

**SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR BENTON AND FRANKLIN COUNTIES**

7122 W. Okanogan Place, Building A, Kennewick, WA 99336

ADMINISTRATIVE PRESIDING JUDGE
ALEX EKSTROM

BENTON COUNTY JUSTICE CENTER
FRANKLIN COUNTY COURTHOUSE
TELEPHONE (509) 736-3071
FAX (509) 736-3057

MEMO TO: Benton Franklin Bar Association
AND TO: All Prosecuting Attorneys
AND TO: All Court Clerks

FROM: Alex Ekstrom, Administrative Presiding Judge

DATE: May 12, 2017

Subject: Ex Parte and Affidavits of Prejudice

We have received additional valuable comments regarding our proposed Judicial Resolution No. 17-002, which satisfies our obligation to create a system reasonably designed to prevent judges from signing matters in which a judicial officer may have previously been subject to an affidavit of prejudice. After considering those comments, we have modified the form of the attestation to address concerns regarding what a party can reasonably be expected to know about the state of a case at the time of presentation and to hopefully make clear that form does not trump substance in the form of the attestation itself. We have also provided for the option of incorporating the attestation into the pleadings, should this be more convenient for a party based on their work flow. It is our belief that, in order to comply with our obligations, we must require that the attestation or other assurances as listed in the policy. That said, it is not our desire to require the creation of another document that must be filed. We believe that, through a consistent application of the policy by all Judges, our obligation in this matter is satisfied and the form may be returned or discarded after its use.

Attached is a copy of the Resolution, No. 17-002, and the revised Attestation Form. An electronic copy of the Attestation Form is included. We would ask that all entities begin using the procedure of their choice as soon as possible, and will require compliance by all entities presenting documents for signature as of June 1, 2017. If you have any additional questions or concern during the phase in period, please feel free to contact me through Court Administration.

EX PARTE ATTESTATION POLICY

Judges may not sign documents in cases where one party has filed an Affidavit of Prejudice (disqualifying that Judge from hearing the case).

Before you present any document in a case for a Judge to sign, you must fill out one of the Attestation Forms.

The Attestation Form asks you two questions:

- 1) Have you filed an Affidavit of Prejudice in your case against any Judge, or
- 2) Do you know if anyone else in the case has filed an Affidavit Of Prejudice in your case against any judge (did anyone else in the case send you a notice that they filed an Affidavit of Prejudice against any judge).

If the answer to *either* of these questions is **Yes**, you must check the second box and put the name or names of the Judge or Judges against whom Affidavits of Prejudice have been filed on the lines below.

If the answer to **both** of these questions is **No**, fill out the first box only.

Next, you have to:

- 1) Sign and date the form, and
- 2) Attach it to your paperwork *before* Court Administration/The Clerk of The Court will accept it and ask a judge to review it.

This is your case, so you are responsible for filling out the form to the best of your knowledge and belief. If you have a question about what you or the other side did, you need to look at your paperwork in your case. It is not the job or duty of Court Administration or The Clerk of The Court tell you if there are Affidavits of Prejudice in your case.

BENTON & FRANKLIN COUNTIES SUPERIOR COURT
JUDICIAL RESOLUTION NO. 17-001
JURY TRIAL COURTROOM SECURITY GUIDELINES

The trial judge is vested with the duty, authority and discretion to provide for courtroom security, balancing the same against every defendant's right to a fair trial. It is particularly within the trial judge's province to determine whether, and in what manner, security measures are implemented, whether it be personal restraints or any other kind of personal control measures on a defendant or witness or other courtroom security measures, including citizen access to the courtroom.

Guideline: Except as authorized by the trial judge, no defendant or witness shall be physically restrained in any manner in the courtroom in the presence of the jury. In addition, at times other than during actual courtroom trial proceedings, every effort must be made through coordination with the assigned bailiff, to insure that members of the jury are not exposed to the defendant or any witness in any type of physical restraints.

Guideline: It is the default position of the Court that a maximum of two uniformed security officers may be present in the courtroom and located in front of the bar during the trial. The case officer is not counted as a security officer.

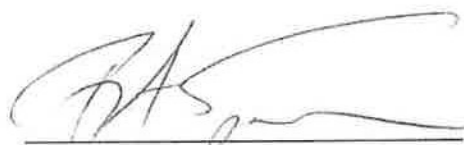
Additional security measures, including but not limited to additional uniformed security officers, will be allowed only after a pretrial hearing and application of State v. Hartzog principles. The trial judges recognize that corrections officers, law enforcement and the prosecuting attorney may have significantly more pretrial information about the potential for disruptions of a trial than the Court. All participants are instructed to advise Court Administration of potential problems and schedule an appropriate hearing to consider additional security measures above those outlined above. All participants shall advise the bailiff of potential problems prior to the start of any proceedings, as well as additional issues as they arise.

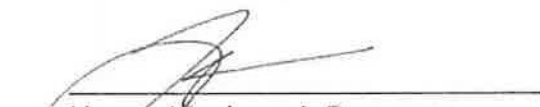
The guidelines outlined above do not prohibit other uniformed officers from entering the courtroom during trial. For example, the prosecuting attorney often has a uniformed officer sitting with him/her at counsel table which would be allowed. In addition, officers who are called as witnesses at trial occasionally sit in the courtroom before and after their testimony which would also continue to be allowed. Also, uniformed officers periodically walk into the courtroom, sit and observe for a short time, and then leave which would also be allowed.

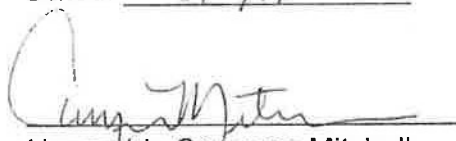
The guidelines outlined above do not prohibit additional security personnel from sitting in the courtroom behind the bar without prior judicial authorization if they are in civilian clothes and not identifiable as law enforcement or law enforcement connected personnel.

This resolution shall supersede and replace all prior directions from the Court in conflict with this order.

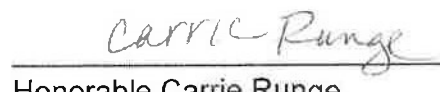

Honorable Alexander C. Ekstrom
Presiding Judge
Dated: 03/02/2017


Honorable Bruce A. Spanner
Assistant Presiding Judge
Dated: 3/2/17


Honorable Joseph Burrowes
Dated: 3/3/17


Honorable Cameron Mitchell
Dated: 3/9/17


Honorable Jacqueline Shea-Brown
Dated: 3-7-2017


Honorable Carrie Runge
Dated: 3/3/17


Honorable Vic L. VanderSchoor
Dated: 3/13/17