

## ARBITRATION INFORMATION AND FORMS PACKET

### LANE COUNTY COURTS

Welcome to the Lane County Arbitration Program.

These instructions are intended to assist you in your role as Arbitrator. They are not binding, but should be used as guidelines. Arbitration is governed by **ORS 36.400-425, UTRC Ch. 13 and Lane SLR Ch. 13**. If you have any questions about this packet, or about procedures not covered by rule or statute, the court may be able to provide you with additional assistance. Please call the Calendar Department at **682-6521**.

#### PANELS

There are three Arbitration Panels in Lane County: **Torts, Contracts, and Domestic Relations**. You may serve on any or all of these panels.

#### FORMS

This packet contains a copy of each form used in the Lane County Arbitration Program. Some are forms you will need to use when a case is assigned to you. Please make copies of them for your use, or provide them to your word processing staff.

#### GUIDELINES:

1. Upon assignment of a case to you, review **UTCR CHAPTER 13** and any local rules.
2. Promptly confer with the attorneys to:
  - a. choose a date for the arbitration hearing;
  - b. resolve any loose ends such as incomplete discovery motions, etc., and;
  - c. obtain copies of relevant pleadings.
3. Set the hearing date and execute the Notice of Arbitration Hearing Date form.
4. The parties are required under **UTCR 13.170** to submit their Prehearing Statement of Proof to you 14 days before the hearing date. They should not submit proposed exhibits before the hearing, as they may be objectionable in whole or in part.
5. Collect the arbitrator's fee (see compensation section).
6. Conduct the hearing. Except under the most unusual circumstances, **do not** continue or reschedule the hearing.
7. Render your decision, complete and file the **Arbitration Award/General Judgment or Notice of Settlement** form with the Arbitration Clerk.

It is the consensus of the Lane County Arbitration Commission that arbitration will only achieve its intended goal of early and relatively inexpensive resolution of cases if the arbitrators make an effort to familiarize themselves with awards by Lane County judges and juries and make a conscious effort to fashion awards that reflect what the parties could reasonably expect from a judge or jury considering the same case. Awards that are not representative of what judges or juries would be expected to do with similar facts and issues, either pro-plaintiff or pro-defendant, will only generate a de novo appeal and thus defeat the purpose of this program.

### **ASSIGNMENT OF ARBITRATOR**

When all active parties have appeared in an eligible case, the Arbitration Clerk will send a Notice Transferring Case to Arbitration and Selection of Arbitrator form to the attorneys. Included with the mailing is a computer generated random list of five proposed arbitrators. The parties may stipulate to an arbitrator from the list provided or another arbitrator of their choosing...

If the parties do not stipulate to an arbitrator, each party may circle three acceptable names and strike two unacceptable names. The Arbitration Clerk will then use this information to assign the case to an arbitrator.

When you have been chosen for a case, you and the attorneys in the case will receive a Notice of Appointment of Arbitrator.

### **SETTING THE HEARING DATE**

It is your responsibility to set the date according to the arbitration rules. The hearing should be held in a neutral location, unless otherwise agreed by the parties, and the hearing should not require more than a half day.

Requests to reset a hearing must be made to the Court. A new date must meet the time requirements of **UTCRC 13.160** and requires that a new Notice of Arbitration Hearing Date be filed with the court. If a continuance is to be requested, please use the form included in this packet. Continuances which request the arbitration to be reset for a date within 60 days of the trial date **will not be allowed**.

### **MOTIONS**

Once a case is assigned to you, you decide all pending and future motions. The originals of motions filed after a case has been transferred to arbitration should be filed with the court, with a copy to you.

#### **The Following are exceptions to this procedure:**

- Motion to Resign as Counsel
- Motion to Stay Re: Bankruptcy
- Motion for Change of Venue
- Motion to Postpone or Reset Trial

The court will decide these motions, and you should not receive copies of them. If you do, consider them as informational only.

Your involvement with motions should be limited, and the preferred practice would be to decide them without oral argument.

### **SETTLEMENT**

Do not permit negotiations in your presence. Remind the attorneys they are not to disclose offers or demands to you. If, inadvertently you are made aware of some aspect of the negotiations, make a disclosure to all attorneys and only continue as arbitrator with express consent of all attorneys and parties. If there is any objection, advise the Arbitration Clerk and the case may be assigned to another arbitrator.

If a case is settled before the hearing, fill out the **Arbitration Award or Notice of Settlement** form and send it to the Arbitration Clerk. Do not wait for proposed legal documents, etc. Direct the parties to submit necessary documents to the court within a specific time frame.

### **CASES THAT BECOME INAPPROPRIATE FOR ARBITRATION**

You may decide that a case assigned to you is no longer appropriate for arbitration. An example would be the filing of a counterclaim for an amount greater than the arbitration limit, which at this time is \$50,000. Notify the Arbitration Clerk immediately of your recommendation that the case be returned to the regular docket. If arbitration is terminated, it would be appropriate for you to bill the attorneys for whatever time you spent on the case.

### **COMPENSATION**

The fees set by the Commission are \$150.00 per hour, with a maximum fee of \$600.00, unless you and all parties agree to a different hourly rate or maximum amount. The fees should be tendered to you on a pro rata basis by the parties within fourteen days of your appointment as arbitrator. See UTCR 13.120(4). It is your responsibility to collect any fees owed to you. Subject to the \$600.00 maximum, you may collect for any time spent on the file, whether or not it goes to hearing. You may not charge for costs incurred by you, such as phone costs, copying costs, postage, etc.

At the conclusion of your work, give the parties an itemized statement of time spent on the case. If less time was spent than the fees tendered to you, make an appropriate refund to the parties.

If the court has granted a fee deferral to a party, that party must provide you with a certified copy of the order. At the conclusion of the arbitration, submit an itemized statement for that party to the arbitration clerk on the form attached. A fee deferral application is also attached which you may copy and provide to any party wishing to apply for a deferral.

## **PREPARING THE AWARD**

When you have made your decision, please immediately complete the Arbitration Award/General Judgment form in this packet. **UTCRC 13.120** requires the award to be in written form. Please note there are time guidelines to be followed. Please follow its directives and those of **UTCRC 13.220** regarding filling the award with the Arbitration Clerk.

When your work has been completed, please return all exhibits to the parties by whom they were offered. Do not submit them to the Court.



IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

Plaintiff/Petitioner  vs.  Defendant/Respondent.	NOTICE OF ARBITRATION HEARING DATE  CASE NO. _____
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TO:

TO:

The hearing in this case has been scheduled for:

Date \_\_\_\_\_

Place \_\_\_\_\_

Time \_\_\_\_\_

The prehearing statement of proof must be furnished to the arbitrator or served on all parties at least fourteen (14) days prior to the hearing. Unless other arrangements have been made with the arbitrator, each party shall submit the party's proportionate share of the arbitrator's fee with it's UTCR 13.170 prehearing Statement of Proof.

Arbitrators Name \_\_\_\_\_ Arbitrators Signature \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone Number \_\_\_\_\_

Mail Original to: Arbitration Clerk  
Lane County Circuit Court  
125 E. 8<sup>th</sup> Avenue  
Eugene, OR 97401

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

Plaintiff/Petitioner,  vs.  Defendant/Respondent.	MOTION AND ORDER OF CONTINUANCE  CASE NO. _____
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\_\_\_\_\_ has moved for a continuation of the Arbitration hearing date past the 49 day period allowed by UTCR 13, for the following reasons;

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The opposing attorney has/has not objected.

The new date requested is \_\_\_\_\_

This new date will/will not affect the trial date.

Trial is/is not set. The trial date is \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Arbitrator

IT IS SO ORDERED.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Presiding Judge

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY  
Arbitration Program

\_\_\_\_\_,  
Plaintiff/Petitioner,  
v.  
\_\_\_\_\_,  
Defendant/Respondent.

ARBITRATION AWARD  
OR  
NOTICE OF SETTLEMENT;  
GENERAL JUDGMENT

Case No. \_\_\_\_\_

Check the appropriate statements:

- This case has been settled.
  - The parties will submit appropriate settlement documents (decree, judgment, etc.) to the court within \_\_\_\_\_ days.
  - The Arbitration Clerk may submit a Judgment of Dismissal to the court.
- The Arbitration hearing was held on \_\_\_\_\_, \_\_\_\_\_.

MONEY AWARD

I make the following award: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1. Judgment Creditor: \_\_\_\_\_  
Address: \_\_\_\_\_  
Creditor's Attorney: \_\_\_\_\_  
Address: \_\_\_\_\_

2. Judgment Debtor: _____	Judgment Debtor: _____
Address: _____	Address: _____
Date of Birth: _____	Date of Birth: _____
Social Security #: _____	Social Security #: _____
Drivers License #: _____	Drivers License #: _____
State of Issuance: _____	State of Issuance: _____
Debtor's Attorney: _____	Debtor's Attorney: _____

3. Name of any person or public body known to the judgment creditor, other than the judgment creditor's attorney, that is entitled to any portion of the Money Award: \_\_\_\_\_

4. Amount of Money-Award: \_\_\_\_\_

5. Interest owed to day of Award or accrual information: \_\_\_\_\_

6. Post-Judgment Interest accrual information: \_\_\_\_\_

7. Periodic accrual information: \_\_\_\_\_

8. Amount of Costs and Disbursements awarded: \_\_\_\_\_

9. Amount of Attorney Fees awarded: \_\_\_\_\_

10. ORS 36.420(3) Judgment in favor of the State of Oregon for court-approved deferred arbitration fees in the amount of \$ \_\_\_\_\_ against \_\_\_\_\_

Date: \_\_\_\_\_

Arbitrator's Signature

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

GENERAL JUDGMENT

I hereby cause the above Money Award to be entered as a GENERAL JUDGMENT.

Date: \_\_\_\_\_

\_\_\_\_\_  
Circuit Court Judge

Case Number: \_\_\_\_\_

Case Name: \_\_\_\_\_



**Chapter 13  
Arbitration**

**13.041 REFERRAL TO ARBITRATION; MOTIONS**

- (1) A case subject to arbitration will be transferred to arbitration when the case is at issue or 150 days have elapsed since its filing, whichever occurs first.
- (2) After a case has been transferred to arbitration, the original of any motion must be filed with the arbitrator. Unless otherwise provided by rule or statute, all such motions will be decided by the arbitrator.
- (3) In the event a motion to file an amended pleading is allowed by the arbitrator which causes the case no longer to be subject to mandatory arbitration, the party filing such a pleading must so notify the Arbitration Clerk. Unless the parties stipulate otherwise, the clerk will then remove the case from arbitration.

**13.121 COMPENSATION OF ARBITRATORS**

- (1) Any dispute as to the amount of the arbitrator's fee must be submitted to the court in the form of a motion to determine Arbitrator's Fee within seven (7) days of receipt by the complaining party of the arbitrator's itemized statement required by UTCR 13.120(2). The motion shall be supported by an affidavit and a memorandum supporting the party's position.
- (2) The arbitrator shall file a response, supported by an affidavit, within seven (7) days of receipt of the motion, and the dispute will be resolved by the court in a summary fashion without further argument.
- (3) If seven (7) days after the court's determination the arbitrator's fee has not been paid in full, or funds on deposit with the arbitrator in excess of the fee determined to be reasonable have not been refunded to the party(ies), the party/arbitrator to whom the money is owed may file a request with the court for entry of an appropriate judgment by the way of a Supplemental Judgment in the case.

## CHAPTER 13—Arbitration

### 13.010 APPLICATION OF CHAPTER

- (1) This UTCR chapter applies to arbitration under ORS 36.400 to 36.425 and Acts amendatory thereof but, except as therein provided, does not apply to any of the following:
  - (a) Arbitration by private agreement.
  - (b) Arbitration under any other statute.
  - (c) Matters exempt by ORS 36.400.
  - (d) Any civil action exempt from arbitration by action of a presiding judge under ORS 36.405.
- (2) This UTCR chapter on arbitration is not designed to address every question that may arise during the arbitration hearing. These rules give considerable discretion to the arbitrator. The arbitrator should not hesitate to exercise that discretion.

### 13.030 ARBITRATION COMMISSION

- (1) Each court must establish an arbitration commission.
- (2) The function of the arbitration commission is to supervise the arbitration program and to give advisory opinions relating to arbitration.
- (3) The arbitration commission must include both judge and attorney members and, as an ex officio member, the court administrator.

### 13.040 RELATIONSHIP TO COURT JURISDICTION AND APPLICABLE RULES

- (1) A case filed in the circuit court remains under the jurisdiction of that court in all phases of the proceedings, including arbitration. Except for the authority expressly given to the arbitrator by these rules, all issues shall be determined by the court of jurisdiction.
- (2) Until a case is assigned to the arbitrator, Oregon Rules of Civil Procedure apply. After a case is assigned to an arbitrator, these arbitration rules apply except where an arbitration rule states that a Rule of Civil Procedure applies.
- (3) Once a case is assigned to arbitration, all motions against the pleadings, all motions for discovery, and all similar pretrial motions not then resolved will be submitted to the arbitrator only and determined by the arbitrator. The arbitrator's determination, however, will apply only during the arbitration proceeding. If a request for trial *de novo* is filed, such matters may be raised again. If the arbitrator's decision on a pretrial motion will prejudice a party on trial *de novo*, that party may file an appropriate motion with the court.

### 13.050 ARBITRATION WHEN CASE ALREADY SET FOR TRIAL

- (1) Cases will not be assigned to arbitration within 63 days of the set trial date, except by order of the court.

- (2) A court order is not necessary if by stipulation the parties agree upon an arbitrator and agree upon a hearing date at least 28 days before the scheduled trial date.

### 13.060 PLEADINGS IN CASES SUBJECT OR NOT SUBJECT TO ARBITRATION

- (1) All civil actions (including domestic relations cases described under ORS 36.405(1)(b)) will be assigned to arbitration unless one of the following occurs:
  - (a) The title of a pleading contains the words "CLAIM NOT SUBJECT TO MANDATORY ARBITRATION" in compliance with subsection (3) of this rule.
  - (b) Any party files a notice, prior to the assignment to arbitration, that the case is not subject to mandatory arbitration. The notice must state grounds sufficient to exempt the case from mandatory arbitration.
  - (c) The court orders the case removed from mandatory arbitration under ORS 36.405(2).
- (2) Notice under part (1)(a) or (1)(b) of this rule does not prevent any party from asserting by appropriate motion, that the case is subject to mandatory arbitration.
- (3) A party must place one or the other of the following in the title of a pleading in the case (including a claim, counterclaim, cross claim, third-party claim, petition, and response): "SUBJECT TO MANDATORY ARBITRATION" or "CLAIM NOT SUBJECT TO MANDATORY ARBITRATION." When a party places the "NOT SUBJECT" language in the title of the pleading, the party gives notice to the court and other parties that the case is exempted from mandatory arbitration either clearly by statute or under these rules. This language must not be in the title of a pleading for any other purpose. A party's signature on pleadings containing such language constitutes the party's certificate of such notice under ORCP 17. In all other instances, the party will place the language in the title indicating the case is subject to mandatory arbitration.

### 13.070 EXEMPTION FROM ARBITRATION

Within 14 days after notification by the court that the case is assigned to arbitration, any party seeking exemption from arbitration must file and serve a "Motion for Exemption from Arbitration."

### 13.080 ASSIGNMENT TO ARBITRATOR

- (1) The parties may select an arbitrator by stipulation.
- (2) At the time of giving notice of the assignment to arbitration, the trial court administrator shall furnish a list of proposed arbitrators as well as a copy of the procedures for the selection of arbitrators and for setting an arbitration hearing. The procedures for selection of arbitrators shall be established by the arbitration commission.
- (3) An arbitrator shall be assigned under (1) or (2) of this rule within 21 days after the assignment to arbitration.

### 13.090 ARBITRATORS

- (1) Unless otherwise ordered or stipulated, an arbitrator must be a member of the Oregon State Bar, who has been admitted to any Bar for a minimum of five years, or a retired or senior judge. The parties may stipulate to a nonlawyer arbitrator.
- (2) An arbitrator who is not a retired or senior judge or stipulated nonlawyer arbitrator must be in good standing with the Oregon State Bar at the time of each appointment. During any period of suspension from the practice of law or in the event of disbarment, an arbitrator will be removed from the court's list of arbitrators and may reapply when the attorney is reinstated or readmitted to the bar.
- (3) Arbitrators will conduct themselves in the manner prescribed by the Code of Judicial Conduct.

### 13.100 AUTHORITY OF ARBITRATORS

An arbitrator has the authority to do all of the following, but may exercise the authority conferred only after the case is assigned to a specific arbitrator and any disputes over the assignment have been settled:

- (1) Decide procedural issues arising before or during the arbitration hearing, except issues relating to arbitrability or the qualification of an arbitrator. The court may entertain a challenge to the qualification of an arbitrator on grounds that could not be discovered prior to assignment of the arbitrator to the case.
- (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, enforceable in the manner described in ORS 36.340.
- (5) Administer oath or affirmations to witnesses.
- (6) Rule on the admissibility of evidence in accordance with these rules.
- (7) Determine the facts, apply the law and make an award; 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 (known as Summary Judgment under ORCP).
- (9) Require a party, an attorney advising each 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.

### 13.110 ARBITRATOR'S OATH

Arbitrators will be required to execute the following oath in writing on a form provided by the trial court administrator at the time of appointment:

I solemnly affirm that I will faithfully and fairly hear and examine the matters in controversy and that I will make a just award to the best of my understanding.

### 13.120 COMPENSATION OF ARBITRATOR

- (1) The arbitration commission shall establish a compensation schedule for arbitrators. If the arbitrator suggests that extraordinary conditions justify a different fee, and the parties concur, the fee may be adjusted accordingly. If the parties, or any of them, do not concur, the arbitrator shall direct an inquiry to the court for determination of the appropriate fee.
- (2) Within 14 days of the appointment of the arbitrator, each party must tender to the arbitrator a pro rata share of the preliminary payment for the arbitrator. Any deposit in excess of the arbitrator's actual fee will be refunded to the parties. Regardless of whether the arbitration hearing is conducted, the parties must pay a proportionate share of the arbitrator's fee. The arbitrator must submit to each party an itemized statement.
- (3) Relief from the payment of arbitration fees, in whole or in part, as provided for in ORS 36.420(3) must be applied for immediately upon a case or a small claim becoming eligible for arbitration. The court will provide the arbitrator with a copy of any order waiving or deferring all or any part of the fees.
- (4) Any dispute as to the amount of the arbitrator's fee must be submitted to the court.
- (5) The arbitrator's fee may be considered a recoverable item of costs.
- (6) At the conclusion of the arbitration process, the court may enter a judgment in the arbitrator's favor and against any party who has not paid the arbitrator's fee in accordance with the schedule established under paragraph (1).

### 13.130 RESTRICTIONS ON COMMUNICATION BETWEEN ARBITRATOR, PARTIES AND ATTORNEYS

Unless all parties otherwise agree, no disclosure of any offers or settlement made by any party shall be made to the arbitrator prior to the announcement of the award. Neither counsel nor a party may communicate with the arbitrator, regarding the merits of the case, except in the presence of, or on reasonable notice to, all other parties.

Except for Judicial Rules 3, 4, and 5 of the Code of Judicial Conduct, all rules of professional conduct concerning Bench and Bar apply in the arbitration process.

### 13.140 DISCOVERY

Discovery shall be conducted in accordance with Oregon Rules of Civil Procedure, and all motions shall be determined by the arbitrator. The arbitrator shall balance the benefits of discovery against the burdens and expenses. The arbitrator shall consider the nature and complexity of the case, the amount of controversy, and the possibility of unfair surprise that may result if discovery is restricted.

### 13.150 SUBPOENA

In accordance with the Oregon Rules of Civil Procedure, a lawyer of record or the arbitrator may issue a subpoena for the attendance of a witness at the arbitration hearing or for the production of documentary evidence at the hearing.

### 13.160 SCHEDULING OF THE HEARING

- (1) The arbitrator shall set the time, date and place of hearing and shall give reasonable notice of the hearing date to the parties and comply with ORS 36.420. The arbitrator shall also give notice of the hearing date and any continuance to the trial court administrator.
- (2) A court may adopt a supplementary local rule establishing a deadline for the arbitration hearing and a process for obtaining a postponement or continuance. A supplementary local rule may not allow the arbitration process to extend more than six months from the date the case is assigned to an arbitrator. In the absence of a supplementary local rule adopted pursuant to this section, the requirements set forth below in sections (3) and (4) shall apply.
- (3) Except for good cause shown, the hearing must be scheduled to take place not sooner than 14 days, or later than 49 days, from the date of assignment of the case to the arbitrator. The parties may stipulate to a postponement or continuance only with the permission of the arbitrator. Such postponements or continuances must also be within the 49-day period. Any continuances or postponements beyond such period require the arbitrator to obtain approval of the presiding judge. The arbitrator must give notice of any continuance to the trial court administrator.
- (4) Continuances and postponements shall not be granted except in the more unusual circumstances. Approximately two months are allocated for the arbitration process. The arbitrator is given the power to enforce the rules and will be required to maintain the schedule.

### 13.170 PREHEARING STATEMENT OF PROOF

- (1) At least 14 days prior to the date of the arbitration hearing, each party must submit to the arbitrator and serve upon all other parties all the following:
  - (a) A list of all exhibits to be offered showing or accompanied by a description of the document and the name, address and telephone number of its author or maker and complying with UTCR 13.190(2)(c). Each party, upon request, must make any exhibits available for inspection and copying by other parties.
  - (b) A list of witnesses the party intends to call at the arbitration hearing with their addresses and telephone numbers and a statement of the matters about which each witness will be called to testify.
  - (c) An estimate as to the expected length of the hearing.
- (2) A party failing to comply with this rule, or failing to comply with a discovery order, may not present at the hearing any witness or exhibit required to be disclosed or made available, except with the permission of the arbitrator.

- (3) Each party must also furnish the arbitrator, at least 14 days prior to the arbitration hearing, with copies of pleadings and other documents contained in the court file which that party deems relevant.

#### 13.180 CONDUCT OF HEARING

- (1) Arbitration hearings shall be informal and expeditious. The arbitrator shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to do the following:
  - (a) Make the interrogation and presentation effective for the ascertainment of the facts.
  - (b) Avoid needless consumption of time.
  - (c) Protect witnesses from harassment or undue embarrassment.
- (2) A witness shall be placed under oath or affirmation prior to presenting testimony, a violation of which oath shall be deemed contempt of court, in addition to other penalties that may be provided by law. The arbitrator may question the witness. The extent to which the rules of evidence will be applied shall be determined in the discretion of the arbitrator.
- (3) The hearing may be recorded electronically or otherwise by any party or the arbitrator. The cost of such recording is not a recoverable item of cost.

#### 13.190 CERTAIN DOCUMENTS ADMISSIBLE

- (1) The documents listed in subsection (2) of this rule, if relevant, are admissible at an arbitration hearing, but only if:
  - (a) The party offering the document has included in the prehearing statement of proof a description of the document and the name, address and telephone number of its author or maker, at least 14 days prior to the hearing; and
  - (b) The party offering the document promptly has made available, after request, to all other parties, all other documents from the same author or maker.
- (2) The following documents are subject to this rule:
  - (a) A bill, report, chart or record of a hospital, doctor, dentist, registered nurse, licensed practical nurse, physical therapist, psychologist or other health care provider on a letterhead or a printed bill.
  - (b) A bill for drugs, medical appliances or other related expenses on a letterhead or a printed bill.
  - (c) A bill for, or an estimate of, property damage on a letterhead or a printed bill. In the case of an estimate, the party intending to offer the estimate must forward with the prehearing statement of proof under UTCR 13.170 a statement indicating whether or not the property was repaired, and if it was, whether the estimated repairs were made in full or in part, attaching a copy to the receipted bill showing the items of repair and the amount paid.
  - (d) A police, weather, wage loss or traffic signal report or standard life expectancy table.

- (e) A photograph, x-ray, drawing, map, blueprint or similar documentary evidence.
  - (f) The written statement of any witnesses, including the written report of an expert witness which may include a statement of the expert's qualifications, and including a statement of opinion which the witness would express if testifying in person, if it is made by affidavit or by declaration under penalty of perjury.
  - (g) A document not specifically covered by any of the foregoing provisions, but having equivalent circumstantial guarantees of trustworthiness, the admission of which would serve the policies, purposes and interests of justice.
- (3) Any other party may subpoena the author or maker of a document admissible under this rule, at that party's expense, and examine the author or maker as if under cross-examination.

#### 13.200 ABSENCE OF PARTY AT HEARING

- (1) The arbitration hearing may proceed and an award may be made in the absence of any party who, after due notice, fails to participate or to obtain a continuance or postponement.
- (2) If a defendant is absent, the arbitrator shall require the plaintiff to submit evidence sufficient to support an award.
- (3) In a case involving more than one defendant, the absence of a defendant does not preclude the arbitrator from assessing as part of the award damages against the defendant or defendants who are absent.
- (4) The arbitrator, for good cause shown, may allow an absent party an opportunity to appear at a subsequent hearing before making an award.

#### 13.210 FORM AND CONTENT OF AWARD

- (1) The award must be in writing and prepared on a form prescribed by the court and signed by the arbitrator.
- (2) The arbitrator shall determine all issues raised by the pleadings, including a determination of any damages, costs and attorney fees where allowed under applicable law.
- (3) Findings of fact, conclusions of law and written opinions are not required.
- (4) The award must contain the caption of the case and all the following information:
  - (a) The date of the hearing, if any.
  - (b) The prevailing party and the amount of relief awarded.
  - (c) Whether any part of the award was based on the failure of any party to appear and the identity of that party.
  - (d) The name and office address of the arbitrator.
  - (e) Provision for costs and for attorney fees where allowed under applicable law.

- (f) Interest in accordance with applicable law specifying the rate of interest and the date from which it accrues.
- (5) Within 7 days after the conclusion of the arbitration hearing, the arbitrator shall send the award to the parties without filing with the court and shall establish procedures for determining attorney fees and costs.
- (6) In dissolution cases, the arbitrator shall send the award to the parties within 7 days after the conclusion of the arbitration hearing and shall direct a party to prepare and submit a form of judgment. The arbitrator, upon request of any party, shall give the parties an opportunity to be heard on the form of judgment. The arbitrator shall then approve a form of judgment and file the award, along with the approved form of judgment, per UTCR 13.220.

1988 Commentary:

It is the intent of the Committee that 13.210(2) applies in dissolution cases.

1994 Commentary:

The Committee intends that the arbitrator determine all costs to which the prevailing party may be entitled, including the prevailing fee and share of the arbitrator's fee.

13.220 FILING OF AN AWARD

- (1) The arbitrator shall file the award with the trial court administrator, together with proof of service of a copy of the award, upon each party within the following times after the completion of the arbitration hearing:
  - (a) In dissolution cases within 21 days.
  - (b) In all other cases within 14 days.
- (2) An arbitrator may request an extension of time for filing of the award by presenting a written *ex parte* request to the trial court administrator. The trial court administrator may grant or deny the request, subject to review of the presiding judge. The arbitrator shall give the parties notice of any extension granted.
- (3) The arbitrator may file with the trial court administrator and serve upon the parties an amended award to correct an obvious error made in stating the award if done within the time for filing an award or upon application to the court to amend.
- (4) After the award is filed, the arbitrator must return all documents and exhibits to the parties who originally offered them. All other documents and materials relating to the case must be delivered to the trial court administrator. The parties must retain all exhibits returned by the arbitrator until a final judgment is entered in the case.

13.240 JUDGMENT ON AWARD

If no request for trial *de novo* is filed within the time established by ORS 36.425(3), the arbitration decision and award will be entered and have the effect provided in that statute.

### 13.250 REQUEST FOR TRIAL *DE NOVO*

- (1) A party who qualifies under ORS 36.425(2) may obtain a trial *de novo* on the case determined by completing the service, filing, payment of trial or jury fee and deposit as required under ORS 36.425(2).
- (2) In addition to the provisions under ORS 36.425 relating to a trial *de novo*, the following provisions apply:
  - (a) In addition to filing a written notice of appeal and request for trial *de novo* with the trial court administrator, the party must serve on the parties a copy of the written notice of appeal and request for a trial *de novo* filed with the trial court administrator, and proof of such service must be filed with the trial court administrator.
  - (b) When cases are consolidated for arbitration and a party has filed an appeal from the arbitration award in one or more of the consolidated cases, any other party who otherwise qualifies under ORS 36.425(2) may serve and file with the trial court administrator a request for trial *de novo*, with proof of service on all other parties, within 20 days from the filing of the arbitration award or within two judicial days after the service of the initial written request for trial *de novo*, notwithstanding the lapse of 20 days from the filing of the arbitration award.
  - (c) If the trial *de novo* request is withdrawn, or abandoned, such appealing party must obtain permission of the court or there must be a stipulation of all parties to the abandonment of the appeal and the terms thereof.
  - (d) Cross appeal is not necessary to preserve issues raised in a counterclaim, because the trial *de novo* encompasses all claims raised by any party in the particular case appealed.
  - (e) The court may assess statutory costs against a party who withdraws a request for trial *de novo*.

### 13.260 PROCEDURE AT TRIAL *DE NOVO*

The trial court administrator must seal any award if a trial *de novo* is requested. Neither judge nor jury will be informed of the arbitration result. The sealed arbitration award will not be opened until after the verdict is received and filed in a jury trial or until after the judge has rendered a decision in a court trial.

### 13.280 TRIAL DOCKET

Every case assigned to arbitration shall maintain its approximate position on the civil trial docket as if the case had not been assigned to arbitration, unless, at the discretion of the court, the docket position should be modified.

### 13.300 PRETRIAL SETTLEMENT CONFERENCES AND ARBITRATION

Cases assigned to arbitration or the pendency of an arbitration hearing does not exclude a case from participating in a court pretrial settlement conference.