able to access third-party websites or services via the Software, and acknowledge that the Court and Benton and Franklin Counties are not responsible for such websites or services or content that may be available there.

2. Acceptable Document Formats

Documents only in the Portable Document Format (.pdf) may be submitted. Software will not accept documents exceeding 25 megabytes. Users are encouraged to consolidate all documents submitted with respect to a particular motion or hearing into one Portable Document Format (.pdf) file. However, if a document is greater in size, separate it into multiple parts and submit each part separately.

3. Applicable Court Rules

All documents submitted shall be in compliance with all applicable Washington State Court Rules and applicable local rules. Two important Washington State Court Rules are quoted below.

Note: please check Washington Courts for updated State Rules at [Washington State Courts - Court Rules](#)

RULE CR 5
SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(a) Service--When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in rule 4.

RULE CR 11
SIGNING OF PLEADINGS, MOTIONS, AND LEGAL MEMORANDA:
SANCTIONS

(a) Every pleading, motion, and legal memorandum of a party represented by an attorney shall be dated and signed by at least one attorney of record in the attorney's individual name, whose address and Washington State Bar Association membership number shall be stated. A party who is not represented by an attorney shall sign and date the party's pleading, motion, or legal memorandum and state the party's address. Petitions for dissolution of marriage, separation, declarations concerning the validity of a marriage, custody, and modification of decrees issued as a result of any of the foregoing petitions shall be verified. Other pleadings need not, but may be, verified or accompanied by affidavit. The signature of a party or of an attorney constitutes a certificate by the party or attorney that the party or attorney has read the pleading, motion, or legal memorandum, and that to the best of the party's or attorney's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

- (1) it is well grounded in fact;
- (2) it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law;
- (3) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief. If a pleading, motion, or legal memorandum is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or legal memorandum is signed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an

appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or legal memorandum, including a reasonable attorney fee.

(b) In helping to draft a pleading, motion or document filed by the otherwise self-represented person, the attorney certifies that the attorney has read the pleading, motion, or legal memorandum, and that to the best of the attorney's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is well grounded in fact,

(2) it is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law,

(3) it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, and

(a) (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief. The attorney in providing such drafting assistance may rely on the otherwise self-represented person's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which instance the attorney shall make an independent reasonable inquiry into the facts.

The applicable Benton and Franklin Counties Superior Court Local Rules are quoted below.

Note: Please check Benton/Franklin Counties website for updated rules at: [Local Rules and Required Forms - Benton County WA](#)

LOCAL CIVIL RULE 5

BRIEFS, PROPOSED ORDERS, AND ELECTRONIC SERVICE

A. Electronic Service. The Court and Clerk may transmit to all attorneys orders, notices and other documents electronically, via e-mail or other process. Unless an attorney provides a different e-mail address, the Court and Clerk will send documents to the electronic mailbox address shown on the Washington State Bar Association online Attorney Directory. The Court or Clerk may electronically transmit notices, orders, or other documents to a selfrepresented party who has filed electronically, has agreed to accept electronic documents from the Court, or has provided the Clerk the address of the party's electronic mailbox.

The court will use the updated electronic mailbox as it appears on the court case management system. It is the responsibility of all attorneys and the filing or agreeing party to maintain an electronic mailbox sufficient to receive electronic transmissions of notices, orders, and other documents.

Parties are reminded that, pursuant to CR5(b)(7), a party may serve pleadings electronically on another party only with the consent of the other party. An optional form Agreement to Accept Electronic Notification is available on the Court's website.

B. Briefs. All motions, briefs, declarations, affidavits, and other supporting written documentation pertaining to trials, summary judgments motions, lower court appeals and appeals from decisions of administrative agencies (except the record transferred by the agency) and any other motions, and other documents submitted for hearings, such as trial management reports, proposed findings of fact and conclusions of law and judgments, motions and sentencing position statements in criminal matters, and guardian ad litem reports (including criminal and domestic relations), shall be served and filed in the cause.

C. Bench Copies. Unless a party does not have access to a computer or the Internet, bench copies of all such documents, as well as settlement position statements/joint pre-trial management reports/joint pre-trial statement and order in civil and domestic cases, shall be submitted electronically via the Internet at:

<https://www.co.benton.wa.us/pview.aspx?id=55124&catID=45>
<http://motion.co.franklin.wa.us/>.

Parties without access to a computer and the Internet shall deliver bench copies to Court Administration at the Benton County Justice Center. Except for motions for summary judgment and Over Ten motions, all bench copies must be submitted not later than noon on the date the reply is due. Litigants are encouraged to upload to eMotion earlier. Bench copies for motions for summary judgment and over-ten motions shall be submitted no later than the time and date for confirming the motion under LCR 56(A)(2). No bench copies, except settlement position statements and "Read First" pleadings required under LCR 94.04(W)(B)(2)(g), shall be submitted to the Court unless a copy has been served upon or mailed to opposing counsel or party if unrepresented if they are entitled to notice by law.

Settlement position statements should be uploaded under seal. Bench copies submitted electronically are deleted from the system forty-five days after the associated hearing. Bench copies submitted on paper are destroyed after the associated hearing. When hearings are continued, the parties shall amend the hearing date associated with all bench copies submitted electronically or re-submit the Bench copies submitted on paper.

If a party fails to submit bench copies as set forth above the Court may continue the hearing, impose terms and enter other orders as may be appropriate. Bench copies of the following documents should not be electronically submitted: Notices of hearings, notes for dockets, transmittal letters, proposed statements of defendant on plea of guilty, proposed judgments and sentences and affidavits/proofs of service (unless service is at issue), and briefs and supporting materials in uncontested summary judgment motions in State paternity cases need not be submitted.

D. Proposed Orders. The moving party and any party opposing the motion shall prepare a proposed order which shall be uploaded to eMotion and emailed to Court Administration at the time of filing and serving the motion or response as follows: A Microsoft Word version of the proposed order shall be emailed to Court Administration at courtadmin@co.benton.wa.us. All opposing attorneys and/or, as applicable, all

unrepresented litigants shall be copied on any email message sent to Court Administration. The proposed order, labeled as such, shall be filed with the clerk and an original order shall be presented at the hearing. eMotion and Word version of proposed orders shall be submitted pursuant to LCR 5(C) and LCR 56(A).

E. Process for Presenting Orders when an Order is not signed at a Hearing. If an order is not signed at the hearing on a matter, entry of the order shall be as follows:

1. *Submission.* Within seven (7) days after the decisions rendered, the prevailing party shall send a proposed order to the opposing counsel and/or unrepresented party. If the prevailing party fails to submit a proposed order in a timely manner, the other party may do so, and shall send it to the opposing counsel and/or unrepresented party.

2. *Objections.* If the party who did not initially prepare the proposed order objects to it, that party shall, within five (5) days after receipt of the same, deliver to the other party a pleading outlining the objections, and proposed substitute order. Upon receipt of same, the party who initially prepared the proposed order shall send the initial order, the substitute order and the pleading outlining the objections to the judge, file the documents with the clerk, and give notice of that action to the other party. The judge may enter an order as proposed or as modified by the judge or set the matter for hearing.

3. *Entry of Order.* If there are no objections received within the five (5) day period aforesaid, the party who initially prepared the order shall send it to the Judicial Officer through Clerk's Services for Presentation of Orders (fees may apply). The Clerk shall present the order to the Judge, file the signed order, cause conformed copies to be sent to all counsel and/or unrepresented parties. Note: conformed copies will only be provided if copies are included and any necessary self-addressed envelopes.

[Adopted Effective April 1, 1986; Amended Effective September 1, 2000; September 1, 2001; September 1, 2002; September 1, 2003; September 1, 2005; September 1, 2007; September 1, 2009; September 1, 2011; September 1, 2012; September 2, 2014; September 1, 2015; September 1, 2016; September 1, 2017; September 1, 2018; September 1, 2021; September 1, 2022; Amended & Re-Formatted Effective September 1, 2023]

LOCAL CRIMINAL RULE 4.5 **OMNIBUS HEARINGS**

1. If there will be no pre-trial motions or hearings in a case, and all parties agree that an omnibus hearing would not be beneficial, then prior to the Omnibus hearing date, the Omnibus Order shall be presented along with a stipulation and order striking the Omnibus hearing which shall be signed by the prosecuting attorney and defense counsel or the pro se defendant.

2. If it is necessary to hold a suppression hearing or a CrR 3.5 hearing, counsel or the pro se party desiring the relevant hearing shall have that hearing scheduled and heard before the parties submit the *Joint Pre-trial Report* at the pre-trial hearing. See Local Criminal Rule 8.5

[Adopted Effective April 1, 1986, Amended Effective September 1, 2011; September 1, 2018; September 1, 2019; September 1, 2021; February 1, 2023; Amended & Re-Formatted Effective September 1, 2023]

4. User Accounts

Documents may be submitted only by persons that have established a User Account. All User Accounts require approval of Court Administration of Benton and Franklin Counties (“Court Administration”). **Information provided to register a User Account will not be made available to the public, except by Court Order.**

Users must keep User Accounts and passwords confidential and not authorize any third party (except staff) to access or use the Software on your behalf. Users must contact Court Administration immediately if users suspect misuse of User Accounts or any security breach in the Software. Individual users are responsible for all uses made of the Software using the users’ User Account. Users are encouraged to change their passwords in the event of staff changes.

5. Termination and Cancellation of User Accounts

The Court reserves the right to suspend, cancel or terminate the User Account of any user who violates any provision of these Terms of Use or any local rule applicable to the submission of electronic bench copies.