

# **Snohomish County Superior Court**

## **New Local Court Rule**

**Effective Emergent, April 13, 2023**

### **SCLGR 40 INFORMAL FAMILY LAW TRIALS (IFLT)**

(1) **Scope of IFLT Trials.** Upon the consent of both parties and with approval of the court, Informal Family Law Trials (IFLT) may be held to resolve any or all issues in original actions or modification for dissolution of marriage, separate maintenance, invalidity, child support, parenting plans, residential schedules, relocation, child custody, and other family law matters as established by statute.

(2) **Selecting IFLT process for trial.** The parties may select an IFLT before trial by filing an Informal Family Law Trial Selection and Waiver form with the clerk. Each party may file the form and request the IFLT separately, or the parties may jointly request the IFLT.

- a. **Presumption for IFLT if parties agree;** Agreement by the parties creates a presumption that the trial will proceed as an IFLT. However, the judge assigned for trial retains the ultimate discretion to find that an IFLT is not appropriate for a particular case, and the judge has discretion to order that the case proceed as a traditional family law trial. If the judge assigned for trial declines to follow the presumption for an IFLT, then it will be presumed that either party will have the right to a continuance if they request it.
- b. **Notice of approval of IFLT trial;** If the selection is made by both parties at least 45 days before the trial date, court administration will confirm the selection of an IFLT by sending a letter to each party and any counsel at the address on file with the court. If the parties make their joint or independent selection closer than 45 days to trial, the presiding judge at civil trial call will notify the parties that their trial will be assigned out as an IFLT trial.

(3) **Compliance with other rules and procedures required.** Even if proceeding with an IFLT, the parties are still required to comply with rules regarding procedural and discovery requirements for litigation, notably:

- a. **Documents required to be filed and submitted;** The parties must file documents specifically required by statutes, rules and court procedures, including:
- i. Proof of compliance with the Alternative Dispute Resolution requirements of SCLSPR 94.04(c)(3).
  - ii. Proof of compliance with pre-trial arbitration regarding child support and/or maintenance if subject to SCLSCCAR 1.2 and RCW 7.06.
  - iii. Compliance with the filing of certain financial documents as required by SCLSPR 94.04(e).
  - iv. Proof of Attendance at a parenting seminar if required by SCLSPR 94.04(d)(4).
  - v. Compliance with civil discovery and disclosure rules that require, at a minimum, the disclosure to the opposing party of any document or exhibit that a party plans to submit for review by the court supporting their position.
  - vi. Each party must file with the judge who is assigned for trial their proposed final order/decreed for divorce/dissolution, and, if applicable, a proposed order regarding child support (with proposed worksheets) and a proposed parenting plan, as well as any other proposed order relevant to the issues to be resolved at trial.
- b. **Evidentiary Documents prepared for submission as exhibits;** Each party must be prepared to provide to the judge assigned for trial any other document upon which they intend to rely as evidence. Such documents could include the following if relevant:
- i. If the court is required to divide real or personal property, each party should provide to the judge assigned for trial any documents related to the ownership or fair division of the property involved in the disputed division.
  - ii. If a party is asserting claims of domestic violence or other criminal activity against the opposing party, the party should provide to the judge assigned for trial any documentation related to the claim – such as police reports, protection orders, evidence documenting a conviction, etc.
  - iii. If a party has undertaken any rehabilitative programs and wants their participation considered by the court, the party should provide to the judge assigned for trial any related documents such as counseling records, substance abuse treatment, anger management/domestic violence classes, assessments, etc., that demonstrates completed or ongoing compliance in said programs.

- iv. If a party wants the judge to consider records associated with a child, such as report cards, attendance records, counseling records, etc., the party should provide such records to the judge assigned for trial.
- c. **Working copies required;** Each party is required to prepare a trial notebook to submit to the judge assigned for trial that contains:
  - i. An indexed copy of the relevant documents identified in (3)(a) and (b), above, and (4)(f), below; and
  - ii. Copies of any other documents the party anticipates relying on in the IFLT.
  - iii. In their working copy notebook, the parties should also include a written summary of the issues that the party believes are important for the judge to consider. The court will inquire about these issues pursuant to (4)(c), below.

(4) **IFLT Trial Procedures;** When a trial is conducted pursuant to this rule, in accordance with ordinary trial management, the following procedures will be followed subject to discretion of the judge assigned for trial, who retains the discretion to modify any of these procedures as justice and fundamental fairness require, with prior notice to the parties.

- a. **The Rules of Evidence do not apply;** The Rules of Evidence shall not apply to the proceedings. The judge hearing the matter shall determine the credibility and weight of the evidence that is offered.
- b. **Formal consent to IFLT process;** At the beginning of an IFLT, the parties will be asked to affirm that they understand the rules and procedures of the IFLT process, they are consenting to this process freely and voluntarily, and they have not been threatened or promised anything for agreeing to the IFLT process. Parties must affirm that they waive the right to appeal the court's use of the IFLT process and the court's admission of evidence pursuant to the IFLT process that is not consistent with the traditional court process, court rules, and Rules of Evidence. However, nothing in this rule prevents a party from filing a direct appeal of any final order or decision after the IFLT.
- c. **Summary of Issues;** The judge may ask the parties or their lawyers for a brief summary of the issues to be decided at the outset of the hearing. It would be a best practice to include a written summary of issues included in the trial notebook as well.
- d. **Statements of the parties concerning issues in dispute;** Starting with the petitioner, each party will be allowed to address the court under oath concerning all issues in dispute and

present evidence. A represented party is not questioned by their counsel but may be questioned by the judge to develop evidence required by any statute or rule; for example, the court may make inquiry into the applicable requirements of the Washington State Child Support Schedule if child support is at issue.

- e. **Parties not subject to cross examination;** The parties will not be subject to cross-examination unless permitted by the court. However, the court will ask the non-presenting party or their counsel whether there are any other areas the party wishes the court to inquire about. The court will inquire into these areas if requested and if relevant to an issue to be decided by the court.
- f. **Declarations and expert reports;** Each party may also present up to five declarations (limited to 20 pages total) from laypersons who would otherwise be called as witnesses in a traditional family law trial. Each party may also present any expert reports as an exhibit. These documents are in addition to the documents described in paragraph 3, above.
- g. **Acceptance of exhibits;** In addition to the documents described in subsection (f), above, the court shall also receive and admit other exhibits offered by the parties. The judge will determine what weight, if any, is given to each exhibit. The judge may also order the record to be supplemented with more documentation when necessary.
- h. **Lay witnesses prohibited;** Neither side will call any lay witnesses. However, upon request of either party, an expert can be sworn and subjected to questioning by counsel, the parties, or the judge.
- i. **Trial procedures the same for each party;** Following the petitioner's statement and presentation to the judge, the respondent shall present their case to the judge using the same procedure.
- j. **Brief rebuttal and summation;** At the conclusion of the process, the parties or their counsel will be offered the opportunity to respond to the statements of the other party, and to make a brief legal argument.
- k. **Decision;** At the conclusion of the case, the judge shall announce the ruling or may take the matter under advisement and make every effort to issue prompt rulings no later than the 90-day statutory requirement. The judge shall enter findings and orders consistent with statutes and case law.
- l. **Court has discretion to modify trial procedure;** The judge may modify the trial procedures as justice and fundamental fairness require.

(5) **Opting out of IFLT selection and proceeding with a traditional trial;** The judge assigned to trial may refuse to allow the parties to utilize the IFLT. Additionally, a party who has previously agreed to proceed with an IFLT may file a motion to opt out of the IFLT at any time, using the following procedures:

- a. **Pretrial Opt-out;** Pretrial motions to opt out of the IFLT and proceed with a traditional family law trial shall be noted on the Judges Civil Motions calendar on 5 days-notice to the opposing party; if the motion to opt out of the IFLT is agreed by the opposing party, an agreed order to change the manner of trial may be presented ex parte to the court commissioner.
- b. **Trial;** Motions to opt out of the IFLT made during the trial shall be directed to the trial judge.
- c. **Presumption of trial continuance resulting from opting out;** There will be a presumption that any order to opt out of the IFLT will cause a trial continuance.

(6) **Selecting IFLT after traditional trial has started;** If the parties request an IFLT after a traditional trial has started, the court will consider whether instituting an IFLT process after the traditional trial process has started will prejudice either party or the best interests of any child. The decision to continue with a traditional trial is solely within the discretion of the judicial officer hearing the matter.

(7) Any change in the type of trial to be held may result in a change of the trial date.

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