

WASHINGTON STATE BAR ASSOCIATION

Court Rules and Procedures Committee

AGENDA

September 16, 2019
9:30 AM – 11:00 AM

Conference Call: 1-866-577-9294, Code: 55419#

Call to Order/ Preliminary Matters

- Approval of Minutes:
 - June 17, 2019 (pp. 2-3)

Subcommittee Reports

1. Infraction Rules for Courts of Limited Jurisdiction (IRLJ)
 - Subcommittee Chair Jon Zimmerman (pp. 4-22)

Other Business/Good of the Order

- Good bye and thank you to non-returning committee members:
Olga Blotnis, Geoffrey Grindeland, Jack Guthrie, Dalynne Singleton

Adjourn

The next meeting is scheduled for October 21, 2019.



WASHINGTON STATE
BAR ASSOCIATION
Court Rules and Procedures Committee

Meeting Minutes
June 17, 2019

Members Present:

Chair Jefferson Coulter, Olga Blotnis, Claire Carden, Rike Connelly, Stephanie Dikeakos, Tony DiTommaso, Richard Greene, Karen Horowitz, John Ledford, Sarah Lee, Alison Markette, Tim Moran, Isham Reavis, Ashton Rezayat, Dalynne Singleton, Ann Summers, and Jon Zimmerman.

Members Excused:

Mimy Bailey, Jody Cloutier, Bertha Fitzner, Geoff Grindeland, D. Jack Guthrie, Joyce Heritage, Kirk Miller, Rachael Rogers, Rooein Roshandel, James Smith, and Brian Zuanich.

Also Attending:

Judge Blaine Gibson (SCJA Liaison), Judge Bradley Maxa (COA Rules Committee Chair), Mike Chait (WDTL), and Nicole Gustine (WSBA Assistant General Counsel),

Chair Jefferson Coulter called the meeting to order at 9:30 a.m.

May 20, 2019, minutes were approved. Those in favor were: Blotnis, Carden, Dikeakos, DiTommaso, Greene, Horowitz, Ledford, Markette, Moran, Reavis, Rezayat, Singleton, Summers, and Zimmerman. Connelly abstained.

MAR Subcommittee

Subcommittee Chair Stephanie Dikeakos reported that the subcommittee had worked on proposed language for MAR 7.2 regarding the sealing and unsealing of arbitration awards. The proposal was sent to stakeholders and two comments were received. One comment was, “no comment,” and the other comment was in favor of the proposal. Judge Gibson pointed out a practical problem from the clerks’ point of view which is how to track when records are to be unsealed. As it is a rare occurrence, such a change may result in extra work if unsealing is required for all awards, not just upon request. Subcommittee Chair Dikeakos mentioned that the Washington State Association of County Clerks were also proposing language about sealing and unsealing of award records. Chair Coulter offered a friendly amendment to the proposed language, inserting the words “If requested,” at the beginning of the third sentence.

Thus, proposed MAR 7.2 (a) would read:

(a) Sealing. The clerk shall seal any award if a trial de novo is requested. Judicial officer access to the award is prohibited while it is sealed. If requested, the clerk shall unseal the award if all requests for a trial de novo are withdrawn or at the conclusion of the trial de novo, whichever occurs first.

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The committee voted upon the proposal containing this friendly amendment. Those in favor were: Blotnis, Carden, Connelly, Dikeakos, DiTommaso, Greene, Horowitz, Ledford, Markette, Moran, Reavis, Rezayat, Singleton, Summers, and Zimmerman. Lee abstained. The motion passed and the proposed language will now be moved forward to the Board of Governors for consideration.

There being no further business, the meeting was adjourned.

DRAFT

GR 9 COVER SHEET

Suggested Amendment

INFRACTION RULES FOR COURTS OF LIMITED JURISDICTION (IRLJ) 2.1

A. Proponent:

Washington State Bar Association Rules Committee, IRLJ Subcommittee

B. Spokesperson:

Jon Zimmerman, Subcommittee Chair

C. Purpose:

To create uniformity among different terms having the same purpose or meaning. With regards to IRLJ 2.1(b)(6), the Subcommittee reviewed the terms “defendant” and “respondent” in the IRLJ. “Defendant” is used 83 times and “respondent” a single time. The Subcommittee recommends changing the single instance of “respondent” to “defendant” to keep the rules uniform.

Also, a number of courts are allowing individuals served a Notice of Infraction to respond by e-mail in addition to more traditional methods, as enumerated by IRLJ 2.4(c). The Subcommittee supports this method to the extent individual courts are equipped to utilize a system to gather e-mailed responses to notices of infraction, and the number of courts using this option appears to be increasing. Hence, there was a proposal to add “e-mail” to the language of IRLJ 2.1(b)(7), which right now only contains the word “mail.” One committee member raised the issue of whether this requirement would be workable with AOC’s task of approving infraction forms; however, IRLJ 2.4(c) already allows for response by e-mail if allowed at the local level, and all individuals issued a notice of infraction are allowed to mail back the response. It seems appropriate that if some courts allow e-mail as a way to respond to a Notice of Infraction, the forms for courts that allow that option ought to have method and the addition of “e-mail” to IRLJ 2.1(b)(7) is uniform and consistent with IRLJ 2.4(c).

Amendment to IRLJ 2.1(b)(6) and IRLJ 2.1(b)(7)

(a) Infraction Form Prescribed or Approved by the Administrative Office of the Courts. Infraction cases shall be filed on a form entitled "Notice of Infraction" prescribed by the Administrative Office of the Courts; except that the form used to file cases alleging the commission of a parking, standing or stopping infraction shall be approved by the Administrative Office of the Courts. Notice of Infraction forms prescribed or approved by the Administrative Office of the Courts are presumed valid and shall not be

deemed insufficient by reason of defects or imperfections which do not prejudice substantial rights of the defendant.

(b) Contents. Subject to IRLJ 3.1(d), the notice of infraction shall contain the following information on the copy given to the defendant, except the information required by subsection (2) is not required on a notice of infraction alleging the commission of a parking, standing, or stopping infraction:

(1) The name, address, and phone number of the court where the notice of infraction is to be filed;

(2) The name, address, date of birth, sex, physical characteristics, and, for a notice of traffic infraction, the operator's license number of the defendant;

(3) For a notice of traffic infraction, the vehicle make, year, model, style, license number, and state in which licensed;

(4) The infraction which the defendant is alleged to have committed and the accompanying statutory citation or ordinance number, the date, time, and place the infraction occurred, the date the notice of infraction was issued, and the name and, if applicable, the number of the citing officer;

(5) A statement that the defendant must respond to the notice of infraction within fifteen (15) days of the date the notice is personally served or, if the notice is served by mail, within eighteen (18) days of the date the notice is mailed;

(6) A space for entry of the monetary penalty which ~~respondent~~ defendant may pay in lieu of appearing in court;

(7) A statement that a mailed response must be mailed and, if allowed by local court rule, an e-mailed response must be e-mailed, not later than midnight on the day the response is due;

(8) The statements required by RCW 46.63.060 or other applicable statute; and

(9) Any additional information determined necessary by the Administrative Office of the Courts.

[Adopted effective January 1, 1981; amended effective September 1, 1992; June 2, 1998; January 3, 2006; November 21, 2006; May 6, 2008; September 1, 2010; July 24, 2012.]

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)
RULE 2.1 – NOTICE OF INFRACTION

1 (a) [Unchanged]

2 (b) [Unchanged]

3 (1)-(5) [Unchanged]

4 (6) A space for entry of the monetary penalty which ~~respondent~~ defendant may pay in
5 lieu of appearing in court;

6 (7) A statement that a mailed response must be mailed and, if allowed by local court
7 rule, an e-mailed response must be e-mailed, not later than midnight on the day the response is
8 due;

9 (8)-(9) [Unchanged]

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)
RULE 2.1 – NOTICE OF INFRACTION

1 (a) [Unchanged]

2 (b) [Unchanged]

3 (1)-(5) [Unchanged]

4 (6) A space for entry of the monetary penalty which defendant may pay in lieu of
5 appearing in court;

6 (7) A statement that a mailed response must be mailed and, if allowed by local court
7 rule, an e-mailed response must be e-mailed, not later than midnight on the day the response is
8 due;

9 (8)-(9) [Unchanged]

DRAFT

From: [Maxa, Bradley](#)
To: [Sherry Lindner](#)
Subject: RE: Feedback Requested: WSBA Court Rules and Procedures Committee -- IRLJ 2.1 Proposal
Date: Tuesday, May 28, 2019 10:03:50 AM
Attachments: [image001.png](#)

Hi Sherry –

The Court of Appeals rules committee has no comments.

*Chief Judge Bradley A. Maxa
Washington Court of Appeals, Division II*

*950 Broadway, Suite 300
Tacoma, WA 98402
(253)552-2251*

From: Sherry Lindner [mailto:sherryl@wsba.org]
Sent: Thursday, May 23, 2019 8:24 AM
To: Hinchcliffe, Shannon <Shannon.Hinchcliffe@courts.wa.gov>; Siddoway, Laurel <Laurel.Siddoway@courts.wa.gov>; Maxa, Bradley <J_B.Maxa@courts.wa.gov>; Korsmo, Kevin <Kevin.Korsmo@courts.wa.gov>; Judge Gibson <blaine.gibson@co.yakima.wa.us>; Judge Jeffrey Goodwin <jeffrey.goodwin@snoco.org>; gsm.judge@gmail.com
Subject: Feedback Requested: WSBA Court Rules and Procedures Committee -- IRLJ 2.1 Proposal

Greetings,

The Court Rules and Procedures Committee is proposing to amend the Infraction Rules for Courts of Limited Jurisdiction (IRLJ) 2.1.

The Committee is reaching out to stakeholders for comments on its proposals.

Stakeholder input is crucially important in the rulemaking process and assists the Committee in making an informed decision.

Attached please find materials submitted by Jon Zimmerman.

Please submit your feedback/comments to WSBACourtRules@wsba.org by July 8, 2019.

Thank you,



Sherry Lindner | Paralegal | Office of General Counsel

Washington State Bar Association | T 206-733-5941 | F 206-727-8314 | sherryl@wsba.org

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WASHINGTON STATE BAR ASSOCIATION

To: Court Rules and Procedures Committee

From: Jon Zimmerman, IRLJ Subcommittee

Date: September 11, 2019

Re: Draft proposal to amend: IRLJ Rules 1.2(b); 1.2(k); IRLJ 2.2

The content of this memo to the Committee will be converted to GR 9. Please formulate the memo into a GR 9. It will be easier to convert this memo into a GR 9 with the info GR 9 requires when submitting to the Court.

- A. Proponent:** Washington State Bar Association IRLJ Subcommittee
- B. Spokesperson:** Jon Zimmerman, Subcommittee Chair
- C. Purpose:** To provide clarity by defining the term “date of the notice of infraction,” which is used three times in the IRLJ without any definition. The DMCJA alerted the IRLJ Subcommittee that the lack of a definition of the above term is problematic and that defining a term would lend clarity for the parties and the court.

The DMCJA further explained that the current rule indicates that the “speedy hearing” clock begins on the “date of the notice of infraction,” a term for which there is currently no definition. However, a “notice of infraction,” is defined as “a document initiating an infraction case when issued and filed pursuant to statute and these rules.” IRLJ 1.2(b). This gives no assistance in determining the start of the “clock.” Further confusion is added by IRLJ 2.2(a), which states that:

“An infraction case is initiated by the issuance, service, and filing of a notice of infraction in accordance with this rule. An infraction is issued on the date the infraction is signed by the citing officer or prosecuting authority.”

The Subcommittee discussed the issues of the definition of “date of the notice of infraction” as well as the definition of “notice of infraction,” and recommends a definition of “date of the notice of infraction” and an amendment to “notice of infraction.”

The need for a definition for “date of the notice of infraction” is for speedy hearing purposes and for proportionality and consistency among courts of limited jurisdiction. It was the experience of practitioners on the subcommittee that the term is unevenly and inconsistently applied because typically three dates may become an

issue with a Notice of Infraction—the issue date, the violation date, and the filing date. Hence defining the term “date of the notice of infraction” will give clarity.

In addition, amending the definition of “notice of infraction” will give similar clarity and consistency. IRLJ 2.2(a)’s initiation of an infraction case is problematic because often an infraction is issued but may lack a date, the name of the citing officer, and in almost all cases the lack of a prosecutor’s name (because a citing officer issued the Notice of Infraction). However, just because a Notice of Infraction is *issued* and, if *served*, a response is required by statute and court rule, the Notice of Infraction may not be *filed*. The intent of amending IRLJ 1.2(b), adding a definition to IRLJ 1.2(b) as IRLJ 1.2(b)(1) for “Date of the Notice of Infraction”, proposed IRLJ 1.2(b)(1), and IRLJ 2.2(a) is to achieve clarity and consistency.

With regards to IRLJ 1.2(k), this was mostly a cosmetic change. There was some discussion in the Subcommittee as to whether the term “their deputies and assistants” meant non-attorneys and yet the Subcommittee was of the unanimous belief that only attorneys could appear on behalf of parties to an infraction case. The language is clarified to include modern use of the types of attorneys who encompass a prosecuting authority.

A revision to IRLJ 2.2(b)(1) adds an apostrophe before the “s” to “officers,” as the word “officers” is grammatically incorrect in the online edition of the rule, and possibly the written edition.

Finally, the IRLJ Subcommittee revisited its proposed revisions of these rules. The Subcommittee, which consists of prosecutors, defense attorneys, and other types of practitioners, aims to bring clarity to these rules and the Subcommittee unanimously supported these changes while welcoming stakeholder feedback.

GR 9 COVER SHEET

Suggested Amendment

INFRACTION RULES FOR COURTS OF LIMITED JURISDICTION (IRLJ) 1.2

- A. Proponent:** Washington State Bar Association Rules Committee, IRLJ Subcommittee
- B. Spokesperson:** Jon Zimmerman, Subcommittee Chair
- C. Purpose:** To provide clarity by defining the term “date of the notice of infraction,” which is used three times in the IRLJ without any definition. The proposal adds a definition to IRLJ 1.2(b) by creating IRLJ 1.2(b)(1). Without this definition, there has been dispute as to the meaning of the term “date of the notice of infraction.” The DMCJA alerted the IRLJ Subcommittee, which was concurrently working on language for an IRLJ definition of the term.

The lack of a definition of the above term is problematic and defining this term would lend clarity for the parties and courts throughout the State of Washington.

The DMCJA explained that the current rule indicates that the “speedy hearing” clock begins on the “date of the notice of infraction,” a term for which there is currently no definition. However, a “notice of infraction,” is defined as “a document initiating an infraction case when issued and filed pursuant to statute and these rules.” IRLJ 1.2(b). This gives no assistance in determining the start of the “clock.” Further confusion is added by IRLJ 2.2(a), which states that:

“An infraction case is initiated by the issuance, service, and filing of a notice of infraction in accordance with this rule. An infraction is issued on the date the infraction is signed by the citing officer or prosecuting authority.”

To resolve these issues, the Subcommittee discussed the issues of the lack of a definition of “date of the notice of infraction” as well as the definition of “notice of infraction,” and recommends a definition of “date of the notice of infraction,” added as IRLJ 1.2(b)(1), and an

amendment to “notice of infraction in IRLJ 1.2(b). Specifically, the terms “and filed” are removed from IRLJ 1.2(b) because the Subcommittee sees the issuance of an infraction as initiation. Per statute and court rule, a defendant issued a Notice of Infraction has a set time to respond, regardless of filing. Hence, the Notice of Infraction’s issuance commences the case.

The need for a definition for “date of the notice of infraction” is for speedy hearing purposes and for proportionality and consistency among courts of limited jurisdiction. It was the experience of practitioners on the Subcommittee that the term is unevenly and inconsistently applied because typically three dates may become an issue at hearing with a Notice of Infraction: the issue date, the violation date, and the filing date. Hence defining the term “date of the notice of infraction” will give clarity, create consistency, and lend uniformity.

Amending the definition of “notice of infraction” will give similar clarity and consistency.

With regards to IRLJ 1.2(k), this was mostly a cosmetic change. There was some discussion in the Subcommittee as to whether the term “their deputies and assistants” means non-attorneys and yet the Subcommittee was of the unanimous belief that only attorneys could appear on behalf of parties to an infraction case. The language is clarified to include modern use of the types of attorneys who encompass a prosecuting authority.

The Subcommittee addresses IRLJ 2.2 in the GR 9 Cover Sheet; however, the Subcommittee has looked at any proposed change to IRLJ 2.2 in light of the proposed changes to IRLJ 1.1.

Amendment to IRLJ 1.2(b), addition of definition to IRLJ 1.2(b) as 1.2(b)(1), and amendment to IRLJ 1.2(k).

For the purposes of these rules:

(a) Infraction Case. "Infraction case" means a civil proceeding initiated in a court of limited jurisdiction pursuant to a statute that authorizes offenses to be punished as infractions. [Unchanged.]

(b) Notice of Infraction. "Notice of infraction" means a document initiating an infraction case when issued ~~and filed~~ pursuant to statute and these rules.

(1) Date of the Notice of Infraction. "Date of the Notice of Infraction" means (1) the date a Notice of Infraction is handed to a defendant, or (2) the date a Notice of Infraction is signed and dated by a citing officer or prosecutor, whichever date occurs first.

(c) Defendant. "Defendant" means a person cited for an infraction, a registered owner of a vehicle cited for a parking infraction, or the person who responds to the parking infraction or requests a hearing. [Unchanged.]

(d) Court. "Court" means a court of limited jurisdiction organized pursuant to RCW Title 3, RCW Title 35, or RCW Title 35A. [Unchanged.]

(e) Judgment. "Judgment" means any final decision in an infraction case, including, but not limited to, a finding entered after a hearing governed by these rules or after payment of a monetary penalty in lieu of a hearing. [Unchanged.]

(f) Plaintiff. "Plaintiff" means the governmental unit issuing the notice of infraction, including, but not limited to, the state, a county, or a municipality. [Unchanged.]

(g) Department. "Department" means the Washington State Department of Licensing. [Unchanged.]

(h) Lawyer. "Lawyer" means any person authorized by Supreme Court rule to practice law. [Unchanged.]

(i) Statute. "Statute" means any state statute, local or county ordinance, resolution, or regulation, or agency regulation. [Unchanged.]

(j) Citing Officer. "Citing officer" means a law enforcement officer or other official authorized by law to issue a notice of infraction. [Unchanged.]

(k) Prosecuting Authority. "Prosecuting authority" includes prosecuting **and deputy prosecuting** attorneys, city **and assistant city** attorneys, corporation **and assistant corporation** counsel, ~~and their deputies and assistants~~, or such other persons as may be designated by statute.

(l) Judge. "Judge" means any judge of any court of limited jurisdiction and shall include every judicial officer authorized to preside over infraction cases. [Unchanged.]

(m) Community Restitution. "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the defendant. [Adopted effective September 1, 1992; amended effective June 2, 1998; amended effective January 3, 2006.] [Unchanged.]

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)
RULE 1.2 – DEFINITIONS

1 For the purposes of these rules:

2 (a) [Unchanged.]

3 (b) Notice of Infraction. "Notice of infraction" means a document initiating an infraction case
4 when issued ~~and filed~~ pursuant to statute and these rules.

5 (1) Date of the Notice of Infraction. "Date of the Notice of Infraction" means (1) the
6 date a Notice of Infraction is handed to a defendant, or (2) the date a Notice of Infraction is
7 signed and dated by a citing officer or prosecutor, whichever date occurs first.

8 (c) - (j) [Unchanged.]

9 (k) Prosecuting Authority. "Prosecuting authority" includes prosecuting ~~and deputy prosecuting~~
10 attorneys, city ~~and assistant city~~ attorneys, corporation ~~and assistant corporation~~ counsel, ~~and~~
11 ~~their deputies and assistants~~, or such other persons as may be designated by statute.

12 (l) - (m) [Unchanged.]

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)
RULE 1.2 – DEFINITIONS

1 For the purposes of these rules:

2 (a) [Unchanged.]

3 (b) Notice of Infraction. "Notice of infraction" means a document initiating an infraction case when
4 issued pursuant to statute and these rules.

5 (1) Date of the Notice of Infraction. "Date of the Notice of Infraction" means (1) the
6 date a Notice of Infraction is handed to a defendant, or (2) the date a Notice of Infraction is signed
7 and dated by a citing officer or prosecutor, whichever date occurs first.

8 (c) - (j) [Unchanged.]

9 (k) Prosecuting Authority. "Prosecuting authority" includes prosecuting and deputy prosecuting
10 attorneys, city and assistant city attorneys, corporation and assistant corporation counsel, or such
11 other persons as may be designated by statute.

12 (l) - (m) [Unchanged.]

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GR 9 COVER SHEET

Suggested Amendment

INFRACTION RULES FOR COURTS OF LIMITED JURISDICTION (IRLJ) 2.2

- A. Proponent:** Washington State Bar Association Rules Committee, IRLJ Subcommittee
- B. Spokesperson:** Jon Zimmerman, Subcommittee Chair
- C. Purpose:** To create uniformity with an amendment to IRLJ 1.2(b), as well as some cosmetic changes.

Substantively, the amendment to IRLJ 2.2(a) removes “service, and filing” from the present rule because the Subcommittee discussed that issuance alone of a Notice of Infraction can initiate an infraction case. The date an infraction is issued is also in the proposed amendment. Also, this amendment will be consistent with the proposed amendment to IRLJ 1.2(b). The DMCJA also noted that IRLJ 2.2 as presently written added some confusion as to how infraction cases are in reality initiated. Hence, the Subcommittee proposes this amendment.

Cosmetically, sometimes prosecutors issue Notices of Infraction. The amendment removes the term “prosecuting authority” and instead uses the term “prosecutor,” in favor of plain language.

Along the same lines, IRLJ 2.2(b)(1) appeared to lack an apostrophe. The proposed amendment adds an apostrophe.

Finally, the term “Notice” is sometimes capitalized and sometimes is not, even when both terms are referring to the Notice of Infraction (“NOI”). An NOI is usually both a first and final charging document in an infraction case, unlike other notices, such as notices of hearing or payment notices. Hence the amendment to capitalize the term.

Amendment to IRLJ 2.2

(a) Generally. An infraction case is initiated by the issuance, ~~service, and filing~~ of a ~~n~~Notice of ~~i~~Infraction in accordance with this rule. An infraction is issued on (1) the date the ~~Notice of i~~Notice of Infraction is ~~handed to the defendant or~~ (2) the date on which the

Notice of Infraction is signed and dated by ~~the~~ a citing officer or prosecutor, whichever date occurs first. ~~prosecuting authority~~

(b) Who May Issue. A ~~notice-of-infraction~~ Notice of Infraction may be issued, upon certification that the issuer has probable cause to believe, and does believe, that a person has committed an infraction contrary to law:

(1) By a citing officer. The infraction need not have been committed in the officer's presence, except as provided by statute; [Unchanged.]

(2) By the prosecuting authority. [Unchanged.]

(c) Service of Notice. A ~~notice-of-infraction~~ Notice of Infraction may be served either by:

(1) The citing officer serving the ~~notice-of-infraction~~ Notice of Infraction on the person named in the ~~notice-of-infraction~~ Notice of Infraction at the time of issuance;

(2) The citing officer affixing to a vehicle in a conspicuous place the ~~notice~~ Notice of a traffic infraction if it alleges the violation of a parking, standing, or stopping statute; or

(3) The citing officer or the prosecuting authority filing the ~~notice-of-infraction~~ Notice of Infraction with the court, in which case the court shall have the ~~notice~~ Notice served either personally or by mail, postage prepaid, on the person named in the ~~notice-of-infraction~~ Notice of Infraction at his or her address. If a ~~notice-of-infraction~~ Notice of Infraction served by mail is returned to the court as undeliverable, the court shall issue a summons.

(d) Filing of Notice. When a ~~notice-of-infraction~~ Notice of Infraction has been issued, the ~~notice~~ Notice shall be filed with a court having jurisdiction over the infraction or with a violations bureau subject to such courts supervision. The ~~notice~~ Notice must be filed within five days of issuance of the ~~notice~~ Notice, excluding Saturdays, Sundays, and holidays. In the absence of good cause shown, a ~~notice-of-infraction~~ Notice of Infraction not filed within the time limits of this section shall, upon motion, be dismissed with prejudice.

[Adopted as JTIR effective January 1, 1981; amended effective September 1, 1989. Changed from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; September 1, 1999; amended effective January 3, 2006.]

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)

RULE 2.2 – INITIATION OF AN INFRACTION CASE

1 (a) Generally. An infraction case is initiated by the issuance, ~~service, and filing~~ of a
2 ~~n~~Notice of ~~i~~Infraction in accordance with this rule. An infraction is issued on (1) the date the
3 Notice of ~~i~~Infraction is handed to the defendant or (2) the date on which the Notice of Infraction
4 is signed and dated by ~~the~~ a citing officer or prosecutor, whichever date occurs first. ~~prosecuting~~
5 ~~authority~~

6 (b) Who May Issue. A ~~notice of infraction~~ Notice of Infraction may be issued, upon
7 certification that the issuer has probable cause to believe, and does believe, that a person has
8 committed an infraction contrary to law:

9 (1) – (2) [Unchanged.]

10 (c) Service of Notice. A ~~notice of infraction~~ Notice of Infraction may be served either
11 by:

12 (1) The citing officer serving the ~~notice of infraction~~ Notice of Infraction on the person
13 named in the ~~notice of infraction~~ Notice of Infraction at the time of issuance;

14 (2) The citing officer affixing to a vehicle in a conspicuous place the ~~notice~~ Notice of a
15 traffic infraction if it alleges the violation of a parking, standing, or stopping statute; or

16 (3) The citing officer or the prosecuting authority filing the ~~notice of infraction~~ Notice
17 of Infraction with the court, in which case the court shall have ~~the notice~~ Notice served either
18 personally or by mail, postage prepaid, on the person named in the ~~notice of infraction~~ Notice of
19 Infraction at his or her address. If a ~~notice of infraction~~ Notice of Infraction served by mail is
20 returned to the court as undeliverable, the court shall issue a summons.

21 (d) Filing of Notice. When a ~~notice of infraction~~ Notice of Infraction has been issued,
22 the ~~notice~~ Notice shall be filed with a court having jurisdiction over the infraction or with a
23 violations bureau subject to such courts supervision. The ~~notice~~ Notice must be filed within five

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)
RULE 2.2 – INITIATION OF AN INFRACTION CASE

1 days of issuance of the ~~notice~~ **Notice**, excluding Saturdays, Sundays, and holidays. In the
2 absence of good cause shown, a ~~notice-of-infraction~~ **Notice of Infraction** not filed within the time
3 limits of this section shall, upon motion, be dismissed with prejudice.

4 [Adopted as JTIR effective January 1, 1981; amended effective September 1, 1989. Changed
5 from JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997;
6 September 1, 1999; amended effective January 3, 2006.]

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)
RULE 2.2 – INITIATION OF AN INFRACTION CASE

1 (a) Generally. An infraction case is initiated by the issuance of a Notice of Infraction in
2 accordance with this rule. An infraction is issued on (1) the date the Notice of Infraction is handed
3 to the defendant or (2) the date on which the Notice of Infraction is signed and dated by a citing
4 officer or prosecutor, whichever date occurs first.

5 (b) Who May Issue. A Notice of Infraction may be issued, upon certification that the
6 issuer has probable cause to believe, and does believe, that a person has committed an infraction
7 contrary to law:

8 (1) – (2) [Unchanged.]

9 (c) Service of Notice. A Notice of Infraction may be served either by:

10 (1) The citing officer serving the Notice of Infraction on the person named in the Notice
11 of Infraction at the time of issuance;

12 (2) The citing officer affixing to a vehicle in a conspicuous place the Notice of a traffic
13 infraction if it alleges the violation of a parking, standing, or stopping statute; or

14 (3) The citing officer or the prosecuting authority filing the Notice of Infraction with the
15 court, in which case the court shall have the Notice served either personally or by mail, postage
16 prepaid, on the person named in the Notice of Infraction at his or her address. If a Notice of
17 Infraction served by mail is returned to the court as undeliverable, the court shall issue a summons.

18 (d) Filing of Notice. When a Notice of Infraction has been issued, the Notice shall be
19 filed with a court having jurisdiction over the infraction or with a violations bureau subject to such
20 courts supervision. The Notice must be filed within five days of issuance of the Notice, excluding
21 Saturdays, Sundays, and holidays. In the absence of good cause shown, a Notice of Infraction not
22 filed within the time limits of this section shall, upon motion, be dismissed with prejudice.

23 [Adopted as JTIR effective January 1, 1981; amended effective September 1, 1989. Changed from

SUGGESTED AMENDMENT
INFRACTION RULES FOR COURTS OF LIMITED
JURISDICTION (IRLJ)
RULE 2.2 – INITIATION OF AN INFRACTION CASE

1 JTIR to IRLJ effective September 1, 1992; amended effective September 1, 1997; September 1,
2 1999; amended effective January 3, 2006.]

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