2016 Lane County Circuit Court Proposed SLR – Summary of Changes

Rule	Change
1.161 (1) 1.161(2)	Update to reflect move of probate center to the clerk's office and remove redundant address information located in SLR 1.151 Update for eCourt and mandatory eFiling. Remove conflict with UTCR Ch. 21. 1.161 FILING OF DOCUMENTS (1) The Office of the Trial Court Administrator receives documents for filing at the court clerk's office. **[***The court clerk's office is located on the 2nd floor of the Lane County Courthouse at 125 East 8th Ave, Eugene, OR 97401.* *(a) Probate documents may be filed at the probate center located in the basement/archives department.* (b) **]**Juvenile documents may be filed at the juvenile court clerk's office. (2) At the direction of a judge, documents may be filed in the courtroom during the pendency of a proceeding**[**, *or may be filed at a judge's chambers***]**. **[***Documents requested by a judge may be filed directly with a judge's chambers. Documents may also be filed at a judge's chambers at the direction of the presiding judge.***]**
2.015(3) 2.015(4)	Correct punctuation. Add liens and bonds issued by or to nonexistent courts. 2.015 RETURN OF A DOCUMENT TO A PARTY In addition to the authority to decline to receive or file a document under ORCP 9E, a document may be returned to the party who submitted it in the following situations: (1) A document with an existing case number and case caption from another jurisdiction unless filed pursuant to an order signed by a judge allowing a change of venue or authorizing the filing on some other basis; (2) A document which requires a fee but the fee payment or an order to waive or defer the fee is not provided; (3) A document without sufficient identifying information to determine in which case it should be filed or entered**[***:***]{<u>;</u>}** (4) A document with a case caption from a jurisdiction not recognized by the Oregon constitution or established by the Oregon Legislature, or a judgment or decree purportedly issued by a nonexistent court **{<u>,</u>}[***;***]** **{<u>or a lien or bond issued by or to a nonexistent court or agency.</u>}**

2.501	Adopted out of cycle July 2015. **{2.501 STIPULATED OR EX PARTE MATTERS FOR WHICH THE DOCUMENTS MUST BE PRESENTED CONVENTIONALLY AND MAY NOT BE ELECTRONICALLY FILED** **In the following subject matter areas, the listed stipulated or ex parte documents, and any document that will be served simultaneously with a document listed in this rule, must be presented conventionally and may not be electronically filed.** **(1) Family Case Matters. To be presented pursuant to SLR 5.061:** **(a) Emergency Custody and Parenting Relief based on Immediate Danger** **(b) Pre-Judgment Temporary Protective Orders of Restraint** **(c) Temporary Orders of Financial Restraint** **(d) Orders of Assistance** **(e) Guardian ad Litem Appointment** **(f) Post Judgment Status Quo Order to Show Cause** **(g) Motions for Modification or Dismissal of Abuse Protective Orders** **(2) Civil Case Matters. To be presented pursuant to SLR 5.061:** **(a) Guardian Ad Litem Appointments** **(b) Judgment Debtor Bench Warrant** **(c) Preliminary Injunction Show Cause** **(d) Provisional Process Show Cause** **(e) Receivership Show Cause** **(f) Writ of Assistance** **(g) Writ of Mandamus Show Cause** **(h) Writ of Review** **(i) Identity case orders (change of name or sex)** **(3) Protective Order Initiating Matters. To be presented to the judge assigned by the presiding judge for that day:** **(a) Family Abuse Prevention Act** **(b) Elderly Persons and Persons with Disabilities Abuse Prevention Act** **(c) Sexual Abuse Prevention Act** **(4) Presiding Judge Matters. To be presented to the presiding judge in court or chambers:** **(a) Motion to Disqualify Judge}**

3.141(1)(a)	Correct grammar. 3.141 RESIGNATION OF COUNSEL (1) Criminal Cases (a) In criminal cases, including appeals from Justice and Municipal Courts, application for withdrawal or discharge of counsel shall be in open court at 2:30 call or **{at}** an arraignment, after notice to opposing counsel, and with the defendant present unless the defendant's whereabouts are unknown.
3.182(1) 3.182(2)	Update to reflect current technology. New paragraph (b) to clarify rule inside vs. outside of courtroom. 3.182 PERSONAL COMMUNICATION DEVICES (1) Definition: For the purposes of this rule, personal communication devices include, but are not limited to: cellular telephones, **[***pagers,***]** laptop computers, and **[***personal digital assistants (PDAs)***]** **{tablets}**. (2) Limitations on Use: **(a)** **(a)** Courtrooms: Unless permitted by the judge presiding over the proceeding, personal communication devices must be turned off while in a courtroom. *(a)***(b)** {**Common Areas Outside Courtrooms:**} **[***They***]{Personal communication devices}** may be turned on when not in a courtroom, however, such devices shall not be used to record, receive, or transmit video images, pictures, or audio at any time when inside the courthouse. *(b)* **{(c)}** Jurors: Unless permitted by the judge presiding over the trial, members of a seated jury shall not possess personal communication devices in the courtroom or jury deliberation room. After the jury is seated, the courtroom clerk will collect all devices and retain them in a secure location. The devices will be returned to jurors for the duration of the noon recess and other recesses as allowed by the judge, and at the conclusion of each day's proceedings.

4.051 (2)	Hearing date and time to be determined by assigned judge 4.051 MOTIONS AND DEMURRERS IN CRIMINAL CASES (1) All criminal motions, demurrers, other challenges to an indictment, and matters subject to ORS 135.805 to 135.873 will be considered on the third succeeding Tuesday after the same shall have been filed, unless otherwise ordered by the Court. (2) Any pretrial motion or demurrer in a case assigned to a judge shall be decided by the judge to whom the case has been assigned **{at a date and time to be determined by the assigned judge}**, unless the presiding judge designates some other judge to decide it.
4.051(3) 4.051(4)	Update to reflect eCourt / eFiling process New rule. Describes process for postponement/acceleration of motion consideration. Matches civil rule and process. 4.051 MOTIONS AND DEMURRERS IN CRIMINAL CASES (1) All criminal motions, demurrers, other challenges to an indictment, and matters subject to ORS 135.805 to 135.873 will be considered on the third succeeding Tuesday after the same shall have been filed, unless otherwise ordered by the Court. (2) Any pretrial motion or demurrer in a case assigned to a judge shall be decided by the judge to whom the case has been assigned **{at a date and time to be determined by the assigned judge}**, unless the presiding judge designates some other judge to decide it. (3) Opposing counsel may, on or before Monday of the week preceding the time for consideration, file a memorandum of authorities. The moving party may file **[***in the chambers of the judge assigned to the matter***]** a reply memorandum not later than Friday of the week before the motion or demurrer is to be considered. **{(4) Except when a stipulation is filed pursuant to (1) above, a party moving to postpone or accelerate the consideration of matters on the motion docket, including requests for expedited hearing, shall ascertain the position of all other parties regarding the postponement or acceleration, and shall include a statement of those positions in its motion. The statement shall also indicate whether or not the other parties wish to respond to the motion to postpone or accelerate. In the absence of such statement, the motion to postpone or accelerate will be denied and the matter considered in the normal course.}**

5.005(1)	Update to reflect eCourt / eFiling process. 5.005 MOTIONS IN CIVIL CASES *(1) All pretrial motions, including motions for summary judgment*, will be considered on the fifth succeeding motion day after the motion is filed, unless otherwise ordered by the Court. **[***However*, u**]{<u>U</u>}**pon written stipulation of counsel filed **[***in the chambers of the judge assigned the matter***]** not later than the Thursday of the week preceding the day for consideration, the consideration may be continued to a later motion day. No motion may be continued more than once, nor additional time to file memoranda allowed, unless ordered by the Court. When a party requests telephonic argument, the clerk will set a specific time for argument on the customary motion day docket.
5.061(2) 5.061(3)	Clarified to reflect civil matters less than $10K Deleted as conflicting with UTCR Ch. 21 and SLR 2.501 5.061 PRESENTATION OF EX PARTE ORDERS (1) All ex parte orders not specifically otherwise provided for in these rules shall be presented by an attorney of record having knowledge of the subject matter in the designated courtroom Monday through Friday of each week between 8:30 a.m. and 8:50 a.m., and not otherwise except in case of emergency. (2) **[***Except in domestic relations cases,* **] {<u>A</u>}[***a***]**ll ex parte orders in **{<u>non-domestic civil</u>}** cases where the amount in controversy is $10,000 or less shall be submitted to the court clerk. *[(3) Attorneys maintaining their principal offices outside the Eugene-Springfield area may, in lieu of appearing personally as provided above, submit orders to the court by mail, setting forth in an accompanying letter sufficient information to give the Court a complete understanding of the matter*.**]** [*(4)***]{<u>(3)</u>}** Ex parte orders postponing trials (including stipulations), shall be presented only to the presiding judge, unless the presiding judge otherwise directs. [*(5)***]{<u>(4)</u>}** Paragraph **[***(4)***]{<u>(3)</u>}** of this rule applies to ex parte orders postponing trials in decedents' estates, guardianships and conservatorships, as well as to all other ex parte orders postponing trials. The other paragraphs of this rule do not apply to ex parte orders in decedents' estates, guardianships and conservatorships. [*(6)***]{<u>(5)</u>}** Except where otherwise authorized by statute, all motions and affidavits seeking an ex parte order and/or judgment of default shall state the method of service and date and time service was made and perfected. In addition to a declaration in the affidavit this information shall be set forth in the first line of the motion. [*(7)***]{<u>(6)</u>}** All motions to continue filed in response to a UTCR 7.020 Notice to

	Dismiss shall include the date of the original case filing, whether service has been made and, if so, the date and method of service, and whether any previous motions to continue have been filed. This information is in addition to the facts in each case needed to establish good cause for the continuance.
6.012 (2) 6.012 (4)	Remove words "in court file" replace with "in the court record" Improve grammar. Clarify rule. 6.012 SETTLEMENT CONFERENCES (1) Any party may request a settlement conference by making a written request to the presiding judge. Early requests are encouraged, and requests for assignment to a particular judge will be honored if possible. (2) The settlement conference judge shall not act as trial judge if the case does not settle unless agreed to by the parties. The assigned settlement judge will determine whether a pretrial statement or other document must be submitted to the judge prior to the settlement conference, when it should be submitted, and whether it will be confidential or non-confidential. Materials or notes prepared by the pretrial settlement judge will remain confidential and will not be placed in **[***the court file***]** **{<u>the court record</u>}** in the event that the case does not settle. The assigned settlement judge will determine the appropriate method for reporting settlement and removing the case from the active trial docket and will determine whether a trial setting conference must be held prior to the pretrial settlement conference. (3) If one party requests a pretrial settlement conference, the settlement conference must be held and must be conducted according to the procedure set forth in this SLR. However, the pretrial settlement conference will not be required if the opposing party demonstrates good cause why the settlement conference should not be held. (4) Each trial attorney and party or representative of a corporation or insurance company who has full authority to settle and compromise the litigation must personally appear at the pretrial settlement conference**{<u>.</u>}[***; however, t***]{<u>T</u>}**he judge may permit telephone appearances for good cause **{<u>shown</u>}**.
6.031 (1)	Improve readability. 6.031 MOTION TO POSTPONE (1) All motions for postponement including stipulations must be filed more than one week prior to the trial date. **[***However,* **] {<u>T</u>}[***t***]**he presiding judge may allow a motion or stipulation for postponement filed within one week of the trial date upon good cause shown and provided the Court is satisfied with the cause.

7.007(1) 7.007(2)	Correct tense. Change time of hearing for criminal motions 7.007 MOTION DAYS (1) Monday is motion day for civil motions. When Monday is a legal holiday, Tuesday will be motion day for civil motions. Tuesday **[***will be***]** **{<u>is the</u>}**motion day for criminal motions described in SLR 4.006. (2) In cases where oral argument has been requested, argument shall be at 9:00 a.m. in the courtroom of the judge assigned to hear civil **[***or criminal***]** motions **{<u>and 8:30 a.m. in the courtroom of the judge assigned to hear criminal motions</u>}**.
8.041(2)	Remove conflict with UTCR Ch. 21 8.041 ORDERS TO SHOW CAUSE PRIOR TO TRIAL (1) All Orders To Show Cause shall be served not less than twenty-one (21) days prior to the time set for hearing or appearance, unless another time is ordered by the Court or provided by law. Except for Orders For Temporary Support, the Order To Show Cause shall contain a notice plainly and specifically stating the hearing date and time. (2) Orders To Show Cause **{<u>presented conventionally pursuant to SLR 2.501</u>}** shall be filed with the clerk immediately after being signed by a judge.
8.051(2)	Removed conflict with UTCR Ch. 21 8.051 POST-JUDGMENT MODIFICATION PROCEEDINGS: STATUS QUO HEARINGS (1) The Order To Show Cause shall require the adverse party to file a written response in answer to the Motion and Affidavit, with a responding Uniform support declaration if the issue of support is to be contested, within the time prescribed by ORS 107.135(14). (2) The Order To Show Cause **{<u>presented conventionally pursuant to SLR 2.501}</u>** shall be filed with the clerk immediately after being signed by a judge.
9.002	Probate office move 9.002 FILING PROBATE MATTERS Probate matters requiring authorization, approval, or signature of the probate judge or designee shall be filed **[***in the probate center***]** **{<u>at the court clerk's office</u>}**.

9.003	Probate office move 9.003 EX PARTE ORDERS IN DECEDENTS' ESTATES, GUARDIANSHIPS AND CONSERVATORSHIPS All ex parte orders and judgments in decedents' estates, guardianships and conservatorships may be submitted to the court **{clerk's office}[***through the probate center***]** at any time without the necessity of the appearance of attorney for the fiduciary.
9.081(1)	Probate office move 9.081 OBJECTION TO PETITION FOR APPOINTMENT OF GUARDIAN/ CONSERVATOR **(1)** Any interested person, as described in ORS 125.075(1), who has an oral objection to a Petition in a protective proceeding should contact the probate clerk at (541) 682-4033 or appear at the **[***probate center***] {court clerk's office}** in person **{and ask for the probate clerk}**. The objecting party should advise the probate clerk that the objecting party wishes to make oral objections to the Petition. Upon receipt of the objection the court will schedule a hearing and notify the appropriate parties.
9.091 (1)	Probate office move 9.091 GUARDIANSHIPS (1) Where the petition seeks appointment of a guardian, a copy of the petition marked "VISITOR'S COPY", with supporting documentation and proof of service attached, shall be delivered to the **[***probate center***] {court clerk's office}**.
9.092(1)	Probate office move 9.092 GUARDIANS (1) As an acceptance of the appointment, a guardian shall file in the proceedings his name and residence and post office address, and thereafter shall promptly **[***file with the probate center***] {notify the court in writing of}** any change in such data.

9.162 (2)(b)	Probate office move 9.162 PRESENTATION OF ACCOUNTS IN DECEDENTS' ESTATES (1) All accounts in decedents estates shall be filed with the probate center. The court need not and ordinarily will not enter an order approving an annual accounting. (2) Objections (a) If objections to a final account are filed the court will schedule a hearing on a Monday unless it is anticipated to take longer than 2 hours in which case the court will schedule the proceeding on the trial docket. (b) If no objections to a final account are filed within the time fixed for filing objections, a proposed order approving the final account shall be **[***delivered to the probate center.***]{<u>delivered to the court clerk</u>.}**
9.163	Probate office move 9.163 PRESENTATION OF ACCOUNTS IN CONSERVATORSHIPS (1) All accounts in a conservatorship shall be filed with the **[***probate center* **]{<u>court clerk</u>}**.
12.004(5)	Delete rule – obsolete 12.004 MEDIATION PROCESS – COURT-CONNECTED PROGRAM *[(5) The parties may attend as many as three mediation sessions with a mediator. Additional mediation sessions may be provided if recommended by the mediator and approved by the program supervisor. Only parents in the case and respective counsel for the parents may attend the mediation sessions.***]** [*(6)***]{<u>5</u>}** It is the responsibility of the parties and their attorneys to see that mediation is completed in a timely fashion so the trial of the case is not delayed. Failure to do so may result in dismissal of the case when called for trial, or postponement under such conditions as the Court may decide. (7)**]{<u>6</u>}** The Court may order mediation on its own motion. Further, a party that has completed the mediation orientation may request entry of an order from the Court to compel the non-complying party to complete the mediation orientation. [*(8)***] {<u>7</u>}** A party completing the mediation orientation within 90 days prior to the filing of the pending action may request waiver of this rule. The request shall be made to the program supervisor of the mediation program, and the decision of the program supervisor may be reviewed by the court upon request of either party.

16.001	Delete reference for further information as unnecessary/out dated. 16.001 VIOLATIONS BUREAU *By General Order the Court has established a Violations Bureau for the disposition of all traffic, weighmaster, boating, park and recreation, pedestrian, and parking violations.* **[***For further information, contact the violations clerk at 541-682-4020***]**.