# Supplementary Local Rules

# For

# The Circuit Court of the State of Oregon for Multnomah County

# The Fourth Judicial District

# Effective

# February 1, 2017

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# CHAPTER 1
# GENERAL PROVISIONS

## 1.025 APPLICATION TO CIRCUIT COURT AND DEPARTMENTS

These rules apply to matters within the jurisdiction of the Circuit Court for Multnomah County and all departments of the Circuit Court.

## 1.035 CREDIT CARDS

Credit cards may be used and fees assessed as provided by ORS 1.005, except that a credit card may not be used under ORS 135.265 for paying a security amount or posting a security deposit for a criminal action.

## 1.111 DEFINITIONS

These definitions are intended to clarify terms used in these rules.

(1) **Abated Cases** are those cases placed under a discretionary stay of up to two years by order of the Court on the basis of activity external to the case which would have an effect on the outcome or conduct of the case.

(2) **Call** refers to the trial and show-cause docketing system whereby a case is called and assigned to a judge on the judicial day immediately preceding the date of the actual hearing or trial.

(3) **"Judicial Days"** means calendar days excluding: Saturday and legal holidays, including Sunday, as defined in ORS 187.010 and 187.020, and any day on which a court is closed by order of the Presiding Judge or the Chief Justice.

(4) Definitions set out in UTCR 1.110 are incorporated by this reference and apply in these rules.

## 1.151 HOURS FOR THE CONDUCT OF BUSINESS, WHEN DOCUMENTS MAY BE RECEIVED TO BE FILED

(1) The court is open for the conduct of business each judicial day from 8:00 am to 5:00 pm, and, in addition, judicial proceedings may be held at other times and on other days when required by the court for the conduct of its business and upon notice to the parties required to appear.

(2) Except as provided in UTCR Chapter 21, documents which do not require the payment of a fee prior to filing may be received for filing from 8:00 am to 5:00 pm each judicial day in the appropriate division of the Office of the Trial Court Administrator. Documents which require the payment of a fee prior to filing may be

presented to a cashier or left in a drop box, together with payment or an order authorizing the deferral or waiver of the fee, from 8:30 am to 5:00 pm each judicial day in the appropriate division of the Office of the Trial Court Administrator. Upon satisfaction of the fee, the document will be received for filing. No document will be received for filing or filed except as provided in this rule.

**1.161 DIVISIONS OF THE OFFICE OF THE TRIAL COURT ADMINISTRATOR WHERE DOCUMENTS ARE RECEIVED FOR FILING**

(1) The Office of the Trial Court Administrator receives documents for filing in the following divisions. In the Multnomah County Courthouse: the divisions are Civil, including Small Claims and FED, Domestic Relations, Probate, Traffic, Parking and Criminal. In the Juvenile Justice Complex: All Juvenile matters and Domestic Relations matters excluding Name Change and Abuse Prevention cases. In the East County Courthouse: Criminal, Traffic, and Small Claims, Civil and Domestic Relations cases excluding Name Change and Abuse Prevention case matters filed in that court location. Documents should be delivered to the appropriate division for filing.

(2) Documents delivered by mail to the court, or left in the court's mail room for delivery, will be received for filing when delivered in the normal course of distribution of documents from the mail room to the appropriate division of the Office of the Trial Court Administrator. If a fee is required to be paid prior to filing of a document, then filing may occur only if the fee is satisfied. In all other cases, and except as provided in UTCR Chapter 21, filing will be accomplished on the date the paper documents are distributed to the appropriate division.

(3) Documents transmitted directly to the clerk's office by telephonic facsimile transmission (FAX) will not be received for filing.

(4) E-Filing Kiosks are available at each location including scanners **{listed in 1.161(1)}**.

(5) Mandatory Electronic Filing is required for members of the Oregon State Bar per UTCR 21.140. SLR 2.501 details which documents must be filed conventionally by attorneys.

(6) The street address for the downtown courthouse is:

Multnomah County Courthouse
1021 SW Fourth Avenue
Portland, OR 97204-1123

Addresses for other court locations are as follows:

Justice Center
Third Floor
1120 SW Third Avenue

Juvenile Justice Complex
1401 NE 68th Avenue
Portland, OR 97213

Portland, OR 97204 (send mail to the courthouse)

East County Courthouse
18480 SE Stark Street
Portland, OR 97233

**1.165 [*NOTICE TO TRIAL COURT ADMINISTRATOR REQUIRED FOR ORDERS TO SEAL A FILE, TRANSFER MONEY TO OR FROM AN INTEREST BEARING ACCOUNT, A JUDICIAL EXTENSION OF A RECORD RETENTION PERIOD, OR DOCUMENTS SUBMITTED UNDER SEAL*]**

(1) [*If at any time in a civil, domestic relations or probate case, a party requests an order which requires the trial court administrator to seal a file, transfer money into or remove money from an interest bearing account, or for the judicial extension of a record retention period, the party must give notice to the trial court administrator of the motion. Notice must be in writing, signed by the attorney or party, and a copy of the submitted form of order must be attached to the notice.*]

(2) [*When the court permits documents to be submitted for filing under seal of the court, the documents should be filed in 9 X 12 inch sealed envelope and be labeled on the face (address) side of the envelope with the case caption, case number, and the title of the documents (i.e. Response to Motion to Compel Discovery and Affidavit). The envelope should be marked clearly on both sides "Documents Under Seal of the Court." Larger envelopes may be used for bulky documents.*]

**1.171 WEB ADDRESS**

Multnomah County Courts Website

http://courts.oregon.gov/Multnomah

Odyssey File and Serve

https://oregon.tylerhost.net

**1.174 BUILDING SECURITY**

The Multnomah County Courthouse, the Multnomah County Justice Center, East County Courthouse, the Juvenile Justice Complex [*or*] **{and}** any other facility or location where the court conducts its proceedings are Court facilities for the use of members of the public to exercise their rights to view proceedings and handle their affairs through the Court. This right of access may, however, be overcome by conduct detrimental to the safety of the Court's Judicial Officers, other Officers of the Court, its employees, and members of the public. This type of conduct may result in the ejection of a person or party from these facilities and possibly their restraint from entering these buildings for a specified period of time. Such detrimental conduct may include, but is not limited to:

(1) Direct physical assault upon any person;

(2) Destruction or theft of Court records or posted public notices;

(3) Vandalism, defacing, burning, or other physical destruction of any device or room within these facilities;

(4) Intimidation, extortion, coercion, or other forcible conduct aimed at interrupting the Court's Judicial Officers, other Officers of the Court, and its employees in the course of their work or at interfering with members of the Bar or of the public in their dealings with the Court;

(5) Any conduct which interferes with or interrupts a Court proceeding;

(6) Any entrance into an area of these buildings designated off-limits or for employees only;

(7) Any introduction of noxious odors designed to deny members of the public the use of any public part of these buildings;

(8) Any attempt, either by fraud or threat, to gain access to confidential Court records or material;

(9) Any attempt, either by fraud or threat, to gain access to the private office of a Judicial Officer, the Court Administrator, or other Court Officer;

(10) Any attempt by a member of the public to deny any other member of the public the use of these buildings.

## 1.175 HAZARDOUS SUBSTANCES

In addition to the definition found in UTCR 6.140 (2), a hazardous substance is defined as any substance listed in, or hereinafter added to, the Federal Aviation Authority Regulations on Hazardous Substances, any provisions of the United States Code defining hazardous substances, or the Federal Controlled Substances Act; or is any potentially dangerous or contaminated substance capable of inflicting death or serious physical injury either immediately or over the course of time. A hazardous substance shall include any device or implement which carries, contains, or exhibits such characteristics.

## CHAPTER 2
## STANDARDS FOR PLEADING AND DOCUMENTS

### 2.015 RETURN OF A DOCUMENT TO PARTY

(1) In addition to the authority to decline to receive or file a document under ORCP 9 E and UTCR 2.010(12)(c), in certain limited situations, a document may be returned to the party who submitted it, without being filed by the court. Those situations include:

(a) 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;

(b) A document which requires a fee but the fee or an order to waive or defer such fee is not provided and the fee requirement has not been satisfied;

(c) A document without sufficient identifying information to determine in which case it should be filed or entered;

(d) A document which requires court action, but the court action cannot be taken without the filing of statutorily-required preceding documents;

(e) A document with a case caption from a jurisdiction not recognized by the Oregon Constitution or established by the Oregon Legislature, or a judgment order, or other document purportedly issued by a nonexistent court;

(f) A petition submitted for filing under ORS 813.210 more than 30 days after the first appearance on the summons where there is no finding of good cause by the court to permit the late filing **{per 4.075}**;

(g) A document submitted for filing by telephonic facsimile transmission (FAX); and,

(h) As provided in SLR 13.225, a written notice of appeal and request for trial de novo of an arbitration award submitted for filing beyond the time permitted by law.

(2) In small claims and summary dissolution cases, documents which do not comply with ORS, ORCP, UTCR, or SLR may, at the discretion of the Presiding Judge, be returned to the filing party.

(3) A pleading document which begins an action, and which is filed in this court and given a Multnomah County Circuit Court case number, will not be returned to a filing party even though the document may have a caption for another circuit court and was filed in error by the filing party.

## 2.025 FEE DEFERRALS OR WAIVERS IN CIVIL ACTIONS

Fee deferral or waiver applications in civil actions shall be submitted to the Presiding Judge or designee.

## 2.035 DESIGNATION OF KNOWN PARTIES BY FICTITIOUS NAME

In civil actions, the designation of a known party by a name other than the party's true name shall be allowed only upon an order of the court. If ordered, the designation of such party shall be by use of such party's initials or a fictitious name other than "Jane Doe" or "John Doe". The name "Jane Doe" or "John Doe" is reserved to be used for a party whose identity is unknown and the party is being designated as provided in ORCP 20 H.

## 2.045 REQUIREMENTS OF PETITION FOR WAY OF NECESSITY ACTION

The petition for establishing a way of necessity must contain either in the caption under the name of each respondent or in the first paragraph of the Petition, the mailing address of each person named as respondent therein.

## 2.055 SECURITY DEPOSIT TO BE PAID ON FILING OF PETITION FOR WAY OF NECESSITY ACTION

At the time of filing a petition for a way of necessity action, the petitioner shall post a bond or security deposit with the court of $500 for the purposes of ORS 376.200 (4) and (5).

## 2.065 APPOINTMENT OF INVESTIGATOR; FILING AND SERVICE OF REPORT

(1) Upon the filing of a Petition for determination of a way of necessity pursuant to ORS 376.150 et seq., petitioner shall appear before the Presiding Judge at *ex parte* and present a motion for an Order Appointing Investigator under ORS 376.200(5).

(2) The affidavit in support of the motion shall reflect the amount of the bond or security deposit posted by the petitioner for payment of the investigator, and that the petitioner is prepared to pay the amount of any deficiency as required by ORS 376.200 (5). The court may set a higher amount to be posted by the petitioner. A motion will not be allowed until the full bond or security deposit set by the court is posted.

(3) The submitted form of Order Appointing Investigator shall reflect the name, address and telephone number of the investigator requested to be appointed by the court, specify the date, within 90 days, on which the investigator must file the report with the court, and state that the investigator shall file the original report with the court, and send a copy to the Petitioner.

(4) A copy of the motion, affidavit and submitted form of Order Appointing Investigator shall be served, along with the Petition, upon the respondents.

## 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) For civil matters presented at the presiding judge's daily 9:30 AM and 1:30 PM *ex parte* sessions:

(a) Petition for appointment of guardian ad litem and complaint

(b) Petition to proceed under pseudonym and complaint

(c) Petition for judicial review or writ of review

(d) Motion for show cause hearing (preliminary injunction, appointment of receivership, provisional process, and contempt for non- responsive debtor or garnishee)

(e) [*Temporary restraining order (uncontested and contested)*] **{<u>Motion for Provisional Process or Claim and Delivery</u>}**

(f) Abatements and extension of abatements (excluding abatement for bankruptcy)

(g) [*Extension of time to respond to pleadings*] **{<u>Reinstatement from abatement, stay, or bankruptcy</u>}**

(h) [*Second continuance of UTCR 7.020 (or subsequent)*] **{<u>Extension of time to respond to pleadings</u>}**

(i) [*Reschedule summary judgment hearing*] **{<u>Second continuance of UTCR 7.020 (or subsequent)</u>}**

(j) [*Motion for sitting judge for summary judgment*] **{<u>Reschedule summary judgment hearing</u>}**

(k) [*Motion for commission to take out of state deposition*] **{<u>Motion for sitting judge for summary judgment</u>}**

(l) [*Registration of foreign writ, mandate, commission, or letter rogatory*] **{<u>Motion for commission to take out of state deposition</u>}**

(m) [*Motion to file under seal*] **{<u>Registration of foreign writ, mandate, commission, or letter rogatory or Order (Not Foreign Subpoena)</u>}**

(n) [*Motion to transport party or witness*] **{<u>Motion to file under seal</u>}**

(o) [*Motion for change of judge and affidavit*] **{<u>Motion to transport party or witness</u>}**

(p) [*Deferral/waiver of Court fees, release, disbursement of funds, proceeds, or money deposited with the court*] **{<u>Motion for change of judge and affidavit</u>}**

(q) [*Writ of assistance*] **{<u>Deferral/Waiver of Court fees</u>}**

(r) [*Unopposed motion for ORCP 71 relief (including judgments of dismissal for want of prosecution pursuant to ORCP 54B(3) and UTCR 7.020(0)*] **{<u>Motion for release or disbursement of funds, proceeds, or money deposited with the court</u>}**

(s) [*Assurance of Voluntary Compliance*] **{<u>Writ of Assistance</u>}**

(t) **{<u>Motion for Use of Force for Writ of Execution</u>}**

(u) **{<u>Unopposed Motion for ORCP 71 Relief (including judgments of dismissal for want of prosecution pursuant to ORCP 54 B(3) and UTCR 7.020</u>}**

(v) **{<u>Consent Judgment</u>}**

(2) For criminal matters presented at the Presiding Judge's daily 9:30 AM and 1:30 PM *ex parte* or at Criminal Procedure Court *ex parte* sessions:

(a) Transport of Party or Witness

(b) Motion for Protective Order

(c) Motion for Set Over

(d) Motion for Modification of Release

(3) For Domestic Relations matters:

(a) Presented at the Family Court Judges' daily 8:30 AM and 1:30 PM *ex parte* sessions or, on retained cases, at other times:

(i) Emergency Custody and Parenting Relief Based on Immediate Danger

(ii) Pre-Judgment Temporary Protective Orders of Restraint **{<u>before the respondent has been served with the petition</u>}**

(iii) Temporary Orders of Financial Restraint

(iv) Guardian Ad Litem Appointment

(v) Family Abuse Prevention Act **{matters before the initial contested hearing has been held or the period for requesting the initial contested hearing has passed, whichever is later}**

(vi) Elderly Persons and Persons with Disabilities Abuse Prevention Act **{matters before the initial contested hearing has been held or the period for requesting the initial contested hearing has passed, whichever is later}**

(vii) Sexual Abuse Protection Act **{matters before the initial contested hearing has been held or the period for requesting the initial contested hearing has passed, whichever is later}**

(viii) Orders of Assistance

(ix) Orders to Show Cause re: Post Judgment Status Quo Orders

(x) Warrants in Lieu of Writ of Habeas Corpus

(xi) Orders to Show Cause re Modification when a Post-Judgment Status Quo Motion or a Motion for Contempt is simultaneously presented

(xii) Extension of Dismissal Date **{when the current dismissal date is 30 days or fewer from the date of the request for extension.}**

(xiii) Postponements **{or Special Set requests when the matter already has a date set on the Trial Assignment docket or a Retained Judge's docket and that date is 30 days or fewer from the date of the request.}**

(xiv) Telephone Testimony Matters Fewer than 30 Days before Hearing

*(xv)* [*Proposed Orders or Judgments under SLR 8.041(4)*]

(b) Motions for Change of Judge (submitted to the Chief Family Court Judge or delegate)

(4) For Probate matters presented at the Chief Probate Judge's daily 8:45 AM [*ex parte*] **{short matters}** session: none. All stipulated and *ex parte* documents to be presented by an active member of the Oregon State Bar at probate [*ex parte*] **{short matters}** must be electronically filed as provided in UTCR 21.140 and SLR 24.501(1).

(5) For Juvenile matters:

(a) The following motions presented to any judicial officer when judicial ruling on the motion is needed before the lapse of three (3) court days:

(i) Transport of Party or Witness

(ii) Postponement

(iii) Expedited Review **{<u>or Rehearing Request</u>}**

(iv) Substitution of Counsel

(v) Allowing Travel

(vi) Protective Orders

(vii) Educational Placement

(b) Motions for change of Judge (submitted to the Chief Family Court Judge or delegate).

(6) For Small Claim and Forcible Entry and Detainer matters presented at the **{<u>presiding judge's</u>}** daily [*8:30 AM*] **{<u>9:30 AM and 1:30 PM</u>}** *ex parte* session**{s}** [*in Courtroom 120*]:

(a) Motion for Change of Judge

(b) Guardian Ad Litem Appointments

(c) Motion for Judgment Debtor Bench Warrant

## CHAPTER 3
## DECORUM IN PROCEEDINGS

### 3.171 LOCAL ATTORNEY AS ATTORNEY OF RECORD

The local attorney under UTCR 3.170 (1) (c) will be designated as the attorney of record for the represented party, unless otherwise specifically ordered by the court.

### 3.181 PUBLIC ACCESS COVERAGE IN AREAS OUTSIDE OF COURTROOMS

In facilities occupied by the court, public access coverage in areas outside of courtrooms, other than the Jury Assembly Room when jurors are in attendance and the Juvenile Justice Center, is permitted only with the prior approval of the Presiding Judge. Requests to conduct public access coverage in such areas may be made to the Office of the Presiding Judge at any time during the business day. Public access coverage is not permitted in the court's Jury Assembly Room when jurors are in attendance or at any time in the Juvenile Justice Center in areas outside of the courtrooms.

### 3.182 USE OF CELL PHONES AND OTHER PERSONAL DATA AND COMMUNICATION DEVICES WHICH HAVE AUDIO RECORDING, PHOTOGRAPHIC OR ANY OTHER VISUAL OR IMAGE RECORDING OR REPRODUCTION CAPABILITY

(1) Cell phones and other personal data or communication devices which have text transmission, audio recording, photographic or any other visual or image recording or reproduction capability:

(a) constitute public access coverage equipment as defined in UTCR 3.180;

(b) such devices may be used in a facility occupied by the court only as provided by UTCR 3.180, SLR 3.181, and this rule;

(c) must be turned off when entering any courtroom in any facility occupied by the court as provided by SLR 6.027, and must not be turned on for any use in a courtroom without complying with SLR 6.027, UTCR 3.180 and this rule.

(2) Cell phones or other personal data or communication devices may be used in areas outside of a courtroom, as defined in UTCR 3.180 and SLR 3.181, in a facility occupied by the court without violating this rule or SLR 3.181, provided that such use is restricted to the transmission of the user's oral or written communication only and does not involve any operation or use of the device's audio recording, photographic or any other visual or image recording or reproduction capability.

(3) In addition to any other consequence permitted under law or court rules, violators of this rule are subject to being ordered by the court to delete from the device any audio

recording, photographic or any other visual or image recording or reproduction made in a court facility.

# CHAPTER 4
# PROCEEDINGS IN CRIMINAL CASES

## 4.005 CRIMINAL PROCEDURE COURT ESTABLISHED

There is established a Criminal Procedure Court for the handling of misdemeanor and certain felony matters under the direction of the Chief Criminal Court Judge and the Presiding Judge. The responsibilities and procedures in such court are indicated herein.

## 4.007 WRITTEN PETITION REQUIRED TO BE FILED BY VICTIM OR PERSONAL APPEARANCE OF VICTIM FOR HEARING TO REMOVE NO CONTACT ORDER IMPOSED UNDER ORS 135.250 OR ORS 135.247

(1) "Petition" as used in ORS 135.250 (2)(b)(A) and in ORS 135.247 (4) means a written petition signed and filed or presented at the hearing for filing in the criminal action by the victim or by a district attorney who has agreed to assert this right for the victim. In the alternative, an appearance by the victim at the hearing to modify or remove the no-contact conditions and stating on the record orally the petition to waive the required condition of release or custody that the defendant not have contact with the victim of the domestic violence or of the sex crime satisfies this requirement.

(2) Absent a written petition or appearance by the victim at the hearing as set out in section (1) of this rule, the court will continue the no contact order imposed under ORS 135.250 (2)(a) or ORS 135.247 pending a petition by the victim.

(3) A written petition under section 1 of this rule may be filed on the court's form, or in a document that is in the same format and contains the same heading, caption and content.

## 4.012 SCHEDULING MOTIONS IN FELONY AND MISDEMEANOR CRIMINAL ACTIONS

Except for motions filed under SLR 4.025 and 4.065, or as otherwise provided in this rule, any filed motion must be scheduled for hearing by the moving party.

(1) Scheduling Motions Filed Prior to Trial or the Court's Acceptance of a Plea of Guilty on a Charge:

Except for cases specially assigned to a specific judge for all purposes, or for motions to be heard on the day of trial by the judge assigned for trial from a Call or Criminal Procedure Court calendar, to schedule a pretrial motion for hearing, in addition to any other requirements set by law or rule, the moving party must contact the Criminal Calendaring Section (Room 106 of the main courthouse or call 503.988.3235), and request a date, time and location for the hearing. Motions in cases assigned to a specific judge may be scheduled by contacting that judge.

(2) For Motions Filed During or After Trial or After the Court has Accepted a Plea of Guilty on a Charge:

(a) Any motion filed at trial, post trial or post plea of guilty must be set for hearing by contacting the office of the judge who presided over the trial or plea. If motion is filed after sentence, and the sentence was to a period of probation and a probation judge was assigned who was not the sentencing judge, the motion must be set by contacting the probation judge.

(b) If a judge is no longer in office, then the motion must be set by contacting the successor in office in that circuit court position number. Information regarding which judge should be contacted to set a motion for hearing under this subsection may be obtained by calling Criminal Calendaring.

(c) If the motion arises from a trial or plea presided over by a Senior Judge or a Judge Pro Tempore, and that judge is no longer appointed to sit in this judicial district, then information regarding which judge should be contacted to set a motion for hearing under this subsection may be obtained by calling Criminal Calendaring.

(d) If a judge is requested to set a motion for hearing, and the judge determines that the court lacks jurisdiction over the matter, then the motion will not be set for hearing. The parties will be notified in writing by the court that it does not have jurisdiction and the legal basis upon which it bases its conclusion.

## 4.015 DISCOVERY

Before any Motion to Compel Discovery is filed, a demand must have been made for the materials. The motion shall include a statement that such a demand was made, but not complied with in whole or in part.

## 4.016 *IN CAMERA* REVIEW OF RECORDS

Unless otherwise ordered by the court, a motion for the *in camera* review of records by the court shall be presented to the court as follows:

(a) Parties seeking an *in camera* review of documents in a criminal action shall file a motion supported by an affidavit which includes a description of the records to be reviewed, the information the party seeks to discover or protect contained in the records, and the legal authority for the protection or disclosure of the information contained in the records.

(b) For cases to be heard in the downtown courthouse, motions for in camera review of records in misdemeanor cases will be calendared on the Criminal Procedure Court (CPC) docket. Motions for in camera review of records in felony cases will be calendared on the Presiding Judge's Short Matters call docket for assignment. Motions on cases proceeding in the East County Courthouse will be set on a Gresham judge's calendar for hearing.

(c) If the motion for the *in camera* review is granted, documents shall be directed to Room 131 of the Courthouse for cases that will be heard in any courtroom in that facility. Cases that are to be heard in the East County Courthouse shall be directed to 18480 SE Stark Street, Portland, OR, 97233.

**4.017 WAIVER BACK TO JUVENILE COURT FOR CRIMINAL ACTION WAIVED TO CRIMINAL COURT UNDER ORS 419C.370 (1)**

(1) To waive back to the juvenile court a youth waived from juvenile court under ORS 419C.370, a written motion, supported by an affidavit setting out the basis for the request, must be filed by in the criminal action within 60 days of arraignment in the action. The motion must be served on the Office of the District Attorney, and a courtesy copy delivered to the Chief Family Court Judge. The Chief Family Court Judge will set the motion for hearing. The hearing may be at the Courthouse or the Juvenile Justice Center, and may be assigned to be heard by other judges of the Family Court.

(2) Only a judge of the juvenile court may make a determination regarding the requested waiver of a youth from criminal court.

**4.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS**

All documents filed on contempt matters involving remedial sanctions must comply with SLR19.021 requiring that such documents be filed separately from those addressing other matters in the underlying case.

**4.024 DEFENSE NOTICE OF SCHEDULING OR RE-SCHEDULING OF A CRITICAL-STAGE HEARING IN CASES SUBJECT TO ORS 147.500 TO 147.550**

(1) Whenever a defendant in a criminal action subject to ORS 147.500 to 147.550 determines that it is necessary to schedule or to change a date or time for any scheduled hearing which is defined as a critical-stage of the proceeding under ORS 147.500(5), the defendant must provide notice of this intent and of the proposed date and time for the setting or re-setting of the event to the prosecuting attorney. Except for good cause shown, such notice should be provided at least 4 judicial days in advance of the request being made to the court to schedule or re-schedule the event. Notice for purposes of this rule may be provided by writing delivered to the office of the district attorney or by conferring with the prosecuting attorney or the prosecuting attorney's designee within the district attorney's office and providing the information.

(2) The duty to provide notice under this rule does not apply in any case where, for every person determined to be a victim by the prosecuting attorney, the prosecuting attorney has filed a "notice of compliance with victims' rights" as required by ORS

147.510 that reflects the victim waived their right to be informed in advance of any critical stage of the proceeding.

## 4.025 CRIMINAL CASE POSTPONEMENTS BY PRESIDING JUDGE; CRIMINAL *EX PARTE*; AND, CRIMINAL PROCEDURE COURT POSTPONEMENTS

(1) Postponements of felony cases may be presented to the Presiding Judge at Call or to the Chief Criminal Judge prior to Call by setting a scheduling conference with Chief Criminal Court, at which both the defense attorney and assigned deputy district attorney are present. Requests for postponement will not be allowed by the Chief Criminal Judge if received less than [*three judicial days*] **{twenty-four hours}** before the next Call appearance in Presiding Court. Such requests must be presented at the Call proceeding as required by SLR [*7.035*] **{7.055}**.

(2) Motions to Rescind Bench Warrants ordered at a Call proceeding shall be presented only to the Presiding Judge or designee at the morning *ex parte* session specified under SLR 5.025. All other felony *ex parte* matters shall be presented at the morning or afternoon *ex parte* sessions specified in SLR 5.025.

(3) For misdemeanor cases and for felony cases assigned to the Criminal Procedure Court, requests for postponement of these cases or requests to rescind bench warrants ordered in these cases must be presented to the Criminal Procedure Court.

## 4.035 ISSUANCE OF SEARCH WARRANTS

(1) A request for a search warrant may be made to any Circuit Court Judge, subject to any procedures established by the Presiding Judge.

(2) Prior to presenting a request for a search warrant, the applicant shall:

(a) Obtain prior approval from a District Attorney who has personally reviewed the facts underlying the application;

(b) Provide the name of the reviewing District Attorney; and

(c) Verify that the search warrant application has not been presented to any other judge.

(3) For search warrant requests outside of the normal business hours of the court, the request for a search warrant must be made to the judge assigned to be the “duty judge” for after hour search warrant requests. If the duty judge cannot be contacted, the request may then be made to any other circuit court judge.

## 4.045 VIEWING EXHIBITS IN CRIMINAL PROCEEDINGS

In recognition of the need to insure the security of criminal exhibits, viewing shall be limited to the attorney of record unless otherwise ordered by the Court.

## 4.055 CIVIL COMPROMISE

The defendant must appear personally for a civil compromise hearing.

## 4.065 MOTIONS TO REMIT SECURITY FORFEITURE JUDGMENTS

(1) A defendant or surety may apply to the Court for a remission of a forfeiture of the security amount by:

(a) Filing with the Court, and serving upon the District Attorney, a written Motion for Remission of the Judgment or Order of Forfeiture, accompanied by an affidavit stating good cause for the remission;

(b) If necessary, appearing at a hearing to further inform the Court why the Judgment or Order of Forfeiture should be rescinded.

(2) If a hearing is necessary on the Motion for Remission, the Court will notify the applicant of the date and time of the hearing. In any case, the Court may decide to grant or deny the motion without any appearance by the applicant, and to notify the applicant by mail of its decision.

## 4.066 PAYMENT OF SECURITY DEPOSITS; PAYMENTS OF OTHER COURT ORDERED OBLIGATIONS

(1) For cases within the scope of this chapter, the form of payment accepted and the location and method for depositing security are as follows:

(a) If a defendant is in the custody of the Multnomah County Sheriff's Office or any other agency on a warrant issued by the Multnomah County Court, security amounts for the release of the defendant are collected by the Sheriff's Office and processed pursuant to the cooperative agreement between that agency and the court.

(b) A defendant who is in custody, or a surety for an in-custody defendant, must post cash, cashiers' check, or an Inmate Trust Account check to deposit security pursuant to ORS 135.265(2). Personal checks or debit/credit cards are not accepted as security for release from custody.

(c) If the full amount of security is posted in the form of real or personal property, stocks or bonds, as prescribed in ORS 135.265 (3), the security release must be processed by the Criminal Division of the Trial Court Administrator's Office, and

a Judge must review the supporting affidavits prior to the defendant's release from custody.

(d) If a defendant is out of custody and a warrant has been issued, a court appearance is required prior to clearing an outstanding warrant, unless otherwise ordered by the court. If a court orders that the court appearance to withdraw the warrant is waived and the warrant is to be recalled from the Sheriff upon payment of the security deposit set, then the defendant or the defendant's surety may pay the security to the cashiers in Room 106 of the courthouse or at the East County Courthouse if the warrant arises in a criminal action filed in that court location. Payment must be in the medium allowed by this rule.

(2) In any case within the scope of this chapter, a defendant's attorney may write a check from the attorney's Lawyer Trust Account to deposit security for the defendant.

(3) Personal checks may be accepted by the Criminal Division of the Office of the Trial Court Administrator for payment of court-ordered obligations other than security.

**4.067 REFUND PROCEDURES**

All refunds are made by mail.

**4.075 DUII DIVERSION**

The following procedures shall apply to all driving under the influence of intoxicants (DUII) cases:

(1) On each charge of DUII, the district attorney shall review the incident and the defendant's history to determine if the defendant is eligible for DUII Diversion or if the state will object to the defendant's participation in the diversion program. This review shall be completed prior to the date set for the first appearance of the defendant on the charge. The determination of whether the defendant is eligible for participation in DUII Diversion shall be announced at the first appearance proceeding.

(2) If the defendant appears at the time set for first appearance, is unrepresented by counsel and requests time to obtain counsel, the defendant's arraignment will be set over for two weeks only, unless a longer period is permitted by the court.

(3) In all other cases, counsel will be appointed if it is appropriate to do so, the defendant will proceed with retained counsel, or the defendant will be allowed to proceed without counsel.

(4) The court will arraign the defendant at first appearance. If the district attorney has determined that the defendant is eligible to enter DUII Diversion, then the case will be continued for the defendant to file the diversion petition and to appear to enter a plea of guilty. If the state is not able to determine if the incident or the defendant are

diversion eligible at the time of arraignment or determines that the defendant is not eligible to enter diversion and files objections, then the case will be set for jury trial in the normal course with leave to the defendant to file a petition, if timely, and to set a hearing for the court to make a final determination on this issue.

(5) If more than 30 days has elapsed from the date of first appearance set on the uniform citation summons and complaint or set in a release agreement on a release from custody on a law enforcement officer's probable cause arrest and booking of the defendant for DUII, the defendant must first appear for a determination by the court that there is good cause for the late filing of the petition before the defendant may be accepted into the diversion program.

(6) Objections to Diversion

(a) The District Attorney's objections to diversion shall be in writing.

(b) The defendant or the defendant's attorney will be given notice by the Court that an objection has been filed.

(c) If the defendant elects to contest the objection, the defendant may set the objection for a formal hearing.

(d) Contested objection hearings may not be utilized to seek post-conviction relief on a prior conviction. Such relief shall be filed with the Circuit Court.

(e) If an objection is contested and the Court sustains the objection to diversion, or if the defendant elects not to contest the objection, the case shall be set for trial or plea.

(7) No refunds of diversion fees will be made to any individual who for any reason fails to complete the program after diversion has been granted.

(8) If companion violation offenses are filed at the time the diversion charge is filed, such companion citations will remain with that charge until the petition is allowed by the Court. If the petition is allowed, the judge in the diversion court will take a plea of no contest or set the companion charges for trial.

(9) If a misdemeanor is filed with a diversion charge, the cases shall be consolidated, and shall remain consolidated, until the Diversion hearing. If Diversion is granted, the cases shall be severed and the companion case will be set for trial.

(10) If a diversion offense is filed in a single charging instrument with one or more felony charges, unless severed, the diversion petition must be filed timely in the case containing the felony charges.

(11) Diversion cases filed in the East County Courthouse shall be processed and screened as indicated in this Rule. The judge will rule on the timeliness of the Diversion request and will determine whether Diversion will be allowed.

(12) Except for SLR 4.075(11), decisions on diversion eligibility or disqualification will be made by the judge assigned to the diversion court. Decisions on whether to grant or deny an extension of the 12 month diversion period under ORS 813.225 will also be made by the judge assigned to the diversion court. No attorney or defendant shall request that judge's decision to be reconsidered or reviewed by any other judge in the Circuit Court.

## 4.081 APPEARANCE AT CRIMINAL PROCEEDINGS BY MEANS OF SIMULTANEOUS ELECTRONIC TRANSMISSION

The court may conduct appearances in any criminal proceedings by simultaneous electronic transmission as provided in UTCR 4.080 (1) and under law, if the technology in the courtroom meets the requirements of the rule.

## {4.082 TRANSPORT OF PARTY OR WITNESS FROM OREGON DEPARTMENT OF CORRECTIONS}

**{Transport orders for a party or witness held in an Oregon Department of Corrections facility must be presented for signature and filed ten days prior to the scheduled hearing.}**

## 4.101 HABEAS CORPUS – DOCUMENTS AND FILING

A petition for a writ of habeas corpus must be filed separate from the underlying case in the circuit court, if such a case exists, and must be filed as provided by SLR 7.101.

## CHAPTER 5
## PROCEEDINGS IN CIVIL CASES

### 5.014 ASSIGNMENT OF A MOTION JUDGE FOR A CIVIL ACTION

(1) A motion judge for a case will be assigned to each civil action at the time all parties have appeared and any non-appearing parties are subject to an order of default, or have been dismissed from the action. The assignment of a motion judge will be by order of the presiding judge filed and entered in the action and written notice of the order will be provided by the court to each appearing party by sending it to the party's electronic or US Postal Service mailing address for purposes of the action.

(2) If a motion judge for a case is required prior to the times set out in section (1) or as provided in section (3), then the moving party must appear at the presiding judge's *ex parte* time for civil actions and request that a motion judge be assigned to the action. The presiding judge will assign a motion judge by order at that time. Actual notice of the assignment must be provided to all appearing parties by the party appearing at *ex parte*. Prior notice of the *ex parte* appearance must be given as required by SLR 5.025.

(3) A motion judge will not be assigned under this process to any case that is a writ of review or a writ of mandamus, that is otherwise specially assigned by the presiding judge to a judge, including complex cases, or any case assigned to arbitration, where the arbitrator has authority to hear and determine the matter. If the motion is beyond the authority of an arbitrator, if arbitration is concluded and the case will continue, or if the special assignment of the case is ended and additional pretrial motions are required, then a party may appear as provided in section (2) of this rule and request the assignment of a motion judge.

### 5.015 CIVIL ACTION MOTION SETTING; RESPONSIBILITY OF MOVING PARTY; AUTOMATIC CONSENT TO HEARING BY NON-APPEARING PARTY

**Methods of Setting Civil Motions**

(1) In circuit court civil actions, contested pretrial motions (excluding *ex parte*) shall be set for hearing by contacting the assigned motion judge in the action, by contacting the Civil Calendaring Motion Clerk for setting a motion for summary judgment, by an Order to Show Cause, or by order of the Presiding Judge or the Presiding Judge's designee.

(2) If the Presiding Judge places a motion on the civil motion docket, the Court may provide notice by telephone.

(3) Requests for an expedited setting of a civil motion must be presented to the judge assigned as the motion judge in the action. If no motion judge has been assigned,

then the request for a motion judge must be made at the presiding judge's *ex parte*, as provided in SLR 5.014 (2).

**Notice of motion hearing time, date and location**

(4) This paragraph applies to cases for which a motion judge has been assigned under SLR 5.014. Except for motions for Summary Judgment, the moving party must coordinate for all parties' dates of availability to the court for a motion hearing, contact the assigned motion judge and set the matter. The moving party must provide to all parties notice of the time, date, and location set for the hearing, and the name of the judge who will hear the motion. Notice to the parties may be by any means of communication to which the parties mutually have agreed. If there is no agreement as to the means for giving notice, then notice must be given in writing and delivered to each party. If notice is challenged, in a hearing on the matter of absence of a party at a hearing under paragraph (8) of this Rule, the moving party shall have the burden of proving notice in the manner agreed by the parties to the action was provided to the challenging party. Failure to provide notice of a hearing's time, date and location as required by this section may result in sanctions as provided by UTCR 1.090, including striking the underlying motion.

(5) Motions for Summary Judgment in actions subject to paragraph 4 must be set by calling the Civil Calendaring Motion Clerk at [*(503) 988-3168*] **{<u>503-988-3022</u>}**, and not the motion judge assigned to the case. In all other aspects, section (4) of this rule applies to the moving party setting a motion for summary judgment.

**Service Period on Opposing Parties and Courtesy Copy of Motion, Response and Reply to Assigned Judge**

(6) The moving party shall deliver a courtesy copy of the motion to the assigned motion judge and serve the parties on the date the motion is filed with the court. The moving party must file the motion, serve the opposing parties and provide a judge's courtesy copy of the document not later than 7 days following the date on which the time and date for a hearing is set for the motion. Any party opposing a motion shall submit a courtesy copy of the responding documents to the assigned judge and serve the parties at the same time the response is filed with the court, but in no event less than one judicial day prior to the date of the hearing unless time has been shortened by the assigned motion judge. Any party filing a reply to a response to a motion, must deliver a copy of the reply document to the assigned judge and serve the parties on the date the reply is filed with the court, but in no event less than one judicial day prior to the date of the hearing.

**Failure to File Motion within Seven Days**

(7) If the moving party fails to file the motion within seven days after the motion set for a date and time certain under paragraph (3) of this rule, absent an order of the court

permitting additional delay, the court may impose sanctions as provided by UTCR 1.090.

**Absence at Motion Hearing**

(8) A matter set on a civil motion docket may be decided even though some or all of the parties or attorneys are not present. Such a hearing shall be deemed consented to by the parties not appearing.

## 5.017 SERVICE OF MOTION AT OR BEFORE DELIVERY OF COPY TO JUDGE

In any civil action, the service of a contested motion, response, or reply on opposing parties must occur before or simultaneously with the delivery of a copy of the document to the judge assigned to hear the matter.

## 5.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS

All documents filed on contempt matters involving remedial sanctions must comply with SLR 19.021 requiring that such documents be filed separately from those addressing other matters in the underlying case.

## 5.025 CIVIL *EX PARTE* MATTERS

(1) *Ex parte* matters shall be heard each judicial day before the Presiding Judge or designee at 9:30 am or at 1:30 pm. *Ex parte* matters in designated "complex" cases or cases assigned to a judge for "all matters" must be presented to the assigned judge.

(2) Contested matters, unless otherwise allowed by these rules, shall not be presented at *ex parte*. Such matters shall be subject to the requirements of SLR 5.015. Only the following contested matters may be presented at *ex parte*:

(a) Application for a temporary restraining order under ORCP 79 (B)(1), when the adverse party appears and is permitted by the court to address the merits of the request.

(b) Motion to file under seal

(3) Except as otherwise allowed by statute or waived or consented to by the opposing party, any party seeking *ex parte* relief must provide one judicial days' notice to the opposing party of the date, time and court where the *ex parte* relief will be sought. A party appearing will be required to advise the court if they have had contact with the opposing party prior to the *ex parte* appearance, and the opposing party's position on the matter presented to the court. Parties appearing at *ex parte* for purposes of compliance with timelines under SLR 7.045, Motion for Change of

Judge, are excused from the one day notice requirement of this rule but must provide the notice prior to the *ex parte* appearance.

(4) *Ex parte* motions must be accompanied by a proposed order unless otherwise instructed by the court.

**5.035 ORDERS BY PREVAILING PARTY; PRESENTING JUDGMENTS AND ORDERS FOR JUDICIAL SIGNATURE**

(1) After a motion ruling, unless otherwise ordered, it is the responsibility of the prevailing party to draft an order incorporating the ruling and to submit it to the proper judge, accompanied by proof of service on opposing counsel in compliance with UTCR 5.100.

(2) Any judgment or order requiring the signature of a pro tem judge, reference judge, or senior judge shall be directed to the private business office of that judge unless that judge directs otherwise. That judicial officer will forward the order to Presiding Court for filing.

(3) All judgments, orders, and other documents requiring the signature of a specific judge shall be sent directly to that judge. **{The judge's name must appear in parentheses in the case caption below the document title. Ex parte orders and judgments should not contain a judge's name in the case caption.}**

**5.036 IN CAMERA REVIEW OF RECORDS**

Unless otherwise ordered by the court, a motion in a civil action requesting a hearing for the in camera review of records by the court be presented to the court as follows:

(1) A party seeking an *in camera* review of documents shall present at the presiding judge's civil *ex parte* session a motion supported by an affidavit and with a form of order for the inspection. The motion and affidavit must include a description of the records to be reviewed, the information the party seeks to discover or protect contained in the records, and the legal authority for the protection or disclosure of the information contained in the records. If the motion is allowed, the *in camera* review will be given a date on the Presiding Judge's Short Matters Call docket for assignment to a judge for the review proceeding.

(2) If the motion is allowed, documents to be reviewed by a judge *in camera* shall be directed to Room 131 of the Courthouse.

**5.045 NO MOTIONS FOR RECONSIDERATION; EXCEPTIONS**

(1) No Motion for Reconsideration on any pre-trial, trial, or post-trial civil or criminal matter shall be heard, reviewed, or considered by any judge sitting in the Fourth Judicial District; nor shall any such judge review a ruling rendered by any other judge except under (2).

(2) This rule shall not apply to any statutory motion to modify, set aside, vacate, suppress, or rescind; nor shall it obstruct the authority of the assigned trial judge to review any previously-filed motions.

## 5.071 REMOVING A PARTY FROM A FILED ACTION OR THIRD PARTY ACTION IF AMENDED COMPLAINT OMITS THE PARTY

After commencing an action under ORCP 3 or after commencing a third party action under ORCP 22, a party named will only be removed from the case as a party by entry of a court generated order pursuant to UTCR 7.020 or by an appropriate form of judgment (Limited or General) presented to the court. Merely omitting a party previously named from an amended pleading does not remove that party from the case.

## 5.105 PRIOR TO SUBMITTING FORM OF JUDGMENT FOR SETTLEMENT OF PERSONAL INJURY OR WRONGFUL DEATH CIVIL ACTIONS: REQUIREMENTS WHEN MINOR CHILD OR INCAPACITATED PERSON APPEARS BY GUARDIAN AD LITEM

See SLR 9.055 for condition precedent to submission of the form of judgment for a judge's signature on settlement of civil actions when a minor child or incapacitated person appears by Guardian Ad Litem.

## 5.161 JUDGMENT DEBTOR ORDERS

### Authorized Without Predetermined Hearing Date

(1) Except in the East County Courthouse and small claims actions adjudicated in the Multnomah County Courthouse, appearance dates for judgment debtor/garnishee hearings shall be set at the discretion of the creditor for any judicial day at 11:00 am in Courtroom 208. The creditor must give the debtor/garnishee at least seven days notice of the date of the examination, unless a longer period is required by statute. The Presiding Judge will set an appearance date only if specifically requested to do so by the creditor. Small claims judgment debtor/garnishee hearings in the East County Courthouse are scheduled for one Friday each month. The judgment creditor may select a time and date by calling the East County Courthouse. Judgment debtor/garnishee hearings arising from small claims actions adjudicated in the Multnomah County Courthouse are scheduled for 8:15 am on Wednesday through Friday each week in Courtroom 120 of the Courthouse. The hearing date shall be set at the discretion of the creditor, but must provide at least seven days notice to the debtor. Forms are available in Room 210 of the Multnomah County Courthouse.

### Valid for Six Months

(2) Appearance orders signed by the Presiding Judge without an appearance date shall remain valid for six months from the date of signature.

**Location of Appearance Limited to Multnomah County Courthouse and East County Courthouse**

(3) The debtor/garnishee shall not be compelled to appear at a location other than the Multnomah County Courthouse or East County Courthouse without the written consent of the debtor/garnishee.

(4) Requests to the court for remedial sanctions to be imposed on a judgment debtor must comply with Rule 5.021.

**{SLR 5.165 PROTECTIVE ORDERS AND FILING DOCUMENTS UNDER SEAL IN CIVIL CASES**

**(1) All motions for entry of a protective order—whether contested or stipulated—should be presented to the assigned motions judge. A motion and proposed order to file specific documents under seal under the terms of a protective order or otherwise should be presented to the assigned motions judge. If a motions judge has not yet been assigned, the moving party should request assignment of a motions judge under SLR 5.014(2).**

**(2) Parties should not submit proposed protective orders that allow or require parties to file documents designated as "Confidential" under seal without a further order from the court. Instead, a proposed protective order shall include the following:**

**"A party seeking to file under seal documents designated as CONFIDENTIAL under this protective order must file a motion to file documents under seal that specifies: (a) the statutory authority for sealing the documents; (b) the reasons for protecting the documents from public inspection; and (c) a description of the documents to be sealed. The judge hearing the motion may require the moving party to submit the documents to the court for in camera review."**

**(3) The court will return unsigned any proposed protective orders that do not comply with this requirement.}**

**5.181 CHALLENGE TO GARNISHMENT NOT TO CONTEST JUDGMENT**

Challenge to Writs of Garnishment which contest the underlying judgment will be denied by the Court.

**{5.182 CHALLENGE TO GARNISHMENT- PERSONAL FINANCIAL DOCUMENTS TO BE FILED UNDER SEAL}**

**{The clerk of the court shall file under seal any exhibits to a Challenge to Writ of Garnishment that contain personal financial information that would not otherwise be publicly available.}**

# CHAPTER 6
# TRIALS

## 6.012 PRE-TRIAL SETTLEMENT CONFERENCE PROCEDURES

The following procedures shall apply to pre-trial settlement conferences in all pending civil and domestic relations cases, when ordered by the Court pursuant to UTCR 6.010, 6.200, or requested by a party or the party's attorney:

(1) If one party requests a pre-trial settlement conference, the settlement conference shall be held and shall be conducted according to the procedures set forth in this rule. Except in the case where the Court orders a conference, the pre-trial settlement conference will not be required if the opposing party demonstrates good cause why the settlement conference should not be held. The judge conducting the settlement conference may require the party requesting a conference to certify that reasonable efforts to achieve settlement have been attempted by the parties, and that they have been unable to resolve the controversy without the court's assistance.

(2) The Presiding Judge shall designate a judge or judges who shall conduct pre-trial settlement conferences. In the event a party requests a specific judge to conduct a conference, that request shall be honored as fully as practical under the circumstances.

(3) Each trial attorney and party or representative of a corporation or insurance company who has full authority to settle and compromise the litigation shall personally appear at the pre-trial settlement conference. However, the assigned judge may permit telephone appearances in lieu of personal appearance for good cause.

(4) Each pre-trial settlement conference shall be scheduled to allow adequate time for meaningful settlement discussions. Additional settlement conferences may be scheduled by the assigned judge or by agreement of all attorneys and parties.

(5) The pre-trial settlement conference shall not delay the trial scheduling, but the Presiding Judge may delegate to the assigned judge limited or unlimited authority to continue the trial date by the mutual agreement of the parties and their attorneys.

(6) No judge conducting a pre-trial settlement conference under this rule shall be permitted to act as trial judge if the case does not settle, unless the parties stipulate to such procedure.

(7) Each attorney or party shall submit to the assigned judge, at least one business day prior to the scheduled pre-trial settlement conference, information regarding the case. In domestic relations cases, counsel shall also provide a copy of the proposed distribution of assets and liabilities, and, if support is involved, the proposal for and computation of support, to opposing counsel at least one business day prior to the scheduled pre-trial settlement conference. Except for the information described in the preceding sentence, any documents or information submitted to the judge shall

be presumed confidential, unless a copy is provided to the opposing side(s). The assigned judge shall make available forms for the submission of such information, but an attorney or party may submit such other or further information to the judge to inform the court of the issues in the case.

(8) No submissions under SLR 6.012(7) shall be included in the court file, nor shall any notes prepared by the judge be filed or otherwise disclosed, except by permission of the attorneys and/or parties or by court order.

(9) The assigned pre-trial settlement conference judge shall inform the calendar clerk of the occurrence of the conference, the possibilities of settlement, and the estimated length of trial time, in the event the case does not settle at the conference. No other information regarding the case or the conference shall be communicated to the trial judge or the jury.

(10) The presiding judge may require a trial-setting conference prior to, or following, the pre-trial settlement conference, pursuant to UTCR 6.010.

## 6.015 SUBMISSION AND COPIES OF MOTIONS, BRIEFS, MEMORANDA, AND POINTS AND AUTHORITIES; COPIES TO BE DESIGNATED TRIAL COURT COPY

(1) A copy of a motion, brief, or memoranda shall be submitted directly to the judge scheduled to hear the matter.

(2) The copy of the motion and all supporting documentation for the use of the judge shall be designated "TRIAL COURT COPY."

(3) Copies shall identify the name of the judge hearing the motion, the time of the hearing, the date of the hearing or the show cause assignment date, and the room number of the hearing.

(4) Jury Instructions, Verdict Forms, Trial Memorandums, Motions to Suppress, Motions in Limine, and similar materials, shall be submitted to the assigned trial department by noon of the day of trial assignment at daily call by the Presiding Judge. This rule does not apply to trial assignments made after daily call is concluded.

## 6.025 PAYMENT OF TRIAL FEES AND HEARING FEES

(1) A fee receipt, fee waiver, or fee deferral must be presented to the courtroom clerk prior to commencement of a trial or hearing where a fee is required to be paid under ORS 21.225 or 105.130.

(2) Fees payable at the conclusion of the trial shall be paid by 5:00 pm. on the day trial concludes unless the fee is waived or deferred. If the trial concludes after the close of business, the fees shall be paid the morning of the first court day thereafter. For

purposes of this rule, a jury trial shall be deemed concluded when the jury returns a verdict.

(3) The trial judge may elect to delay commencement of the case until the fees are paid, but failure to pay the fees as stated in SLR 6.025(1) shall not be grounds for a postponement.

## 6.027 PERSONAL COMMUNICATION DEVICES IN JURY ROOMS DURING DELIBERATIONS AND IN COURTROOMS DURING PROCEEDINGS

(1) Unless otherwise permitted by the judge presiding over the trial, personal data or communication devices (any electronic or other equipment capable of communicating with others outside a jury room, including, but not limited to personal computing devices, cell phones and pagers) are not allowed in a jury room during jury deliberations.

(2) After a jury has been instructed and charged to commence deliberations the courtroom clerk will collect all such devices and retain them in a secure place during deliberations.

(3) Unless otherwise permitted by the judge presiding over the proceeding, personal computing and communication devices (any electronic or other equipment capable of communicating with others outside a courtroom by transmission of sound or images, including, but not limited to cell phones and pagers) taken into a courtroom by any person shall be turned off upon entering the courtroom and shall remain off until after the person has departed from the courtroom.

(4) See SLR 3.182 regarding the operation of cell phones and other personal data and communication devices which have audio recording, photographic or any other visual or image recording or reproduction capability.

## 6.045 MOTIONS TO CORRECT TRANSCRIPTS

(1) If a motion under ORAP 3.40 is filed, a copy shall be delivered to each of the following:

(a) Trial court reporter or audio transcriber;

(b) Trial court judge (or the judge who presided at the matter under appeal).

(2) A form of order to correct, or add to, the transcript shall be submitted to the trial court judge.

(3) The moving party shall deliver a copy of the signed order to the trial court reporter or audio transcriber.

(4) If the signed order permits correction or addition to the transcript, then the trial court reporter or audio transcriber shall give notice and, upon any payment due, serve

copies of the corrected or added material in the same manner as provided by ORS 19.370 for the initial uncorrected or un-augmented transcript.

**{6.046 TRANSPORT OF PARTY OR WITNESS FROM OREGON DEPARTMENT OF CORRECTIONS**

**Transport orders for a party or witness held in an Oregon Department of Corrections facility must be presented for signature and filed ten days prior to the scheduled hearing.}**

## CHAPTER 7
## CASE MANAGEMENT AND CALENDARING

### 7. 015 TRIAL READINESS CIVIL CASE MANAGEMENT CONFERENCE

(1) The parties in all civil cases must participate in a trial readiness case management conference unless the case has been dismissed, transferred to arbitration, transferred to the Expedited Civil Jury Trial Program or transferred to a special assignment, unless the Presiding Judge otherwise directs. The court will not generate a trial date in these cases without conferring with the parties and there will be no "regular course" trial date postponements. The purpose of this conference is to facilitate the selection of a firm trial date and to assess readiness for trial. The court will ask the parties to identify remaining tasks to be resolved including discovery issues, expected remaining pretrial motions, and any known scheduling problems for parties and witnesses. Parties are expected to be prepared to discuss these matters and to present to the court a proposed trial date to which the parties have agreed. The court will set a trial date no later than one year from the filing of the original complaint or six months from the filing of a third party complaint under ORCP 22C, whichever is later, unless the parties establish good cause for a later trial date. If the court permits a case to be scheduled beyond one year, the parties will be subject to SLR 7.016 and will be required to participate in a case status conference prior to the trial date. Any request for a postponement of the trial date selected at the trial readiness conference must be presented as provided in SLR 7.035 (2) (c) and will not be granted without a showing of good cause.

(2) At least thirty-five days prior to the conference the Court will send notice to all counsel or self-represented litigants who have appeared in the case unless this period is waived or shortened by the Presiding Judge. The notice will announce the date and time for the conference, the location and instruct the parties to come prepared with an agreed upon trial date. A postponement of the Trial Readiness Civil Case Management Conference may be granted for good cause shown presented by a request, supported by a motion and declaration, at the Presiding Judge's *ex parte*.

(3) The parties may appear by phone unless the court otherwise indicates.

### 7.016 PARTICIPATION IN APPROPRIATE DISPUTE RESOLUTION

(1) Every civil case shall be subject to subsection (2) of this rule.

(2) All parties and their attorneys, if any, are required to participate in some form of appropriate dispute resolution, beyond negotiation directly or indirectly to reach a joint settlement, including, but not limited to, arbitration, mediation or judicial settlement conference. The parties must sign and file, within 365 days from the filing of the first complaint or petition in the action, a certificate (See Certificate of Participation in Alternative Dispute Resolution, Forms Appendix) indicating that the parties have participated in such ADR mechanisms. If the action is fully disposed of

in the circuit court within 365 days from the filing of the first complaint or petition in the action, no certificate need be filed under this rule.

(3) The requirements of this rule shall not require mediation or arbitration of a case otherwise exempt from arbitration or mediation requirements by statute, but the parties and attorneys, if any, of any case so exempted shall be required to participate in a judicial settlement conference.

(4) The court may impose sanctions pursuant to UTCR 1.090 against any party who fails to comply with subsection (2) of this rule, or who

(a) fails to attend a scheduled mediation session, arbitration hearing or judicial settlement conference;

(b) fails to act in good faith during the mediation, arbitration or judicial settlement conference;

(c) fails to submit on a timely basis paperwork required as a part of the mediation, arbitration or judicial settlement conference; or

(d) fails to have a principal necessary to approve the resolution of the case present or readily available, by telephone or other means, at the time of the mediation, arbitration or judicial settlement conference, unless, in advance, the court grants the party or attorney leave from compliance with this subsection of the rule.

(5) Nothing in this rule restricts or removes the constitutional right of the parties to a trial.

## 7.021 UTCR 7.020 CONTINUANCES; STAY OF DEFAULTED PARTIES PENDING TRIAL

(1) Continuances pursuant to UTCR 7.020 shall be on a form prescribed by the Court. A first request for a continuance must be filed electronically, and any subsequent continuance request must be presented at the Presiding Judge's *ex parte*.

(2) In multiple party cases, when a default order has been taken against a specific party and the other defendants will proceed to trial, an attorney may move the Court to stay the requirement to apply for a judgment by default and avoid dismissal under UTCR 7.020 for the defaulted party, pending the outcome of trial.

(3) **{A party wishing to "reinstate" a party or case after entry of a judgment of dismissal under UTCR 7.020 must seek relief from judgment under ORCP 71. The motion for relief from judgment must be supported by an affidavit or declaration establishing the reason(s) justifying relief under ORCP 71 B, and must be served on all parties as provided in ORCP 71 B.}**

(a) **{<u>If the ORCP 71 motion for relief from judgment is uncontested, the moving party may appear at ex parte.</u>**

(b) **<u>If the ORCP 71 motion for relief from judgment is contested, the moving party must contact the assigned motions judge to schedule a hearing. If a motions judge has not been assigned, the moving party must place the motion on the short matter docket for assignment at Call.</u>**

(c) **<u>All fees required by ORS 21.200(1)(d) apply.</u>}**

## 7.025 POSTPONEMENT CONFERENCES

(1) A conference with the Presiding Judge may be required to postpone a civil trial. Parties must confer with each other before setting a conference. The moving party is required to provide notice of the scheduled conference. To set a scheduling conference, please call Presiding Court at (503) 988-3846.

(2) Motions to postpone trial in a case that is designated "complex" and is specially assigned to a judge must be presented to that judge.

## 7.045 MOTION FOR CHANGE OF JUDGE

(1) If a judge is assigned at Call or at a case assignment or scheduling conference before the Presiding Judge and a party intends to file a motion for a change of the judge assigned, the intention to file the motion must be announced at the time of assignment. An original and one copy of a motion, order, and supporting affidavit must be delivered to the Presiding Judge by the close of business on the next judicial day. Failure to submit all three documents timely, with the copy, will result in sanctions as provided by UTCR 1.090. The requesting party is responsible for serving a copy of the motion, affidavit and unsigned order on the judge being disqualified and each other party to the action who is not in default.

(2) For Judges assigned by order of the Presiding Judge and the order did not arise at Call or a case assignment or scheduling conference, the following procedures shall apply:

(a) If a party is notified at an *ex parte* appearance of the name of the assigned motion judge and the party intends to disqualify the assigned judge, the party must announce the intent to the Presiding Judge at the time of assignment and deliver to the Presiding Judge by the close of the next judicial day an original and one copy of the motion, order and affidavit. Failure to submit all three documents timely, with the copy, will result in sanctions as provided by UTCR 1.090. The requesting party is responsible for serving a copy of the motion, affidavit and unsigned order on the judge being disqualified and each other party to the action who is not in default.

(b) In any other situation than set out in subsection (a), if a party intends to disqualify the assigned motion judge, that party must, by the close of the next judicial day after receiving actual notice of the judge assigned, appear at *ex parte* to present an original and one copy of a motion, order, and affidavit. The requesting party is responsible for serving a copy of the motion, affidavit and unsigned order on the judge being disqualified and each other party to the action who is not in default.

(c) If a motion for change of judge under this provision is allowed, the Presiding Judge may assign a replacement judge and announce that assignment at the *ex parte* presentation required under subsections (a) and (b) above. Actual notice of the new assignment must be provided to all appearing parties by the party appearing at *ex parte*. If a new judge is not announced at the *ex parte* proceeding, a written notice of the new assignment will be provided by the court to each appearing party by sending it to the party's electronic or US Postal Service mailing address for purposes of the action.

(3) If a judge is assigned in any other manner, an original and one copy of a motion order and supporting affidavit, must be presented to the Presiding Judge at *ex parte* by the close of the judicial day following actual notice of the assignment. A copy of the motion, affidavit and unsigned order must be served on the judge being disqualified by the moving party and each party to the action who is not in default.

(4) In small claims, FEDs, violations and misdemeanor offenses, the Presiding Judge may assign a motion for change of judge to another judge for decision.

(5) For purposes of ORS 14.250 et seq. and this Rule, a judge who enters rulings or orders in any arraignment, pre-trial release request at the time of arraignment, pre-trial conference, Trial Readiness Conference pursuant to SLR 7.015, or daily Call pursuant to SLR 7.055, shall not be considered to have ruled on a particular matter within the meaning of ORS 14.260(3). A party shall not waive any right pursuant to ORS 14.250 et seq. as to such judge by failing to move for change of judge at the time of appearance before such judge at any proceeding listed in this paragraph.

## 7.055 CALL

### Call for Civil and Criminal cases; Family Law, Probate, and Juvenile, Small Claims and FED Dockets Kept Separate

(1) Unless otherwise designated or posted, the Presiding Judge shall announce the cases listed on the Daily Trial Call Calendar each judicial day.

(a) Call for Family Law, Probate, Juvenile, Small Claims and FED matters will be conducted separately, as provided in these Rules.

(b) When a jury trial is requested in an FED action, the case will be placed on the civil Call calendar.

**Assignment Times**

(2) Unless altered by the Presiding Judge or designee, Call shall be at 9:00 am for all felony offenses and civil matters.

**Presiding Judge to assign judge, day and time**

(3) Except for cases set to follow, and cases assigned in multiple assignment groups, the Presiding Judge will announce the day and hour that the trial will begin.

**Cases set to follow**

(4) When a case is assigned to a trial judge to follow another case, the attorney on the case set to follow shall be prepared to commence trial promptly upon the completion of the preceding case.

**Standby Cases**

(5) A case on the Call calendar may be designated as a standby case at Call proceeding. These cases are assigned later in the day, if judicial time becomes available.

(a) A standby case may be assigned out for the following day prior to 4:00 pm on the day of Call.

(b) If an attorney on a standby case announces to the clerk an inability to go to trial when assignment is made, the case will either be placed on Call the following judicial day or postponed, at the discretion of the Presiding Judge.

**Carried Cases**

(6) For good cause shown, a case may be carried to the Call docket for the following judicial day.

**Abated and Stayed Cases**

(7) For good cause shown, the Presiding Judge may abate any case upon motion of counsel or upon motion of the Court. (See Motion for Severance and Order Re Motion for Severance, Forms Appendix,)

(a) Unless prohibited by law, an abated case may be dismissed, without prejudice, for want of prosecution following notice by the Court of intent to dismiss pursuant to ORCP 54B(3) two years from the date of the abatement order if the case has not been removed from abated status or dismissed at an earlier time. A case may be removed from abated status upon motion of counsel or on the Court's own motion.

(b) No abated case shall be placed on the trial docket, or be subject to court arbitration or mediation, or have any motion practice conducted during the period

of abatement. Parties may by mutual consent proceed with discovery during the period of abatement or inactive status.

(c) A case will be stayed, rather than abated as provided in this section, by a notice of bankruptcy.

(d) Once a case is reinstated to the active trial docket, the case will be assigned a trial date within 30 days. (See Motion for Reinstatement and Order Re Motion for Reinstatement, Forms Appendix,)

**Duty of Attorney at Call**

(8) The attorney of record on a case shall be present at Call, except that:

(a) The attorney may appear via a substitute counsel; or

(b) The attorney may report unconditionally ready in a civil case by telephone to the Call clerk by 4:45 pm on the judicial day immediately preceding the date of Call. A telephoned report as allowed under this section shall constitute a waiver of the right to file a motion for change of judge as to any judge assigned to hear the matter and of the right to object to another party's request made at the time of Call that the matter be postponed.

(c) If an attorney is not present at Call, does not otherwise report to the Court ready on the case, or the Presiding Judge deems the report inadequate or misleading, the Presiding Judge may direct:

(i) The entry of a Judgment of Dismissal, following notice by the Court of intent to dismiss pursuant to ORCP 54B(3), without prejudice, for want of prosecution, an Order of Default, or such other order as may be appropriate under the circumstances including the imposition of sanctions under UTCR 1.090 and jury expenses under UTCR 6.020; or

(ii) That the attorney appear before the Court in person to explain the cause for the non-appearance. The proceeding shall be made a matter of record, and if the Presiding Judge determines that such conduct is willfully inexcusable, such conduct may be considered an act of contempt.

**Multiple Case Assignment**

(9) Cases on the Call calendar may be assigned in multiple case groups.

**Felony Defendants to Appear at Call**

(10) All out-of-custody felony defendants shall appear on all Call dates, unless the Presiding Judge directs otherwise.

**Cases Specially Set**

(11) The Presiding Judge may specially assign any case.

**Advising Presiding Judge**

(12) An attorney may advise the Presiding Judge in open court at the time a case is to be assigned that a particular judge has previously ruled upon some aspect of the case, or has tried a companion case, and therefore is familiar with the issues of the case.

**Improper Influencing of Case Assignment**

(13) Except as provided in 7.055(12), no attorney, party, or other person may directly or indirectly attempt to influence the Presiding Judge or court staff to assign a case to any particular judge, or to avoid assignment of a case to any particular judge.

**{Cases Anticipated to last Five Days or Longer or Requesting Use of One or More Fridays as Trial Days}**

(14) **{Six weeks in advance of trial, for trials expected to last five days or longer or where the parties are requesting to conduct trial on one or more Fridays, plaintiff must send or deliver a letter to the Calendaring Secretary, c/o the Presiding Judge, requesting early assignment to a trial judge. The letter must state: the date trial is scheduled to begin; the estimated length of the trial; that parties have conferred as to the estimated length of the trial; the names of the trial attorneys; whether the parties are requesting to conduct trial on one or more Fridays; and the name(s) of the Motion Judge and any other judge that has heard matters related to the case.}**

## 7.056 DISPOSITION OF CASE AFTER ASSIGNMENT TO TRIAL JUDGE, MOTION TO POSTPONE CASE ASSIGNED AT CALL MUST BE PRESENTED TO PRESIDING JUDGE

Once a case is assigned for trial, including as a case set to follow, all matters affecting the trial, except any request to delay the assignment date for trial, are to be presented to the trial judge. The immediate unavailability of the trial judge is not grounds, absent an emergency, to present a matter to the Presiding Judge or any other judge. Requests for a delay of the trial date assigned by the Presiding Judge at Call must be presented to the Presiding Judge only, and shall not be made to the judge assigned for the trial of the action.

**7.061** **[*NOTICE TO THE COURT FOR SPECIAL ACCOMMODATION UNDER THE AMERICANS WITH DISABILITIES ACT (ADA)*] {REQUESTS FOR ACCOMODATIONS BY PERSONS WITH DISABILITIES}**

(1) [*For purposes of complying with UTCR 7.060, if a special accommodation is needed under UTCR 7.060, prior to each proceeding in the action in which a special accommodation is needed, the party needing the accommodation for the individual must contact the Trial Court Administrator's Office. The Trial Court Administrator's Office makes arrangements for special accommodations under the ADA upon notification required by UTCR 7.060.*] **{Process for requesting accommodations}**

(a) **{Who may request. Accommodations may be requested from any lawyer, party, witness, juror, person with an interest in attending any proceeding open to the public or other person seeking to use the services, programs, or materials provided by this judicial district. }**

(b) **{Form of Request. Requests for accommodation under this rule may be presented ex parte on the form designated by court administration for such requests, in another written format such as e-mail to the court's ADA Coordinator, or orally to any court personnel. In all cases, however, the request shall be documented in writing and forwarded to the ADA coordinator or designee within the time frame provided in (1)(d) of this rule.}**

(c) **{Content of Request. Requests for accommodations must contain the information required by UTCR 7.060(2). These requirements may be met by using the court's accommodation request form, available from any of the court's public service counters, from the trial court administration office, or the court's website. Medical and other health information submitted in support of the accommodation request, if any, shall be submitted under the cover sheet accompanying the request form designated "SEALED MEDICAL AND HEALTH INFORMATION." Such information shall be accessible only to the court and the person requesting accommodation unless disclosure is otherwise expressly ordered or required by law.}**

(d) **{Timing of request. Pursuant to UTCR 7.060, requests for accommodation must be made as far in advance as possible, but no fewer than 4 judicial days before the requested implementation date. The court may, in its discretion, waive this requirement.}**

(e) **{Informal practices encouraged. Where the need for accommodation is obvious and the accommodation can be easily implemented, informal practices for responding to and implementing the accommodation are permitted and encouraged. However, informal practices shall not be utilized if an accommodation request would impact court procedures within a specific case, as described in (2)(a) below.}**

(2) [*The Trial Court Administrator's Office Multnomah County may be contacted by calling (503) 988-3957 or TDD (503) 988-3907. The Trial Court Administrator's Office is open to take calls under this rule each business day from 8:00 am to 5:00 pm.*] **{Consideration, determination, and responses to requests}**

(a) **{Administrative versus judicial consideration. The ADA Coordinator shall not administratively grant accommodation requests that impact court procedures within a specific case. Examples include requests for an extension of time, a set-over, or a continuance; changes of venue; and telephonic or videoconference appearances. Such requests shall be forwarded by the ADA coordinator in writing to the judicial officer handling the case for consideration and determination. In all cases, however, a denial of an accommodation request in whole or in part shall comply with (2)(c) of this rule and shall be in writing.}**

(b) **{Response. The court shall promptly inform the requestor of the determination to grant or deny an accommodation request. If the accommodation request is denied in whole or in part, the response shall be in writing. On request the court shall provide an additional response in an alternative format. The response to the applicant must indicate:**

(i) **whether the request for accommodation is granted or denied, in whole or in part. If denied, the response shall also include a description of an alternative accommodation that does not implicate any of the bases for denial under (2)(c) of this rule;**

(ii) **if the request for accommodation is denied, in whole or in part, the reason therefor;**

(iii) **the nature of the accommodation(s) to be provided;**

(iv) **the duration of the accommodation(s) to be provided; and**

(v) **if the response is in writing, the date the response was delivered in person or sent to the applicant.}**

(c) **{Denial of request. A request for accommodation may be denied only when it is determined that one or more of the following apply:**

(i) **the requestor has failed to satisfy the substantive requirements of this rule;**

(ii) **the court is unable to provide the requested accommodation on the date of the proceeding and the proceeding cannot be continued without significant prejudice to a party;**

(iii) **permitting the requestor to participate in the proceedings with the requested accommodation would create a direct threat to the safety or well-being of the requestor or others participants;**

(iv) **the requested accommodation would create an undue financial or administrative burden for the court or would fundamentally alter the nature of the court service, program or activity under (1) or (2):**

1. **{An accommodation may be denied based on a fundamental alteration or undue burden only after considering all resources available for the funding and operation of the service, program or activity, and shall be accompanied by a written statement of the reasons for reaching that conclusion.}**
2. **{If a fundamental alteration or undue burden would result from fulfilling the request, the court shall nevertheless ensure that, to the maximum extent possible using alternative accommodations, individuals with disabilities receive the benefits or services provided by the court.}**

(3) **{Handling of confidential medical information. The court shall keep confidential all information of the requestor concerning the request for accommodation, unless confidentiality is waived in writing by the requestor or disclosure is required by law or order of the court. The requestor's identity and confidential information may not be disclosed to the public or to persons other than those involved in the accommodation process. Confidential information includes all medical information pertaining to the requestor, and all oral or written communication from the requestor concerning the request for accommodation.}**

## {7.062 TRANSPORT OF PARTY OR WITNESS FROM OREGON DEPARTMENT OF CORRECTIONS

**Transport orders for a party or witness held in an Oregon Department of Corrections facility must be presented for signature and filed ten days prior to the scheduled hearing.}**

## 7.071 SCHEDULING FOREIGN LANGUAGE INTERPRETERS UNDER UTCR 7.070

(1) For purposes of complying with UTCR 7.070, if a foreign language interpreter is needed, the party in need of an interpreter, prior to each proceeding in the action in which an interpreter is needed, must contact the Court Language Access Services Office in Multnomah County as provided in UTCR 7.070. Court Language Access Services schedules interpreters upon receiving the notification required by UTCR 7.070.

(2) The party in need of the interpreter must update the Court Language Access Services office promptly upon learning of a cancellation or any shortened or lengthened time frame for the interpreter in the scheduled proceeding.

(3) The Court Language Access Services Office for Multnomah County may be contacted by e-mail at MUL.Interpreter.Services@ojd.state.or.us. The Court Language Access Services Office is available to take both e-mail and calls each business day from 8:00 am to Noon and from 1:00 pm to 5:00 pm.

## 7.101 HABEAS CORPUS – DOCUMENT FILING IN THE CIVIL SECTION OF THE COURT

(1) All documents required to be filed with the Clerk of the Court in habeas corpus matters must be filed in the Civil Section of the Office of the Trial Court Administrator and will be assigned a case number for that matter separate from the underlying case if such a case exists in the circuit court. This rule applies to petitions, writs, motions, affidavits, proposed orders, judgments, and any other document regarding the matter. The Civil Section is located in Room 210 of the Multnomah County Courthouse.

(2) If the petition for the writ of habeas corpus arises from an underlying case in this circuit court, the identity of that case, the caption, and the circuit court's case number must be set out in the first allegation of the petition. For purposes of this rule, an extradition action pending within the jurisdiction of the circuit court is a "case".

## 7.201 POST-CONVICTION RELIEF – DOCUMENT FILING IN THE CIVIL SECTION OF THE COURT

All documents required by law to be filed with the Clerk of the Court in Post-Conviction Relief cases must be filed in the Civil Section of the Office of the Trial Court Administrator. The Civil Section is located in Room 210 of the Multnomah County Courthouse.

## 7.202 POST-CONVICTION RELIEF --- PLEADING WHEN COUNSEL IS APPOINTED UPON FILING OF THE PETITION

(1) Counsel appointed for the petitioner shall have 120 days from the date of appointment to file an amended petition.

(2) If counsel is unable to plead a viable claim for relief in an amended petition, counsel shall file an affidavit pursuant to ORS 138.590(5).

(3) The defendant shall not file an answer, motion or demurrer to the petition until the petitioner has filed a notice that the petitioner will proceed on the original petition, has filed an amended petition, or 120 days has expired.

(4) Once counsel for the petitioner files an amended petition or notifies the court in writing that the petitioner will proceed on the original petition, or the 120 days has expired, the defendant shall have 30 days from such filing or notice to file an answer, motion or demurrer.

**7.203 POST-CONVICTION RELIEF --- MOTIONS OR DEMURRER TO THE PETITION**

(1) The petitioner shall have 30 days to file a response to the defendant's motion or demurrer.

(2) The defendant shall have 20 days to file a reply to the petitioner's response.

(3) If the court denies defendant's motion or demurrer, the defendant shall have 20 days to file an answer.

(4) If the court grants the defendant's motion or demurrer and if it appears to the court that there is a reasonable expectation that the petitioner will be able to cure the defect, the petitioner shall be granted 30 days to file an amended petition. Upon showing of good cause, the court may, in its discretion, grant the petitioner additional time to file an amended petition.

**7.204 POST-CONVICTION RELIEF --- EXHIBITS**

(1) Only the portions of the trial transcript, medical records, or other voluminous documents that are directly relevant to plaintiff's claim shall be attached to the petition or amended petition as an exhibit or offered at trial.

(2) All parties are encouraged to put lengthy transcripts, depositions, or other exhibits on CD or DVD in Word or PDF for submission to the court.

**7.205 POST-CONVICTION RELIEF --- ADDITIONAL BRIEFING AND EXHIBITS**

(1) The petitioner shall file with the court any legal memoranda and submit any additional trial exhibits no later than 30 days before trial.

(2) The defendant shall file with the court any memorandum of law and submit all trial exhibits no later than 20 days before trial.

(3) The petitioner may respond to the defendant's memorandum of law and exhibits with a further memorandum and additional exhibits. The memorandum must be filed with the court together with any additional submitted exhibits no later than 10 days before trial.

## 7.206 POST-CONVICTION RELIEF --- FILING OF DOCUMENTS WHEN PETITIONER IS REPRESENTED BY COUNSEL

(1) Counsel's written notification to the court that the case will proceed on the original petition constitutes counsel's ORCP 17 C certifications of the original petition filed by the then self-represented petitioner.

(2) All matters delivered to the court for filing shall be submitted only by counsel and, except for the petition or amended petition and any exhibits, signed exclusively by counsel. The only exception to this requirement is for a Church v. Gladden, 224 Or. 308, 417 P. 2d 933 (1966), notice filed by the petitioner.

## 7.207 POST-CONVICTION RELIEF --- HEARINGS ON MOTIONS AND DEMURRERS

(1) Unless the court orders otherwise, all oral arguments on motions and demurrers will be conducted by telephone or video.

(2) If the court grants oral arguments for a motion or demurrer and the petitioner is in custody, the petitioner, if represented by counsel, will not be brought before the court in person, by video or by telephone, unless counsel for the petitioner notifies the court not less than 10 days before the hearing that the issues to be heard involve more than solely issues of law.

## 7.208 POST-CONVICTION RELIEF CASES SPECIALLY ASSIGNED TO CHIEF CRIMINAL JUDGE FOR ALL PRETRIAL MOTIONS AND DEMURRERS; COURTESY COPY DELIVERY REQUIRED

(1) All post-conviction relief cases are specially assigned to the Chief Criminal Judge for purpose of all pretrial case management procedure and process. The Chief Criminal Judge will conduct scheduled monthly status conferences for post-conviction relief cases pending trial and, unless otherwise ordered by the court, will hear all pretrial matters, including any motions for delay of an assigned trial date.

(2) Courtesy copies of all pretrial demurrers, motions, responses and reply documents, with relevant exhibits, must be delivered to the office of the Chief Criminal Judge at the time of the filing of the document with the court.

## 7.209 POST-CONVICTION RELIEF --- TRIAL

(1) Unless otherwise ordered by the court, trials will be conducted by an assigned Senior Judge or Judge Pro Tempore.

(2) Unless otherwise ordered by the court, all post-conviction relief trials in which petitioner is in the custody of the Oregon Department of Corrections shall be held by video conferencing or, if video conferencing is not available, by telephonic

conferencing. The petitioner shall remain in and appear from the correctional facility in which the petitioner is being held.

(3) Counsel may appear by video conference, by telephone conference, or in person before the trial judge. Counsel for the petitioner may appear apart from the petitioner only if the facility where counsel is located enables the petitioner to consult privately with the petitioner's counsel during the proceeding.

(4) Public access and viewing of proceedings shall be provided at the East County Courthouse, and the proceedings shall be deemed to take place at that location. Unless otherwise ordered by the court, all witnesses, except original counsel and law enforcement officers, shall appear at that location.

(5) Trials are scheduled for 30 minutes and without expectation of live witness testimony other than the petitioner. If the trial of the matter will take longer than the standard 30 minute setting or any other time allotted in the trial notice, or if witnesses other than the petitioner will be called, a party seeking additional time must file a motion requesting the additional trial time. The motion must be accompanied by an affidavit setting out the need for the expansion of the original allotted time. The motion to request an expansion of the allotted hearing time must be filed within 15 days from the date of the trial notice.

(6) If a party requires the services of a court interpreter, the party must make the request as provided by UTCR 7.070 and SLR 7.071

# CHAPTER 8
# DOMESTIC RELATIONS, CIVIL COMMITMENT, IDENTITY CHANGES, AND PROTECTION ORDERS

## 8.011 SUBJECT MATTER JURISDICTION UCCJEA PROCEEDINGS

(1) Subject Matter Jurisdiction

The following cases shall be subject to the rules of this chapter: dissolution and annulment of marriages and registered domestic partnerships, dissolutions of other domestic partnerships, separation, child and spousal support, filiations, proceedings for protection, child custody and parent time matters, adoptions, identity changes, habeas corpus proceedings involving children, civil commitments, and such other cases as shall be assigned to the Chief Family Law Judge for case management purposes by the Presiding Judge.

(2) UCCJEA Proceedings

A pleading or motion asserting that the court lacks or should decline jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act must include in that document: (1) the state or tribe that arguably has or should assert jurisdiction, (2) contact information for the appropriate court in the other state(s) or tribe(s), and (3) notice of any prior or concurrent proceedings and orders regarding the matter before the court. Upon receipt of that document, the matter will be assigned to a judge. The court will provide the parties with notice regarding the assignment and the assigned judge will initiate communication regarding procedures under ORS 109.731.

## 8.012 DOCKETING

(1) Assignment of trials and motions shall be handled by the Chief Family Law Judge or designee.

(2) All contested matters not set before the Judge of the Case as described in SLR 8.015(4) or specially set under 8.015[*(5)*] **{(2)}** shall be scheduled either on the Trial Assignment Docket or the Rotation Docket of the Family Court.

(a) The Trial Assignment Docket consists of all matters scheduled for judicial hearing that have not been retained for hearing by the Judge of the Case, specially assigned to an individual judge by the Chief Family Law Judge, or set on the Family Law Rotation Docket. The Family Law Clerks ([*currently in*] Room 211 **{of the Multnomah County Courthouse}**) place cases on this docket when the pleadings indicate the case is at issue. Parties requesting judicial time for contested matters may contact the Family Law Clerks to obtain available dates. Procedures for the Trial Assignment Docket are set out in SLR 8.015.

(b) The Family Law Rotation Docket consists of multiple matters set for the same start time and expected to last only 30 minutes or less each. On Monday and

Thursdays, these matters are abuse prevention restraining order hearings; on Tuesdays, the matters are State child support cases. Early Friday morning, identity change requests are also heard on this docket. The Family Law Rotation does not handle short matters other than these proceedings.

(i) When an individual matter set on the Rotation Docket is expected to last more than 30 minutes, a party shall contact the Family Law Clerk**{s in Room 211 of the Multnomah County Courthouse, 503-988-3022}** to request that the case be transferred to the Trial Assignment Docket, after notice to the other party. This transfer will be granted but the case will be placed on the Trial Assignment Docket for hearing the same day as the matter would have been heard on the Rotation Docket, unless the parties agree otherwise. The party requesting the transfer must provide written notice of Trial Assignment Docket procedures to the other party and certify this action in writing.

(ii) The request to transfer must be made at least three (3) working days before the date of the scheduled hearing on the Rotation Docket. If the request is made less than three days before the scheduled hearing, the parties must either (a) appear before a Judge assigned *ex parte* responsibility and request court approval of a late transfer or (b) direct the request to the Rotation Judge at the time of the scheduled hearing.

(3) Matters on the Trial Assignment Docket may be reset twice in the "regular course" by agreement of all parties through the Calendar Unit of the Family Law Clerks. A Regular course is a one-month postponement. Other requests to reset a hearing on the Trial Assignment Docket must be made by motion to the Chief Family Law Judge or designee at *ex parte*, after notice to the other party. If the motion to reset is made at *ex parte* time, the party requesting the re-set must comply with SLR 8.041(3). Set-over requests of motions assigned to the Judge of the Case shall be heard by that Judge or the Judge's designee.

(4) Motions to postpone docketed hearings on abuse prevention restraining orders must be in writing and presented to a Family Law Judge. If the motion to reset is made at *ex parte* time, the party requesting the re-set must comply with SLR 8.041(3). Subsection (2) of this rule applies to requests to transfer an abuse prevention restraining order case from the Rotation Docket to the Trial Assignment Docket.

(5) **{ Unless stipulated, the following motions must be accompanied by a proposed Order to Show Cause that contains a scheduled date on the Trial Assignment docket or with the Retained Judge, if one exists, and sets out a notice in substantially the following form: "If you disagree with the request(s) made and fail to appear in person at this time, you will very likely lose your chance to present your side of the issue(s)":**
**(a) for temporary relief under ORS 107.095,**
**(b) to intervene**

**(c) to change venue**
**(d) to compel discovery in which expenses are sought**
**(e) for telephone testimony**
**(f) parenting time enforcement under ORS 107.134**
**(g) contempt under ORS Chapter 33 whether filed before or after a General Judgment,**
**(h) a post-judgment status quo order under ORS 107.139,**
**(i) to dispense with consent in an adoption proceeding, and**
**(j) to set aside an order or judgment.}**

(6) **{Orders to Show Cause for}** motions to modify judgments **{shall inform the served party of the}** require**{ment for a}** written response[*s from opposing parties*]within 30 days from the date of service if the motion is contested **{as well as the notices regarding filing fees, service of the response, and the availability of legal help as required by UTCR 8.050(1).}** If a written response is filed, the Family Law Clerks will set the motion on the Trial Assignment Docket for assignment for hearing and will send notice to all parties of the date set for Trial Assignment for assignment of the motion. If the motion to modify a judgment is filed on a case that has been retained by a specific judge, then the Family Law Clerks will notify the judge. The judge's staff will set the motion to modify the judgment for hearing and will notify the parties of the date and time of the event; all scheduling issues must be submitted to the judge who retained the case.

(7) The Family Court Services Division may designate a matter as a priority case if custody is in dispute and the child or children will suffer exposure to substantial harm by the existing custodial arrangement. The Director of the Family Court Services Division shall notify the Chief Family Law Judge of the designation and also advise the parties and/or their attorneys. The Chief Family Law Judge will assign an expedited hearing date and shall give priority to such designated cases on the trial docket.

(8) [*In Domestic Relations cases consolidated with Juvenile cases, all matters will be docketed and heard at the Juvenile Justice Center located at 1401 NE 68th Avenue in Portland, unless the Judge of the Case orders otherwise.*]

## 8.013 *IN CAMERA* REVIEWS

(1) Parties in a domestic relations case seeking an *in camera* review of documents shall file a motion describing the records to be reviewed, the information the party seeks to obtain from the records, **{the relevance of information sought to the particular issues in the case}**, and the authority for the *in camera* review.

(2) The motion will be placed on the Trial Assignment Docket to be assigned for hearing. If the motion is stipulated, the parties will report to the Family Law Clerks that fact and the estimated amount of time needed for the review when the case is assigned. The Judge receiving the assignment from the Trial Assignment Docket

will conduct the *in camera* review if the motion is granted or stipulated. If the case has an assigned Judge of the Case, the party requesting the review must contact that trial department to schedule a hearing on the motion. The Judge of the Case will make arrangements for another judicial officer to conduct the review, if the motion for review is granted.

(3) Parties seeking *in camera* reviews shall direct delivery of the documents to be examined to Room 131**{<u>of the Multnomah County Courthouse</u>}**.

## 8.014 IDENTIFICATION OF JUDGE IN CAPTION

(1) The case caption for any case that has been retained by a judge shall include in parentheses the name of that judge. For example: (Retained Judge: _____) or (Judge of the Case: _____).

(2) The case caption for any judgment based on a settlement whose terms were placed on the record before a judge shall likewise include in parentheses the name of that judge.

## 8.015 CASE ASSIGNMENT

**Case Assignment for Family Law from the Trial Assignment Docket**

(1) An explanation and suggested language for the Family Court's Trial Assignment procedures are posted on the Multnomah County Circuit Court's public website at http://courts.oregon.gov/Multnomah.

(2) Upon determining that a case will require one (1) or more days of judicial time, i.e., six (6) or more hours of court time, a party shall file a motion for special set for assignment of the case to an individual judge. If a Trial Assignment date has already been set, the motion shall be filed conventionally (in paper), as required for attorneys by SLR 2.501(3) for motions to postpone, and may be mailed to the court or, if appropriate notice has been provided to all parties, submitted in person at the time set for *ex parte* matters. If no Trial Assignment date has been set, electronic filing of the motion is required for attorneys. The motion shall be submitted as early as possible but in any case, not fewer than fourteen (14) days in advance of Trial Assignment unless good cause for delay is shown. If a special set is granted, the court will cancel all currently scheduled hearings or trials and all further matters shall be scheduled directly by the parties with the assigned judge, who shall be the retained judge of the case thereafter.

(3) In all cases set on the Trial Assignment Docket, the parties must report in person at the designated courtroom at 9:00 a.m. on the court business day prior to the date of the hearing or trial. The parties shall report at that time the settlement or the time needed for hearing or trial of the case. A party may report information for another party only with the agreement of both parties. The courtroom designated for Trial Assignment is listed daily on the Domestic Relations bulletin board in Room 210 **{<u>of the Multnomah County Courthouse</u>}**. When assignment to a specific judicial officer is made at the time of Trial

Assignment, a party desiring a change of judge must inform the judge presiding at Trial Assignment that a Motion to Change Judge will be filed.

(4) Once a case is assigned to a Family Law Judge and the matter is heard for one hour duration or more, that Judge becomes the Judge of the Case. All future hearings will be specially set with that Judge's staff. Once a Response is filed, the setting of trials in dissolution cases, etc. will be effected by the parties through the Judge of the Case's Judicial Assistant.

**Advising the Chief Family Law Judge**

(5) Any party appearing before the Chief Family Law Judge or designee for purposes of assignment must advise that Judge that a particular judge has previously ruled on some contested aspect of the case.

**Improper Influencing of Case Assignment**

(6) Except as provided in 8.015(4) above, no attorney, party, or other person may directly or indirectly attempt to influence the Chief Family Law Judge or designee or court staff to assign a case to any particular judge, or to avoid assignment of a case to any particular judge.

## 8.016 PARTICIPATION IN APPROPRIATE DISPUTE RESOLUTION

(1) Scope of Mediation Requirement. In any domestic relations case, all parties are required to participate in some form of appropriate dispute resolution, including mediation, arbitration, judicial settlement conference, or a neutral-assisted settlement conference, regarding each of the following contested issues:

(a) child custody

(b) parenting time or visitation issues, other than enforcement

(c) spousal support and

(d) allocation of assets or debts.

(2) Limitations on Mediation Requirement. Mediation is not required as to:

(a) Cases in which the parties are also parties to a criminal no-contact order or an active protection order, including Family Abuse Prevention Act orders, stalking orders, Elderly Persons and Persons with Disabilities Abuse Prevention Act orders, Sexual Abuse Protection Act orders, and Stalking Protective orders. However, except when a criminal no-contact order is in effect, mediation may occur at the request of the protected person as long as the circumstances of mediation do not violate the terms of the protection order.

(b) Any matter involving minor children for which there is a pending Juvenile Court matter involving those children, or children of whom the Department of Human Services has been granted temporary or permanent custody or wardship.

(c) Orders of Assistance

(d) Immediate danger (i.e., emergency) custody or parenting time claims

(e) Temporary Protective Orders or Restraint, Status Quo orders, or financial restraining orders,

(f) Claims involving child support

(g) Claims involving temporary spousal support.

Mediation is required for any issue subject to subsection (1) even if accompanying issues under subsection (2) are excluded from mediation requirements.

(3) Waiver of Mediation and other Resolution Process. A party seeking to waive mediation or other required dispute resolution process must file a motion and supporting declaration with the court. An order to waive mediation or other required resolution process may be granted on a party's or the court's own motion upon good cause, such as a showing of danger or other compelling circumstance.

(4) Mediation Orders.

(a) Any party may request an Order requiring mediation through Family Court Services on issues relating to custody, parenting time, or visitation. The trial court administrator will provide forms and instructions for this purpose at the time the initial pleading or motion is filed. Parties may use another document in substantially similar form to that provided by the trial court administrator. The moving party shall obtain the date for appearance for mediation from the Family Law Department staff in Room 211 **{of the Multnomah County Courthouse}** or through Family Court Services.

(b) If private mediation is sought and the parties are unable to agree on a private mediator or payment of fees of the mediator, any party may file a motion and supporting declaration with the court requesting that the court determine the mediator and payment of fees.

(c) Notwithstanding the exemptions to mediation in subsection (2), the court on its own motion may order mediation for any domestic relations matter except a matter involving a person protected (A) by a criminal no-contact order issued against another party or (B) by a protective order where the protected person has not requested mediation. Mediation may not be ordered in the protective order case under any circumstances.

(5) Good Faith. The parties must participate in mediation in good faith. Mediation shall not be used by any party for the purposes of harassment or delay.

(6) Certificate of Compliance. See SLR 8.046.

## 8.017 TRIAL SETTINGS FOR DISSOLUTION, ANNULMENT, AND SEPARATION PETITIONS; CASE AGE LIMITATIONS

(1) Immediately upon the filing of any Petition for Dissolution, Annulment, or Separation, the Court will assign a dismissal date 180 days from the date of filing.

(2) If no appearance is made or a default judgment has not been entered by the 180th day, the case will be dismissed for want of prosecution by the Chief Family Law Judge or designee. This dismissal shall be final unless the Chief Family Law Judge or designee, for good cause shown, orders otherwise.

(3) If, prior to the 180-day dismissal date, and upon application to the Chief Family Law Judge or designee by motion and in person at *ex parte*, good cause is shown, the Chief Family Law Judge or designee may extend the dismissal date.

(4) Cases at issue shall be set for trial. Postponement[*s*] **{<u>requests</u>}** shall be **{made}** [*requested pursuant to SLR 7.035,]* to the Chief Family Law Judge or designee, but to the Judge of the Case when one exists.

(5) Dissolution, annulment, and separation cases shall proceed to trial within eight months of the date of filing, except upon application at *ex parte* to the Chief Family Law Judge or designee and after notice to the other party as set out in SLR 8.041(3).

## 8.018 TEMPORARY PROTECTIVE ORDERS OF RESTRAINT

Requests for pre-judgment relief under ORS 107.097(2) may be submitted to the court on an *ex parte* basis and conventionally filed (in paper) under SLR 2.501 prior to service of the initiating pleading on the other parties. Once service of the initiating pleading in the case has occurred, the motion shall not be considered on an *ex parte* basis and, if not stipulated to by the parties, must be docketed for hearing [*or be submitted in compliance with SLR 8.041(4)*].

## <u>{8.019 PROTECITVE ORDERS AND FILING DOCUMENTS UNDER SEAL</u>

**<u>SLR 5.165 applies in proceedings under SLR Chapter 8 except that the motion shall be submitted to the Retained Judge if one exists.</u>}**

## <u>{8.020 FEE DEFERRALS OR WAIVERS IN DOMESTIC RELATIONS CASES</u>

**<u>Fee deferral or waiver applications in civil actions shall be submitted to the Fee Deferral and Waiver Clerk.</u>}**

## 8.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS

All documents filed on contempt matters involving remedial sanctions must comply with SLR19.021 requiring that such documents be filed separately from those addressing other matters in the underlying case.

## 8.041 EX PARTE APPEARANCES AND OTHER MATTERS NOT DOCKETED FOR HEARING

(1) Matters Heard *Ex parte*

No matter shall be heard *ex parte* (i.e., without notice to the other side) unless specifically authorized by Oregon statute or court rule. Any motion presented without notice to the other party shall comply with UTCR 5.060 (2) (contain the words "*ex parte*" in the caption) and shall also cite the specific statute or rule that allows the motion to be presented without notice.

(2) Matters Heard at *Ex parte* Time

At least one Family Court Judge is available twice daily (at 8:30 a.m. and 1:30 p.m.) to hear permissible *ex parte* matters and potentially contested emergency and scheduling motions. The assignment of those judges is posted daily in Room 211. On retained cases, parties should contact the Judge of a Case regarding that Judge's availability.

(3) Notice Requirements on *Ex parte*, Emergency, or Scheduling Motions

Except where a statute or rule explicitly allows an appearance without notice to the other party, a party seeking relief at scheduled or specially-arranged *ex parte* times must provide two (2) working days notice to the opposing party of the date, time, and court where the relief will be sought. The party seeking relief at *ex parte* time must provide written certification of the date, time, and manner in which the opposing party was provided notice of the planned appearance as well as the opposing party's position on the matter to be presented (for example, "Agrees," "Disagrees," or other short explanation).

(4) [*Motions Not Docketed for Hearing - All motions or requests shall be handled under this rule unless they are stipulated, have been scheduled for hearing, are accompanied by a statutorily-required notice regarding the opposing party's right to request a hearing, or are appropriately heard under SLR 8.041(1-3).*

(a) *Any motion subject to this rule shall be filed with the court. The proposed order shall be filed as an exhibit to this motion. The motion and its exhibit (the proposed order) must be served on all parties entitled to notice. The exhibit must be clearly labeled as a Proposed Order but contain an exhibit marking. The motion must contain in bold type in the body of the motion and following the caption the following Notice:*

*"NOTICE TO PARTY RECEIVING THESE PAPERS: If you disagree with any request in this Motion or the attached Proposed Order, you must file with the Court a written Request for Hearing setting out in specific terms what request(s) you oppose. You must also serve (deliver) a copy of your Request for Hearing to the other party's lawyer (or to the other party if the other party has no attorney). You must pay any filing fee required by law for filing your Request for Hearing or obtain a court order waiving (canceling) or deferring (postponing) payment of this fee. You must file this written Request for Hearing no later than fourteen (14) days after this motion and Proposed Order has been served on you. You must include your case number on this Request for Hearing. If you do not file a Request for Hearing within the time allowed, the Court may sign the Proposed Order without further notice to you."*

(b) *If no Request for Hearing is filed within the 14 day period, the moving party may present on the 17th day after a service of a proposed order identical to that served on the other party. The moving party may seek the proposed order during scheduled ex parte time or by mail directed to the court. The proposed order submitted shall contain proof of service including the written certification of the moving party that the motion and proposed order were served in compliance with this rule and that no Request for Hearing was filed by the deadline. The moving party need not provide additional notice to the served party of the moving party's intent or appearance to seek approval of an order consistent with the motion.*

(c) *If the moving party is served with a copy of a Request for Hearing objecting to any part of the motion, that moving party shall contact the Family Law Clerks to schedule a hearing date. The parties shall take reasonable efforts to confer with the Family Law Clerks on the setting of the date.*]

## 8.042 MOTION FOR CHANGE OF JUDGE

All provisions of SLR 7.045 apply in family law matters. The original motion, affidavit, and proposed order shall be submitted conventionally (in paper) to the Chief Family Law Judge (or in that Judge's absence, to that Judge's designee) by the close of business on the judicial day following notice of the assignment. The moving party shall include with that submission a certificate of service documenting that service of the motion, affidavit, and proposed order has been effected on the other parties and a copy of those documents delivered to the Judge who is the subject of the motion.

## 8.043 PROPOSED ORDERS AND JUDGMENTS

UTCR 5.100, applies to matters under this chapter, **{<u>except to the extent specifically exempted by that UTCR</u>}.**

## 8.044 MOTIONS TO SET ASIDE ORDERS AND JUDGMENTS OF DISMISSAL

Unless stipulated, Motions to vacate (1) Orders of Dismissals when the motion has not been scheduled for hearing and (2) Orders of Dismissal not yet reduced to Judgment are handled

under SLR 8.041. Once a Judgment of Dismissal has been entered, parties must comply with ORCP 71 unless they stipulate otherwise.

**8.046 COMPLIANCE WITH DISPUTE RESOLUTION REQUIREMENTS**

(1) Family Court Services will file a notice with the court when parties have attended mediation.

(2) In cases in which the parties complete mediation or other dispute resolution process required by SLR 8.016 by a means other than Family Court Services, the parties must file a Certificate of Required Dispute Resolution in substantial conformity with the form in the Appendix. The certificate must be filed at least 7 days in advance of Trial Assignment, or 7 days in advance of hearing or trial if the case is retained by an individual judge. If the certificate has not been filed (or the process waived) on an issue scheduled for hearing or trial, the parties will be deemed not ready and the matter shall not proceed to hearing. Only on matters other than child custody or parenting time may the court consider whether compelling cause exists to allow a matter to proceed.

**8.047 CUSTODY AND PARENTING TIME EVALUATIONS BY FAMILY COURT SERVICES DIVISION {AND PRIVATE EVALUATORS}**

(1) Evaluations **{by Family Court Services}** are conducted only by Order of the Court.

(2) All requests for evaluations **{by Family Court Services}** require the filing of a Motion for Custody or Parenting Time Evaluation which shall be scheduled on any Friday morning at 8:30 am **{through the docketing clerk.}** The adverse party must be served with such Motion and Order which the moving party may obtain *ex parte*.

(3) Parenting time and custody evaluations **{by Family Court Services}** are not permissible in the following cases:

(a) Contempt or parenting time enforcement cases;

(b) Cases in which the current matter has been pending for more than 6 months;

(c) Cases in which the children are all over 15;

(d) Cases in which there has been a professional evaluation within the past two years, except to obtain an update. Updates only will be ordered where there has been a substantial change of circumstances since the completion of the last evaluation;

(e) Pending Juvenile Dependency cases;

(f) Cases in which the only matter pending is a Family Abuse Prevention Act restraining order;

(g) Cases in Probate Guardianship; and

(h) Cases in which a parent is in prison.

(4) [*At the appearance on Friday morning, the parties shall present to the court a one-page list of reasons why an evaluation is needed.*] **{<u>Contested requests regarding private evaluations will be docketed and heard on the Friday morning at 8:30 docket.</u>}**

(5) **{<u>At the appearance on Friday morning, the parties shall present to the court a one page list of reasons why an evaluation is needed, unless the contested issue pertains to payment or choice of a private evaluator. In the latter situation, the proposed plan for payment or suggestions for evaluator shall be detailed.</u>}**

## 8.057 WHEN FAMILY COURT SERVICES DIVISION WILL NOT BE REQUIRED OR AVAILABLE TO CONDUCT AN EVALUATION

Under the following circumstances Family Court Services Division will not conduct an evaluation.

(1) A custody or parenting time evaluation will not be performed without the order of a Family Court Judge if a case involving the parties has recently been filed in the Juvenile Court.

(2) In cases where there has been a substantial break in the parent-child relationship, a history of abuse or significant criminal history, supervised visits, if any, would be the first step, not an evaluation.

(3) Resources of the Family Court Services Division must not be further allocated to a family. This applies when the family has been the subject of prior evaluations by Family Court Services Division and a conclusion has been reached by Family Court Services Division or the Court that the state of the relationship between the parties is such that the issues require no further consideration by Family Court Services Division. Although not limited to the following circumstances, this applies when:

(a) Closure of the case is in the child's best interest;

(b) A non-custodial parent's actions reflect an unwillingness to accept prior determinations in the case, to the extent that a pattern of harassment has developed;

(c) Both parents have engaged in ongoing, destructive litigation rather than seeking solutions and Family Court Services Division resources have been utilized to the extent that no further benefit could be achieved by continuing Family Court Services Division involvement.

(4) If the Family Court Services Division (or one or more staff members) becomes the subject of a complaint to a professional licensing body, or in the event that an action is filed against Multnomah County based on activity of an employee of Family Court

Services Division, there shall be no further involvement of Family Court Services Division with the parties.

## 8.061 CHILD SUPPORT WORKSHEETS

The child support computation worksheets appended to OAR 137-050-0320 to 137-050-0490 are required whenever a claim for child support has been raised by the pleadings. Even if the parties have agreed to an award of zero support at the time an order or judgment is signed or the court otherwise orders zero support , the worksheets are required to enable the court to make the legally required findings regarding the presumptive amount of support and the reason(s) to rebut that presumptive amount.

## 8.075 MULTNOMAH COUNTY PARENTING PLAN GUIDELINES

(1) The Fourth Judicial District does not adopt a standardized parenting plan, and the previous "Multnomah County Standard Parenting Time Guidelines" formerly contained in the Appendix to the Supplementary Local Rules are withdrawn.

(2) Oregon law requires that judgments addressing parenting time contain a parenting plan that considers only the best interests of the child and the safety of the parties. The Fourth Judicial District expects that parenting time plans will meet the individual needs and circumstances of children and their families by taking into consideration the following basic parenting principles:

(a) It is usually in a child's best interest to have frequent, meaningful and continuing contact with each parent. It is assumed that each parent nurtures his or her child in important ways which are significant to the development and wellbeing of the child;

(b) Each child and family is unique. In order to meet the individual needs of the child(ren) the parties shall consider the following:

(i) the developmental stage(s) and any special needs of their child(ren),

(ii) the child(ren)'s school and activity schedules, and

(iii) practical factors such as the distance between households, the number of transitions for the child(ren), and any other relevant practical considerations.

(c) A safety focused parenting plan, which may restrict parenting time, shall be considered whenever the family has been experiencing domestic violence, child abuse, serious mental illness, or significant substance abuse issues;

(d) It is usually best for the parties to develop their own parenting time schedule through mediation or with the help of legal counsel. Unless waived by the Court,

mediation is required when parents are in dispute about custody or parenting time; and

(e) Changes in the developmental needs of children may require a modification of the parenting plan.

(3) The court recommends the following resources to create an appropriate parenting plan:

(a) The "Basic Parenting Plan Guide for Parents," "Safety Focused Parenting Plan Guide for Parents," or "Long Distance Parenting Plan Form" which are available at http://courts.oregon.gov/, or at the Multnomah County Family Law Facilitator's Office, Room 211 of the County Courthouse, and

(b) Other materials, forms and resources available at the following sites:

(i) Multnomah County Family Law Facilitator's Office, Room 211 of the County Courthouse – 503.988.4003

(ii) Multnomah County Family Court Services, Room 350 of the County Courthouse – 503.988.3189

(iii) The Multnomah County Circuit Court Website - http://courts.oregon.gov/Multnomah/.

**8.077 SUPERVISED PARENTING TIME**

For Domestic Relations and Family Abuse Prevention Act cases in which the court imposes the requirement of supervised parenting time, the parties to the case and the supervisor must comply with the following:

(1) The supervisor is required to explain the rules for supervised parenting time to the parent who is supervised, unless the supervisor knows that the parent was previously informed. This must include an explanation of supervised parenting time rules set forth in any court order or judgment in the case, and any other rules that are necessary due to unique conditions at the designated location or other circumstances that may reasonably impact a successful parenting time experience, as identified by the Judge, the supervisor, or the involved agency;

(2) The custodial parent is not allowed to be present or to impose additional rules or to make additional demands concerning supervised parenting time;

(3) Only if accompanied by the supervisor and with the supervisor's express consent, may the supervised parent and children leave the designated location for the supervised parenting time;

(4) The supervised parent shall not engage in conversation that exposes the child to "adult issues" in the case, especially if the case involves an allegation of verbal abuse or an allegation of attempts to alienate the other parent from the child. The supervisor is required to immediately address the problem with the supervised parent if this rule is violated. If the supervised parent makes additional statements in violation of this rule after the supervisor's admonition, or if the nature of the initial comment is a significant violation of this rule, parenting time on that particular date shall be terminated and the case shall be reviewed by the court to determine whether any further supervised parenting time will be allowed;

(5) Physical discipline of the child during supervised parenting time is prohibited;

(6) The supervisor is required to keep the supervised parent within view and within hearing range for the duration of the supervised parenting time;

(7) The purpose of supervised parenting time is to allow interaction with the child for the benefit of the child. Therefore, the supervised parent is prohibited from initiating or engaging in conversation during supervised parenting time which does not further this objective. The supervisor's role is to prevent the child's exposure to "adult issues" in the case and to discourage any inappropriate communication.

## 8.085 APPOINTMENT OF COUNSEL FOR CHILDREN

The Court may appoint counsel for children in cases arising under ORS Chapter 107 upon its own motion or upon motion of either party pursuant to ORS 107.425(3), and shall appoint counsel if requested to do so by one or more of the children. A reasonable fee may be imposed by the Court against either or both of the parties or as a cost in the proceedings.

The procedure for appointment of counsel for children in cases arising under ORS Chapters 107-109 shall be as follows:

(1) In its sole discretion, the Court may appoint counsel for the children on its own motion with or without prior notice to the parties.

(2) A party or child seeking such appointment shall file a motion (or for a child, other appropriate request) with the Court.

(3) The Court will appoint counsel where requested to do so by one or more children.

(4) Orders appointing counsel issued by the Court may contain provision for payment of attorney fees and terms for payment. No Order will be issued until counsel has agreed to accept such appointment upon the fee terms set forth.

(5) To the extent possible, appointed counsel will represent their clients' legal interests in obtaining a secure, stable home life and a balanced relationship with both parents and will be answerable only to their client and to the Court. The parents or persons having physical custody of the child shall cooperate in allowing counsel opportunity

for private consultation with the child or children, including making or assisting with arrangements for the children's transportation to the attorneys' office or some other reasonable meeting place and reasonable phone communication if needed.

(6) Counsel to be appointed for children shall meet the Court's standards for qualification in family law matters and in the resolution of custody/parenting time issues.

## 8.125 PARENT EDUCATION PROGRAM

(1) The following cases are subject to this rule:

(a) annulment or dissolution of marriage actions;

(b) legal separation actions;

(c) petitions to establish paternity, custody or parenting time;

(d) post-judgment litigation involving changes in custody or parenting time in which the parties have not previously completed a program as required by this Rule.

(2) All parents of a child under the age of 18 years involved in a case described under subsection (1), above, shall complete successfully the education for divorcing parents program offered by the Division of Family Court Services or a pre-approved alternate education program.

(a) 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.

(b) All parties shall complete the program before the earlier of any hearing on a custody or parenting time issue or entry of a judgment. Excepted from this deadline are hearings regarding emergency orders under ORS 107.097(3) and 107.139 and pre-judgment protective orders of restraint under ORS 107.097(2). In these cases, the class must be completed prior to entry of judgment unless the court orders an earlier completion date. On post-judgment status quo orders under ORS 107.138, the movant must register for the class prior to the hearing, and complete it if possible prior to the hearing, if the movant did not attend the class prior to judgment.

(c) Parties who have completed successfully the parent education program **{<u>in this county within the last five years</u>}** once are not required to repeat this program [*at a later time*] in order to seek modification of the judgment **{<u>or to pursue relief in a different case. Parties in this situation, however, must filed a certificate in the later proceeding informing the Court that the requirement was completed at an earlier time and specifying that date and case number.</u>}**

(3) Notice and instructions to the moving party of this requirement will be provided by the Trial Court Administrator at the time the initial pleadings are filed. The moving party shall serve a copy of such notice on respondent along with the summons and pleadings. The moving party's return of service on the responding party shall indicate service of the notice with the summons and pleadings.

Information on the parenting education class can be located on the following website of the Multnomah County Department of Family Court Services: https://multco.us/dcj/fcs.

(4) The fee for the court-offered program may be waived or deferred if the party has obtained a waiver or deferral of fees in the case in chief.

(5) Each party who successfully completes the Court's program or a pre-approved alternate program, shall submit a certificate of completion to the judge at trial or with documents resolving the matter.

(6) Upon a showing of good cause, a party may request a waiver of the requirements 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.

(a) "Good Cause" includes that the party lives more than 100 miles from Portland or is in poor health.

(b) If good cause is found, the Court may require the party excused to view video materials having the same or similar information.

(c) The fact that one party is relieved from the requirements of this Rule, does not form a basis for excusing the other party.

(7) Court action in these cases shall not be delayed by a party's refusal, failure or delay in registering for or completing this program or the failure to comply with this rule, unless the noncomplying party is the moving party. Upon the moving party's noncompliance, the Court may take appropriate action including but not limited to deeming the matter not ready for hearing, denying the relief sought by that party, or proceedings for contempt.

## 8.135 FAMILY COURT SERVICES

The Multnomah County Board of Commissioners established a Family Court Services Division within the Department of Juvenile and Adult Community Justice. In addition to any other duties assigned by the Board of Commissioners or the Department, the Family Court Services Division attends upon the court to obey its lawful orders and directions. In carrying out its duties to the court, the Family Court Services Division provides the following services to parties within the court’s jurisdiction:

(1) **Conciliation**: The Division provides conciliation services for parties in domestic relation matters as provided by ORS 107.510 to 107.610. All Division conciliation

records and conciliation communications, oral or written, are confidential, and Division employees and the parties may not be examined about such records or communications and neither may be used in any civil or criminal action.

(2) **Mediation**: The Division will mediate all domestic relations actions that involve controver[*sial*] **{sies regarding}** custody, parenting time or visitation of children. This includes requests for joint custody and **{,when ordered,}** contempt matters involving parties who are non-parents. [*The mediation is subject to SLR 12.015.*] The mediator will report the outcome to the Court and the parties or their counsel in writing. Mediation proceedings are private.

All Division mediation records and all mediation communications, oral or written, are confidential. Division employees and the parties may not be examined about such records or communications, and the records may not be used in any civil or criminal action.

(3) **Evaluation**: When directed by court order [*or these rules*], the Division may conduct an investigation and evaluation of the parties whenever mediation does not resolve all custody, parenting time and visitation issues or when mediation is inappropriate or waived. The sole purpose of the investigation and evaluation is to assist the Court. In accordance with ORS 107.425, the evaluations will include the character of the parties, family relations and past conduct in a report. The [*investigative findings*] **{report}** shall be **{disclosed to the parties and may be}** offered as **{an exhibit}** [*and*] subject to all rules of evidence. Evaluation proceedings are private. **{Except for the report}** evaluation records, [*all evaluation*] **{and}** communications, oral and written, may not be disclosed to parties outside of the **{evaluation}** proceedings. **{Nor may an evaluator be deposed}** without a court order.

(4) **Parent Education Programs**: The Division provided parent education programs as provided by ORS 3.425.

## 8.137 PARENTING COORDINATORS

(1) Qualifications: Parenting Coordinators in Multnomah County shall meet or exceed all the following qualifications and will continue to meet ongoing requirements as described.

(a) Education. A Parenting Coordinator must possess at least one of the following

(i) A master's or doctoral degree and professional license in counseling, psychiatry, psychology, social work, marriage and family therapy, mental health or conflict resolution from an accredited college or university; or

(ii) An authorization to practice as a domestic relations mediator in Multnomah County per the Court’s list of approved domestic relations mediators.

(b) Training. A Parenting Coordinator must have experience and/or professional training in the following areas:

(i) Parenting coordination;

(ii) Conflict resolution;

(iii) Child development and psychology;

(iv) Mental health and substance abuse;

(v) Domestic violence and child abuse;

(vi) Domestic relations legal issues;

(vii) Ethical standards including confidentiality, dual roles and objectivity

(c) Continuing education. As an ongoing obligation, Parenting Coordinators must complete any continuing education requirements of their profession.

(2) Conduct

(a) Parenting Coordinators, as an ongoing obligation, shall subscribe to the specific ethics identified by their profession;

(b) No individual whose professional license has been revoked, or surrendered while disciplinary proceedings are pending before professional licensing entities shall be eligible for initial or continued appointment as a parenting coordinator;

(c) Individuals who have served as a counselor, attorney, mediator, or evaluator to a party/parties will not serve as a parenting coordinator to the same party/parties without the express written and informed consent of the party/parties, and careful consideration of potential conflicts of interest.

(3) Motions for appointments of Parenting Coordinators shall contain certification that the appointee meets the qualification of this rule.

## 8.138 CUSTODY OR PARENTING TIME ISSUES IN PATERNITY CASES

(1) Proceedings to establish or modify custody or parenting time where paternity has been established must be brought pursuant to ORS 109.103. If support has been established in a separate proceeding and is an issue, the moving party must file with his/her petition a motion and proposed order to consolidate the cases into the proceeding brought pursuant to ORS 109.103.

(2) Custody or visitation proceedings brought under ORS 109.175 as modifications of administrative orders establishing paternity or support will be dismissed upon application of the opposing party or by the Court on its own motion.

## 8.145 CIVIL COMMITMENT PROCEEDINGS

The following rules shall apply in all commitment hearings conducted pursuant to ORS Chapter 426.

(1) Counsel for the AMIP may make a brief opening statement for the purpose of informing the Court and the examiners as to the AMIP's position and desires as to the outcome. The District Attorney may make an opening statement only upon leave of the Court.

(2) Unless there is a specific objection, the Court will receive into evidence the following:

(a) The Investigator's Report which shall be identified as exhibit #1. Those portions of the Investigator's Report which are labeled hearsay shall be excluded and will not be considered by the Court, unless the Court specifically states otherwise.

(b) The certified copy of the Mental Health Division's hospitalization history which shall be identified as exhibit #2.

(3) Unless counsel for the AMIP or the District Attorney specifically request otherwise, the order of the trial shall be as follows:

(a) Opening statement by defense counsel;

(b) The examiners shall conduct a mental-status examination;

(c) The State shall present its witnesses and other evidence;

(d) The AMIP may present witnesses and other evidence;

(e) The State may present rebuttal;

(f) The examiners shall submit their reports to be followed by questions from counsel and the Court.

## 8.155 IDENTITY CHANGES

(1) The petitioner or the petitioner's attorney must be personally present at the change of identity hearing or the petition will be dismissed and the petitioner will be required to re-file the petition and pay the required filing fee.

(2) In name changes involving the change of name of a minor, the guardian ad litem, or the attorney for the guardian is required to file proof that the Petition for Change of Name was served on the parent(s) of the child.

## 8.156 STALKING PROTECTIVE ORDER PROCEEDINGS

(1) Petitions for stalking protective orders are filed with the Family Law Department. Petitions filed by 3:30 p.m. are scheduled for *ex parte* hearing at the Justice Center for the judicial day following the filing.

(2) All other matters involving stalking protective orders are filed with the Family Law Department as well. The court will send notice to the parties of any hearing dates. This notice will include the location of the courtroom (in the Justice Center or the main courthouse) where the hearing will occur.

# CHAPTER 9
# PROBATE PROCEEDINGS

## 9.015 SUBJECT MATTER JURISDICTION; TRUST CASES

(1) The Chief Family Law Judge or a judge designated by the Chief Family Law Judge (hereafter "Chief Judge") has jurisdiction over all Decedents' Estates, Conservatorship of Adults and Minors, and Guardianships of Adults and Minors.

(2) Matters arising from the administration of Trusts shall be filed in the Probate Section and heard by the Chief Judge or designee.

## 9.016 ALTERNATIVE DISPUTE RESOLUTION

Probate proceedings shall be subject to the alternative dispute resolution rules in Chapter 12, Mediation in Probate Proceedings (SLR 12.045).

## {9.017 FEE DEFERRALS OR WAIVERS IN PROBATE PROCEEDINGS

**Fee deferral or waiver applications in probate actions shall be submitted to the Fee Waiver and Deferral Clerk.}**

## 9.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS

All documents filed on contempt matters involving remedial sanctions must comply with SLR 19.021 requiring that such documents be filed separately from those addressing other matters in the underlying case.

## 9.025 HOW MATTERS FOR PROBATE ARE TO BE PRESENTED; CONFERENCE; HEARING; EMERGENCIES

(1) Probate matters requiring authorization, approval, or signature of the Chief Judge or designee shall first be presented to the Probate Section of the Civil Division for review. If the matter is assigned to a judge other than the Chief Judge, the party presenting it shall so advise the Probate Section's staff.

(2) If the matter cannot be approved without an appearance, the party will be so advised and the matter will be set for conference, or hearing.

(3) Hearings may be scheduled by request to the Probate Section. Before requesting a hearing, counsel should confer with other counsel and/or self-represented litigants and advise the Probate Section staff of the estimated time required. (Refer to SLR 8.012 and 8.015 for "trial/assignment" process.)

(4) Probate short docket matters, items that will take no more than 10 minutes, are heard Monday through Friday at 8:45 am, and must be prearranged with the Probate section.

## 9.026 IN CAMERA REVIEWS /MOTIONS TO SEAL

(1) Parties seeking an in camera review of documents in a probate case shall file a motion in Room 224 of the [*downtown*] **{<u>Multnomah County</u>}** Courthouse. Such motions shall describe the records to be reviewed, the information the party seeks to obtain from the records, and the legal authority for the in camera review. Unless stipulated, the motion will be placed on the Probate Call docket for hearing as prescribed by SLR 9.025(3). If a judge is already assigned to the case, the attorneys must contact that trial department to schedule a hearing on the motion. If the motion is granted documents shall be directed to Room 131 of the Multnomah County Courthouse.

(2) Parties seeking an Order to file documents or materials under seal must file a motion with the court that complies with all of the requirements under UTCR 5.160.

## 9.035 DELINQUENT FILINGS

In the event of a delinquency or deficiency in filing any document required by statute or court order, the attorney and the fiduciary will be sent an Order to Show Cause for removal of the fiduciary or a finding of contempt. The personal representative, conservator, or guardian, together with counsel of record, must appear unless the matter has been corrected at least three judicial days prior to the Show Cause hearing. If the delinquency or defect has not been corrected by time of the hearing, sanctions may be imposed.

## 9.045 RESIGNATION OF COUNSEL; NOTIFICATION REQUIREMENTS

(1) If a bond has been posted, the insurer must be notified of the resignation and substitution of counsel.

(2) Resigning counsel must also certify their compliance with the requirements of UTCR 3.140, ORS 9.380, and ORS 9.390.

(3) Withdrawing or resigning attorneys must educate their fiduciary clients on their duties and due dates for reports and accountings. A statement that this has been done must be included in the motion to withdraw.

## 9.055 SETTLEMENT OF PERSONAL INJURY OR WRONGFUL DEATH CLAIMS: REQUIREMENTS WHEN MINOR CHILD OR INCAPACITATED PERSON APPEARS BY GUARDIAN AD LITEM

(1) Except as permitted by ORS 126.725 for a minor child, a petition for approval of a settlement of a personal injury or wrongful death claim on behalf of a minor child,

incapacitated person or decedent shall be accompanied by an affidavit which sets forth the following:

(a) A description of the incident causing the injury or death;

(b) A description of the injuries;

(c) The amount of the prayer and settlement. (If a structured settlement is requested, the present value of the future payments should be indicated);

(d) The amount of the attorney fees and costs;

(e) The proposed disposition of the settlement proceeds;

(f) A concise statement explaining the reasons for the settlement and the efforts to maximize recovery;

(g) A statement explaining that the attorney has independently evaluated the interests of the injured party;

(h) A statement explaining that the attorney has examined every medical record; and

(i) A statement explaining why it is necessary and proper to settle the case at the present time.

(2) The Chief Probate Judge, or designee, shall approve any settlement in a civil action which has been filed in this circuit court on behalf of a minor child.

(a) For personal injury, the original petition and affidavit must be filed in the civil action. The order shall be directed to the Probate Department by the Civil Department.

(b) For wrongful death, the petition and affidavit shall be filed in the Probate case.

(3) A conservatorship on behalf of the minor child or incapacitated person generally will be required for any case where personal injury or wrongful death settlement proceeds are at issue in excess of the amount allowed in ORS 126.725.

(a) Bond and standard annual accounting requirements may be waived if the funds are restricted until the minor attains the age of majority. In lieu of such accountings the court will require copies of the first and last bank statements for each standard accounting period to be filed with the court.

(b) Restricted accounts on behalf of a minor child or incapacitated person must be confirmed by a signed acknowledgment from the bank or brokerage firm which discloses the account number, type and account balance as required by UTCR 9.050 and 9.080. Exceptions for diminutive amounts may be requested.

(c) Approval of damage settlement amounts for the benefit of a minor child or incapacitated person appearing by a guardian ad litem in a lawsuit, except those cases assigned for trial to a trial department, are a basic responsibility of the Probate Court. The allocation of funds and the structuring of such funds is likewise the Court's responsibility. Minors and incapacitated persons should be provided with independent counsel for such issues and most commonly when a minor's funds are proposed to be withheld from them after age 18.

(4) A fiduciary appointed by the Probate Court is required to comply with paragraph (1) of this rule and must file a motion for an order approving a settlement of a personal injury or wrongful death claim on behalf of a protected person. The motion must be supported by an affidavit setting out the required information.

## 9.065 BONDS IN ESTATES WHERE PERSONAL REPRESENTATIVE OF INTESTATE ESTATE IS SOLE HEIR OR DEVISEE

Notwithstanding ORS 113.105, the personal representative of an intestate estate shall be required to file a bond if the court is not satisfied that the creditors will be paid, even if the personal representative is the sole heir or devisee of the estate.

## 9.073 VOUCHERS

(1) All court appointed fiduciaries shall maintain accounts from which the court will be provided with copies of the statements containing images of the front face of checks written from the account. If questions arise regarding the check, fiduciaries will be required to provide copies of the front and back of the check images.

(2) Disbursements made by debit card, electronic check or automatic withdrawals will required all twelve (12) months of bank statements with these expenditures highlighted.

## 9.075 GUARDIANSHIPS

(1) A Petition for Guardianship shall designate, in the caption, that it is for guardianship of an adult, whether it is for a temporary or indefinite time (or both), and whether a conservatorship is also being requested. The deposit for the visitor's investigation fee shall be paid with the filing of the Petition.

(2) Upon the issuance of an order appointing Court Visitor, the attorney for petitioning party shall provide copies of the petition, marked "VISITOR'S COPY" with supporting documentation and copies of proposed notices and the ORS 125.070 (4) respondent's objection (the blue form) to the designated court visitor via e-mail.

(3) Petitions for Appointment of a Temporary Guardian should be accompanied by appropriate affidavits and medical reports. The Petition should be filed with the Probate Section of the Civil Division and presented to the Chief Judge at a probate short docket hearing scheduled per SLR 9.025(4).

(4) Within 30 days after each anniversary of appointment, a Guardian shall file with the court a written report. Copies of the Guardian's Report must be given to those persons specified in ORS 125.060 (3). The report shall be in the form prescribed by the court. (See Guardianship Report Forms, Forms Appendix.)

## 9.076 NON-PROFESSIONAL FIDUCIARY EDUCATION PROGRAM

(1) The following court appointed non-professional fiduciaries are subject to this rule:

(a) Any guardian or conservator appointed pursuant to ORS Chapter 125 on or after July 15, 2014.

(b) Any personal representative appointed pursuant to ORS Chapter 113 on or after February 2, 2015.

(c) Any trustee appointed pursuant to ORS Chapter 130 on or after February 2, 2015.

(d) Any non-professional fiduciary cited for a deficiency in the handling of fiduciary duties pursuant to the show cause process.

(2) All non-professional fiduciaries involved in a case described under subsection (1) above, shall:

(a) Successfully complete an education class for non-professional fiduciaries with a curriculum as prescribed by the Presiding Judge of Multnomah County within 60 days of appointment as a fiduciary by the Court; and

(b) Register for the program no later than fifteen (15) days of appointment as a fiduciary by the Court.

(3) A professional fiduciary, for purposes of this Rule, is defined in ORS 125.240(5). Professional fiduciaries are exempt from this Rule.

(4) The Court will send notice and instructions of this requirement will be sent to the non-professional fiduciary at the time of appointment as guardian, conservator or personal representative. The attorney representing a trustee shall provide notice and instructions to the trustee of this requirement.

(5) Fees for the court-required class shall be considered a cost of administration of the protective proceeding, estate or trust. The fee for the court-required class may be waived or deferred in the Court's discretion, in keeping with the Court's policy on fee waiver and deferrals.

(6) Upon successful completion of the court-required class, the non-professional fiduciary shall file a certificate of completion with the Probate Department stating the date and time the class was taken as well as the provider of the class.

(7) Upon a showing of good cause, a non-professional fiduciary may request a waiver of the requirements of this Rule. The request must be made by motion, supported by affidavit, and filed within fifteen (15) days of receipt of notice.

(8) The Court may, in its discretion, require a non-professional fiduciary to retake the class.

(9) Failure to timely comply with this Rule may result in removal of the non-professional fiduciary by the Court.

## 9.081 PRESENTATION OF ORAL OBJECTIONS

Any person may present oral objections to a petition in a protective proceeding by appearing in Room 224, Multnomah County Courthouse, 1021 SW Fourth Avenue, Portland from 9:00 a.m. to 5:00 p.m. each judicial day.

## 9.085 SELF-REPRESENTED PARTY APPEARANCES IN PROBATE COURT; APPROVAL

(1) If a personal representative or conservator intends to appear without an attorney in any matter assigned to the Probate Court, that person must provide to the Court notice of such intent and proof of competency in such matters. If such proof provided is not sufficient to assure the Court that the estate or interest will be protected, the Court shall take appropriate action.

(2) A person other than a personal representative, conservator, or corporation may appear in person without counsel in any matter before the Probate Court as authorized or allowed by law. The person appearing and counsel for the personal representative shall notify the Probate Court if any party to a proceeding is self-represented. The Chief Judge or designee shall decide whether further hearings shall be required.

## 9.095 ATTORNEY FEES AND CORPORATE FIDUCIARY FEES APPROVAL

(1) Attorney fee expenses under ORS 116.183 and 125.095 must be approved by the court.

(a) Such requests must be accompanied by a statement for attorney fees, filed in the form required by UTCR 5.080, showing the number of hours expended, the hourly rate charged, and a designation of title for each person performing work.

(b) In addition to the information required by UTCR 5.080 for a civil action, under this rule the statement also must include a description of normal attorney tasks with hours expended. For extraordinary activities, the statement must also concisely address the following issues to be resolved and the process and time spent on each:

(i) For establishing and funding trusts, a brief narrative must identify complexities involved;

(ii) For tax planning, describe objectives and activities required;

(iii) For tax returns, indicate the number filed and the nature of the returns;

(iv) For tax audits and hearings, describe the issues addressed;

(v) For disclaimers, describe the circumstances and complexities;

(vi) For real estate management problems, include issues regarding compliance with local, state and federal authorities;

(vii) Discuss sales of real property;

(viii) Discuss operation or sale of business interests;

(ix) Discuss management of family-owned corporation or closely held stock;

(x) For contested matters, indicate whether they were of benefit to or in defense of the estate;

(xi) Discuss election of spouse/marital share;

(xii) Discuss disputed creditor's claims.

(xiii) For any other occurrence or issue which contributes to the reasonable costs of administration.

(xiv) The factors listed in ORS 125.098.

(c) If tasks performed appear to be the duties of a personal representative, the Court will question and possibly reduce attorney fee payments for such activities.

(2) Consent by the parties to the attorney fee requests shall not waive the requirements of this rule.

**Corporate Fiduciary Fees**

(3) Any request for approval of corporate fiduciary fees in addition to the basic percentage fee allowed pursuant to applicable statute, must be accompanied by an affidavit in compliance with 9.095(1)(a), above.

**Private Fiduciary Fees**

(4) All requests for fiduciary fees (except those from a Personal Representative) shall be supported by an affidavit which details the services provided, the purpose of the

services rendered, the results (if applicable), the hourly rate charged by the fiduciary and the reasons that hourly rate is deemed fair and reasonable.

## 9.161 FORM OF ACCOUNTINGS

Accounting in estates and conservatorships must be submitted in the format specified in UTCR 9.160.

# CHAPTER 10
# RESERVED FOR EXPANSION

## CHAPTER 11
## JUVENILE COURT

### 11.015 JUVENILE COURT MATTERS

(1) Juvenile court hearings. The Chief Family Law Judge or designee shall have responsibility over juvenile matters. Hearings will be scheduled at the Juvenile Justice Complex, 1401 NE 68th Avenue, Portland, Oregon, unless otherwise ordered by the Court.

(2) *Ex parte*. *Ex parte* matters in the Juvenile Department will be heard each day after Call/assignment at 8:30 am and at 1:30 pm, and at additional times as designated.

(3) Initial Shelter Hearings. Shelter hearings on delinquency cases will be heard each day at 1:[30]**{00}** PM. Shelter hearings on dependency cases will be heard each day at 2:30 PM.

(4) Rehearings. Requests for rehearing **{of}** a referee's decision shall be filed with**{in 10 days of entry of the referee's ruling. The}** Juvenile Court Clerk's Office [*and scheduled through the Call process*] **{will place the matter on the Call docket three (3) business days after the date of the request. The parties shall take reasonable efforts to confer about a workable hearing date prior to this Call appearance. Nothing in this section prohibits a** [*.A*] judge **{from}** [*may, within his or her discretion,*] grant**{ing}** an immediate rehearing **{within his or her discretion once a party files and serves a rehearing request**.**}**

### 11.017 PETITION NUMBER AND JJIS NUMBER REQUIRED

Documents submitted for filing and entry in the register in an action in the Juvenile [*Department*] **{Court}** must contain, in the caption of the document, the petition number and the Circuit Court case number(s) assigned to the action in which the document is to be entered and the Juvenile Justice Information System (JJIS) number assigned to the child by the Department of Community Justice's Juvenile Services Division or its successor agency.

### 11.035 REFEREES

Juvenile Court Referees, appointed by the Court, may conduct hearings in any Juvenile Court cases, except that only a judge shall conduct the following hearings:

(1) A hearing to waive a youth to adult court;

(2) Any trial on a petition seeking the termination of parental rights.

(3) Unless otherwise stipulated by the parties, a contested hearing on a petition alleging an act, which if done by an adult would constitute a Class A or Class B felony, or any degree of homicide;

(4) Other matters upon good cause shown.

## 11.037 MOTION FOR A JUDGE, MOTION FOR CHANGE OF JUDGE

(1) Motion for a Judge

If a case is one that may be assigned to a referee for hearing, a motion, supported by an affidavit, may be filed to request that the case be assigned to a judge for hearing. The affidavit must allege with specificity the special circumstances supporting the request. The motion, with the supporting affidavit, must be submitted to the Chief Family Law Judge or designee as a conventional (paper) filing prior to the assignment of the case to a referee for hearing.

(2) Motion for Change of Judge

A party intending to file a motion for a change of the judge assigned must announce this intent at the time of assignment or at the time the party receives notice of the assignment. The original motion, affidavit, and proposed order shall be submitted conventionally (in paper) to the Juvenile Clerk's Office by the close of business on the judicial day following notice of the assignment. The Clerk's Office staff will send the filing to the Chief Family Law Judge or that Judge's designee. The moving party shall include with that submission a certificate of service documenting that service of the motion, affidavit, and proposed order has been effected on the other parties and a copy of those documents delivered to the Judge who is the subject of the motion. Failure to comply with these requirements may result in sanctions as provided by UTCR 1.090.

## 11.041 IDENTIFICATION OF JUDGE IN CAPTION

The case caption for any juvenile matter for which there is a Judge of the Case shall include in parentheses the name of that judge.

## {11.044 TRANSPORT OF PARTY OR WITNESS FROM OREGON DEPARTMENT OF CORRECTIONS

**Transport orders for a party or witness held in an Oregon Department of Corrections facility must be presented for signature and filed ten days prior to the scheduled hearing.}**

## 11.045 GENERAL PROCEDURES FOR SCHEDULING HEARINGS FOR JUVENILE CASES

(1) Delinquency cases. When a petition is filed on a delinquency case, the Juvenile Court Clerk's Office shall schedule hearings required by statute, as well as Plea, Trial Readiness and Call dates as follows:

(a) Plea. If the youth is in custody, a plea hearing will be set for Call seven (7) calendar days from the preliminary hearing.

(b) Ten Day Review. In custody youth will be scheduled for a ten (10) day review hearing **{every ten (10) court business days that they are held in custody. This hearing shall be set}** on the preliminary hearing docket. Scheduling of these hearings shall be coordinated by the staff of the Juvenile Services Division.

(c) Trial Readiness. Trial Readiness is heard at Call. Attorneys shall report whether they are ready to proceed to trial. If attorneys are not ready to proceed to trial, a new trial readiness date will be set. **{Substantial cause is needed to set a Trial Readiness date more than 60 days past the date the petition was filed.}** If attorneys are ready to proceed to trial, a Call date will be set.

(i) *In custody youth*: Trial Readiness date is set 2 weeks from the preliminary hearing.

(ii) *Out of custody youth*: Trial Readiness date is set 5 weeks from the preliminary hearing.

(iii) *Community Detention youth*: Trial Readiness date is set 4 weeks from the preliminary hearing.

(d) Call. At the Call proceeding, the case will be assigned to a judicial officer for trial the next court day A party needing a setover shall request the setover three (3) days before the Call date. Only in emergency situations will a setover be granted at Call.

(2) Dependency cases. When a petition is filed in a dependency case, the Juvenile Court Clerk's Office schedules hearings required by statute, as well as other hearings and conferences. All reviews in a dependency case will be heard by the judge of the case.

(a) Second Shelter Hearing. A second shelter hearing may be set after the initial shelter hearing. The shelter hearing is set by the judicial officer during the initial shelter hearing, or at a later time within the judicial officer's discretion.

(b) Pre-trial conference/settlement conference. A pre-trial/settlement conference shall be set approximately 35 days from the initial shelter hearing. [*The conference date will be entered on the petition by the docket clerk.*] The pre-trial conference is set for 30 minutes before the settlement conference begins, but is not scheduled on a judicial officer's docket. If the case is not settled at the pre-trial/settlement conference, the case may be scheduled for call and trial, or for another pre-trial/settlement conference. Call, trial, and subsequent pre-trial/settlement conference dates are scheduled by the judicial officer in court.

(c) Call. At the Call proceeding, the case will be assigned to a judicial officer for trial on the following week.

(3) Private Dependency Petitions. When a private petition is filed in a dependency case, the Juvenile Court Clerk's Office schedules hearings required by statute, as well as other hearings and conferences. All reviews in a dependency case will be heard by the judge/referee of the case.

(a) When a private petition is filed, that moving party **{<u>shall</u>}** [*is responsible for*] notify[*ing*] the Juvenile Court Clerk's office to schedule the preliminary hearing.

(b) The party filing a private petition is responsible for providing [*copies of*] the discovery to the court and other parties in the in case.

(c) The party filing a private petition is responsible for ensuring that service of the petition and summons is effected on the parties.

(4) Termination of parental rights cases

(a) The initial hearing on a petition to terminate parental rights shall be pursuant to an Order to Show Cause. The initial appearance date shall be set by the Juvenile Court Clerk's office. At the time of the Initial Appearance hearing, if the parents appear and contest the petition, the matter shall be set for a Best Interest/pre-trial conference, call and trial.

(b) The Best Interest/pre-trial conference shall be set before the judicial officer assigned to the case (not the trial judge), to seek possible means for resolving pre-trial issues.

(c) The parties and their attorneys are required to attend the Best Interest/pretrial conference, and call, unless they are excused, in writing, by the court.

(5) Petitions for judicial determination. Petitions for judicial determination are filed by the Department of Human Services with the Juvenile Court Clerk's Office. The Clerk's Office schedules an initial review and assigns a judicial officer as judge/referee of the case. All subsequent hearings shall be set by the judge of the case either upon the Court's own motion, upon motion of the child(ren) or parent(s), or, if requested, by the Department of Human Services pursuant to ORS 418.312.

(6) Motions or other specially set matters. Any motion or other matter for which oral argument is requested must include in the caption of the motion that request ("Oral Argument Requested") and, if the matter is a dependency case, the next scheduled hearing date (Next Scheduled Hearing Date: _____).

(a) Dependency case: If the requesting party believes that the time allotted for the next hearing is not sufficient to accommodate argument on the motion, the requesting party shall contact the staff of the Judge/Referee of the case to schedule additional hearing time after consulting with the other parties on their availability. The date and time of the additional hearing time shall be included in the caption of the Motion that is served on the parties ("Motion Scheduled for

_____”). Alternatively, the Judge/Referee of the Case, on his or her receipt of the motion, may conclude that the next scheduled hearing date is insufficient to accommodate argument of the motion. In this situation, the staff of that Judge/Referee will notify the moving party of that party’s obligation to coordinate scheduling of a motion hearing and serve notice of that hearing.

(b) Delinquency case: If there is a Judge/Referee of the Case, the requesting party shall contact the staff of that judicial officer regarding scheduling (and whether the Judge/Referee of the Case should hear the motion) and include in the caption of the motion that is served on the parties the date and time of the motion hearing (“Motion Scheduled for _____”). If there is no Judge/Referee of the Case (or if the Judge/Referee of the Case so directs the requesting party), the requesting party shall coordinate with the parties on scheduling of a motion hearing and contact the Juvenile Clerk’s office to place the matter on the Call docket for hearing.

(7) Unless stipulated, or compelling cause is found, motions to terminate wardship in a dependency matter shall be filed and served at least 14 days before hearing on the motion.

## 11.046 PROPOSED ORDERS AND JUDGMENTS

UTCR 5.100 applies to **{dependency}** matters under this chapter.

## {11.047 REQUIRED CLASS FOR GUARDIANS IN DEPENDENCY CASES

**{All persons anticipating appointment as a guardian for a child or ward under the dependency jurisdiction of the court must successfully complete an education class utilizing a curriculum prescribed by the Presiding Judge of Multnomah County prior to an Order of Guardianship being entered by the Juvenile Court. The Court approving a plan of guardianship will provide to the potential guardian, or to DHS if the guardian is not present or identified at that permanency hearing, notice and instructions of this requirement. Fees for this class are subsidized by DHS and not paid by the potential guardian. The potential guardian shall provide to DHS a certificate of completion of this class, which certificate DHS shall file with the court as part of the DHS court report. The Court may defer or waive the requirement to complete the class when necessary to avoid delaying permanency for a child or for other compelling reason.}**

## 11.065 MOTIONS FOR SUBSTITUTION OF COUNSEL

Motions for substitution of counsel due to conflicts in the attorney-client relationship must be heard by the judge of the case. **{If no judge of the case exists, the}** [*All other*] request[*s*] for attorney substitution may be heard by any judicial officer. The motion must show the date of the next scheduled appearance, and must be accompanied by: the most recent name, address, and phone number of the client; a copy of the petition; any police reports; and all discovery material received.

## 11.066 IN CAMERA REVIEWS

(1) Parties seeking an *in camera* review of documents in a juvenile dependency or delinquency case shall file a motion with the court clerk in the Juvenile [*Justice Complex*] **{<u>Court Clerk's Office</u>}** describing the records to be reviewed, the information the party seeks to obtain from the records, and the legal authority for the *in camera* review. Documents submitted for *in camera* review shall also be directed to that location.

(2) Motions for *in camera* review of documents in juvenile dependency or delinquency cases shall be set on the Call docket to be set for a hearing unless there is a judge of the case, in which case the motion will be scheduled on that judge's calendar. Motions for in camera review of documents in a juvenile dependency or delinquency case shall be directed by court staff to the judge of the case for scheduling of a hearing on the motion.

## 11.067 NOTICE OF SCHEDULING OR RE-SCHEDULING OF A CRITICAL-STAGE HEARING IN CASES SUBJECT TO UTCR 4.100 TO 4.120

Supplementary Local Rule 4.024 applies in juvenile delinquency proceedings for alleged youth offenders and youth offenders in any juvenile delinquency action subject to the provisions of UTCR 4.100 to 4.120.

# CHAPTER 12
# MEDIATION

## 12.016 SEE SLR 8.125 FOR THE MANDATORY PARENT EDUCATION PROGRAM

## 12.022 COURT-CONNECTED MEDIATOR LISTS ESTABLISHED

The court will maintain lists of mediators who have met the qualifications established in the Oregon Judicial Department Court-Connected Mediator Qualifications Rules, adopted by CJO 05-028. Separate lists shall be maintained for general civil mediators, domestic relations custody and parenting mediators, domestic relations financial mediators, and probate mediators. The lists of mediators will be published on the Circuit Court's web site at **http://courts.oregon.gov/Multnomah/General_Info/Civil/listofapprovedmediators.page**

## 12.023 APPOINTMENT TO COURT-CONNECTED MEDIATOR LIST

(1) A mediator seeking inclusion on one or more lists must sign and file an application provided by the Court for inclusion on the list of court-connected mediators. The Presiding Judge or the Presiding Judge's designee may require substantiation of any information submitted on the application. The Presiding Judge or the Presiding Judge's designee may contact any program or individual referenced in the application or any other resource necessary to make a determination whether to approve a mediator.

(2) The Presiding Judge or designee shall review each application and make a determination to approve or reject an applicant as a court-connected mediator.

(3) Appointments to any list shall be at the discretion of the Presiding Judge or designee. Approved mediators shall be required to provide updated applications every two years.

Inclusion on the list shall in no way establish any requirements for compensation for mediators, except as provided in SLR 12.025, nor serve as an endorsement or warranty of the mediator by the court.

(4) The Presiding Judge or designee may remove a mediator from any court-connected mediator list if the mediator is no longer qualified under the Oregon Judicial Department Court-Connected Mediator Rules, or upon the written request of the mediator or agent, if the mediator is unable to make such request.

(5) Qualified court-connected mediators will be identified as such to the public, together with contact information for such mediators. The applications of qualified court-connected mediators will be available for review by the public.

## 12.025 ALTERNATE MEDIATION PROCEDURE IN CIVIL AND DOMESTIC RELATIONS ACTIONS SUBJECT TO 36.400 TO 36.425

(1) Mediation, as used in these rules, is a facilitated negotiation process in which a neutral third-party assists the parties in attempting to reach a resolution of their controversy. The mediator has no authority to make a decision or impose a solution.

(2) On the parties' written stipulation, filed with the court at any time prior to the commencement of the arbitration hearing, the parties may elect to mediate (pursuant to ORS 36.185 to 36.238) rather than arbitrate any civil or domestic relations case subject to mandatory arbitration under 36.400 to 36.425. Such mediation shall be accomplished within the same time period required for court-annexed arbitration under these rules. If the parties mediate in good faith, they shall be deemed to have met the requirements for 36.400 to 36.425 and SLR 7.075 whether or not the mediation results in resolution of all claims, and shall not thereafter be required to submit to arbitration. Nothing in this rule, however, precludes the parties from entering into arbitration in the event that mediation is unsuccessful in resolving the controversy. Any such request to arbitration after mediation shall be governed by Chapter 13 of these Supplemental Local Rules.

(3) If no arbitrator has been selected or assigned at the time of the filing of the stipulation to mediate, the parties select a mediator by stipulation.

(4) If an arbitrator has already been assigned at the time of the stipulation to mediate, the arbitrator shall be informed immediately, and shall be compensated, pursuant to UTCR 13.120 and the Supplementary Local Rules, for any time already invested in the case.

(5) If the parties select a mediator who is not qualified under the Oregon Judicial Department's Court-Connected Mediator Qualification Rules, they shall be deemed to have waived any protections under those rules.

(6) Unless the parties agree to different compensation, the mediator is to be compensated pursuant to UTCR 13.120, the Supplementary Local Rules, and the hourly rate established by the arbitration commission.

(7) If requested by the mediator, the parties shall supply to the mediator a statement of the nature of the case, the status of settlement negotiations, and any other information requested by the mediator or deemed helpful by any party for the resolution of the dispute. This must be supplied to the mediator at least one day prior to the scheduled mediation.

(8) Within five days of the conclusion of the mediation, the mediator shall file with the Court a report, together with proof of service of the report upon each party, stating the status of the action following mediation as either "settled" or "not settled." If settled, the terms of the settlement may be stated in the report, unless the parties have agreed that the terms shall be kept confidential. A written statement of the

terms of the settlement signed by the parties and/or their attorneys shall be retained by the mediator. A written settlement agreement or memorandum of agreement shall be admissible to prove the settlement under to ORS 36.220 to 36.238. If the mediator's report is "settled" the parties must, within 30 days of the filing of the report being filed, submit to the Presiding Judge a stipulated judgment as the final order in the action. If the mediator's report is "not settled" the action will be assigned an initial trial date and will proceed on the court's civil calendar.

(9) In the event any party fails to mediate in good faith after signing a stipulation for mediation pursuant to this rule, the Court may assess as costs any other party's costs necessarily incurred in the mediation, in any subsequent judgment.

(10) The mediation proceedings described by this rule are compromise negotiations for purposes of ORE 408 (ORS 40.190) and are confidential under ORS 36.220 to 36.238.

## 12.035 MEDIATION IN SMALL CLAIMS ACTIONS; FAILURE TO COMPLY WITH SETTLEMENT

(1) All small claims actions shall go to mediation orientation before going to trial.

(2) Agreements reached while in mediation shall be signed by the parties and mediator and filed as stipulated orders. The mediated agreement represents a full and complete settlement of all claims and counterclaims raised in the proceeding. The court will enter a **{Stipulated Order/}**Judgment of Dismissal of the case, subject to completion of the agreement.

(3) Failure of either party to comply with the mediated agreement will be grounds for the opposing party to file a Declaration of Noncompliance and Request for Judgment, and upon such filing, the dismissal shall be set aside. Without further hearing, the court may enter a Judgment against the noncomplying party in the dollar amount of the original claim.

## 12.045 MEDIATION IN PROBATE PROCEEDINGS

(1) Scope and Objectives. Probate proceedings shall be subject to mediation in accordance with these rules.

(a) Unless excluded below, all matters in Chapters 111 to 116 and 125 to 130 of the Oregon Revised Statutes under the jurisdiction of the Circuit Court shall be subject to mediation. These include protective proceedings, gifts, trusts, health care directives, powers of attorney, probate estates and estate matters outside of probate.

(b) The following matters are excluded from mediation: temporary protective proceedings under Chapter 125.

(c) If there is a dispute about whether a specific matter is subject to mediation under these rules, a court shall make the determination and shall rely on the policy to encourage the use of mediators in alternative dispute resolution and to discourage litigation.

(d) Mediation shall occur with the objectives of allowing parties to air their grievances informally, craft personal and creative solutions, forestall future possible disputes, work in an atmosphere that is outside of the formal rules of the courtroom, and to save on the expense of the judicial process.

(2) Presentation for Mediation

(a) Matters may be assigned for mediation by order of the court on its own motion.

(b) Matters may be mediated by agreement of all of the parties or notice by any party. A party may notice mediation without court permission.

(3) Nothing in these rules shall prevent:

(a) Matters from being mediated before the filing of a legal proceeding except that the court cannot be used to resolve disputes in the mediation unless a legal proceeding is filed; or,

(b) Parties from settling disputes without mediation or through settlement conferences.

(4) Procedure – In cases subject to mediation under these rules:

(a) The parties shall initiate the mediation process upon the filing of an objection or other responsive pleading setting a matter at issue. The Court may notify the parties with a court notice of the mediation requirements.

(b) A party may notice a mediation by serving a written notice of mediation on all other parties stating that the party has elected to mediate the matter pursuant to these rules. The Notice shall include a plain and concise statement of the facts that inform the parties and the court of the questions in dispute. The Notice may be substantially in the form set forth in Appendix (See Notice Form, Forms Appendix) to these rules.

(c) The parties or one of them, if by agreement, shall provide a status report to the court within thirty (30) days of the filing of the objection or other responsive pleading setting a matter at issue. The status report shall include the dispute resolution plan, any request for a settlement conference, whether there is a pending motion to waive mediation or a request for a hearing date.

(5) Waiver of Mediation. If a party determines that mediation is not appropriate in the matter at issue, the party may move to waive mediation and serve the motion on all

other parties. The motion shall include a plain and concise statement of the facts so as to inform the parties and the court of why the party is objecting to mediation. The Motion to Waive Mediation may be substantially in the form set forth in Appendix (See Motion Form, Forms Appendix) to these rules.

(a) A motion to waive mediation must be made within fourteen (14) days of the court notice or the pleading setting the matter at issue. The motion may be accompanied with pleadings necessary to set the substantive issues before the court.

(b) The court may set a hearing on the motion to waive the mediation for no later than fourteen (14) days from the filing of the motion and shall notify all parties.

(c) A court hearing on a motion to waive mediation shall order that mediation proceed except for good cause shown. If the court determines that the matter should not be subject to mediation, the court shall set the matter for a hearing on the substantive questions in dispute.

(6) Other Procedure

(a) The court may modify the times for notice and objection if a party is unrepresented by legal counsel or for good cause shown. A modification can be retroactive.

(b) The calculation of the timelines under these rules shall be made in accordance with ORCP 7D(2)(d)(ii).

(c) Service of pleadings shall occur as set forth in Chapters 111 to 116 and 125 to 130 or shall be governed by the Oregon Rules of Civil Procedure. Proof of service of pleadings required by these rules shall be filed with the court with a copy of the pleading.

(d) In the event the times set forth in these mediation rules prejudice a party's statutory rights, the court shall provide relief for the party if the relief is consistent with the fair adjudication of disputes.

(e) If there is a dispute about whether or not an attorney or other advocate should be present at mediation under these rules, a court shall make the determination and shall rely on the policy to encourage the use of attorneys and advocates.

(7) Choice of Mediator

A mediator shall be chosen by the parties or the court as follows:

(a) By stipulation of the parties.

(b) If there is no objection to mediation, each party shall provide all parties a list of acceptable mediators within fourteen (14) days of pleading setting the matter at issue.

(c) If there is an objection to mediation and a court determination that mediation shall proceed, each party shall provide all parties a list of acceptable mediators within seven (7) days of the order on the objection.

(d) The parties shall make a good faith effort to find a mutually agreeable mediator. Once a mediator is chosen by the parties the noticing party shall inform the court of the mediator's name and address.

(e) If the parties cannot agree to a mediator within seven (7) days from the date the list was required to be furnished, a party may file a motion to appoint a mediator. That motion must be served on all parties and any party may file a response with a list of their choice of mediators and a plain and concise statement of facts about why one of the mediators on their list should be appointed. The Court shall appoint a mediator qualified under paragraph (8) (b) of this rule that appears on the list of at least one party and is not required to hold a hearing.

(8) Qualification of Mediator

(a) A mediator qualified for probate mediation must be: (i) An attorney licensed to practice before the courts of this state having at least five years of experience in estates, trusts or protective proceedings, (ii) an individual with special skill or training in the administration of estates, trusts or protective proceedings, or (iii) an individual with special skill or training as a mediator.

(b) A mediator appointed by the court rather than by agreement of the parties shall also (i) comply with the Oregon Judicial Department Court-Connected Mediator Qualification Rules and (ii) have attended the Multnomah County Probate Department mediation training.

(c) The mediator shall not have an interest in any of the issues subject to dispute and shall not be related to a party.

(9) Date for Mediation

Upon the designation of a mediator by the parties or the court appointment of a mediator, the mediator and the parties shall establish a date for the mediation. If a date cannot be agreed upon within fourteen (14) days of the designation or appointment of the mediator, a party may move the Court to set a date for the mediation and the procedure shall be substantively similar to that for the appointment of a mediator in Rule 12.045(7)(E).

(10) Duration of Mediation

Parties to mediation shall mediate in good faith. In all cases the mediation must last at least three (3) hours unless the matter is conclusively resolved in less time or if the mediator concludes that no progress is likely to occur.

(11) Mediation Agreement. A resolution of the matter that is the subject of the mediation shall be memorialized in writing and signed by the mediating parties. Subject to the waiting period set forth below, the agreement shall be binding on all signors.

(a) Each party to the mediation shall have seven (7) days to repudiate the agreement. A repudiation shall be in writing. Parties may agree to eliminate or change the period of time during which repudiation may occur.

(b) After seven (7) days or such different time period as the parties may agree, the parties to the agreement shall reduce it to a court order or judgment for approval of the Court.

(c) If a party repudiates the agreement, the party shall immediately inform the mediator and all parties and the mediator or any party shall inform the court. The matter shall be scheduled for hearing by the court in the same course and with the same priority on the docket as though there had been no mediation.

(12) Costs of Mediation. Costs of the mediation, including reasonable compensation for the mediator's services, shall be borne equally by the parties unless the parties agree otherwise.

(a) The details of mediation costs and fees, including the compensation of the mediator, must be set forth in a mediation agreement between the mediator and all parties to the matter.

(b) Nothing in these rules is intended to affect a party’s right to petition for payment or reimbursement of fees and costs pursuant to another rule or statute in the underlying matter.

(c) A party shall not be kept from mediation due to indigency and the Court shall establish procedures for mediation when there is an indigent party.

(13) Compliance

If a party does not comply with these rules, any other party may move the court for an order compelling compliance. A party obtaining an order compelling compliance is entitled to reimbursement of costs and attorneys' fees incurred in connection with the compliance proceeding unless the court at the hearing determines otherwise for good cause shown. Reimbursement must be from the party or parties whose failure to comply was the basis for the petition.

# CHAPTER 13
# ARBITRATION

## 13.025 REQUEST FOR AND OBJECTIONS TO ARBITRATION

(1) Any party may file and serve notice of a request that the Court transfer a case to arbitration.

(2) A party opposing exemption from arbitration pursuant to UTCR 13.070 shall file such opposition, in writing, within three days of the filing of the motion for exemption. A Court decision on such exemption will be rendered within five days following the filing of a motion for exemption from arbitration, regardless of whether opposition was filed. If the motion is allowed, the case will be returned to the active trial docket for future disposition. If the motion is denied, the case will remain in arbitration in accordance with these rules and the UTCR.

## 13.032 SUBMISSION OF COPIES OF MOTIONS AND OTHER DOCUMENTS TO PRESIDING JUDGE

For cases subject to arbitration, and except for motions requiring decision by the arbitrator, any motion, challenge, response or reply required or allowed by these rules, the Oregon Revised Statutes or the Uniform Trial Court Rules, must include a copy which shall be delivered to the Presiding Judge contemporaneous with the filing of such motion, challenge, response or reply. The party preparing the document is responsible for delivery of the copy to the Presiding Judge.

## 13.035 COURT SHALL DETERMINE WHETHER CASE IS SUBJECT TO ARBITRATION; AMENDMENT OF PLEADINGS

(1) A case assigned to arbitration will not be exempted without an order, supported by a motion and affidavit, declaration, or certification under ORCP 17C.

(2) Only in extraordinary circumstances will the Court order a case returned from arbitration to the Court docket after a case has been assigned to an arbitrator.

(3) In the event that amended pleadings are allowed by the arbitrator (e.g., amended complaint, third-party complaint, etc.), in which a party or parties will be added to the case, or which causes the case not to be subject to mandatory arbitration, the party filing such an amended pleading must notify the Arbitration Clerk in the Civil Division of the Office of the Trial Court Administrator and file the amended pleadings, [*together*] **{<u>along</u>}** with the Arbitrator's Order allowing [*such*] **{<u>the</u>}** amended pleadings, with the [*Court*] **{<u>Arbitration Clerk</u>}**. Amendment of the pleadings in the foregoing manner does not, by itself, remove a case from arbitration.

(4) If a party seeks to exempt a case from arbitration in accordance with subsection (3) of this rule, or on any other basis, or seeks an order exempting from arbitration a case that would otherwise be referred to arbitration, that party shall file a motion,

supported by affidavit, declaration or certification, with the court, and serve the motion:

(a) on the other party or parties in the case;

(b) on the arbitrator, if an arbitrator has been assigned to the case; and

(c) on the Arbitration Clerk in the Civil Division of the Office of the Trial Court Administrator.

(5) A party that moves for an order under subsection (4) of this rule shall promptly advise the arbitrator in the case, if one has been assigned, of the resolution of the motion.

(6) Cases exempted from arbitration under this rule may, when again appropriate, be reinstated into arbitration.

## 13.042 ASSIGNMENT TO ARBITRATION

If the first appearance of a defendant is not an answer, but is a motion directed to the complaint or a dispositive motion, the motion shall be decided before the case is assigned to arbitration. No case shall be assigned to arbitration until all parties have appeared or have had a judgment of default entered against them. If a case has been assigned to arbitration prior to the filing of a motion directed to the complaint or a dispositive motion, the motion shall be heard and decided by the arbitrator pursuant to UTCR 13.100.

## 13.048 INDIGENT PARTIES

(1) In the event that funds are available under ORS 36.420 [*for the payment of fees that are waived or deferred, the arbitrator shall be reimbursed after completion of the arbitration, filing of the arbitration award, and submission of a request for payment to the Trial Court Administrator. Such request shall be in the form of a certificate stating the identity of the case, the total hours of service the arbitrator provided, and the share of those hours chargeable to the indigent party. If funds are available, reimbursement will be provided for the hours authorized by the court under the UTCR 13.120 (1) compensation schedule for each indigent party. The certificate must be accompanied by a copy of the order deferring or waiving fees of the indigent party. Requests for payment should be submitted with the award or within 90 days of the submission of the arbitration award.*] **{, indigent parties may seek deferral or waiver of arbitration fees by applying to the Presiding judge or designee.}**

(2) [*In the event funds are not available under ORS 36.420 for the payment of fees that are waived or deferred by court order, a party may request that the clerk provide to the parties a list of arbitrators who have agreed to serve for no compensation, for compensation from one party only, or at a reduced rate.*] **{Any party who obtains a deferral or waiver of arbitration fees as provided in ORS 36.420(3) and UTCR**

**13.120(3), must provide the arbitrator with a copy of the court order granting the deferral or waiver within 14 days from the date the case is assigned to the arbitrator.}**

(3) [*The clerk shall provide names of available arbitrators, but no arbitrator is required to serve unless he or she has agreed to such alternate fee arrangement.*] **{In the event that funds are available under ORS 36.420 and a fee deferral or wavier has been granted by the court, the arbitrator shall be reimbursed after completion of the arbitration, filing of the arbitration award, and submission of a request for payment to the arbitration clerk. Requests shall include the following: case identifying information; whether any party had a fee deferral or waiver and a copy of the order for fee deferral or waiver; total hours of service the arbitrator provided and the deferred or waived party's share of those fees; and certification and signature of the arbitrator. Requests for payment should be submitted with the award or within 90 days of the submission of the arbitration award.}**

## 13.055 ARBITRATORS

(1) To qualify as an arbitrator, a person must sign and file an application to be placed on the list of arbitrators, and, if not a retired or senior judge or stipulated non-lawyer arbitrator, be an active member of the Oregon State Bar at the time of each appointment. The Presiding Judge may remove a person as an arbitrator if such person fails or refuses to comply with the rules governing the performance of arbitrators, as required by the Oregon Revised Statutes, UTCR or these rules. The Arbitration Commission may adopt additional requirements for inclusion or retention on the list of arbitrators, including experience, training and continuing education.

(2) There shall be a panel of arbitrators in such number as the Arbitration Commission may from time to time determine. Persons desiring to serve as an arbitrator shall submit in writing their desire to be placed on the arbitration panel, with the date they were admitted to the Bar, their name, street address, email address, fax, and phone numbers, and if they have any preference against certain types of cases (e.g., no family law). A list showing the names of arbitrators available to hear cases will be available for inspection in the Room 210 of the Multnomah County Courthouse. An arbitrator who is no longer willing or able to serve as an arbitrator shall immediately notify the arbitration clerk.

(3) The appointment of an arbitrator is subject to the right of that person to refuse to serve on an individual case. An arbitrator must notify the clerk immediately if refusing to serve, or if any cause exists for the arbitrator's disqualification from the case upon any of the grounds of interest, relationship, bias, or prejudice governing the disqualification of judges.

(4) If such disqualification or refusal occurs, the arbitrator must notify all parties and immediately return all appointment materials in the case to the clerk.

(5) The parties shall confer, pursuant to UTCR 5.010, to select an arbitrator. The plaintiff or petitioner shall initiate communications for such selection. However, if the plaintiff or petitioner is appearing pro se, an attorney for the defendant(s) shall initiate such communications. If all parties are appearing pro se, or if good faith conference is unsuccessful, each party shall strike 2 names from the list of arbitrators, and return such list to the Presiding Judge, with a copy to and proof of service on the other party or parties. The Presiding Judge shall then select the arbitrator from the remaining names. In the event no names remain, the Presiding Judge may approve the issuance of a second list.

## 13.065 STIPULATIONS

No agreement or consent between parties or lawyers relating to the conduct of the arbitration proceedings, the purpose of which is disputed, will be regarded by the arbitrator unless the agreement or consent is made at the arbitration hearing or is in writing and signed by the lawyers or parties.

## 13.071 UNTIMELY FILED MOTIONS TO EXEMPT FROM ARBITRATION

If a party moves the Court for an order of exemption from arbitration, pursuant to the provisions of ORS 36.405(2)(b) and UTCR 13.070, more than 14 days after the court's notice to the parties that the case has been assigned to arbitration, the court may allow such motion and enter an order under ORS 36.405 (2)(b), but only upon the condition that the parties have elected to comply with SLR 12.025 or are not in violation of SLR 7.075.

## 13.075 SEE 12.025 ET SEQ. FOR MEDIATION AS AN ALTERNATIVE TO ARBITRATION.

## 13.085 FILING AWARD

(1) The arbitrator shall not file an arbitration award with the Court until the issues of attorney fees and costs have been determined. The arbitrator shall certify on the award that no issues of costs or attorney fees remain undecided upon filing of the award. Unless otherwise ordered by the court, no amended or supplemental arbitration award shall be filed, regardless of whether judgment has been entered on the original.

(2) At the conclusion of arbitration, if the arbitrator attempts to file the award with the Court without the proof of service of a copy of the decision and award upon each party as required by ORS 36.425(1), the award will not be filed and will be returned to the arbitrator.

## 13.165 TIME FOR ARBITRATION HEARING - 91 DAY TIME PERIOD PURSUANT TO UTCR 13.160 (2)

Pursuant to UTCR 13.160 (2), except for good cause shown, the hearing must be scheduled to take place not later than 91 days, measured from the date of assignment to arbitration. With the

exception of applying this 91 day time period in place of the 49 day time period set in UTCR 13.160 (3), all other requirements of UTCR 13.160 (3) and (4) apply to the scheduling, postponement or continuance of an arbitration hearing.

## 13.255 RETURN OF WRITTEN NOTICE OF APPEAL AND REQUEST FOR TRIAL DE NOVO SUBMITTED FOR FILING BEYOND THE TIME PERMITTED

A written notice of appeal and request for a trial de novo received by the Trial Court Administrator for filing beyond the time for filing such a notice under ORS 36.425 and, if applicable, ORCP 10 C, may be returned by the presiding judge, or a designee judge, to the party who submitted the document, with an order, copied to all parties, stating the finding that the document was received beyond the time permitted by law. A copy of the returned notice of appeal and request for trial de novo will be attached to the filed original of the order as a record of the submitted document, but will not be filed separately in the action.

# CHAPTER 14
# REFERENCE JUDGES

## 14.015 STENOGRAPHIC REPORTER NOTES; MOTIONS TO CORRECT TRANSCRIPTS

(1) The stenographic reporter or person keeping the audio record of the proceedings shall file the transcript notes or electronic medium containing the audio record and the log of the recordings on the electronic medium of the proceeding with the Court.

(2) SLR 6.045 shall apply to Reference cases.

## 14.025 COMPENSATION OF THE REFERENCE JUDGE

(1) The reference judge shall deliver to the Presiding Judge the written statement specified in ORS 3.321(3) within 49 days of the termination of the referral of the action. The written statement or facsimile shall specify the amount to be released by the Court to the reference judge.

(2) The amount paid to the reference judge from the Court shall not exceed the amount deposited into court.

(3) If a discrepancy exists in the amount of claimed compensation, the Presiding Judge shall, upon notice from the reference judge, order the parties to deposit further funds with the Court.

## 14.035 RECORDS OF PROCEEDINGS

(1) The reference judge shall maintain written records for the Court of the following:

(a) Witnesses;

(b) Court reporters or persons keeping the audio record;

(c) Exhibits.

(2) The reference judge may designate a clerical officer to maintain such records. Such an officer shall be approved by the Trial Court Administrator or designee.

(3) The above records shall be kept on forms approved by the Trial Court Administrator or designee.

# CHAPTER 15
# SMALL CLAIMS DEPARTMENT

## 15.015 FILING PROCEDURES

(1) Plaintiffs must either file their claim at the Small Claims Department of the Civil Division at the Multnomah County Courthouse; or

(2) If the plaintiff or the defendant resides, or the claim arose, East of l22nd Avenue extending to the North and South boundaries of Multnomah County, the claim may be filed in the East County Courthouse at 18480 SE Stark Street.

## 15.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS

All documents filed on contempt matters involving remedial sanctions must comply with SLR 19.021 requiring that such documents be filed separately from those addressing other matters in the underlying case.

## 15.025 APPOINTMENT OF GUARDIAN AD LITEM

(1) Plaintiffs and Defendants who are "incapacitated," "financially incapable," or who are "respondents" as defined in ORS 125.005, must have a guardian ad litem appointed to pursue or defend the action. If such an individual is also a "protected person," as defined by ORS 125.005, the conservator or guardian shall be appointed, unless otherwise ordered by the court.

(2) Plaintiffs or Defendants who are unemancipated, unmarried, minors, living apart from their parent(s) or legal guardian(s), and who meet the definition of a "minor" under ORS 109.697, and who also meet the definition of "tenant" under ORS 90.100, may appear in a small claims action based on a contract for a residential dwelling unit or for utility services provided to that unit, without appointment of a guardian or guardian ad litem.

(3) Unemancipated minors to whom the statutory definitions listed in subsection (2) of this rule are applicable, but who wish to appear in Small Claims Court on other grounds not listed in subsection (2), must have a guardian ad litem appointed to pursue or defend the action.

(4) All other unemancipated minors, to whom the statutory definitions listed in subsection (2) of this rule are not applicable, must have a guardian ad litem appointed to pursue or defend a small claims action.

## 15.035 HEARING NOTICE

The Court will give the parties not less than seven days' notice of the small claims hearing unless otherwise directed by the Presiding Judge or designee.

## 15.045 DISMISSAL FOR FAILURE TO PURSUE CLAIM

A judgment of dismissal, without prejudice, for want of prosecution, may be filed and entered on the Court's own motion, following notice by the Court of intent to dismiss pursuant to ORCP 54B(3), 90 days after the date a claim is filed, unless the claim is set for a hearing or a default judgment is entered.

## 15.055 REPRESENTATION BY ATTORNEY ONLY BY COURT ORDER

(1) All requests to employ counsel must be made in writing at least seven days prior to the date of the hearing.

(2) If consent to employ counsel is granted, the requesting party must give written notice to all other parties. Once such permission is granted, any party may retain counsel.

(3) If consent to employ counsel is granted by the Court, the Oregon counsel may associate a foreign counsel under UTCR 3.170.

## 15.065 TIME EXTENSION

On written request filed with the Small Claims Department at least seven days prior to the hearing date, the Court may extend the time within which to make appearances or file documents. The time extension will not exceed 30 days **{unless otherwise approved}**.

## 15.075 COMMUNICATION IN WRITING

Any written communication to the Court must be copied to all parties.

## 15.085 TRANSFER OF CLAIM FROM SMALL CLAIMS DEPARTMENT

SLR Chapter 15 shall cease to govern a claim after the transfer of the claim from the Small Claims Department to a court of appropriate jurisdiction.

## 15.095 REQUESTS FOR POSTPONEMENT

Requests for postponement of a scheduled hearing must be made in writing at least seven days prior to the hearing.

## 15.105 SEE SLR 12.035 FOR MANDATORY MEDIATION IN SMALL CLAIMS ACTION.

## 15.115 AUTHORIZED AGENTS IN SMALL CLAIMS CASES

An agent shall be designated by any organization filing or defending a small claim. The designated agent may be ordered to appear before the Court.

## 15.125 SEE SLR 5.161 FOR JUDGMENT DEBTOR EXAMS IN SMALL CLAIMS ACTIONS

**15.135 SEE SLR 5.181 FOR CLAIMS OF EXEMPTION NOT TO CONTEST JUDGMENT**

**15.145 SEE SLR 6.025 FOR PAYMENT OF TRIAL FEES AND HEARING FEES**

**15.155 SEE SLR 7.045 FOR MOTION FOR CHANGE OF JUDGE**

## CHAPTER 16
## VIOLATION OFFENSES

**{16.005 SCOPE}**

(1) **{This Chapter prescribes procedures related to certain citations issued for violation of (a) the Oregon Vehicle Code (ORS Chapters 801-826) and municipal codes enforceable in the Fourth Judicial District as they pertain to regulation of vehicle traffic, (b) Oregon fish and wildlife law, (c) the TriMet Code (Chapter 28, related to conduct on TriMet property, and Chapter 29, related to proof of fare payment), and (d) such other types of violation citations as the Court may specify by Order.}**

(2) **{Notwithstanding Section (1), the following categories of violation citations are excluded from the scope of this Chapter: (a) violations originally charged as misdemeanors; (b) parking citations; and (c) any violation citation eligible for consideration in Community Court or such other specialty court as the Court may establish from time to time.}**

**{16.015 PLEAS;WRITTEN OR IN-PERSON; DISPOSITION}**

(1) **{The recipient of a violation citation issued within the scope this Chapter shall enter a plea of no contest or not guilty to the violation(s) charged. The plea may be made electronically, in writing or in person as provided in this Section.}**

(a) **{If in writing or electronically, the plea must be received by the Court on or prior to the date indicated on the citation for appearance.}**

(b) **{If, in a timely submission to the Court, the recipient of a violation citation fails to specify a plea, the Court may, in its discretion, enter a plea on the recipient's behalf. The Court may enter a no contest plea if the essential facts constituting the violation(s) are admitted or the Court can otherwise reasonably infer the recipient's intent not to contest the charge(s). In all other circumstances, the Court will enter a not guilty plea on the recipient's behalf and set the case for trial.}**

(c) **{In-person pleas may also be entered with the Clerk of the Court, either at the Multnomah County Courthouse or the East County Courthouse, on or before the date indicated on the citation for appearance. Recipients may enter their plea with Clerk of the Court or before a judicial officer after appearing before the Clerk and requesting to enter a plea before a judicial officer.}**

(2) **{If the recipient pleads not guilty or a not guilty plea is entered on the recipient's behalf as provided in sub-section (1)(b), the case will be set for a Court trial.}**

(a) **{The Court will provide notice of the trial date to the law enforcement agency employing the citing officer and to the recipient. Recipient's trial notice will be**

**sent to the address provided to the Court at the time the recipient enters an in-person not guilty plea or at the recipient's last known address if the plea is entered otherwise. It is the recipient's burden to provide the Court with complete and accurate contact information (including address, telephone number and email address) and to promptly notify the Court of any changes. The trial notice will specify the date, time and location of the trial.}**

(b) **{Except as provided in sub-section (2)(c), the citing officer, the recipient of the citation and any witnesses for either party shall appear for trial at the time and place indicated in the Court's trial notice. After trial, the Court will enter a judgment of conviction or acquittal on the charge(s) and impose fines on any conviction.}**

(c) **{Except for violation citations issued as a result of electronic enforcement of the Oregon Vehicle Code, ORS 810.434 through ORS 810.439, the recipient may request a trial by declaration. If the recipient makes such a request, the Court will supply a form of declaration for the recipient to complete, certified under penalties of perjury. The information provided in the declaration will substitute for in-person testimony at trial. Any witness for the recipient may likewise appear by declaration. The recipient's submission of a written declaration complying with this sub-section shall constitute a waiver of the recipient's right to personally appear at trial and an agreement to pay any fine assessed after trial within the time provided in SLR 16.905.}**

(d) **{The recipient of a violation citation issued as a result of electronic enforcement of the Oregon Vehicle Code may likewise appear by declaration, but only if the declaration expressly states that the recipient does not dispute that he or she was the driver of the vehicle identified in the citation.}**

(e) **{Up to 5:00 p.m. the business day prior to commencement of trial, the recipient may change the plea from not guilty to no contest. }**

(3) **{If the recipient pleads no contest to a violation charge or charges, or a no contest plea is entered on the recipient's behalf as provided in sub-section (1)(b), the Court will enter a judgment of conviction on all such charges and a fine will be imposed as provided in this section.}**

(a) **{A written plea may be submitted with a statement or explanation, provided that the recipient includes payment of the full presumptive fine(s) with the plea or indicates that the recipient is indigent and cannot pay the full presumptive fine(s). After consideration of the statement or explanation and any other pertinent information, such as the recipient's driving history, the Court shall impose a fine in a sum not less than the minimum prescribed by Oregon law.}**

(b) **{A qualifying in-person plea may be entered and a fine assessed in accordance with the Violations Bureau schedule as provided in SLR 16.015. Otherwise, the recipient entering a plea in-person may either pay the presumptive fine indicated on the citation or appear before a judicial officer for assessment of a**

**fine. If the recipient does not qualify for a Violations Bureau fine or elects to appear before a judicial officer, a fine will be assessed in the same manner as a written plea accompanied by an explanation or statement.}**

(c) **{Either the Clerk of the Court or a judicial officer may enter a judgment of dismissal of a charge, without the entry of a plea, consistent with Oregon law or in accordance with a documented offer made by the citing officer, the terms of which are established by the recipient to have been fulfilled.}**

## {16.025 VIOLATIONS BUREAU; CREATION AND ELIGIBLE VIOLATIONS}

(1) **{Pursuant to ORS 153.800, the Fourth Judicial District establishes a Violations Bureau. The Violations Bureau fine schedule, as it may be amended from time to time, is incorporated by reference into these rules.}**

(2) **{Out-of-state residents may also be assessed Violation Bureau fines if they present a certified copy of their driving record for a period covering not less than three years prior the date of the citation for which they are appearing or the date of first licensure, whichever period is shorter.}**

## [*16.025*]{16.035} [*APPEARANCE OPTIONS*] {REPRESENTATION BY COUNSEL}

(1) [*At any time prior to any initial court appearance date specified on the summons, the defendant may exercise one of the following options to dispose of the case:*] **{A person charged with a violation within the scope of this Chapter may be represented by counsel at any stage of the proceeding. As a condition to appearance in the matter, counsel must file a Notice of Representation with the Court.}**

(a) [*The defendant may file a written plea no contest and pay the base fine amount on the summons, or, if available, the fine established by the Violation Bureau, by mailing the written plea and a check or money order for the fine to the Court. The plea and payment must reach the Court on or before the initial court appearance date.*

(b) *The defendant may enter a written plea no-contest and submit a written explanation of the incident in mitigation of the penalty. A check or money order for the amount indicated on the summons must be included. The letter and plea must reach the Court prior to the initial court appearance date.*

(c) *Except for violations based on photo radar or photo red light enforcement (ORS 810.434 through ORS 810.439), the defendant may appear, enter a plea of not guilty, and sign a waiver of the defendant's right to have testimony presented orally, as provided in ORS 153.080. The waiver shall be on a form provided by*

*the Criminal Division of the Trial Court Administrator's Office. The waiver shall include an agreement to pay, within 30 days after receiving notification from the court, any fines and fees imposed by the court following review of the case. The waiver of oral testimony will be filed in the case and the matter will be set for trial. At the trial, any witness, including the defendant, may have the witness' testimony presented to the Court by affidavit or declaration and need not appear personally.*

(d) *The defendant may enter a written plea of not guilty and request that the matter be set for court trial. Any defendant electing to proceed under this subsection must verify his or her residence address and current mailing address. Defendants may request a court trial either in writing, mailed to the Court, or in person. The request must be received on, or prior to, the initial court appearance date. As set forth in SLR 16.195, below, a default judgment which exceeds the base fine amount set on the citation may be imposed against a defendant who requests a court trial but fails to appear in court for such proceeding.*]

(2) [*At any time on or before the date and time set for initial court appearance on the summons, the defendant may appear in person, or by counsel, and may enter a plea of no contest, or not guilty.*] **{<u>If counsel's initial appearance is for purposes of entering a plea, the Notice shall be filed contemporaneously with entry of the plea. Otherwise, the Notice must be filed prior to counsel's initial appearance or, in the discretion of the Court, on the same day as the initial appearance.</u>}**

(a) [*If the defendant enters a plea of no contest, an explanation or statement may be given in mitigation of the offense charged.*

(b) *If the defendant enters a plea of Not Guilty, a court trial will be scheduled. The defendant may sign and file a waiver of oral testimony as provided in subsection (1)(C), above. For violations, based on photo radar or photo red light enforcement (ORS 810.434 through ORS 810.439), the defendant must appear personally for trial (ORS 153.061(6)). The defendant or counsel must contact the court if a trial notice and court date is not received within four weeks of the initial court appearance.*]

(3) **{<u>Notices filed under this Section must be electronically submitted in accordance with UTCR 21.140. Other forms of filing are not permitted.</u>}**

## {<u>16.045 PRETRIAL MOTIONS</u>}

(1) **{<u>Discovery Motions. Any motion or other form of request seeking documents or other information from the law enforcement agency employing the issuer of a violation citation within the scope of this chapter must be submitted directly to the law enforcement agency.</u>}**

(2) **<u>{Dispositive Motions. Any dispositive motion, such as a motion to dismiss a violation citation, shall be filed with the Court (if by counsel, exclusively by</u>**

**electronic submission in accordance with UTCR 21.240), with copies served on the law enforcement agency employing the issuer of the citation and any counsel for the agency.}**

(3) **{Pretrial discovery disputes and dispositive motions will be heard and decided on the date set for trial unless the Court determines that exceptional circumstances exist.}**

## {16.055 POSTPONEMENTS OF TRIAL}

(1) **{Either a citing officer or recipient of a violation citation may obtain one postponement of a trial setting by submitting a timely written or electronic request to the Court or timely appearing in person before the Clerk of the Court. Requests will be considered timely if received by the Court at least 14 days prior to the trial date.}**

(2) **{Untimely and second or subsequent trial postpone requests may be submitted so long as the request and basis for the request are reasonably clear from the text and context of the submission. Subject to further consideration based on the standards specified in sub-section (c), requests submitted within two days of trial (excluding Saturdays, Sundays and holidays recognized by the State of Oregon) will be presumptively denied. In all events, it is the requesting party's burden to determine, prior to an existing trial date, whether a postponement request has been granted or denied and to appear for the existing trial date unless the request has been granted.}**

(3) **{Untimely and second or subsequent trial postponement requests will be denied except for good cause shown, as determined by a judicial officer.}**

(4) **{Trial postponement requests made in open court on the day of trial may be considered in the discretion of the presiding judicial officer, for good cause shown. The presiding judicial officer may postpone a trial on the judicial officer's own initiative in the judicial officer's discretion.}**

(5) **{When the Court grants a trial postponement, the Court will send the parties a new trial notice as provided in SLR 16.015(2)(a).}**

## {16.065 RELIEF FROM DEFAULT JUDGMENT}

(1) **{General Rule. In accordance with ORS 153.105, the recipient of a violation citation against whom a default judgment has been entered may file a motion to set aside the judgment within a reasonable time after entry of the judgment, not to exceed one year. A timely motion, including the recipient's declaration, will be granted if it demonstrates the entry of default was due to mistake, inadvertence, surprise or excusable neglect.}**

(2) **{Special Rule—Violation Citations Issued Through Electronic Enforcement of the Oregon Vehicle Code}**

(a) **{In accordance with the Court's inherent power to modify a judgment within a reasonable time, and subject to the further requirements of this section, a motion seeking relief from a default judgment entered on a violation citation issued as a result of electronic enforcement of the Oregon Vehicle Code, ORS 810.434 through ORS 810.439, will be granted if the recipient establishes that the recipient lacked notice of the citation prior to entry of judgment and filed the motion under this section promptly after receiving actual knowledge of the citation.}**

(b) **{For purposes of this section, "lacked notice of the citation" means the recipient did not know of the citation and could not have known of the citation through the exercise of ordinary diligence.}**

(i) **{If the recipient's motion is submitted to the Court within one year from entry of the default judgment, the standard specified in this subsection may be met with any credible evidence.}**

(ii) **{If the recipient's motion is submitted to the Court after one year, but within three years, from entry of the default judgment, the standard specified in this subsection may be met with proof of change of residence (up to six months prior to issuance of the citation and up to 60 days after issuance); proof of misappropriation, misdirection or nondelivery of mail; or submission of other clear and convincing evidence.}**

(iii) **{If the recipient's motion is submitted to the Court after three years from entry of the default judgment, the standard specified in this subsection may only be met with a showing of extraordinary and compelling circumstances, including but not limited to continuous incarceration, continuous absence from the jurisdiction or debilitating medical condition.**

(3) **{Procedure}**

(a) **{A motion submitted under this Rule must be in writing. The Court will provide a form which may be completed by the moving party, though any form of submission indicating its purpose and the court case or citation number will be accepted for filing.}**

(b) **{The motion must be accompanied by full payment of any fines and accumulated fees owing on the judgment. This requirement may be waived if the motion is accompanied by evidence of indigence or the recipient presents the motion in-person to a judicial officer and the judicial officer exercises his or her discretion to waive payment.}**

(c) **{<u>A judicial officer will decide each motion submitted in accordance with this Rule and issue an Order reflecting the judicial officer's decision. If the motion is granted, the judicial officer may, in accordance with the Oregon Vehicle Code and the exercise of the judicial officer's discretion, (i) dismiss the case; (ii) enter a not guilty plea and set the case for a trial or identification hearing; or (iii) accept a no contest plea, enter a new judgment of conviction and impose a fine.</u>}**

**[*16.065 VIOLATIONS BUREAU*]**

(1) [*Pursuant to ORS 153.800, The Fourth Judicial District establishes a Violations Bureau.*

(2) *A person may appear in person to pay the Violations Bureau fine, costs and assessments, or make payment by mail.*

(3) *If the cited person appears personally, a form which records the person's appearance and contains a waiver of trial and plea of no contest shall be signed and filed with the Court, pursuant to ORS 153.800(5)(a).*

(4) *The fine and applicable assessment(s) shall be paid immediately and in full at the Violations Bureau, unless the Court approves a deferred payment.*]

**[*16.075 NOTICE OF REPRESENTATION BY ATTORNEY*]**

(1) [*If the defendant is represented by counsel for purposes of a first appearance on the violation, the attorney may file with the court a notice of representation and enter a plea on behalf of the defendant. The notice and plea must be signed by the attorney and the signed original notice must be filed on or prior to the date of the appearance date set on the summons.*

(2) *If a defendant is to be represented by an attorney at trial on a violation, and a notice of representation has not been filed previously, notification in writing of such representation together with proof of service on the prosecuting attorney must be filed. The signed original notice of representation must be filed prior to the date of the trial.*

(3) *Letters submitted for filing under this rule may not be submitted by telephonic facsimile transmission (FAX); all letters should be efiled (UTCR 21.140).*]

**[*16.085 POSTPONEMENTS*]**

(1) [*Arraignment*

(a) *Except for cases cited to appear in Community Court, requests for an order for postponement of an arraignment appearance must be made by personally appearing in court or in written form signed by the party. If the request is made in written form, the request must be received by the Court at least two judicial days prior to the original arraignment date. Prior to the appearance date specified in the summons, the defendant may select one of the options described in SLR 16.025(1) as an alternative to requesting a postponement.*

(b) *Arraignments for cases cited to appear in a Community Court may not be postponed.*

(c) *Personal appearances for the purpose of requesting a postponement of an arraignment must be made at the location specified in the citation.*

(d) *Requests made in written form for a postponement must be delivered for filing to the Circuit Court at:*

*(i) 1021 S.W. 4th Ave, Room 106, Portland, Oregon 97204 for cases cited to appear Downtown court facility; or*

(ii) *18480 SE Stark Street, Portland, OR, 97233 for cases cited to appear in the East County Courthouse.* ]

(2) **[*Court Trials***

(a) *A party's first request for a postponement of a court trial must be made in written form signed by the party and received in the Criminal Calendaring Section at the downtown courthouse, or the East County Courthouse if the violation was filed in the East County Courthouse, more than 14 calendar days prior to the scheduled trial date.*

(b) *Subsequent requests for a postponement of a court trial must be made by personally appearing in court or in written form signed by the party. The motion must demonstrate good cause for the request in order to be granted.*

*(i) If the request is made in written form, the request must be received by the Court at the locations listed in paragraph (1)(d) of this rule more than 14 calendar days prior to the scheduled trial date.*

(ii) *Requests made in person shall be submitted ex parte in courtroom 112 of the Downtown Courthouse, if the case is cited to appear in that facility, at 8:30 am or 1:30 pm, Monday through Friday when court is in session; or in the East County Courthouse, if the case is cited to appear in that facility, at 5:00 pm Monday through Thursday when court is in session.*]

(3) **[*Notice to Parties of Postponement***

*When the court grants a postponement, the court will notify all parties to the action. If the postponement is granted in open court, parties personally present are deemed notified. Any witnesses must be notified of the postponement by the party intending to call the witnesses.*]

**[16.195 SETTING ASIDE DEFAULT JUDGMENTS]**

[*A defendant against whom a default judgment is entered may file a motion for relief from default judgment, within a reasonable time, not to exceed one year. The Court requires a written motion for relief, accompanied by a declaration setting forth facts which demonstrate that the failure to appear or to exercise one of the options described in SLR 16.025, was due to mistake, inadvertence, surprise or excusable neglect. At the time the motion for relief is filed, the defendant must pay to the court the amount of the fine imposed in the judgment. The payment requirement may be waived by the Court for good cause. A motion for relief cannot be filed until the payment is made or waived. The court may rule on the motion without a hearing or may require the defendant to appear and present oral argument.*]

**{16.075 PAYMENT OF FINES}**

(1) **{Any Violation Bureau fine assessed in accordance with ORS 153.800 and SLR 16.015 shall be paid in full within 30 days from entry of judgment.}**

(2) **{In the event a person appears before a judicial officer, at a first appearance or at trial, and a conditional fine is assessed (requiring proof of completion of a traffic safety class, vehicle repair, compliance with law or some other act), the fine shall be paid no later than 30 days after entry of judgment.}**

(3) **{All other fines shall be paid no later than 30 days after entry of judgment.}**

(4) **{The Court, in its discretion and on such terms as the Court may prescribe, may defer the due date for payment of any fine assessed under this Chapter.}**

# CHAPTER 17
# PARKING VIOLATIONS

**{17.005 SCOPE}**

(1) **{This Chapter prescribes procedures related to parking citations issued for violation of (a) Title 16 of the Portland City Code, (b) Chapter 15 of the Multnomah County Code, (c) Chapter 4 of the Portland International Airport Rules, (d) Chapter 811 of the Oregon Revised Statutes, (e) Chapter 8 of the Gresham City Code, (f) Chapter 2.14 of the Metro Code; (g) Chapter 30 of the TriMet Code, and (h) such other citations as the Court may specify by Order.}**

**{17.015 OPTIONS AFTER RECEIVING A PARKING CITATION}**

(1) **{The registered owner of a vehicle cited for a parking violation within the scope this Chapter shall exercise one of the following options within 60 days from the date notice of the citation is mailed:}**

(a) **{Submit payment in the amount of the bail indicated on the citation including citation number and vehicle license plate number with the payment. Payment made under this subsection will close the matter.}**

(b) **{Submit a request for Bail Reduction on Parking Citation on qualifying violations, along with a meter receipt valid at the time of the cited violation and with payment of the reduced bail amount in full. The form for Bail Reduction on Parking Citation and instructions are available on the Court's website. Submission of this form and the reduced bail or fine amount is a waiver of the right to a court hearing. The violations qualifying for bail reduction with valid meter receipt are:**

(i) **16.20.445 Improper Display Parking Meter Receipt**

(ii) **16.20.430(A) No Meter Receipt**

(iii) **16.35.130 Upper NW No Meter Receipt**

(iv) **16.35.130(D) Upper NW Short-term Meter No Meter Receipt}**

(c) **{A written plea may be submitted with a statement or explanation, provided that the recipient includes payment of the full bail with the plea or indicates that the recipient is indigent and cannot pay the full bail. After consideration of the statement or explanation and any other documentation and pertinent information the Court shall enter a finding and impose bail if applicable. Submission of a written plea is a waiver of the right to a court hearing.}**

(d) **{Submit a plea of not guilty and request a trial. To secure the recipient's appearance at trial, all trial requests must be accompanied by payment in a sum equal to the bail indicated on the citation, except as provided by SLR 17.020(4). }**

(2) **{Deferral or Waiver of Security Payment for Trial. The recipient of a parking citation who timely enters a not guilty plea and requests a trial may further request that payment of security in the sum equal to the fine indicated on the citation be deferred or waived, in whole or in part. The request must be made in person or in writing within 30 days from the date notice of the parking citation is mailed. Such requests may be granted by a judicial officer based on a showing of indigence or other good cause.}**

**[*17.015 PARKING CITATIONS - DEFENDANT'S APPEARANCE*]**

(1) [*A person receiving a parking citation has three options to appear:*

(a) *Plead No Contest by paying in full the bail indicated on the citation, either by paying on-line, mailing or personally delivering the payment, together with the citation, to the Multnomah County Courthouse. All payments in full must be received within 30 days of the date of violation.*

(b) *Mail to the Multnomah County Courthouse the full amount of the bail applicable at the time of the request, together with the citation and a letter of explanation and requesting a judge to make a determination. An appearance by sending a letter of explanation that does not include a request for a court hearing is a waiver of the defendant's right to a court hearing and consent to any judgment rendered. The court may refund the bail or forfeit all or part of it.*

(c) *Request a court hearing either by making the request in a letter mailed to the Multnomah County Courthouse or by personally appearing at the Parking Section of the Criminal Division located in the Multnomah County Courthouse. All such requests must be accompanied by a check or money order for the full amount of bail applicable at the time of the request. Bail is forfeited if the person fails to appear at the hearing.*

(2) *The bail amount set on a parking citation will double if the defendant has not appeared in a manner indicated by this rule and a default judgment is entered. A partial payment of the bail does not constitute an appearance under this rule.*

(3) *An Order for impoundment of a vehicle may be issued in the manner set forth in SLR 17.035 if the defendant does not appear in a manner indicated in this Rule.*]

## 17.025 DISMISSAL OF A PARKING CITATION BEFORE TRIAL

(1) The Presiding Judge or the Chief Criminal Law Judge may dismiss parking citations without the appearance of the defendant in the following instances:

(a) The parking citation was issued prior to release of title interest and transfer of possession of the vehicle to the new owner, but the new owner is named as the defendant on the notice of delinquency, the new owner will be dismissed from the parking offense without a hearing. However, the new owner's failure to submit an application for title to the Department of Transportation within 30 days of the transferor's release of interest shall not be grounds for summary dismissal of the citation and an appearance shall be required;

(b) The parking citation was issued subsequent to the release of title interest and transfer of possession to the new owner but the named defendant on the notice of delinquency is the prior registered owner. A prior owner who provides documentation described in SLR 17.025(3), below, will be dismissed from the parking offense.

(c) There was no vehicle license number or other registration number written on the citation;

(d) The vehicle license number written on the citation does not correspond to the vehicle registration information filed with the Motor Vehicles Division;

(e) The mechanical parking space meter at which an overtime parking citation was issued was defective, according to the City of Portland's Office of Transportation;

(f) No violation is indicated on the parking citation;

(g) The parking citation was issued to a vehicle that was reported to the police as stolen within 24 hours of the date and time listed on the citation or was issued on a date when the status of the vehicle remained listed as stolen, and a stolen report was on file with the Police Bureau;

(h) A parking citation was issued to a vehicle on government business of such urgency that the driver was prevented from complying with parking regulations. The driver must sign an affidavit describing the urgent circumstances, and the department owning the vehicle must verify that the vehicle was on urgent government business;

(i) The Court received a special written report from the issuing officer or Parking Patrol deputy explaining that there was no basis for the parking citation and requesting that it be dismissed; or

(j) The exemption or privilege in ORS 811.635 for the holder of a disabled person parking permit is applicable to the type of parking offense cited and the registered

owner or other recipient of the ticket provides proof to the Clerk of the Court of a valid disabled person parking permit at the time of the violation. This includes:

(i) Overtime tickets[*, or tickets for parking in a metered space without paying,*]**{both metered and timed zones),}**unless the zone allows parking for only 30 minutes or less or is subject to the restrictions under Portland City Ordinance 16.20.640 (Metered Districts) ; or

(ii) Parking in a disabled zone pursuant to ORS 811.615(1)(a); or

(iii) Disabled zone parking offenses cited under Portland City Code 16.20.250 if a disabled person was being transported; or

(k) A parking citation was issued for unlawful use or misuse of a disabled person parking permit for parking in a manner that would otherwise be a privilege for a permit holder and the registered owner or other recipient of the ticket provides proof to the Clerk of the Court of renewal of an expired disabled person parking permit.

(2) The Presiding Judge or the Chief Criminal Law Judge may dismiss the parking citations listed in SLR 17.025(1) by signing a list containing the license numbers of the vehicles and the reasons for the dismissals.

(3) When a parking citation is subject to dismissal under SLR 17.025(1)(A) or (B), above, the person receiving the notice of the citation must bring the parking citation(s) and relevant documents relating to the transfer of the vehicle, including title, bill of sale or contract and vehicle registration if available, to the Parking Section of the Criminal Division. Proof that the prior owner notified the Department of Transportation of the transfer of the vehicle as required by Oregon law, together with proof of delivery of possession of the vehicle and assignment of title to a transferee, shall exempt the prior owner from liability for the parking of the vehicle by another person, provided the date of issuance of the parking citation is subsequent to the date of transfer of the vehicle reported by the prior owner.

(a) In all cases, the Presiding Judge or the Chief Criminal Law Judge may order a hearing to prevent abuse of the summary dismissal proceedings.

**{17.035 DOUBLING OF PARKING BAIL}**

**{If, within 30 days of the date notice of citation was mailed to the vehicle's registered owner, the registered owner has failed to exercise one of the options provided in SLR 17.015, the amount of the bail associated with the citation will immediately double.}**

**[*17.035 TOWING AND IMPOUNDMENTS*]**

(1) [*The Court may order a vehicle towed and impounded if the registered owner or any other person, has not paid the bail accrued on the parking citation in full, including all amounts that have accrued after the first 30-day period, or posted bail in full and requested a hearing. The Court order for towing and impoundment of the vehicle may be issued 60 days after the date on which the notice of delinquent parking citation is mailed to the registered owner or 90 days following filing of the citation if a registered owner cannot be determined. The towing and impoundment order attaches to the vehicle for which it is issued in rem, as the instrumentality of the parking offenses, and will not be removed until further order of the court.*

(2) *Requests for a court hearing on the validity of a parking citation after receipt of an impoundment notice, or after impoundment, must be made personally at the Multnomah County Courthouse. All requests must include the posting of the total amount of the financial obligations against the vehicle for parking citations that are unpaid in full or in part applicable at the time of the request, unless waived by a judge.*

(3) *Subsequent Bona Fide Purchaser for Value Hearing on Impounded Vehicle*

(a) *A subsequent bona fide purchaser for value of a vehicle that is towed and impounded under an order of the court for unpaid financial obligations which all relate to the prior owner of the vehicle, other than citations incident to the towing, may request an ex parte hearing to apply for an order for the release of the vehicle from the impoundment order without complying with the requirement of section (2) of this rule. The person requesting the hearing must provide to the court at the hearing the documents supporting the claim that the person is a bona fide purchaser for value relating to the transfer of the vehicle, including title, if available, bill of sale or contract stating the purchase price for the vehicle and proof that the purchaser has registered and titled the vehicle in the purchaser's name in the appropriate jurisdiction as required by statute and proof that a fair market price was paid for the vehicle. Proof of payment consists of a negotiated bank check payable to the seller (or a bank image of such a check), endorsed by the seller and drawn on the checking account of the purchaser or such other proof of payment as the court may find acceptable. In addition to documentation of the purchase and transfer, the person must provide evidence that the transfer of ownership on the sale was not a transaction between parties with a shared interest in avoiding the towing and impoundment of the vehicle and the financial liability due on the outstanding parking citations. Transfers of vehicles for no value or between family members or individuals who share or have shared a residential address will raise a rebuttable presumption that the transfer or purchase of the vehicle was to avoid the financial obligations due on the parking citations for which the vehicle was impounded and was not a bona fide purchase for value.*

(b) *An ex parte hearing requested under this rule will be conducted as soon as is possible and within two business days. Following the hearing, the court may release the vehicle to the subsequent bona fide purchaser for value without requiring payment of the outstanding financial obligations by the prior registered owner arising from unpaid parking citations owed on the vehicle. If the court denies relief under this section, then the person may only proceed under section (2) of this rule for a hearing.*

(c) *The release of the vehicle under this rule will not address any other financial obligations arising from the towing and impoundment of the vehicle owed to third parties or the rights of the subsequent bona fide purchaser for value against a prior owner of the vehicle.*

(d) *A release without payment of the financial obligations due on the vehicle under this section does not remove the duty of any prior registered owner or defendant to pay those unpaid financial obligations for parking citations incurred in the ownership or use of that vehicle. The release only dissolves the court's hold on the vehicle and removes it from further orders for towing or impoundment based on the citations issued prior to the sale of the vehicle to the person given relief under this process.*]

**{17.045 DISMISSAL OF CERTAIN PARKING CITATIONS; RE-ISSUE}**

**{At the request of the recipient, the issuing agency or on the Court's own initiative, parking citations may be dismissed by the Court only as prescribed by this Rule, subject to the issuing agency's or the Court's authority to re-issue the citation to another party.}**

(1) **{Requests for dismissal must be presented by the recipient or interested third-party within a reasonable time, but in no even more than one year, from issuance of the parking citation.}**

(2) **{Requests for dismissal may be made in writing by mail (or equivalent form of delivery) or in-person.}**

(3) **{A recipient or interested third-party need not pay the bail or post security pending resolution of a request for dismissal. If the request is denied, the recipient must then proceed in accordance with SLR 17.015. On open, pending cases, the date the request is denied will be deemed to be the issuance date of the challenged parking citation for purposes of applying SLR 17.015 and SLR 17.035.}**

**[*17.045 NOTICE OF REPRESENTATION BY AN ATTORNEY*]**

[*An attorney representing a person in a parking citation case must notify the Court in writing of the representation at least seven days before the date of trial.*]

**[*17.055 POSTPONEMENTS AND OTHER MOTIONS*]**

(1) [*When requested at least 14 days prior to the scheduled trial date for a parking citation, a person may obtain a single postponement of the court hearing. Such requests may be made in writing or by appearing personally at the Parking Section of the Criminal Division. The person making the request must state a reason for the postponement.*

(2) *Additional postponement requests must be decided by the Court and will only be granted if good cause is shown. The request must be in writing and state the reasons relied on for the request. Such requests must be received by the Court at least 14 days prior to the scheduled hearing date. At its discretion, the Court may require an appearance, oral argument, and the presentation of evidence on a motion for postponement.*

(3) *At any time before the trial date, the person cited, whether or not represented by counsel, may withdraw a not guilty plea or remove the case from the court docket by following the procedure for mail pleas set out in SLR 17.015. The Court will notify the police officers, the parking enforcement deputies and volunteers and the District Attorney, when appropriate.*

(4) *A person whose car has been ordered impounded by the Court may appear personally at the Parking Section of the Criminal Division and request that the matter be placed on the Traffic Court Calendar. Bail is required unless waived by a judge.*]

**[*17.065 HEARING PROCEDURE IN PARKING CITATION CASES*]**

(1) [*In trial, the judge may take an active role in questioning the witnesses to insure substantial justice will be done.*

(2) *Jury trials are not permitted in parking citation cases.*

(3) *Parking citations issued against a particular defendant's vehicle may be consolidated for trial only at the discretion of the Court.*]

**[*17.067 FAILURE TO APPEAR*]**

(1) [*The registered owner of a vehicle for which a parking citation is issued, is required to appear, as described in SLR 17.015, above, on the cited offense. If the registered owner of a vehicle for which a parking citation has been issued, or any other person, fails to appear to answer the citation, the court may, after notice to the named defendant, enter a default judgment against the defendant 60 days from the date of the notice. The notice of citation mailed to the named defendant will indicate the length of time before which the court will make a finding on the citation based on available evidence, without a hearing, and enter judgment thereon. If the determination is one of conviction, the court may impose a sentence of a fine up to*

*the maximum amount allowed by law and may order the impoundment of the vehicle listed on the citation to enforce the collection of the fine. Citations may also have collection and late fees added to the financial obligations to be paid and be assigned for collection. Unless otherwise ordered by the court, a judgment of conviction on the parking citation shall be entered against the registered owner of the vehicle.*

(2) *A defendant against whom a judgment is entered under subsection (1) of this section may file a written motion for relief from default judgment within a reasonable time, not to exceed one year. An accompanying affidavit must set forth facts demonstrating that the failure to appear on the citation in a manner set forth herein was due to mistake, inadvertence, surprise or excusable neglect. At the time the motion for relief is filed with the court, the defendant must post bail in the amount of the fine imposed in the judgment. The bail requirement may be waived by the Court for good cause. A motion for relief cannot be filed until the bail is posted or waived by the Court. The Court may rule on the motion without a hearing or may require the defendant to present oral argument, and may grant or deny relief from the default judgment.*]

**{17.070 PRETRIAL AND TRIAL PROCEEDINGS}**

(1) **{Appearances. The recipient of a parking citation may be represented by counsel. At the discretion of the judicial officer, another individual willing to accept financial responsibility for the case may be allowed to appear to address the case.}**

(2) **{Notices. Once trial has been scheduled in accordance with SLR 17.015(d), the Court will issue a trial notice to the registered owner and to the law enforcement agency that issued the parking citation. Notice will also be sent to the recipient regarding the doubling of any bail under SLR 17.035 and the entry of a default judgment under SLR 17.105. Any notice to the registered owner will be sent to the address of the registered owner as provided by the Department of Motor Vehicles, or to an updated mailing address provided to the Court either by the registered owner or the US Postal Service.}**

(3) **{Trial Postponements. The issuing officer and the recipient of the citation are each permitted one postponement of the scheduled trial date. A permissible postponement must be requested in writing, or presented in-person, to the Court more than 14 days prior to the scheduled trial date. Second (and subsequent) or untimely postponement requests will be summarily denied absent extraordinary circumstances found by the Court in its sound discretion.}**

(4) **{Trial Cancellations. In the event (a) of a dismissal granted in accordance with SLR 17.025,or (b) the recipient elects to change a previously entered "not guilty" plea and proceed instead in accordance with SLR 17.015(a), (b), or (c), a previously scheduled trial will be cancelled by the Court.}**

(5) **{Trials. At trial, the judicial officer will consider the testimony of the parties, any photographic or documentary evidence submitted by the parties and such other material as the judicial officer deems relevant to the case. The registered owner and any witnesses may appear by declaration with the written submission substituting for in-person testimony. The submission of a declaration constitutes a waiver of the right to appear in person and an agreement to pay any bail assessed in accordance with SLR 17.905. After consideration of all the evidence, the judicial officer will either (a) make a finding of not guilty, enter a judgment of acquittal and dismiss the case, or (b) make a finding of guilty, enter a judgment of conviction and assess a bail in accordance with SLR 17.905.}**

## {17.105 DEFAULT JUDGMENTS; MOTIONS TO SET ASIDE DEFAULT}

(1) **{Entry of Default Judgment. If, within 60 days from the notice of a parking citation (or other counting date prescribed by this Chapter), the vehicle's registered owner or other interested party fails to exercise any of the options prescribed in SLR 17.015, or if a party who has requested a trial fails to appear at the scheduled date and time, the Court may immediately enter a judgment of conviction by default against the recipient in an amount determined in accordance with SLR 17.905. Thereafter, the Court may assess additional late fees, administrative fees and collection fees, as permitted by law, until the balance due is paid in full.}**

(2) **{Motion to Set Aside Default Judgment.}**

(a) **{A person against whom a default judgment has been entered may file a motion with the Court requesting that the judgment be set aside. Any written correspondence submitted to the Court requesting that an existing default judgment be voided or revised will be treated as a motion to set aside the default conviction.}**

(b) **{Any motion to set aside a default judgment must be filed within a reasonable time after entry of judgment. The motion must be in writing and be accompanied by payment of the full amount due, including all accrued fees. Payment may be waived, in whole or in part, on a showing satisfactory to a judicial officer that the person is indigent. A motion to set aside a default judgment filed more than one year after entry of judgment shall not be granted unless a judicial officer determines that good cause for the delay has been shown.}**

(c) **{Any motion to set aside a default judgment and accompanying declaration or affidavit must provide facts establishing mistake, inadvertence, surprise or excusable neglect as those terms are used in ORCP 71.}**

(d) **{The judicial officer's ruling on a motion to set aside a default judgment may include (i) reducing the original bail (with or without setting aside the underlying judgment), (ii) setting the matter for trial in accordance with this Chapter, (iii) accepting a plea of guilty or no contest and assessing a new bail in**

**accordance with SLR 17.905, or (iv) dismissing the case in accordance with SLR 17.025.}**

**{17.905 ASSESSMENT OF BAIL}**

**{On a finding of guilty for a parking violation, after consideration of a mail plea, after trial or by default, a judicial officer may assess a bail in any amount permitted by the legal authority under which the parking citation was issued. Alternatively, the judicial officer may impose no bail and enter a sentence of discharge, except as prohibited by statute. In the event the judicial officer imposes bail in excess of the amount indicated on the parking citation or the doubled amount calculated in accordance with SLR 17.035, the Court shall schedule a hearing upon request of recipient, to permit the recipient to show cause, if any, why the excess bail should not be imposed.}**

**{17.915 PAYMENT OF BAIL}**

(1) **{If payment of any bail was deferred or waived prior to entry of judgment or if the amount of bail deposited is less than the bail assessed in the judgment, the bail or remaining amount of the bail shall be due 30 days after entry of judgment. Thereafter, the Court may assess additional late fees, administrative fees and collection fees, as permitted by law, until the balance due is paid in full.}**

(2) **{If the amount of bail deposited is greater than the bail assessed in the judgment, the excess will be refunded to the party who paid the bail.}**

**{17.955 TOWING AND IMPOUNDMENT}**

(1) **{Standard for Issuance of Tow Order. The Court may issue an order permitting a vehicle to be towed and impounded if (a) the vehicle has been issued at least six parking citations that remain unpaid after doubling in accordance with SLR 17.035, or (b) at least $500 in accrued bail and fees are owed on judgments attributable to parking citations issued to the vehicle. This standard may be amended from time to time by Order of the Presiding Judge.}**

(2) **{Tow Orders *In Rem*. An Order issued in accordance with this Rule is *in rem*, or directed towards the vehicle that was cited for parking violations when the assessed bail on those citations remains unpaid. Subject to the provisions of subsection (3) of this Rule, a vehicle may be towed and impounded without regard to transfer(s) of title to the vehicle.}**

(3) **{Outstanding Citations and Requests for Release.}**

(a) **{Any contrary provisions of this Chapter notwithstanding, once a vehicle has been towed and impounded in accordance with this Rule, any parking citations that have been issued to the vehicle but remain unadjudicated must be addressed according to SLR 17.015 prior to release of the vehicle.}**

(b) **{If an in-person hearing is requested to release a vehicle towed and impounded in accordance with this Rule, the hearing shall be held within two business days of the request. Subject to the further provisions of this Rule and any other conditions imposed by the judicial officer considering the release request, all outstanding fees and bail owing, plus bail on all unadjudicated parking citations for which the recipient has entered a not guilty plea and requested trial, must be paid in full as a condition of release. The judicial officer considering the release request may waive payment, except with respect to such amounts owing on account of previously adjudicated citations which have been transferred to the Oregon Department of Revenue or other third party for collection. Any payment waiver granted under this subsection is limited to release of the vehicle and does nothing to limit the underlying financial obligation of any person liable for payment of these financial obligations.}**

(c) **{A person requesting release of a vehicle towed and impounded in accordance with this Rule who establishes with substantial evidence that (i) the person is a bona fide purchaser for value of the vehicle and (ii) all citations that resulted in the tow and impoundment (other than a citation issued contemporaneous with the tow itself) were issued prior to the date of purchase, need not make the payment required by subsection (3)(b) of this Rule as a condition of the vehicle's release at the discretion of a judicial officer.}**

(d) **{In order to satisfy the requirements of subsection (3)(c) of this Rule, the person requesting release of a vehicle as a bona fide purchase for value must provide documentation satisfactory to the judicial officer including, without limitation, (i) bill of sale or equivalent documentation signed by the seller and the purchaser, (ii) proof of registration and title in the name of the purchaser, (iii) proof of fair market value at the time of purchase, and (iv) proof of payment of fair market value to the seller. In the event the transfer is between family members, spouses, cohabitants, business associates or others who, in the opinion of the judicial officer, share an interest in avoiding the towing and impoundment of the vehicle or payment of the underlying financial obligations, there shall be a rebuttable presumption that the transfer is not a bona fide purchase for value which may only be overcome by clear and convincing evidence. Nothing in this subsection or in subsection (3)(c) of this Rule should be construed to limit or otherwise address any financial obligations owed to third parties arising from the towing and impoundment of the vehicle or the rights of the bona fide purchaser against the seller or others.}**

(e) **{The party requesting release of a vehicle through an in-person hearing with a judicial officer must provide the following:}**

(i) **{a valid driver's license (with intact driving privileges);}**

(ii) **{current automobile liability insurance in the driver's name or in the name of the vehicle's registered owner;}**

(iii) **{current vehicle registration or DMV temporary trip travel permit;}**

(iv) **{if the person seeking release is other than the registered owner, a notarized authorization from the registered owner authorizing release to that person or another identified individual. If the authorization is to another individual, that person must provide their valid driver's license (with intact driving privileges).}**

(4) **{Limited Release for Personal Property. In lieu of or preliminary to release of the vehicle under section (3) of this Rule, a judicial officer may order release of personal property contained in the vehicle on such terms and under such conditions as the judicial officer may impose.}**

## CHAPTER 18
## FORCIBLE ENTRY AND DETAINER (FED)

### 18.015 STAY OF DEFAULT, FED *EX PARTE* TIME

A party seeking to set aside a default judgment in an FED proceeding must obtain a judicial order to stay the judgment pending disposition on the motion to set aside the default. Motions for stay must be presented at FED *ex parte* proceedings in courtroom 120 at 8:30 am on each judicial day.

### 18.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS

All documents filed on contempt matters involving remedial sanctions must comply with SLR 19.021 requiring that such documents be filed separately from those addressing other matters in the underlying case.

### 18.025 AUTHORIZED AGENTS

An agent shall be designated by any organization filing an FED. The designated agent may be ordered to appear before the court and answer questions regarding the assets and debts of the organization.

### [*18.035 MEDIATION IN FED FIRST APPEARANCES*

*If an FED case is not resolved by the parties at first appearance, parties may be required to participate in mediation orientation before the case is set for trial.*]

### 18.045 PAYMENT OF ADDITIONAL FILING FEES FOR TRIAL DEMAND

(1) If a defendant makes a demand for a trial under ORS 105.137 at the time of the first appearance, the filing fees required to be paid under ORS 105.130 (3) and (6) shall be paid no later than 5:00 pm of the same judicial day unless otherwise ordered by the court. [*No trial will be scheduled in the action until the required fees are satisfied.*]

(2) Failure of the plaintiff to pay the fee required [*will*] **{<u>may</u>}** result in dismissal of the action.

(3) Failure of the defendant to pay the fee required may result in a judgment by default against the defendant.

### 18.055 SEE SLR 7.045 FOR MOTION FOR CHANGE OF JUDGE

### 18.065 SEE SLR 7.055 FOR CALL/ASSIGNMENT

**18.075 SEE SLR 7.055(7) FOR ABATED AND STAYED CASES**

**18.085 SEE SLR 7.055(8) FOR DUTY OF ATTORNEY AT CALL/ASSIGNMENT**

**18.095 SEE SLR 15.095 FOR REQUESTS TO POSTPONE HEARINGS**

# CHAPTER 19
# CONTEMPT PROCEEDINGS

## 19.021 ALL DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS

All documents filed on contempt matters involving remedial sanctions shall be separate from documents addressing other matters in the underlying case. This rule applies to motions, affidavits, proposed orders, judgments, and any other document regarding the contempt matter.

# CHAPTER 20
# RESERVED FOR EXPANSION

# CHAPTER 21
# RESERVED FOR EXPANSION

# CHAPTER 22
# RESERVED FOR EXPANSION

# CHAPTER 23
# RESERVED FOR EXPANSION

# CHAPTER 24
# OREGON eCOURT IMPLEMENTATION

## 24.201 ELECTRONIC DOCUMENTS

(1) Depending on the context, as used in these rules, "document" refers to an instrument in either paper or electronic form.

(2) Documents that are electronically filed or manually imaged, including those to which judicial signatures have been added, and documents generated in electronic format by the court are the official court record.

## 24.202 ELECTRONIC COURT SIGNATURES

The court may issue judicial decisions electronically and may affix a signature by electronic means.

(1) The trial court administrator must maintain the security and control of the methods for affixing electronic signatures.

(2) Only the judge and the trial court administrator, or the judge's or trial court administrator's designee, may access the methods for affixing electronic signatures.

## 24.203 COMBINED MOTION AND ORDER DOCUMENT NOT PERMITTED

Notwithstanding UTCR 2.010(12)(c) or any other Supplementary Local Rule, a motion and order may not be submitted as a single document. If a motion and corresponding proposed order are electronically filed, the order must be submitted as a separate document from the motion.

## 24.205 BINDING DOCUMENTS; USE OF STAPLES PROHIBITED

(1) Pleadings and documents submitted to the court for filing that are not electronically filed must be bound by paperclip or binder clip and must not contain staples.

(2) If a document to be filed includes one or more attachments, including but not limited to a documentary exhibit, an affidavit, or a declaration, then

(a) the document and each attachment must be separately bound by paperclip or binder clip, and

(b) the attachment or attachments must be bound in one packet to the document being filed by paperclip or binder clip.

(3) Subsection (2)(a) does not apply to an attachment to a motion to strike filed under UTCR 5.020(2) or an attachment to a motion for leave to amend a pleading filed under UTCR 5.070. An attachment of either type must be bound in one packet to the document being filed by paperclip or binder clip.

## 24.501 STIPULATED OR *EX PARTE* MATTERS MAY BE ELECTRONICALLY FILED

(1) Except as provided in subsection (2) of this rule, any stipulated or *ex parte* matter may be electronically filed for purposes of submitting to a judge for signature.

(2) SLR 2.501 is reserved for judicial districts to adopt a local rule regarding specific stipulated or *ex parte* matters for which the documents must be presented conventionally and may not be electronically filed.

## 24.601 SUBMISSION OF REQUESTED JURY INSTRUCTIONS AND VERDICT FORMS

The original of the requested jury instructions and verdict forms must be submitted to the court. The court also may require that a party submit a copy of the jury instructions and verdict forms, in the manner and time that the court specifies.

## 24.801 ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT; DOCUMENTATION FOR DEPARTMENT OF JUSTICE, DIVISION OF CHILD SUPPORT

Notwithstanding UTCR 8.010(8), parties who have been requested to submit a proposed judgment need not submit a copy of the proposed judgment and the most current confidential information form(s) to the court.

## 24.901 DELIVERING PROBATE MATERIALS TO THE COURT, NO SELF-ADDRESSED, STAMPED ENVELOPE OR POSTCARD IF DOCUMENT ELECTRONICALLY FILED

UTCR 9.010 does not apply to an electronically filed document.

# FORMS APPENDIX

The following forms are referred to in the Supplementary Local Rules. They can be photocopied or reproduced in your own word processing system. Please follow as closely as possible the format of the form. Where indicated, please be sure to provide the required number of copies for processing.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH
1021 SW 4TH AVENUE, PORTLAND OR 97204

_____
Plaintiff(s)

vs.

_____
Defendant(s)

Case No. _____

**CERTIFICATE OF ALTERNATIVE DISPUTE RESOLUTION**

**PURSUANT TO** Multnomah County SLR 7.075:

The parties signed below certify that they have complied with the rule by participation in arbitration, mediation, a judicial settlement conference, or some other form of appropriate dispute resolution. The parties participated in the following forms of dispute resolution (check any that apply):

☐ Judicial Settlement Conference

☐ Arbitration

☐ Mediation

☐ Other _____

Signatures and Date of Signing

| | | | |
|---|---|---|---|
| Party | Date | Party's Attorney | Date |
| Party | Date | Party's Attorney | Date |
| Party | Date | Party's Attorney | Date |
| Party | Date | Party's Attorney | Date |
| Party | Date | Party's Attorney | Date |
| Party | Date | Party's Attorney | Date |
| Party | Date | Party's Attorney | Date |

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH
1021 SW 4TH AVENUE, PORTLAND OR 97204

_____
Plaintiff(s)

vs.

_____
Defendant(s)

Case No. _____

**EX PARTE MOTION FOR SEVERANCE OF PARTY AND ABATEMENT**

A party in the above case cannot proceed for the following reason:

- ❑ Bankruptcy; a copy of the petition or notice of bankruptcy is attached
- ❑ Other: _____

_____

_____ moves to sever _____ from the case
(Plaintiff/Defendant)
and abate the case as to said party for _____ (days/years) (not to exceed two years), and continue the case as to the remaining parties.

---

I certify to the court that I have complied with SLR 5.025(3) regarding one judicial day's notice of an ex parte appearance to opposing parties, that I will appear at Call as required by SLR 7.055(8)(A), and will comply with UTCR 7.040 and give the court **immediate notice of resolution of this matter**.

_____
Date

_____
Signature

_____
Name Typed or Printed and OSB Number

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH
1021 SW 4TH AVENUE, PORTLAND OR 97204

| | |
|---|---|
| _____ Plaintiff(s) | Case No. _____ |
| vs. | **ORDER RE: MOTION FOR SEVERANCE OF PARTY AND ABATEMENT** |
| _____ Defendant(s) | |

**IT IS HEREBY ORDERED** that _____ is hereby severed from this lawsuit and the case is abated as to said party for a period of _____ days/years (up to two years) from this order.

**IT IS FURTHER ORDERED** that this action shall be dismissed without prejudice as to such party at the expiration of this order and following notice of intent to dismiss pursuant to ORCP 54B(3), unless the abated party is returned to the status of an active party by an order of reinstatement, or otherwise resolved by a final judgment as to such party; and

**IT IS FURTHER ORDERED** that the case shall proceed as to the remaining and active parties.

_____ Dated

_____ Circuit Court Judge

_____ Name of Judge Typed or Printed

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH
1021 SW 4TH AVENUE, PORTLAND OR 97204

_____
Plaintiff(s)

vs.

_____
Defendant(s)

Case No _____

**EX PARTE MOTION FOR REINSTATEMENT**

Plaintiff moves to reinstate this case, which was has been inactive since _____ as to defendant(s) (indicate) _____ or ❑ All, for the following reason:

❑ Abated for Bankruptcy

❑ Abated for Independent Arbitration

❑ Inactive due to Appeal

❑ Other: _____

Plaintiff requests _____ days

---

I certify to the court that I have complied with SLR 5.025(3) regarding one judicial day's notice of an ex parte appearance to opposing parties, that I will appear at Call as required by SLR 7.055(8)(A), and will comply with UTCR 7.040 and give the court **immediate notice of resolution of this matter**.

_____
Date

_____
Signature of Attorney

_____
Name Typed or Printed and OSB Number

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH
1021 SW 4TH AVENUE, PORTLAND OR 97204

_____
Plaintiff(s)

vs.

_____
Defendant(s)

Case No _____

**ORDER RE: MOTION FOR REINSTATEMENT**

**IT IS HEREBY ORDERED THAT** the case is reinstated, and:

❑ Continued under UTCR 7.020, subject to the condition that the plaintiff obtain service on the defendant(s), secure the necessary appearances to place the case at issue, take default judgment(s), or move for further continuance no later than _____
(specify date)

❑ The trial is set for _____

❑ A Trial Readiness Conference will be assigned in the regular course

❑ The final judgment or decree submitted with this motion and order shall be entered forthwith

❑ Other: _____

❑ Denied

_____
Dated

_____
Circuit Court Judge

_____
Name of Judge Typed or Printed

CIRCUIT COURT OF OREGON
Fourth Judicial District
MULTNOMAH COUNTY PROBATE COURT
1021 SW Fourth Avenue, #224
Portland, OR 97204
503/988-3022

# GUARDIANSHIP REPORT

| **Minor's Name:** | **Case Number:** |
|---|---|
| **Minor's Date of Birth:** | **Date of Guardian's Appointment:** |

1. The address of the minor is:_____

2. The telephone number for the minor's residence is:_____

3. The address of the Guardian is:_____

4. The telephone number for the Guardian is:_____

5. How is this household financially supported:_____
_____

6. Is the minor still residing with you? _____yes _____no
If not, tell us with whom the child is living, the relationship of that person to the child, and why the child is no longer living with you: _____
_____
_____
_____

7. How long has the minor lived with someone else? _____

8. Please tell us about the child's school attendance and grades:_____
_____
_____
_____
_____

9. Please list any hobbies or recreational interests enjoyed by this child during the past year:
_____
_____
_____
_____

10. During the past year I have received $_____ from _____ _____to help support this child. I spent $_____ of that income on behalf of this child and I now have $_____ remaining

11. I have (___) / have not (___) been convicted of a crime since my last report.

12. I have (___) / have not (___) filed to receive bankruptcy since my last report.

13. I have (___) / have not (___) had my driver's license suspended or revoked since my last report because of: _____

14. Please provide any other information you feel should be provided to the Court regarding this child's adjustment to your care (use the back of this report form if necessary):_____

_____

_____

_____

"I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury."

Guardian's Signature: _____ Today's Date: _____

Printed Name: _____

If applicable:

Co-Guardian's Signature: _____ Today's Date: _____

Printed Name: _____

RETURN TO: MULTNOMAH COUNTY COURTHOUSE, ROOM 224
1021 SW 4TH AVE., ROOM 224
PORTLAND, OR 97204

*In the Matter of the Guardianship of:* _____

*Case No.* _____

I am the guardian for the protected person named above, and I make the following report to the Court as required by law:

1. My name is: _____
2. My address and telephone number is:

_____
_____
_____

3. The name, if applicable, address and telephone number of the place where the protected person now resides is:

_____
_____

4. The protected person is currently residing at the following type of facility or residence: _____
5. The protected person is currently engaged in the following programs and activities and receiving the following services: _____

_____

6. I was paid for providing the following items of lodging, food, or other services to the protected person: _____

_____

7. The person who is primarily responsible for the care of the respondent at the protected person's current residence is: _____

_____

whose telephone number is: _____

8. The name and address of any hospital or other institution where the protected person is now temporarily or permanently placed is: _____

_____
_____

9. The protected person's physical condition is as follows: _____

_____

10. The protected person's mental condition is as follows: _____

_____

11. I made the following contacts with the protected person during the past year:

_____

12. I made the following major decisions made on behalf of the protected person during the past year : _____
13. I believe this guardianship should/should not (circle one) continue because:

_____
_____

14. I received the following amount of money on behalf of the protected person:

$_____. I spent the following amount of money on behalf of the protected person: $_____. I now hold the following amount of on behalf of the protected person: $_____.

15. A true copy of this report will be given to the protected person and/or his/her conservator, and any other person who has requested notice.

16. Since my last report:

A. I have been convicted of the following crimes (not including traffic infractions:

_____

_____

B. I have filed for or received protection from creditors under the Federal Bankruptcy Code: YES/NO (circle one).

C. I have had a professional or occupational license revoked or suspended: YES/NO (circle one).

D. I have had my driver's license revoked or suspended: YES/NO (circle one)

17. Since my last report, I have delegated the following powers over the protected person for the following periods of time (provide name of person and powers delegated to):_____

"I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury."

_____

(Signature of Guardian)

DATED this _____ day of _____, 20_____

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNY OF MULTNOMAH

PROBATE MEDIATION/SUPPLEMENTAL LOCAL RULES 9.016 AND 12.045

| | | |
|---|---|---|
| IN THE MATTER OF THE<br>_____ | )<br>) | CASE NO. _____<br>NOTICE OF SELECTION OF MEDIATOR AND SETTING DATE FOR HEARING |

| PARTY/ATTORNEY | PARTY/ATTORNEY |
|---|---|
| | |
| | |
| | |
| PHONE NO. | PHONE NO. |
| FAX NO. | FAX NO. |
| E-MAIL ADDRESS: | E-MAIL ADDRESS: |

THE PARTIES HAVE AGREED THAT THE MEDIATOR WILL BE:

NAME _____ OSB# _____
PHONE _____ FAX NO _____
ADDRESS: _____
_____
_____

THE FACTS IN DISPUTE ARE:
_____
_____
_____

CERTIFICATION

I HEREBY CERTIFY THAT THE ABOVE INFORMATION IS ACCURATE AND THAT I HAVE SENT COPIES OF THIS NOTICE TO ALL PARTIES/ATTORNEYS OF RECORD AND THE MEDIATOR.

DATED: _____
Signature of Party/Attorney (OSB#_____

Certified to be a true copy:

_____

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNY OF MULTNOMAH

| | | |
|---|---|---|
| IN THE MATTER OF THE _____ | ) | CASE NO. _____ |
| | ) | MOTION TO WAIVE MEDIATION |

ON BEHALF OF _____, I MOVE TO WAIVE MEDIATION. GOOD CAUSE EXISTS TO WAIVE THE MEDIATION REQUIREMENT IN THIS CASE BECAUSE: _____
_____
_____
_____

CERTIFICATION

I HEREBY CERTIFY THAT THE ABOVE INFORMATION IS ACCURATE AND THAT I MAILED A TRUE COPY OF THIS MOTION TO ALL PARTIES/ATTORNEYS OF RECORD AS FOLLOWS:

| PARTY/ATTORNEY | PARTY/ATTORNEY |
|---|---|
| | |
| | |
| | |

DATED: _____

Signature of Party/Attorney OSB#_____

Certified to be true copy:

_____