

**SUPPLEMENTAL LOCAL RULE
SEVENTH JUDICIAL DISTRICT**

SLR 12.005 MATTERS SUBJECT TO ALTERNATIVE DISPUTE RESOLUTION

(1) The Seventh Judicial District has a mandatory Alternative Dispute Resolution (ADR) program pursuant to ORS Chapter 107 for matters involving disputes over child custody and parenting time, and pursuant to UTCR Chapter 13 and ORS Chapter 36 for other matters, except those excluded under section 12.005(3) of this rule. Litigants may satisfy this requirement by participating in a judicial settlement conference, mediation or arbitration.

(2) Except as outlined in paragraph 12.005(3) of this rule, all cases are subject to this rule when the case is at issue. "At issue" means that the case is ready to be set for trial or, if a party seeks to modify the parenting time or custody provisions of a divorce decree or a judgment establishing paternity, when the case is ready to be set for hearing.

(3) The following cases are excluded from the ADR requirement: FEDs; Probate; Small Claims; Adoptions; Filiation proceedings when the only question is paternity; Support Enforcement matters; Motions to modify child support orders; Juvenile Delinquency and Dependency cases; Criminal cases; Family Abuse Prevention Act restraining orders, issued under ORS 107.700 to 107.732; Elder Abuse Prevention Act restraining orders, issued under ORS 124.005 to ORS 124.040; Temporary Restraining Orders and Preliminary Injunctions under ORCP 79; Expedited Parenting Time Enforcement matters under ORS 107.434; Challenges to Ballot Title Measures; Guardianships; Domestic Relations matters where the parties do not have minor children.

(4) A party may request that a case not exempt under 12.005(3) of this rule be excused from compliance with this rule. The motion must be substantially in the form illustrated in Appendix A and submitted to the judge to whom the case has been assigned, or if the case has not been assigned to a judge, to the presiding judge. If good cause exists, the judge may excuse the case from compliance with this rule.

12.035 Alternative Dispute Resolution Commission

(1) The Seventh Judicial District shall maintain an ADR Commission pursuant to the functions and membership requirements of the Oregon Revised Statutes, Oregon Administrative Rules, the Uniform Trial Court Rules and this rule.

(2) In addition to its other duties, the Commission shall monitor the ADR program, advise the court regarding ADR services, review qualifications and training of arbitrators

and mediators participating in, or seeking to participate in, the court annexed program, establish a compensation schedule applicable to the court annexed cases for arbitrators and mediators, prepare a notice of the availability of ADR, and hire staff or contract with an individual or organization as the Commission deems necessary to coordinate the ADR. The notice of the availability of ADR shall include, in addition to a description of the ADR alternatives, the name and telephone number of the person whom the parties contact to initiate mediation or arbitration and the manner in which the parties select a mediator or arbitrator.

(3) The ADR Commission shall include, at least, the following as members: the presiding judge (hereinafter, all references to “the presiding judge” mean the presiding judge or a judge designated by the Presiding Judge), the Trial Court Administrator, an attorney, a mediator, a court clerk and a lay member. No person who is providing mediation or arbitration services through the court annexed program may be a member of the commission.

(4) The term of appointment to the commission shall be two years. The presiding judge may reappoint a commission member. The presiding judge may remove a commission member at the judge’s discretion.

12.036 ADR Panel Established

(1) There shall be a panel of mediators comprised of mediators who satisfy qualifications and training standards prescribed in OAR Chapter 718 and have been appointed by the presiding judge.

(2) There shall be a panel of arbitrators comprised of arbitrators who satisfy the requirements of UTCR 13 and have been appointed by the presiding judge.

12.037 Appointment to ADR Panel

(1) To apply for inclusion on the ADR panel of mediators and arbitrators, a person must sign and file an application provided by the commission.

(2) The ADR commission shall review each application and make a recommendation to the presiding judge. The commission may require that applicants appear before the commission in person.

(3) The decision as to whether an individual is qualified to be on the panel and the number of panel members shall be made by the presiding judge, after considering the advice of the commission.

(4) The term of appointment to the panel shall not exceed two years. The presiding judge may reappoint a panel member.

12.038 Removal from the ADR Panel

(1) The ADR commission shall monitor the performance of ADR panel members and report to the presiding judge as appropriate.

(2) The presiding judge may remove an ADR panel member from the court panel at the presiding judge's discretion, after considering the advice of the commission.

12.062 Referral to ADR

(1) When a party files a complaint, petition or answer, the court clerk receiving the filing shall provide the party a copy of the notice of the availability of ADR.

(2) When a case is at issue, it shall be the responsibility of the party who initiated the case to contact the court for the purpose of scheduling a judicial settlement conference or to contact the person designated by the commission to initiate mediation or arbitration.

12.085 Assignment of Mediator or Arbitrator and Scheduling

(1) Unless the parties hire a mediator, mediators shall be assigned from the court's panel on a rotating basis. The parties shall select an arbitrator in a manner to be set forth in the arbitration assignment and payment policy, Appendix B.

(2) The mediator or arbitrator shall notify the parties of the date, time, and meeting place of the initial mediation or arbitration session. Additional sessions shall be set at the discretion of the mediator or arbitrator.

(3) The parties may choose, at their option and expense, forms of ADR other than those provided by these rules. Parties entering into private mediation services shall be subject to the same provisions of ORS 36.180 to 36.210.

(4) If the parties elect a form of ADR other than those provided for by these rules, the parties must still comply with the timing and reporting requirements of these rules.

(5) If a party objects to the court annexed mediator or arbitrator, the party may request reassignment to another mediator or arbitrator by filing an affidavit with the presiding judge, or the judge assigned to the case, setting forth good cause for the request. The judge may grant the request if good cause is shown.

12.125 Compensation Of Mediators and Arbitrators

(1) In cases under ORS 107, the commission shall establish a payment schedule. In all other cases, payment of the mediation or arbitration fee is due within 14 calendar days of notice of assignment of an arbitrator or mediator. In such cases, each party shall pay directly to the mediator or arbitrator one-half of the prescribed fee, unless the parties and arbitrator or mediator agree otherwise. In arbitration cases, the arbitrator shall advise the parties of the possibility of a waiver or deferral of the arbitration fee under ORS 36.420(2). Motions to waive or defer arbitration fees shall be submitted directly to the court and ruled upon by the presiding judge.

(2) Excepting cases where fees are waived or deferred pursuant to ORS 36.420(2), if either party fails to pay the prescribed mediation or arbitration fee within 14 calendar days of assignment, the mediator or arbitrator shall report the non-payment to the court in writing to allow the court to determine whether it is appropriate to sanction the party under UTCR 1.090.

12.165 Completing ADR

(1) Any case assigned to mediation or arbitration must complete the mediation or arbitration within 90 days of assignment, unless otherwise ordered by the court.

12.225 Settlement by ADR

(1) The results of mediation or arbitration shall be reported to the court by the mediator or arbitrator as "settled" or "not settled."

(2) Within ten judicial days of reporting a case as "settled," the mediator or arbitrator shall file any written agreement, signed by the parties, with the court and notify the court which party shall be responsible for filing the appropriate motion, judgment or decree with the court.

(3) If the parties are not able to settle a case through mediation, the case will be set for trial and not be required to be arbitrated.

12.275 Good Faith Mediation

(1) Under circumstances not limited to the following, the court may exercise its authority under UTCR 1.090 to impose sanctions against a party.

(a) The party or attorney fails to attend a scheduled mediation session, arbitration hearing or judicial settlement conference.

(b) The party or attorney fails to act in good faith during the mediation, arbitration or judicial settlement conference.

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

(d) The party or attorney fails to have a principal necessary to approve the resolution of a 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 section of the rule.