

**11TH JUDICIAL DISTRICT
DESCHUTES COUNTY COURTHOUSE
1100 NW BOND
BEND, OR 97701**

**SUPPLEMENTARY LOCAL RULES
DESCHUTES COUNTY CIRCUIT COURT**

1.151 HOURS OF OPERATION

Unless notified otherwise, court offices are open from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays.

1.171 WEBSITE ADDRESS

The 11th Judicial District's website address is www.deschutes-court.ojd.state.or.us.

3.181 PUBLIC ACCESS COVERAGE

Public access coverage is allowed in the common area located on the second floor of the Deschutes County Justice Building. Special effort should be made to reduce any disruption caused by media coverage on the public and/or court proceedings.

4.005 CONFERENCES

In any criminal proceeding the Court may, in its discretion, direct the attorneys for the parties to appear before it for a conference to consider:

- (1) the simplification of the issues;
- (2) the necessity or desirability of amendments to the pleadings;
- (3) the possibility of obtaining admission of fact and documents which will avoid unnecessary proof;
- (4) the limitation of the number of expert witnesses;
- (5) such other matters as may aid in the disposition of the action; and
- (6) the possible settlement of the case.

4.091 ELECTRONIC FILING OF COMPLAINT FOR TRAFFIC OFFENSES

- (1) A law enforcement officer may electronically file a complaint for traffic offenses (hereinafter referred to in this rule as a citation) only if all of the following provisions are met:
 - (a) The citation must be in substantially the same form as and contain all the information required by the uniform citation and must include the name, e-signature, agency name, and agency number of the officer who issued the citation;
 - (b) The citation must be numbered by the issuing law enforcement agency using a number series approved by the trial court administrator, and the number assigned to the citation by the agency must be unique and not duplicate any number previously submitted for filing;
 - (c) No more than three offenses may be electronically filed on a single citation; and
 - (d) The trial court administrator has given written approval for electronic filing to the officer's law enforcement agency.
- (2) The court will not accept criminal citations for electronic filing.
- (3) The court may scan uniform traffic citations filed in paper format, along with any supporting documentation and correspondence, and reformat them to an electronic record.
- (4) The court may issue judicial decisions and signatures electronically. The court may affix a judge's signature by electronic means.
- (5) The trial court administrator must maintain the security and control of the methods for affixing electronic judicial signatures, and those methods shall be accessible by only the signer and the trial court administrator or the trial court administrator's designee.
- (6) Citations that are electronically filed or manually scanned, including those to which additional information, judicial orders, judgments, and judicial signatures have been added, are the original and legal court record.
- (7) Members of the public may obtain a printed image of a citation electronically filed or manually scanned in the same manner as for a paper record. Fees applicable to court records apply to requests for these images.

5.015 REPORTING CIVIL MATTERS

In addition to the requirements of UTCR 5.050(1), if any civil matter is to be reported, the party that is requesting to have the matter reported must file a written request two working days before the scheduled hearing or trial.

6.012 SETTLEMENT CONFERENCES

- (1) If one party requests a pretrial settlement conference, or in cases designated by the court, a mandatory settlement conference shall be held. However, scheduling of a settlement conference is subject to judicial availability and a settlement conference shall not be scheduled so as to delay trial of the case. The pretrial settlement conference will not be required if the opposing party demonstrates good cause why the settlement conference should not be held.
- (2) The purpose of the settlement conference is to provide a forum to resolve disputes before trial through the active participation of counsel and the Court. The attendance of all parties and their trial attorneys is required. When a party is insured, a representative of the insurance company with authority to settle the case shall be in attendance or readily available by telephone. Upon a showing of good cause, the judge conducting the settlement conference may excuse a party from personally appearing, but the party may be required to participate by telecommunication.
- (3) Pretrial settlement conferences shall be conducted by a judge other than the assigned trial judge, unless all parties stipulate in writing that the trial judge may also conduct the settlement conference.
- (4) For a meaningful settlement conference to occur, all attorneys and parties must participate in good faith. The failure of any person to comply with these rules, appear at, or participate in a settlement conference, unless good cause is shown for any such failure, may result in the court imposing appropriate sanctions as described in UTCR 1.090. Cases set for a settlement conference shall retain their place on the trial docket.
- (5) If settlement negotiations are not successful, counsel should be prepared to proceed to trial on the date scheduled. The court will make every effort to ensure the case proceeds to trial on the date scheduled.
- (6) If a settlement is reached, the parties shall place notice of the settlement on the record before the scheduled trial date, in accordance with UTCR 6.020.

6.135 ARGUMENTS ON MOTIONS AND OBJECTIONS DURING TRIAL

During the course of a trial, no argument will be allowed on any objection or oral motion except when the trial judge indicates a desire to hear counsel.

7.005 ENTRY OF GUILTY PLEA BY ATTORNEY IN MISDEMEANOR CASES IN DEFENDANT'S ABSENCE

When an attorney enters a guilty plea for a non-appearing defendant charged with a misdemeanor, the attorney shall submit a guilty plea petition filled out and signed by the defendant. The plea petition shall be similar to that provided by this Court.

7.015 SETTING MOTION AND TRIAL DATE IN CRIMINAL CASES

- (1) Criminal motions are set in Court during a pre-trial conference with counsel being required to appear with their calendars but may also be set by telephone. In both instances, the Court may provide written confirmation of the date.
- (2) Criminal motions are reset by telephone but may also be reset in Court with counsel being required to appear with their calendars. In both instances, the Court may provide written confirmation of the new date.
- (3) Criminal trials are set in Court, and counsel are required to be present with their calendars. The Court may provide written confirmation of the date.
- (4) When cases are continued under UTCR 6.030, criminal trials are reset in Court with counsel being required to appear with their calendars, but may also be reset by telephone. In both instances, the Court may provide written confirmation of the new date.

7.025 SETTING MOTION AND TRIAL DATE IN CIVIL CASES

- (1) Civil motions are set by telephone with the Court customarily not providing written confirmation of the date, or may be set by written notice without prior consultation with counsel. Civil motions may also be set in Court or in chambers during a pre-trial conference with counsel being required to appear in person or by conference call with their calendars.
- (2) Civil motions are reset by telephone with the Court customarily not providing written confirmation of the new date, or may be set by written notice without prior consultation with counsel. Civil motions may also be reset in Court or in chambers with counsel being required to appear either in person or by conference call with their calendars.

- (3) Civil trials are set in Court or in chambers during a pre-trial conference with counsel being required to appear either in person or by conference call with their calendars and the Court may provide written confirmation of the date.
- (4) When cases are continued under UTCR 6.030, civil trials are reset in Court or in chambers during a reset conference with counsel being required to appear either in person or by conference call with their calendars and the Court may provide written confirmation of the date.

7.036 MANDATORY APPEARANCE IN CRIMINAL PROCEEDINGS

Counsel for the defendant, the defendant and counsel for the State with the authority to negotiate, must appear at the following settings unless waived by the Court within 48 hours before the scheduled hearing: plea/set trial hearings, pre trial conferences, trial call, trial.

7.045 SETTING MOTION AND TRIAL DATE IN DISSOLUTION CASES

- (1) Dissolution motions are set by telephone and the Court customarily does not provide written confirmation of the date. A dissolution motion may be set in Court or in chambers during a pre-trial conference with counsel being required to appear either in person or by conference call with their calendars, and the Court may provide written confirmation of the date.
- (2) Dissolution motions are reset by telephone, and it is not customary for the Court to provide written confirmation. Dissolution motions may also be reset in Court or in chambers during a pre-trial conference with counsel being required to appear either in person or by conference call with their calendars and the Court may provide written confirmation of the date.
- (3) Dissolution trials are set in chambers during the pre-trial conference, with counsel being required to appear either in person or by conference call with their calendars. The Court may provide written confirmation of the date.
- (4) When cases are continued under UTCR 6.030, dissolution trials are reset in Court or in chambers during reset conferences with counsel being required to appear either in person or by conference call with their calendars. The Court may provide written confirmation of the new date.

7.055 SETTING SHOW CAUSE HEARINGS

- (1) Show cause hearings are set by telephone or may also be set by written notice without prior consultation with counsel. The Court may confirm the date on a pre-stamped postcard or copy of the order, if provided by counsel.

- (2) Show cause hearings are reset by telephone. The attorney is instructed to prepare an order postponing the hearing to the new date and time, and that order is served on all other parties. Occasionally a show cause hearing is reset in Court with all parties present and written confirmation is not provided by the Court.

8.041 PREJUDGMENT RELIEF UNDER ORS 107.095(1)

Prerequisite of ex parte matters is to serve notice of the presentation to all opposing counsel of record or parties that have appeared Pro se.

8.045 TEMPORARY PROTECTIVE ORDERS OF RESTRAINT AND EX PARTE CUSTODY/PARENTING TIME ORDERS

Issuance of a temporary protective order of restraint or an ex parte temporary order providing for the custody of, or parenting time with, a child is governed by ORS 107.095 and ORS 107.097.

8.046 EDUCATION FOR DIVORCING PARENTS

- (1) The following cases are subject to this rule: annulment or dissolution of marriage actions, legal separation actions, petitions to establish custody or parenting time, and post-judgment litigation involving custody or parenting time.
- (2) All parties, where the interest of a child under the age of 18 years is involved, shall successfully complete the education for divorcing parents program offered by the court designated providers or a pre-approved alternative education program. Parties shall register for the program or make application for approval of an alternate program within 15 days of receiving notice of this education requirement. All parties shall complete the program before the initial pretrial conference.
- (3) Notice and instructions to the petitioner of the requirement that the parties complete the education program or alternative education program will be provided by the trial court administrator when the petition is filed. Petitioner, when serving the respondent with the petition, shall also include a copy of the trial court administrator=s notice. The petitioner=s return of service on the respondent shall indicate service of the notice with the summons and petition.
- (4) Each party shall pay a fee determined by the program provider to cover program costs. The fee may be waived if the party presents a verified affidavit of indigency to the Court, and the party meets indigency guidelines.

- (5) Each person who successfully completes the Court=s program or the pre-approved alternative program, shall present a certificate of completion to the judge at the pretrial conference.
- (6) Upon a showing of good cause, a party may request a waiver of this rule. The request must be made by motion, supported by affidavit, and filed within 15 days of receipt of the trial court administrator=s notice.
- (7) Court action on a petition shall not be delayed by a party=s refusal or delay in completing the program unless the non-complying party is the petitioner or the moving party. Upon a party=s failure to successfully complete the education program pursuant to this rule, the assigned judge may take appropriate action including, but not limited to, proceedings for contempt.

8.055 ORDERS TO SHOW CAUSE

See SLR 7.045 for scheduling matters in domestic relations proceedings.

- (1) The procedures of this rule are limited to domestic relations cases. Domestic relations cases shall mean dissolution of marriage, legal separation cases including pre-trial motions and post-judgment motions, filiation and interstate support proceedings. A contempt proceeding arising out of a domestic relations case is not covered by this rule.
- (2) An order to show cause will be allowed only upon the motion of a party supported by affidavit. The order to show cause will not contain a date for hearing. It shall provide that the adverse party must file a written response in opposition within fourteen (14) days from the date of service of the order and affidavit, or within such additional time as allowed by the Court upon a showing of good cause. The order must further advise the adverse party that if such written response in opposition is not so filed and served within the fourteen (14) days, the order requested by the motion and show cause order will be granted and entered by the Court. (An example order is attached as set forth in Appendix 1.) Post-judgment motions to set aside, alter or modify any terms of the judgment shall provide that the adverse party must file and serve a written response in opposition to the motion within thirty (30) days from the date of the service of the order and affidavit. The order must further advise the adverse party that if such written response in opposition is not so filed and served within thirty (30) days, the order requested by the motion and show cause order will be granted and entered by the Court.

- (3) If the opposing party fails to file the written response in opposition within the time allowed, the moving party shall forthwith submit an order allowing the relief requested in the order to show cause. The Court reserves the right to require the taking of testimony of the moving party in such default matters. The Court reserves the right to enter the order requested if the opposing party does not file the written response in opposition and may do so upon its own motion if the moving party fails to present for signature the order required above.
- (4) Except for pendente lite motions for temporary child or spousal support, upon the opposing party filing a written response in opposition, either party shall forthwith, by motion, request a hearing date to be set to determine the issues raised by the order to show cause and the affidavit. A copy of the order setting the date shall be served upon the moving party by the opposing party. If either party fails to submit a motion requesting such hearing date, the Court reserves the right to set such date on its own motion. The first paragraph of motion requesting a hearing date shall include an estimate of the time required for argument and a statement whether official court reporting services are requested.
- (5) Except for pendente lite motions for temporary child or spousal support, this procedure shall apply to all orders to show cause in domestic relations matters whether they be pre-trial or post-judgment or any other matters properly raised by the procedure of an order to show cause.
- (6) Pendente lite motions for temporary child and spousal support filed pursuant to ORS 107.095(1)(a) and (b) and other motions for temporary financial orders filed pursuant to ORS 107.095(1)(f) shall be determined without testimony, based on the affidavits of the parties and their Uniform Support Affidavits. Such motions shall be filed separately from other pendente lite motions. In any case involving temporary child support, the affidavits filed by the parties shall include a child support computation worksheet. When the matter is ready for decision, the moving party shall notify the Court by filing a Notice of Readiness for Decision. (An example notice is attached as set forth in Appendix 2.)

8.075 PARENTING SCHEDULE

Unless otherwise directed by the Court, or the parties stipulate to a different schedule of parenting time which is approved by the Court, a non-residential parent shall have the right to have parenting time with the minor child(ren) of the parties according to the schedule and guidelines which are set forth in Appendix 3.

9.081 OBJECTION TO PETITION FOR APPOINTMENT OF GUARDIAN/CONSERVATOR

- (1) Any interested person, as described in ORS 125.075(1), who has an objection to a petition in a protective proceeding should inform a court clerk at the information counter located in the Justice Building. The objecting party should advise the court clerk that the objecting party wishes to make oral objections to the petition. Upon receipt of the objection and payment of the applicable fee required by ORS 21.310, the Court will schedule a hearing and notify the appropriate parties.
- (2) The court clerk will automatically provide the objection form as set forth in Appendix 4, when requested by the objecting party.

11.051 PERSONAL APPEARANCE REQUIRED

In all termination and dependency cases, parent(s) and any guardian(s) shall be served a Summons to personally appear at a time and place specified to answer the Petition. The parent(s) and any guardian(s) must personally appear in court at the time and date specified in the Summons. A written appearance shall not be permitted. A parent or guardian may make written application to the Court for their personal appearance by telephone in extraordinary circumstances; however, the written application must be filed with the Court two (2) days prior to the time scheduled for the parent=s or guardian=s personal appearance. The written application must include the person=s current residence address, mailing address, telephone number, and the person=s acknowledgment that it is their obligation to initiate/place the telephone call to the Court at the time scheduled for their appearance.

11.095 TIME LINES FOR DISCOVERY/FILING OF PAPERS

Unless good cause is shown:

- (1) prior to or at the first appearance, parties must disclose initial available discoverable material. A party must also notify opposing counsel and disclose subsequent discoverable material within 48 hours of receipt. Both parties must complete discovery 24 hours before the pre-hearing conference;
- (2) all motions must be filed in writing before the pre-hearing conference;
- (3) motions will be considered waived if not filed timely; and
- (4) all documents shall be filed with the juvenile court clerk at least one day prior to the hearing and show proof of concurrent service of true copies upon the other attorneys and unrepresented parties.

12.015 MEDIATION OF CHILD CUSTODY AND PARENTING TIME

- (1) In any domestic relations suit involving a contest over custody or parenting time of children, the parties shall make themselves available to the Court's mediation service.
- (2) If there is a disagreement between the parents concerning custody or parenting time at any stage of a domestic relations proceeding, both parents, or their attorneys, may sign and file with the Court a stipulated request for Mediation, in substantially the form as provided by the Court. The parents will be referred by the Court to the family team of the Deschutes County Mental Health Services for mediation in accordance with these rules, or the parents may agree and stipulate to an independent mediator in their stipulated request for mediation.
- (3) If there is a disagreement between the parties concerning custody or parenting time at any stage of a domestic relations case, either parent seeking to resolve the matter must file with the Court and serve upon the other parent, or his/her attorney, a request for mediation in substantially the form as of that provided by the Court.
- (4) If the parties select a mediator independent of the Court system, they shall directly contract with the independent mediator and be responsible for payment of any fee for mediation service.
- (5) Parties shall make every effort possible to resolve custody and parenting time issues before the pre-trial conference. Counsel should be prepared to inform the Court of the status of mediation during the pre-trial conference.
- (6) In the event the parents are not successful in mediating the custody or parenting time controversy, the mediator shall notify the Court. The matter will be scheduled for a hearing in the same course and with the same priority on the docket as though there had been no mediation.
- (7) Counsel for either party will not be allowed to attend mediation proceedings.
- (8) All mediation proceedings shall be private and all communications made shall be confidential, except as otherwise provided by statute. A spouse or any other individual engaged in mediation proceedings shall not be examined in any civil or criminal action as to such communications and such communications shall not be used in any civil or criminal action without the consent of the parties.

12.025 MEDIATION OF CIVIL DISPUTES

The 11th Judicial District has a mediation referral program pursuant to ORS 36.180 to 36.210. These rules are effective upon the presiding judge's approval of a mediation panel

consistent with SLR 12.065. On the effective date, the rules apply to new cases and pending cases which are subject to mandatory arbitration but have not yet been referred to the program.

12.035 APPLICATION OF CHAPTER

This SLR chapter applies to mediation by court referral or stipulation under ORS 36.180 to 36.210 but does not apply to any of the following:

- (1) Proceedings in child custody and parenting time as provided in ORS 107.510 to 107.610.
- (2) Proceedings in small claims court as provided in ORS 46.405 to 46.485.
- (3) Proceedings in forcible entry and detainer cases as provided in ORS 105.105 to 105.165.

12.045 MEDIATION COMMISSION

- (1) There is established a mediation commission which includes judges, attorneys, non-attorneys, and the court administrator, at least some of whom have experience as a mediator.
- (2) All members shall be appointed by, and serve at the pleasure of, the presiding judge for two year terms.
- (3) The function of the mediation commission is to monitor the mediation program, review the qualifications and training of mediator, and advise the court on other functioning of the mediation program.

12.055 MEDIATION PANEL ESTABLISHED

There shall be a panel of mediators made up of persons who have the minimum qualifications and training prescribed in OAR Chapter 718 Division 40, and have been appointed at the discretion of the presiding judge.

12.065 APPOINTMENT TO MEDIATION PANEL

- (1) To apply to be listed on the panel of mediators, a person must sign and file an application as provided by the court.
- (2) The mediation commission shall review each applicant and make a recommendation to the presiding judge.

- (3) The decision as to whether an individual is qualified to be on the panel of mediators shall be made by the presiding judge.
- (4) Failure to submit a confirmation of address and intent to remain on the list shall be cause for removal from the list.

12.075 REMOVAL FROM MEDIATION PANEL

- (1) The presiding judge may remove a listed mediator at the presiding judge's discretion.

12.085 ASSIGNMENT, SELECTION, AND COMPENSATION OF MEDIATOR

- (1) A mediator shall be assigned by the presiding judge or selected by the parties within 21 days after the referral to mediation.
- (2) The mediation commission may establish a compensation schedule which shall apply only when a mediator is assigned by the court. If a mediator is selected by the parties, then compensation shall be determined by the parties and the mediator.

12.095 COMPLETING THE MEDIATION

Any mediation under these rules must be completed within 90 days after the entry of an order referring the case to mediation, unless otherwise ordered by the court.

13.005 MANDATORY ARBITRATION PROGRAM

Matters involving \$50,000 or less will be referred to mandatory arbitration.

13.048 INDIGENT PARTIES

- (1) Indigent parties must seek waiver of the arbitrator's fee within 14 days from the date the case is transferred to arbitration. The request must be submitted by motion and order, supported by an affidavit, and presented to the Presiding Judge for approval.
- (2) In the event funds are available under ORS 36.420 for the payment of fees that are waived, the arbitrator shall be reimbursed after completion of the arbitration, filing of the Arbitration Award, and submission of the form approved by the State Court Administrator for such purpose.

13.065 EFFECT OF MEDIATION ON MANDATORY ARBITRATION

This rule is effective upon the implementation of SLR 12.025:

- (1) Arbitration shall not be required if all parties participate in:
 - (A) a mediation program pursuant to ORS 36.405(3) and SLR 12.025;
 - (B) a mediation otherwise approved by the presiding judge or his/her designee; or
 - (C) a pre-trial settlement conference as provided in SLR 6.012.

16.005 TRIAL BY AFFIDAVIT

If a signed waiver is filed by the alleged violator, testimony in a traffic infraction or violation trial is allowable by affidavit. A copy of the affidavit(s) will be made available to the alleged violator before the trial.

16.015 REPORTING MATTERS

If a violation or traffic infraction matter is to be reported, the moving party must file a written request two working days before the scheduled hearing.

20.011 MATTERS SUBJECT TO VOLUNTARY ARBITRATION

(RULES 20.011 THROUGH 20.018 APPLY TO CASES NOT SUBJECT TO MANDATORY ARBITRATION.)

- (1) These rules were developed to encourage voluntary alternative dispute resolution techniques, but not mandatory arbitration as intended in UTCR 13.020.
- (2) In a civil or dissolution action where all parties have appeared and agreed to binding arbitration by written stipulation, the Court shall refer the action to arbitration. This referral shall be by an order staying the proceedings pending arbitration.
- (3) The written stipulation must be filed with the Court, shall be signed by all parties and counsel, and conform substantially to the form required by Court. (An example stipulation and order form is attached as set forth in Appendix 5.)

20.012 AMERICAN ARBITRATION RULES GOVERN

Unless specifically covered by these rules, the American Arbitration Rules (Amended March 1, 1986) shall govern arbitration proceedings ordered by the Court. In addition, the following American Arbitration Rules are adopted specifically to eliminate repeated language: Rule 10, 11, 23 and 40. Copies of the rules may be obtained from the American Arbitration Association, 701 Pike Street, Suite 950, Seattle, Washington 98101 (206-622-6435 or 800-559-3222), website: adr.org.

20.013 ARBITRATION WHERE CASE ALREADY SET FOR TRIAL

Parties shall make every attempt to enter into an arbitration stipulation as soon as possible after filing of the Court proceeding. Cases will not be transferred to arbitration when they are within seven (7) days of the set trial date, unless authorized by the Court.

20.014 SELECTING ARBITRATORS

- (1) Parties may select any person to serve as arbitrator and negotiate appropriate fees.
- (2) The Court shall maintain a list of arbitrators. If parties are unable to select an arbitrator, they may request the Court to furnish a list of local lawyers desiring to serve as arbitrators.

20.015 AUTHORITY OF ARBITRATORS

In addition to the authority granted arbitrators under the American Arbitration Rules, arbitrators may:

- (1) decide procedural issues arising before or during the arbitration hearing, except issues relating to the qualification of an arbitrator;
- (2) invite, with reasonable notice, the parties to submit trial briefs;
- (3) after notice to the parties, examine any site or object relevant to the case;
- (4) issue a subpoena;
- (5) administer oaths or affirmations to witnesses;
- (6) rule on the admissibility of evidence;

- (7) determine the facts, apply the law and make an award, and perform other acts as authorized by these rules;
- (8) determine the place, time and procedure to present a motion before the arbitrator, including motions for summary award as set forth in ORCP;
- (9) require a party, an attorney advising a party, or both to pay the reasonable expenses, including attorney fees, caused by the failure of such party or attorney or both, to obey an order of the arbitrator;
- (10) award attorney fees as authorized by these rules, by contract or by law; and
- (11) rule on objection to cost bill.

20.016 DISCOVERY

Discovery is authorized under these rules. Discovery shall be conducted in accordance with the Oregon Rules of Civil Procedure, except that all motions concerning discovery shall be determined by the arbitrator.

20.017 FORM AND CONTENT OF AWARD

Arbitration awards shall include findings of fact and shall conform to ORCP 62.

20.018 FILING AN AWARD AND APPEAL

- (1) Circuit Court shall receive the original copy of the arbitrator's award. All parties, and the Court, shall be served the award at the same time. The entry of the award as a judgment and its appeal shall be governed by statute.