

FILED
SUPREME COURT
STATE OF WASHINGTON
NOVEMBER 14, 2022
BY ERIN L. LENNON
CLERK

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE PROPOSED NEW)
GENERAL RULE [GR 40]—INFORMAL FAMILY)
LAW TRIALS [REVISED PROPOSAL])
_____)

AMENDED

O R D E R

NO. 25700-A-1478

An ad hoc workgroup, including D.C. Cronin, having recommended the adoption of the proposed new General Rule [GR 40]—Informal Family Law Trials [Revised Proposal], and the Court having considered the new general rule, and having determined that the new general rule will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

- (a) That the new general rule as attached hereto is adopted.
- (b) That the new general rule will be published in the Washington Reports and will become effective January 1, 2023.

AMENDED ORDER

IN THE MATTER OF THE PROPOSED NEW GENERAL RULE [GR 40]—INFORMAL
FAMILY LAW TRIALS [REVISED PROPOSAL]

DATED at Olympia, Washington this 14th day of November, 2022.



Johnson, J.



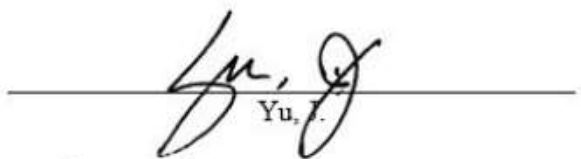
González, C.J.



Gordon McCloud, J.



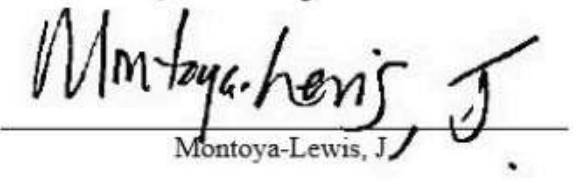
Madsen, J.



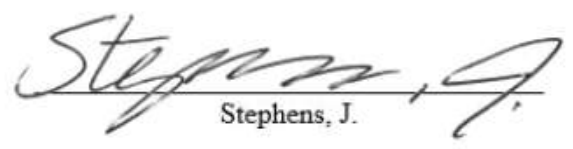
Yu, J.



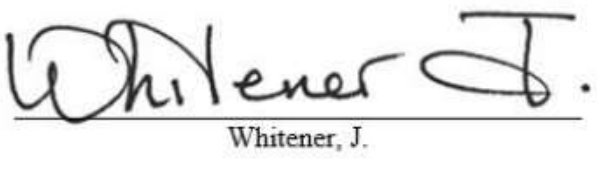
Owens, J.



Montoya-Lewis, J.



Stephens, J.



Whitener, J.

GR 40

INFORMAL FAMILY LAW TRIALS (IFLT)

[NEW]

(1) 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) The parties may select an IFLT within 30 days before trial or trial setting if no trial date is set at filing, or as otherwise directed by local court rule. Parties must file a “Trial Process Selection” and Waiver for IFLT that is in substantial compliance with the attached model form. This form shall be accepted by all superior courts, but may be modified to conform to local rule practices, provided local rule practices do not nullify this rule and/or the implementation of this rule.

(3) When a trial is conducted pursuant to this rule, in accordance with ordinary trial management, the trial judge shall retain discretion to modify any of these procedures as justice and fundamental fairness require, with prior notice to the parties.

(a) 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 judgment or order at the conclusion of the IFLT.

(b) The court may ask the parties or their lawyers for a brief summary of the issues to be decided.

(c) The moving party will be allowed to address the court under oath concerning all issues in dispute. A represented party is not questioned by their counsel, but may be questioned by the court to develop evidence required by any statute or rule; for example, the applicable requirements of the Washington State Child Support Schedule if child support is at issue. A party may also present up to five declarations (limited to 20 pages total) from laypersons who would otherwise be called as witnesses.

(d) The parties will not be subject to cross-examination unless permitted by the court. However, the court will ask the nonmoving 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.

(e) The process in subsections (3)(c) and (3)(d) is then repeated for the other party.

(f) Expert reports will be received as exhibits. Upon request of either party, the expert will be sworn and subjected to questioning by counsel, the parties, or the court.

(g) The Rules of Evidence shall not apply to the proceedings. The judicial officer hearing the matter shall determine the credibility and weight of the evidence that is offered.

(h) The court shall receive and admit exhibits offered by the parties. The court will determine what weight, if any, is given to each exhibit. The court may order the record to be supplemented. The process for submitting, filing, and storing exhibits shall be governed by local rule.

(i) The parties or their counsel shall then be offered the opportunity to respond briefly to the statements of the other party.

(j) The parties or their counsel shall be offered the opportunity to make a brief legal argument.

(k) At the conclusion of the case, the court shall make its ruling or may take the matter under advisement, and make every effort to issue prompt rulings no later than the 90-day statutory requirement. Findings shall be made and orders entered consistent with statutes and case law.

(l) The court may modify these trial procedures as justice and fundamental fairness requires.

(4) The court may refuse to allow the parties to utilize the IFLT, or a party who has previously agreed to proceed with an IFLT may file a motion to opt out of the IFLT at any time, including after an IFLT has started but before a ruling has been issued.

(a) If the parties request an IFLT after a traditional trial has started, the court should consider whether enforcement of traditional trial rules after the IFLT has started will prejudice either party or the best interests of any child. The decision to continue with a traditional trial shall be left to the discretion of the judicial officer hearing the matter.

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