

CLACKAMAS COURT LAWYERS SURVIVAL GUIDE

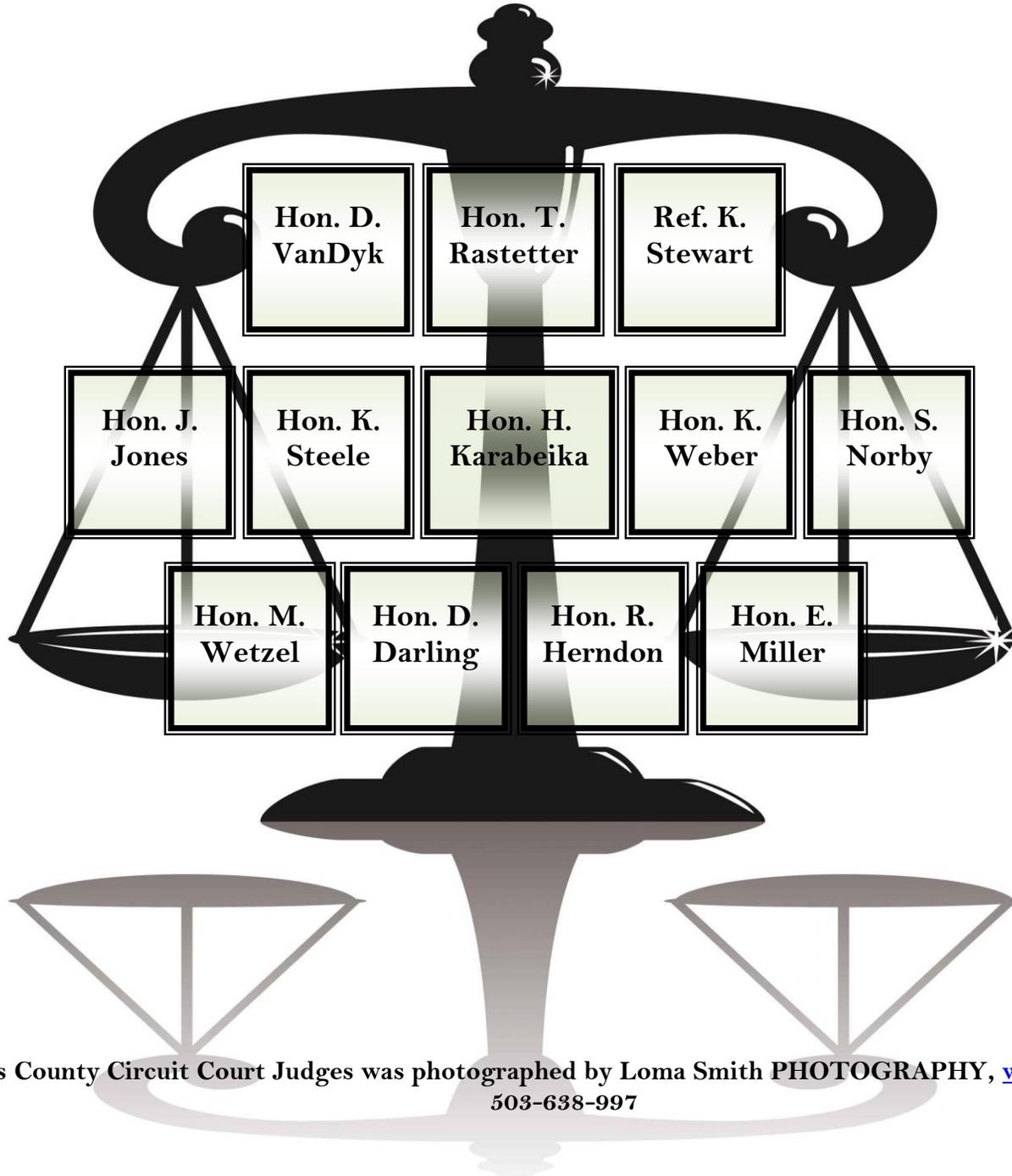
2014



Clackamas County Circuit Court Judges

In order from left to right.

CLACKAMAS COUNTY JUDGES



Clackamas County Circuit Court Judges was photographed by Loma Smith PHOTOGRAPHY, www.lomasmith.com
503-638-997

**Lawyer’s Survival Guide
To The
Clackamas County Courts

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Checklists and other best practice tips found in this packet are guidelines only; it is the responsibility of the attorney, not the court, to ensure that statutory procedures are followed and paperwork is filed properly

ADMINISTRATIVE STRUCTURE



Hon. R. Herndon
Presiding Judge

**Circuit Court
Judges**



Debbie Spradley
Trial Court
Administrator



Gina Setter
Manager



Melissa Parker
Records
Supervisor



Debra Brownlee
Finance Supervisor



Robin Hunting
Civil Case
Supervisor



Bobbi Bauman
Criminal
Supervisor



Jenifer Fisher
Calendaring
Supervisor

RECORDS CENTER

The Record Center is open to the public from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m. Monday through Friday, except holidays. The Records Center is located on the ground floor of the courthouse in Room 12.

In order to properly maintain file integrity:

- Only authorized employees are allowed behind the counter in the file area; and
- Files for ex-parte hearings will be pulled and delivered directly to the assigned courtroom by Records Center staff.

Due to workload and staff responsibilities, it is not possible for records staff to pull a file and count the pages of a document prior to the customer coming in to request a copy. If the file is not in the Records Center when a customer comes to view a file, it also will not be possible for Records staff to locate and retrieve the file.

Location of Files

The court regularly moves files to our offsite facility throughout the year. Please refer to our website located at <http://courts.oregon.gov/Clackamas/courtrecords.page?> for detailed information regarding the location and format (paper, reels, microfilm or imaged) of the case file. Please check the second entry of the case in OJIN to determine if the case has been imaged.

Requesting Files

Files that are maintained onsite and shelved in the Records Center are available for immediate viewing in the Records Center, Room 12. Public computers are available to research case names and numbers.

Files that are maintained at our offsite facility are not immediately available and must be requested by filling out a request form. Generally, files requested from our offsite facility will be available after 9:00 a.m. the following business day. Files requested after 1:00 p.m. will be available after 9:00 a.m. the second business day. The requested file will be held onsite for three judicial days before being returned to our offsite facility. See page 3 for Request to Retrieve File in Storage form. You may also obtain the form on the Court's website located at <http://courts.oregon.gov/clackamas/>. If you would like to call in your request, you may do so by contacting the Records Center at 503.655.8447, select option 5.

Copy Costs

Requests for copies from the court file and other documents are made in the Records Center. Copy costs are as follows:

- \$.25 per page;
- \$5.00 to certify the copy (plus the copy charge); and
- \$10.00 for an exemplified copy + per page copy charge.

We charge additional amounts for staff time and other actual costs when responding to requests that require additional services or more than the normal and reasonable time for routine requests, including:

- Time we spend to locate, compile, and sort requested records, even if we find no records that respond to your request or the records we do find are exempt from disclosure;

- Time we spend to review requested records and redact any exempt material;
- Time we spend to copy requested records;
- Time we spend returning documents to files;
- Time we spend to supervise inspection by the requestor;
- Necessary research time we spend preparing correspondence related to your request; and
- Special copy services and mailing services for documents that are not of standard size or for voluminous requests.

Request To Retrieve File(s) From Off-Site Records Facility	
Case Type	Case Number
<input type="checkbox"/> Felony	
<input type="checkbox"/> Misdemeanor	
<input type="checkbox"/> Traffic	
<input type="checkbox"/> Civil	
<input type="checkbox"/> Domestic Relations	
<input type="checkbox"/> Probate	
<input type="checkbox"/> Small Claims	
<input type="checkbox"/> FED	
Case Name	
Requested by	Name No.
	Company/Unit
	Phone
Today's Date:	Date Needed:

Special Instructions:

** If the request for retrieval is incomplete, your request may not be processed **

**** Records will be held for 3 judicial days ****

Payment Options for Copies of Documents

Clackamas County Circuit Court will accept the following forms of payment:

- Credit or Debit card (Visa, MasterCard or DISCOVER)
- Personal check
- Cashier check
- Money order
- Cash (**DO NOT** send cash through the mail)

Note: Two party checks not accepted.

Public Record Request

The Public Records Request Procedure applies to all requests to inspect or copy public records, except for routine requests made in person to:

- Court Records Center staff; and
- Inspect current case records that are not confidential or otherwise exempt from disclosure or for uncertified copies of pages from those records.

If you are unable to come to the courthouse, you can request records by mail using the Public Records Request Form and by following the Clackamas County Circuit Court Public Records Request Procedure, both of which are available on our website at <http://courts.oregon.gov/clackamas/>.

The following information is required in order to process your request for copies from a Clackamas County Circuit Court case file:

- Case name;
- Case number;
- List of document(s) you want copied and whether certification and/or exemplification is requested and for which document(s);
- Check to cover the cost of copying;
- Self-addressed stamped envelope large enough to return the copies to you (a #10 envelope can hold approximately 5 pages; 6”x 9” envelope can hold approximately 25 pages);
- E-mail address; and
- Mail your request to: Clackamas Courts, 807 Main Street, Room 12, Oregon City, OR 97045.

Payment Options for Copies Requested by Mail

Clackamas County Circuit Court will accept a personal check, cashier check, or money order for requests submitted through the mail. If you do not know the exact number of copies to be made, send a blank check made payable to the *State of Oregon*, and the in the memo line, write “*Not to Exceed*” and an amount you believe will cover the cost of the copies. Records staff will then fill in the exact amount and send the receipt, along with the copies, in the self-addressed, stamped envelope you have provided for that purpose.

Please note: If you choose to send a check with an exact amount please be aware that if the difference in the amount for the copying charge is \$4.99 and under the court will not issue a check for the difference; if the difference in the amount for the copying charge is \$5.00 and over the court will issue a check to you for the difference. It can take up to 30 days for the court to issue the refund check. **NOTE:** Failure to comply with the above requirements may result in your request being returned to you.

EXHIBITS

Handling and retention of exhibits is governed by Oregon Revised Statutes 7.120 and 133.623, and Uniform Trial Court Rules, Chapter 6. If you still have procedural questions after reviewing the following, please contact Records Supervisor, at 503-655-8447, press 5

Exhibits Retained by the Court

The Court follows UTCR 6.120(1) in determining when an exhibit must be retained by the Court pending final disposition of the case, as follows:

- § **Parties represented by Counsel:** Pursuant to UTCR 6.120(1), “Unless otherwise ordered, all exhibits shall be returned to the custody of counsel for the submitting parties upon conclusion of the trial or hearing. Such counsel must sign an acknowledgment of receipt for exhibits returned. Counsel to whom any exhibits have been returned must retain custody and control until final disposition of the case unless the exhibits are returned to the trial court pursuant to subsections (2) or (3) of this rule.”
- § **Parties representing themselves:** Pursuant to UTCR 6.120 (1), “...Both documentary and non-documentary exhibits submitted by parties not represented by counsel shall be retained by the trial court, subject to subsection (4) of this rule.”

UTCR 6.120 does not apply to small claims and violation cases. Exhibits offered during small claims and violation trials / hearings will be returned to the party submitting the exhibit(s).

Disposition of Exhibits Retained by the Court

The case must have reached a final determination and notice mailed to the attorneys or parties of record before exhibits that have been retained by the court can be destroyed or otherwise disposed of. Once notice is mailed, the parties or their attorneys have 30 days to withdraw or retrieve the exhibits from the Court’s custody. The exhibits will be disposed of if not retrieved.

INFORMATION TECHNOLOGY

Oregon eCourt – Public Access to Court Transactions – IS COMING!

Oregon eCourt is an internet based, electronic court environment that will provide the public with access to Oregon's State Courts 24-hours a day, 7-days a week. The system will provide internet-based filing, payment, and access to documents, dockets, and related content from anywhere, anytime. Oregon eCourt will enhance the public's access to justice and transform the business operations of the court through the electronic delivery of court services to our customers. Oregon eCourt will provide our customers with existing, improved, and new services, without having to visit the courthouse. These services will include the ability to request court case-related information, including court records, documents and other electronic content, and the ability to download those records in a printable format. Customers will be able to file court documents online, and pay filing fees, court costs, and court imposed fines.

Additional information regarding Oregon eCourt is available online at <http://courts.oregon.gov/oregonecourt/>

Website

The Court's website address is <http://courts.oregon.gov/clackamas/>. The website now has the same look and feel of other OJD websites and addresses many public information needs for the Court's customers. It is important to us that the website contains information that is useful to you, so it is regularly reviewed and updated to include new information and forms. We encourage you to view the site as it offers information on a variety of topics. Please take some time to familiarize yourself with what information is available.

We welcome comments on the website and are interested to hear from our customers regarding any problems you may be experiencing in using the website as well as any suggestions you may have for improving the site. To provide comments please contact the Technical Support Team at (503) 723-2938 or e-mail the Clackamas County Court Webmaster at Clackamas.webmaster@ojd.state.or.us.

Integrated Courtroom Technology

In 2007 state of the art integrated courtroom, technologies were installed in Courtrooms 1, 5 and 10. The new technology improves litigants' access to justice, reduces costs, and increases efficiency of court operations. For example, one feature of the integrated courtroom technology is video conferencing. Video conferencing can be used in criminal cases where the defendant or witness is in custody, which reduces inmate transportation costs, eliminates security problems, reduces the number of sheriff personnel needed for inmate movement, and saves travel time and costs. In civil cases, the benefits of video conferencing can include the reduction in cost for travel expenses when expert testimony is conducted by video conference rather than having the expert appear in person.

Integrated Courtroom Technology system features are:

- IP video conference
- Laptop connectivity at counsel tables for presentation of photos, PowerPoint and other evidence or information
- Digital audio evidence
- Digital video evidence
- Integrated phone system
- Integrated ADA hearing assistance
- Elmo (or other document presentation equipment) digitally interfaced
- Vortex technology to filter unwanted background noise
- Large plasma monitor displays

Before an attorney or self-represented party can use the integrated courtroom technology in Courtrooms 1, 5 or 10, he or she must attend a free, one-time court training program. Courtroom technology seminars are scheduled as needed and class size is limited. To participate in the courtroom

technology-training program, please contact the Technical Support Department at **503-723-2938** or **503-723-2990**.

If you want to request to have your case assigned to a courtroom with integrated courtroom technology, you must contact the Calendaring Department a minimum of two (2) weeks in advance of the hearing or trial date at **(503) 655-8643, select option #2**. Requests should be made as early as possible as assignments are made in the order they are received.

TV/VCR/DVD Mobile Carts

The Court also has two mobile big screen television units that are capable of playing DVDs and VHS tapes. A/V equipment may be reserved through the Calendaring Unit on a first-come, first serve basis. There are three courtrooms with advanced technological capabilities (see page 6 for “Integrated Courtroom Technology” information under the Information Technology section) and two carts with TV/DVD/VCR combination that are available for use. Please contact Calendaring at 503-655-8643 with your request. Please contact Calendaring at least two weeks prior to trial or hearing to ensure availability.

Imaging

In May 2005, the Court implemented imaging of closed court files and documents submitted where the case had been previously microfilmed. This replaced the Court’s previous practice of microfilming. If a case was previously microfilmed and you are unsure if documents have also been imaged on the case, check the second OJIN entry of the case. If documents were imaged there will be a statement indicating this on the second entry in OJIN.

In March 2008, the Court began imaging closed 2007 civil, small claims and FED cases. To determine if this case has been imaged, check the second OJIN entry of the case. If the case file has been imaged, there will be a statement indicating this on the second entry. As the 2007 civil, small claims and FED cases close, the case will be imaged to the Laserfiche system. In addition, in October 2008, the court began imaging closed 2004 misdemeanor cases, and once that has been accomplished, will continue with closed 2004 felony cases.

The public computers in the Records Center, Room 12, have software installed to allow you to view the imaged documents.

The cost of obtaining a copy of an imaged document is \$.25 cents per page.

Note: Due to budget reductions, the Court is now imaging cases on a very limited basis.

Video Conferencing

The Court has the ability to schedule appearances by video conference. Please follow the guidelines below when requesting that a video conference be scheduled.

Video Conference Service Request

Contact the Clackamas County Circuit Courts Calendaring Unit, located in Room 200, at least two weeks in advance to request a video conference. You may also make that request by phone at **503-655-8643, select option 2**.

Video Conference Service Level Agreement

Clackamas County Circuit Courts video conference infrastructure consists of professional mainstream video conferencing equipment supporting the industry standard H.323 IP Video protocol. Recommended video conference systems include Polycom, Tandberg, VTel, VCon or other H.323 systems. Video conference connections utilizing NetMeeting are possible, though not recommended, due to unpredictable quality and reliability of signal. The Judge or his or her designate will have final approval as to usability of all NetMeeting sessions.

Video Conference Policy

The video conference system is for Clackamas County Courts official use only. It is Technical Support Department policy that a test call be conducted between sites at least 48 hours prior to the video conference. Decisions regarding the suitability of the video conference broadcast will be at the sole discretion of the Judicial Authority.

Video Conference Options

Clackamas County Circuit Court maintains IP video conferencing capabilities with the Oregon Judicial Department and the Oregon Department of Administrative Services (DAS) video conference network. Virtually every secondary and higher educational facility in the state as well as most Department of Human Services, Department of Justice, Department of Corrections and Oregon Youth Authority facilities maintain functional video conferencing capabilities within the DAS network. To arrange a video appearance, call 503-655-8688.

Tested site connections include (sorted alphabetically):

- Baker County Jail
- Clackamas County Jail
- Camp Florence,
- Clatsop County Jail
- Coffee Creek Correctional Facility
- Columbia River Correctional Facility
- Coos County Jail
- Deer Ridge Correctional Institution
- DHS Eugene
- Donald E. Long
- Hillcrest Youth Correctional Facility
- Eastern Oregon Correctional Institution
- Inverness Jail
- Jefferson County Jail
- Lincoln County Courthouse, Lincoln County Jail
- Linn County Jail
- McLaren Youth Correctional Facility
- Multnomah Juvenile Detention Center
- Oregon State Penitentiary
- NORCOR
- Powder River Correctional Facility
- Snake River Correctional Institution
- Tillamook County Jail, Tillamook Youth Authority
- Two Rivers Correctional Institution
- Union County Jail
- Warner Creek Correctional Facility

This is not a comprehensive list of all sites we have tested. For more information about video conference options contact the Clackamas County Courts Technical Support Department at **503-723-2938**.

ACCOUNTING

Accounting Reminders

Filing Fees

- “Filings fees are not refundable under any circumstances.” ORS21.100

Payment of Trial Fees

- Must be paid in advance of the trial and are due and payable when the action, suit or proceeding is set for trial.
- The additional fee(s) for subsequent days of trial shall be collected on the day the trial concludes.

Refund of Trial Fees

- If all claims in the action or proceeding are decided without commencement of a trial, the trial fees may be refunded. A request for a refund of trial fees must be made in the form of a motion, affidavit and order requesting refund of the paid trial fee not more than 15 days after entry of judgment disposing of the action or proceeding. ORS 21.225(7)

Requests for Disbursement

If you have filed paperwork with the court (in a Judge’s office or Civil Case Unit) requesting the return of funds on deposit with the court, please follow the procedure below:

1. To confirm if the paperwork has been signed by the Judge please have the case number, name and approximate date of the pleading available. Call Civil Case Unit at 503-655-8447, select option 3.
2. If the order/judgment has been signed and entered into OJIN, request to speak to the disbursement clerk in the Accounting unit, (503) 655-8453 option 2.
3. If the order/judgment has not been signed and entered into OJIN, you may check with the Judge’s office where the paperwork was filed, otherwise please allow several days and then call the Civil Case Unit to confirm entry into OJIN as stated in item 1.
4. In most cases fees are collected in advance in the form of a check (personal or business), electronic fund transfers, cash or money order, or credit card. Requests for disbursement on fees paid by check may take up to 14 days to allow the check to clear the bank. Requests for reversal of electronic fund transfers or credit card transactions must be accompanied by the original receipt. For cash and money order disbursements, please allow two weeks for processing of the request.

Interest-Bearing Accounts

ORS 293.293(2) allows trust amounts of \$10,000 or more to be transferred into an interest-bearing account pending the outcome of a court action if:

1. A motion has been filed; and
2. A signed court order has been received.

If you are tendering funds with the court, you must file the necessary paperwork with the Court Finance Supervisor to ensure that your funds receive interest due. Please bring a copy of the signed order to the Court Finance Supervisor, so that the funds may be tendered and your case monitored appropriately. Do not try to process this transaction with the cashier.

The release and disbursement of funds from an interest-bearing account must have a motion and signed order.

Security Release

Requests for return of security release will not be issued the same day as the request. The request must be accompanied by a court order. Once the court order for return of security release has been received by the accounting department the funds will be disbursed within 30 days.

The following payments will first be deducted prior to any refund of security release:

Security Release Fee: 15%, but not less than \$5.00, nor more than \$750.00. Any court fines or fees, owed by the defendant on any case(s) within the State of Oregon.

Drop Box and Payments

Payment envelopes are now available at the drop box located on the door to Room 104. The payment envelopes may be used to submit payments for FTR requests, criminal, traffic, civil, or other court fines, fees or assessments. Payments may be made in the form of cash, check or money order. All payments placed in the “drop box” no later than 5:00 PM, Monday through Friday, excluding legal holidays, will be date stamped and deemed received and filed on that day. A receipt will not be mailed out unless a self-addressed stamped envelope is included with your payment.

Recurring Payments

The Court offers free and easy ways for debtors to make monthly payments to the Court using a Visa or MasterCard debit or credit card. Establishing a recurring payment plan eliminates the call to the court each month to make your monthly payments. There is no monthly transaction fee or sign up cost.

To sign up for a recurring payment plan pick up an authorization form, complete it and return the form to the Court either in person or by mail. The form may be picked up at the Court or is available online on our website <http://courts.oregon.gov/Clackamas/Pages/epay.aspx>. For questions, please contact the court at 503-655-8456 option #2 and let the clerk know you are calling about the “recurring payment plan.”

ePay Online

ePay is an online electronic payment service that allows you to make payments on most court cases, citations and accounts. *ePay does not allow for payments on new Civil cases.* ePay accepts MasterCard, Visa credit cards, and debit cards. Payments are processed and recorded on the case within one business day. There is a \$1.50 processing fee that is assessed on each transaction to cover the costs of processing the online payment.

Price for Packages and Forms Available for Purchase	
NAME OF PACKAGE	COST PER PACKAGE
Co-Petition Dissolution with Children	\$5
Co-Petition Dissolution without Children	\$5
Single Petition Dissolution with Children	\$5
Single Petition Dissolution without Children	\$5
Summary Dissolution	Free
Legal Separation with Children	\$5
Legal Separation without Children	\$5
Petition for Custody for Unmarried Parents – Paternity Established	\$5
Modification of Custody, Parenting Time, and Support	\$5
Stipulated Modification of Custody, Parenting Time, Support	\$5
Name Change, Adult	\$5
Name Change, Minor	\$5
Small Estate instructions	\$5
Annulment of Marriage/Registered Domestic Partnerships	\$5
Contempt of Court	\$5
Convert Judgment of Separation to Dissolution (less than 2 years from judgment)	\$2
Amend Petition of Separation to Dissolution (pre judgment)	\$2
Vacate or Modify Judgment of Separation	\$2
Response Dissolution, Annulment, Custody, Separation and Modification packets	\$2
Status Quo Orders	\$2
Alternative Service	\$2
FED Complaint and instructions	\$2
Small Claim Complaint and instructions	\$1
Order to Enforce Custody	Free
Enforcement of Parenting Time	Free
Emergency Temporary Custody (pre and post judgment)	Free
Family Abuses Prevention and Elder/Disabled Restraining Order	Free

EX PARTE

Ex Parte Time

Clackamas County Court hears *ex parte* matters Monday through Friday, excluding legal holidays, at 8:30 am or 1:00 pm.

Hearing Dates

If you need a hearing date, go to Room 200 prior to appearing at *ex parte* and get the date from the Calendaring Unit.

Pleading Review

Family law and probate pleadings must be reviewed and initialed by staff prior to appearing before the *ex parte* judge. The exception to this rule are Domestic Relations Orders to Show Cause. They DO NOT need to be reviewed prior to signature, but cannot order any relief other than the scheduled hearing date.

- Domestic Relations Default Judgments - Paperwork must be approved by Judge Jones' Judicial Assistant in Judge Jones' office who is available in Room 200 immediately prior to *ex parte*. She can be reached by phone at 503-655-8687. Please check out the file from the Records Unit (Room 12) if they are open (Hours: 9 a.m. -12 p.m. and 1 p.m.-4 p.m.)
- Probate - Paperwork must be approved by the Probate Coordinator, who is located in Room 104 and can be reached at 503-655-8623; if the Probate Coordinator is unavailable, the Probate Supervisor or Clerk will review the matter.
- Continuances-Submit your motions to the appropriate Unit (i.e., Civil Case Unit in Room 104, Criminal Case Processing in Room 200). Motions will be submitted to the Presiding Judge for determination.

Payment of Fees

Civil Case Unit staff will appear at *ex parte* and determine what, if any, fees are currently owing on a case. All fees must be paid prior to the Judge considering the pleadings. Parties / Counsel should come to court prepared to pay all fees that may be owing on the case (example: 1st appearance fees, motion fees, etc.). The staff will accept all forms of payments (cash, check, money order, Visa or MasterCard) in the courtroom. Receipts will be given for cash or credit card payments, but not for check or money order.

Conforming Copies

Civil Case Unit staff will accept the original pleadings for filing and will conform copies in the courtroom. Parties / Counsel must come prepared with copies to be conformed. If you need service copies and do not have them with you, you will need to wait for the *ex-parte* clerk at the Civil Case Unit windows, Room 104 and purchase copies there. A copy fee of \$.25 per page will be charged.

Witnessing Signature

The Civil Case Unit staff can witness signatures in the *ex parte* courtroom for documents being filed with the Court.

Files

Parties / Counsel will appear at 8:30 a.m. or 1:00 p.m. for *ex parte*. If the file is required, counsel can contact the Records Unit (**503-655-8447 select Option 5**) in advance of the *ex parte* appearance and ask

that the file be pulled. Records Unit phone hours are between 9:00 a.m. and 12:00 p.m. and 1:00 p.m. and 4:00 p.m. Monday through Friday, excluding legal holidays. If parties/counsel are unable to do this, they can appear at *ex parte* and request that the file be pulled. The clerk will contact the Records Unit who will bring the file up to *ex parte*.

CALENDARING

Primary Phone Number

503-655-8643

Hours of Operation

8:00 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m. Monday through Friday, except holidays.

Ex Parte Times

Clackamas County Court hears *ex parte* matters Monday through Friday, excluding holidays, at 8:30 a.m. and 1:00 p.m. See the *Ex Parte* section (page 12) of this guide for specific process and procedure information.

Reporting In for Trial/Hearing Status

Clackamas County Circuit Court has no formal “docket call”. Parties are required to call Calendaring at 503-655-8643 by 11:00 a.m. two days prior to your trial or hearing to report the status of your case.

Be sure to communicate special circumstances when calling Calendaring to report on the status of your case, such as:

- Out-of-state witnesses or expert witnesses;
- Time requirements for your hearing or trial; and
- Information and time requirements on outstanding motions that need to be heard the day of trial.

Motions to Continue/Postpone

All Motions to Continue/Postpone are to be filed with the appropriate processing unit (i.e. Motions to Continue for Civil cases should be filed with the Civil Case Unit, Room 104. Motions for Criminal cases should be filed with the Criminal Unit, Room 200).

Motions to Continue/Postpone should be filed at least 72 hours in advance of the hearing you are requesting to continue or postpone so that the processing units have an opportunity to process and forward the paperwork to the Presiding Judge prior to the hearing date. If not submitted at least 72 hours in advance of the hearing there is a possibility that the motion will not be ruled on before the hearing date, but will be referred to the trial judge. If this occurs, pending a ruling on the motion to continue or postpone, please appear on the date and time of the hearing or trial prepared to proceed.

Do not use the Civil Case Unit Drop Box (Room 104) if you are filing a Motion to Continue / Postpone for a hearing set within 72 hours; instead file the motion with a clerk at the Civil Case Unit filing windows. **Do not** submit your Motions to Continue/Postpone to individual judges’ offices. The Presiding Judge decides all Motions to Continue/Postpone. A hearing will be held only upon the request of the Presiding Judge if more information is needed.

When Motions to Continue are required and when hearings can be continued by other means:

- Motions to Continue are required for all trial settings.
- Motions to Continue are required for all stalking and abuse prevention hearings.
- Show cause hearings may be reset by agreement of the parties. You must contact Calendaring at 503-655-8643 to report that both parties agree to reset the hearing and obtain future dates from a Calendaring clerk.
- Settlement conferences may be reset by agreement of the parties, contingent upon the availability of a new settlement conference date prior to the current trial date.

- Criminal motions may be reset by agreement of the parties, contingent upon the availability of a new motion hearing date prior to the current trial date. Criminal motions may be continued to the day of trial unless a Motion to Continue has been submitted and granted by the Presiding Judge.

Show Cause Hearings

No show cause dates will be assigned by phone. You must submit a Motion, Affidavit and Order for signature to the *ex parte* judge. Please see the *ex parte* section (page 12) of this guide for specific process and procedure information. If you do not pay your filing fees, your hearing will be flagged and Calendaring will not assign your case out to a judge for hearing. Cases that are not assigned remain on the “holding docket.” Cases on this docket are assigned upon the availability of a judge. If your case is on the holding docket please call after 11:00 a.m. the day of the hearing for assignment.

Settlement Conferences

Settlement conferences are mandatory for all civil cases. The following parties must be personally present at the settlement conference unless excused in advance by the Court for good cause:

1. The parties
2. The trial attorneys
3. The insurance company representatives
 - A. An insured party may appear by such party’s trial counsel and insurance carrier.
 - B. Failure to comply with any of the above may result in sanctions being imposed, including an award of attorney fees.

Settlement conferences for domestic relations cases may be requested. It is required that both parties be represented by counsel and both parties must join in requesting that a settlement conference be scheduled. All information regarding custody, support, parenting and distribution of assets must be exchanged at least one day prior to the scheduled conference.

A settlement conference fee of \$200.00 per participant on all civil cases and \$100.00 per participant on all domestic relations cases must be paid prior to the commencement of the settlement conference.

Example of how to calculate fees due:

Party / Name	Represented By	Fee
Plaintiff/Petitioner		
Plaintiff 1, Jane Smith	Attorney A	\$200.00/ C \$100.00 D
Plaintiff 2, John Smith	Attorney A	\$200.00/ C \$100.00 D
3 rd Party Plaintiff, Lisa Doe	Attorney B	\$200.00/ C \$100.00 D
Defendant/Respondent		
Defendant 1, John Doe	Attorney B	\$200.00/ C \$100.00 D
Defendant 2, James Doe	Attorney B	\$200.00/ C \$100.00 D
3 rd Party Defendant, James Johnson	Attorney C	\$200.00/ C \$100.00 D
TOTAL FEE OWING		\$600.00/ \$300.00

- **C= Civil**
- **D= Domestic**

Expedited Hearings

Motion to Compel hearings may be scheduled with the Presiding Judge's office directly if an expedited hearing is necessary. All other hearings must be scheduled through Calendaring and will be scheduled in the normal course on the Civil Motion docket. Calendaring will work with the parties to set the hearing as soon as possible taking into consideration the parties' schedules.

Civil Motions

Civil motions are heard Mondays at 9:00 a.m. Hearing dates are assigned approximately one to one and a half (1 - 1½) weeks after the motion is received and entered by the court. Motions are scheduled approximately 30 days out with the exception of Motions to Compel, which will be scheduled more quickly.

If you receive a notice of a hearing and you have a conflict, please contact the other party(ies) and choose another Monday. A Motion to Continue is not needed as long as the parties agree to reset the date. Contact Calendaring at 503-655-8643 for a new date. Orders must be submitted within 21 days of the assigned hearing date.

Access to Audio/Visual (A/V) Equipment

A/V equipment may be reserved through the Calendaring Unit on a first-come, first-served basis. There are three courtrooms with advanced technological capability (see page 6 for "Integrated Courtroom Technology" information under the Information Technology section) and two carts with a TV/DVD/VCR combination available for use. Please contact Calendaring at 503-655-8643 with your request a minimum of two weeks prior to trial or hearing to ensure availability.

Depositions

The court does not schedule depositions, nor are any court facilities available for depositions. Contact the law library to schedule a conference room for depositions. See page 96 for scheduling procedures.

Camera /Tape Recorder Permits

Prior permission is required to bring a camera or tape recorder into the courthouse. Permit request forms are to be submitted directly to the assigned judge. Tape recorders are allowed only for playing back or for recording a deposition. You must contact Calendaring or the assigned judge's office to obtain a permit request form.

Resetting Criminal and Calendaring Trials

Defendant must appear and sign a new trial notice, NO EXCEPTIONS.

On all cases, with the EXCEPTION of Measure 11 cases, the defendant may sign a notice prior to the trial or hearing date and be excused from the court appearance. New dates must be agreed upon by the District Attorney and Defense Counsel and subject to availability on the Court's calendar. Calendaring must receive the new signed notice in order for the appearance to be excused.

Case Manager Hearings

Case manager hearing may be reset for any date that is earlier than originally set or during a 2-week period – within the week the hearing was originally set or the following week. Resets will be accepted as the docket allows (Criminal Unit staff will make all efforts to allow attorneys to reset to the first date requested). If you wish to continue a hearing past the timeframe outlined above, a Motion to Continue must be filed. The rules for signing a new notice for a case manager continued by a motion are identical to the rules for signing a new notice when resetting a trial.

Dockets Posted Online

Dockets are posted online via the OJD Website after 3:00 p.m. each day at: <http://courts.oregon.gov/clackamas/> and select the "Court Calendar" tab.

Oregon Standards of Timely Disposition in Oregon Circuit Courts

Civil

General Civil

- 1) **90 percent of all civil cases** should be settled, tried, or otherwise concluded **within 12 months** of the date of case filing:
 - a) **98 percent** within 18 months of such filing, and
 - b) The remainder within 24 months of such filing, except for
 - c) Individual cases in which the court determines exceptional circumstances exist, and for which a continuing review should occur.

Domestic Relations

- 2) **90 percent of all domestic relations matters** should be settled, tried or otherwise concluded **within 9 months** of the date of case filing, and:
 - a) 100 percent within one year, except for
 - b) Exceptional cases in which continuing review should occur.

Summary Civil

- 3) Proceedings using summary hearing procedures as in small claims, landlord-tenant and replevin actions, should be concluded **within 75 days** of filing.

Criminal

Felony

- 1) **90 percent of all felony cases** should be adjudicated or otherwise concluded **within 120 days** from the date of arraignment:
 - a) 98 percent within 180 days, and
 - b) 100 percent within one year, except for
 - c) Exceptional cases in which continuing review should occur.

Misdemeanor

- 2) **90 percent of all misdemeanors**, infractions and other non-felony cases should be adjudicated or otherwise concluded **within 90 days** from the date of arraignment:
 - a) 98 percent within 180 days, and
 - b) 100 percent within one year, except for
 - c) Exceptional cases in which continuing review should occur.

Setting Trial Date in Civil Cases

UTCR 7.020

- 1) If all defendants have made an appearance, the case will be deemed at issue 91 days after filing of the complaint or when the pleadings are complete, whichever is earlier.
- 2) The trial date must be no later than one year from the date of filing for civil cases or six months from the date of filing of a third-party complaint under ORCP 22 C, whichever is later, unless good cause is shown to the Presiding Judge.
- 3) Parties have 14 days after the case is at issue or deemed at issue to:
 - a) Agree among themselves and with the Presiding Judge or designee on a trial date within the time limit set forth above, or
 - b) Have a conference with the Presiding Judge or designee to set a trial date.

If the parties do neither (3a) nor (3b), the Docket Clerk will set the case for trial on a date that is convenient to the court.

Continuances

(Please refer to page 20 for checklist)

UTCR 6.030 POSTPONEMENT OF TRIAL DATE

- 1) A request to postpone a trial date must be by motion, affidavit and order.
- 2) A motion to postpone a trial date must be signed by the attorney of record.
- 3) A motion to postpone a trial date must contain a certificate stating that counsel has advised the client of the request and must set forth:
 - a) The date scheduled for trial,
 - b) The reason for the requested postponement,
 - c) The dates previously set for trial,
 - d) The date of each previous postponement, and
 - e) Whether any parties to the proceeding object to the requested postponement.
- 4) If the motion to postpone is based upon a conflicting proceeding in another court, it must set forth in addition to the information required by subsection (2) of this section (Postponement of Trial Date):
 - a) The name of the court in which the conflict exists,
 - b) The date of the conflict,
 - c) The date on which the other proceeding is to begin,
 - d) The case number and date of filing of the conflicting case,
 - e) The date on which the conflicting case was set for trial, and

- f) The information required by UTCR 6.040(2).
- 5) If a motion to postpone a civil trial is based upon stipulation of the parties:
- a) The new trial date must be within the time periods set forth in UTCR 7.020(5),
 - b) The motion must be filed at least 28 days before the date then set for trial,
 - c) The motion must be signed by the attorneys of record,
 - d) The motion must contain a certificate stating that the attorneys have advised their clients of the stipulation and the clients agree to the postponement, and
 - e) The motion must set forth the date scheduled for trial, the new trial date requested, and that the new date is available on the court's Trial Docket.

If the request for a continuance is beyond the provisions of the Oregon Standards of Timely Disposition in Oregon Circuit Courts, in addition to the above, include:

- f) A short synopsis of the case,
 - g) Why the case is not ready for trial,
 - h) What efforts were made to prepare the case since the case was filed.
- 6) Oral Argument

UTCR 6.030 (5) provides that a Motion to Continue can be decided by summary determination without a hearing

Continuance Checklist

UTCR 6.030 Postponement of Trial

(1) A request to postpone a trial must be by motion and contain the following:

- be signed by the attorney of record,
- contain a certificate stating that counsel has advised the client of the request and must set forth:
 - the date scheduled for trial,
 - the reason for the requested postponement,
 - the dates previously set for trial,
 - the date of each previous postponement, and
 - whether any parties to the proceeding object to the requested postponement.

(2) If the motion to postpone is based upon a conflicting proceeding in another court, it must set forth, in addition to the information required above:

- the name of the court in which the conflict exists,
- the date of the conflict,
- the date on which the other proceeding is to begin,
- the case number and the date of filing of the conflicting case,
- the date on which the conflicting case was set for trial, and

(3) If a motion to postpone a civil trial is based upon stipulation of the parties:

- the new trial date must be within the time periods set forth in UTCR 7.020(5),
- the motion must be filed at least 28 days before the date then set for trial,
- the motion must set forth the date scheduled for trial, the new trial date requested, and that the new date is available on the court's trial docket.

(4) If the request for continuance is beyond the provisions of the Oregon Standards of Timely Disposition, include:

- why the case is not ready for trial,
- what efforts were made to prepare the case since date of filing.

TRIAL PROCEDURAL TIPS

Day of Trial

1. Come prepared with:

- a. Witness list.
- b. Exhibit list.
- c. Requested jury instructions.
 - i. “Clean copies” are expected; and
 - ii. Requested instructions on disk, Microsoft Word, will allow for quicker revisions by court staff in the event any are necessary.
- d. Exhibits pre-marked.
 - i. Plaintiff exhibits numbered 1,2,3...;
 - ii. Defendant exhibits numbered 101, 102, 103...
- e. Mark and exchange exhibits in advance, stipulating to as many as possible.
 - i. Prepare a “pocket memo” with points and authorities to address evidentiary issues.
- f. Receipt showing trial fee paid.

2. “Settlement conference” day of trial.

- a. Not unusual for the trial judge to inquire about settlement the day of trial.
 - i. Allows the court to ask questions of attorneys not addressed / expounded upon in the memorandum; and
 - ii. Often will result in resolution of case without need of trial.

3. Practical matters that bear repeating.

- a. Turn off cell phone and other electronics.
- b. Stand when addressing the judge.
- c. Make a clear record.
 - i. Speak distinctly;
 - ii. Only one person at a time may speak; and
 - iii. Instruct witnesses to answer “yes” or “no” versus “uh-huh” or “uh-uh.”
- d. Hand exhibits to bailiff.
 - i. Bailiff marks if exhibits admitted or objection if sustained;
 - ii. If admitted, bailiff will forward exhibits to the judge; and
 - iii. Allows for better accountability of the exhibits.
- e. Client / witness communication.
 - i. Client to communicate with counsel via written notes;
 - ii. Instruct witnesses and/or supporters of your client seated in the gallery not to make verbal comments/sighs; and
 - iii. Eye rolling, head nodding or other gesticulations will not be tolerated and those persons will be asked to leave the courtroom.

4. Conclusion of trial.

- a. Sign release form and take exhibits; and
- b. Wait for a photocopy of the verdict if you want one immediately after the conclusion of trial.

CRIMINAL CASE PROCESSING

All criminal pleadings must be filed in Room 200.

Related Citations

If you are aware your client may have citations related to a criminal case, please inform a criminal clerk as soon as possible. (Example: A DUI case that has a citation for driving while suspended and no insurance.)

In-Camera Review Process

Two Options:

One: You may submit a Motion for In-Camera Review with a supporting affidavit to the Criminal Unit in Room 200. Your motion will be scheduled for a hearing on the first available hearing date on the Criminal Motion docket. If granted, you must forward a copy of the order to the Presiding Judge's office for judicial assignment. Once the subpoenaed documents or other materials have been received by the court, the Presiding Judge will assign the inspection.

Two: You may appear at *ex parte* and present a Motion for In-Camera Review, Affidavit, and Order to the *ex parte* judge. You must submit the paperwork to the Criminal Unit in Room 200 after *ex parte*. If the motion is granted and the order signed, your request will be forwarded to the Presiding Judge for judicial assignment.

The Presiding Judge's office does not process the assignment of the in-camera review material until the subpoenaed documents or other materials are received by the court. You may check with the Presiding Judge's office for the status of your request after the order has been signed.

Subpoenaed Records: All records must be delivered to Room 11. **Do not** have records delivered to the Criminal Unit or to an individual judge.

CIVIL CASE UNIT

Information & Self-Help Center

The Information Center is located on the first floor of the courthouse. The Family Law Self Help Center is located on the ground floor of the courthouse. At the Information Center, a visitor to the court may find out where business is conducted in the courthouse, and may request instruction packets for some domestic relations matters, small claims, FEDs, name changes and small estates.

Elizabeth Vaughn is our Family Court Self-Help Coordinator. This position is authorized by statute to assist self-represented litigants to review domestic relation forms, maneuver through the court maze and to provide procedural information. Elizabeth currently assists litigants by appointment only and has a full schedule daily. Her duties also include participating in State Family Law Advisory training, updating self-help information in the area of family law and communicating with community resources to assist or refer unrepresented litigants.

The Family Court Self-Help Coordinator assists self-represented litigants only. The Self Help Center does not assist parties who are represented by counsel, and does not assist attorneys or their staff with questions on process and procedure. For those types of questions please contact the Civil Case Unit at 503-655-8447 and press option 3.

The Information and Self Help Center public hours of operation are generally 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m. Monday through Friday, except holidays. Appointments with the Family Court Self-Help Coordinator may be scheduled in person at the Information Center on the first floor or by calling 503-650-3046.

Location and Hours

The Civil Case Unit is located on the first floor of the Courthouse, Room 104.

Public hours of operation are 9:00 a.m. B 12:00 p.m. and 1:00 p.m. – 4:00 p.m. Monday through Friday, excluding holidays.

For your convenience, the Civil Case Unit has a drop box on the “employee only” door located to the left of the Collections window. You may use the drop box to drop off pleadings at any time during regular courthouse hours. Any pleadings received prior to 5:00 p.m. will be date-stamped and deemed filed on that day. **DO NOT** use the drop box for emergency or time-sensitive pleadings.

Rule 7

Uniform Trial Court Rules (UTCRC) 7.020, or ARule 7,@ is the process trial courts use to dismiss civil cases for lack of progress. It is the responsibility of the parties to track their case progress and attorneys should not rely on the Courts “Rule 7” process to keep their case proceeding timely.

If the case is not at issue by the 91st day from the filing of the complaint, the court will send the parties or attorney a Notice of Dismissal. At the conclusion of 30 days from the date of the Notice of Dismissal, a General Judgment of Dismissal will be entered, unless one of the following has occurred:

- An order of default has been filed and entry of judgment has been applied for;
- Good cause to continue the case is shown to the court on motion supported by affidavit; or
- The respondent/defendant has appeared.

You will only receive one Notice of Dismissal from the Court.

You may request that the Court extend the dismissal date by filing a Motion, Affidavit and Order.

If a dismissal has been processed, a Motion/Order to Set Aside the dismissal and a Motion and Order to Reinstate are required in order to proceed with the case.

If you have questions, please contact the Civil Case Unit at 503-655-8447, option 3.

Where to File Pleadings

All pleadings for civil, domestic relation, probate, name change, small claims, and FED cases should be filed with the Civil Case Unit. Once the pleadings have been date stamped and entered by the clerk they will be forwarded to the judge's office. Do not file pleadings directly with the judge's office, as this adds additional processing time.

Reference Judge Cases

If your case is being heard by a Reference Judge and not a sitting Clackamas County Circuit Court Judge, please file original pleadings with the Civil Case Unit and forward copies to the Reference Judge. When filing the pleadings please indicate that you have copied the Reference Judge. At the time of disposition of the case please forward the original order/judgment to the Reference Judge for signature. The Reference Judge will then forward the original signed pleading to the Court. If you wish to keep the Court informed of the time of forwarding orders/judgments to the Reference Judge, you may forward a letter to the Civil Case Unit to be placed in the case file.

Default Judgments

Default Judgments are sent in after service has been affected and the statutory time for responsive action has elapsed. The requirements and process for a default judgment are found on page 28.

The number one reason default judgments are not entered timely is due to error in preparing the default judgment paperwork. We monitor whether corrected judgments are re-submitted within 21 days of the party being notified of an error. If corrected pleadings are not filed within that time limit, a dismissal may be issued.

The most common errors are:

1. Number one reason for rejection - errors in Money Award! You must provide all information required in statute and indicate "unknown", if unknown (SLR 5.105).
2. The Affidavit of Amount Due is not submitted or is not accurate.
3. The copy of the contract is not Aclear and readable and the clerk is not able to verify that the contract supports the information in the Affidavit of Amount Due. The judicial clerks who process this paperwork ask that the contract be CLEAR, and that the requested interest rate be HIGHLIGHTED on the copy of the contract.
4. The non-military affidavit or declaration required by Service Members Civil Relief Act (2003) must address the following:
 - The defendant or respondent is or is not in military service and state supporting facts; or
 - If unable to determine if the defendant is in military service, state that the plaintiff or petitioner is unable to determine if the defendant or respondent is in military service and what reasonable efforts were made to make a determination.

If you are unable to determine if the defendant is in military service, the court may require additional proof of the defendant's military status [pursuant to the Service members Civil Relief Act (SCRA), 50 USC app.521, 201(b)(3)].

Requests for determining the military status of parties to an action can be made through the Department of Defense at <https://www.dmdc.osd.mil/appj/scra/welcome.xhtml> (see page 29).

Form of Judgment

Pursuant to ORS 18.038 the title of a judgment document must indicate whether the judgment is a limited judgment, a general judgment or a supplemental judgment. The judgment document is separate from any other document in the case (but may have attached to it affidavits, stipulations, motions and exhibits as necessary to support the judgment).

If a judgment document does not have one of the required labels (general, limited, supplemental) and is not signed by a judge or court administrator, the court staff person will not enter the judgment in the register. If a judgment document does not have one of the required labels and has been signed by a judge or court administrator, the staff person will return the judgment document to the judge or court administrator who signed it. Neither ORS 18.052 nor other law explicitly requires the Court to return unsigned judgment documents to the attorney who filed it.

***Ex Parte* Time**

Clackamas County Court hears *ex parte* matters Monday through Friday, excluding holidays, at 8:30 a.m. and 1:00 p.m. See the *Ex Parte* section (page 12) of this guide for specific process and procedure information.

Payment of Fees

Insufficient or no fees submitted

Per ORS 21.110(5), a pleading or other document shall be filed by the clerk **only if the fee required is paid** by the person filing the document, or if a request for a fee waiver or deferral is granted by the Court.

No fee or request for waiver/deferral

Any pleading or document which requires a fee that is submitted without payment or an approved fee waiver/deferral, will be returned to your office not filed.

Insufficient fees

The Civil Case Unit clerk will place one (1) courtesy call to your office requesting additional fees be submitted. If additional fees are not submitted within 5 days, the pleading or document will be returned to your office. In the instance where additional fees are needed on an already signed pleading or document, the Civil Case Unit will place one (1) courtesy call to your office and if additional fees are not submitted within five days the Presiding Judge will vacate the signature and the pleading or document will be returned to your office.

Pleadings or documents with hearing date set

The Civil Case Unit clerk will place one (1) courtesy call to your office requesting fees be paid on all pleadings or documents that have already been filed with a hearing date set, such as an Order to Show Cause. At the time of notification to your office the clerk will also notify the Calendaring Unit. If fees are not submitted the Calendaring Unit will be notified to address this issue prior to an assignment to a courtroom and the motion may or may not be assigned to a courtroom for hearing.

The current fee schedule is available online at <http://courts.oregon.gov/clackamas/>.

Guidelines for Filing Motions and Other Pleadings

Standards for Pleadings and Documents (Please read)

- Include case caption and clear title of motion so we can enter accurately and process them accordingly. UTCR 2.010(11)
- Be sure to have your address, phone number, bar number, fax number, if any, and attorney e-mail address, if any, on your pleadings. UTCR 2.010(7)
- Include proper filing fees or include deferral request. ORS 21.110
- If a filing fee is due with a pleading, we cannot file it without the fee or a fee deferral /waiver that has been approved by the Court. The current fee schedule may be found on the Courts website at <http://courts.oregon.gov/clackamas/>.
- Provide a separate original for each case. If you have multiple cases with like pleadings, please file a separate original pleading for each case.
- Provide adequate copies for all files in consolidated cases. UTCR 2.090
 - We must maintain consolidated cases parallel to the original. Please provide copies to keep the consolidated cases up-to-date.
- Submit proposed judgments to opposing party(ies) seven (7) days or counsel three (3) days prior to sending to the court. A certificate describing the manner of compliance with this rule must be attached to a proposed judgment or order submitted to the court. UTCR 5.100
- Provide copies for conforming and a self-addressed, stamped envelope that is large enough to return conformed copies.
- Do not list multiple case numbers on a pleading; we need one original for each case.
- Two hole punch each pleading or similar document submitted for filing with the court. SLR 2.011.(1)
- When submitting multiple pleadings or documents on a single case, staple the pleadings individually and clip them together as a group with a sturdy binder clip. SLR 2.011(2)
- The judge's signature portion of any order, judgment or writ prepared for the court must appear on a page containing at least two lines of text. UTCR 2.010 (12)(a)
- The name of the document, and the page number expressed in Arabic numerals, must appear at the bottom left-hand side of each page of the document.
- The title of a pleading must contain the language: ASUBJECT TO MANDATORY ARBITRATION@ or ACLAIM NOT SUBJECT TO MANDATORY ARBITRATION@. Compliance with this language will facilitate processing the case more quickly and efficiently per UTCR 13.060(3).
- Pursuant to ORS 21.105 - Caption of pleading; amended pleadings:
The caption of any complaint or other document filed in a circuit court for the purpose of commencing an action or other civil proceeding must include a reference to the statute that establishes the filing fee for the proceeding. If the proceeding is subject to a filing fee established under ORS 21.160, the caption must indicate the amount in controversy. If the proceeding is

subject to a filing fee established under ORS 21.170 or 21.180, the caption must indicate the value of the estate.

If at any time a party files an amended pleading in a proceeding that is subject to a filing fee established under ORS 21.160, 21.170 or 21.180, and the pleading increases the amount in controversy or the value of the estate in the proceeding, the caption of the pleading must note that increased amount. The court shall collect an additional filing fee for the party filing the pleading that is equal to the difference between the filing fee that was paid by the party when the original pleading was filed and the filing fee that would have been collected if the amount had been pleaded in the original pleading.

- File all original pleadings with the Court. The state requires that once a case has been assigned to arbitration, pleadings are filed with the arbitrator. Please file the original pleading with Civil Case Unit, Room 104 and provide a copy to the arbitrator.
- **ORCP 1 E Use of declaration under penalty of perjury in lieu of affidavit; “declaration” defined.** A declaration under penalty of perjury, or an unsworn declaration under ORS 194.800 to 194.835, if the declarant is physically outside the boundaries of the United States, may be used in lieu of any affidavit required or allowed by these rules. A declaration under penalty of perjury may be made without notice to adverse parties, must be signed by the declarant, and must include the following sentence in prominent letters immediately above the signature of the declarant: “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.” As used in these rules, “declaration” means a declaration under penalty of perjury.

DO NOT FAX PLEADINGS OF ANY KIND, INCLUDING MOTIONS TO CONTINUE

Checklist for Default Judgment Process

Order of Default:

- Complaint filed, no Answer filed w/ in 30 days of service
- Motion for Order of Default and supporting affidavit
- Proof of Service (file an original affidavit per ORCP 7F):
 - Personal
 - Substitute w/ follow-up mailing [ORCP 7D(2)(b)]
 - Office (working hours, person apparently in charge; follow-up mailing to dwelling or office) [ORCP 7D(2)(c)]
 - Certificate of Mailing with follow-up mailing [ORCP 7D(2)(d)]

Default Judgment

- Money Award [ORS 18.042]
 - Creditor's name and address
 - Creditor's attorney's name, phone number and address
 - Debtor's information:** If information is unknown, list it and indicate "unknown" per SLR 5.105 (requiring affirmative indication of "unknown" if information is unknown).
 - Name
 - Address
 - YEAR of birth (not full birth date)
 - LAST 4-digits of debtor's SSN or tax ID
 - LAST 4-digits of debtor's driver's license and issuing state
 - Debtor's attorney
 - Whether any person/public body is entitled to part of money award
 - Principal amount matches amount prayed for in complaint
 - Pre-judgment interest
 - Post-judgment interest
 - Costs/Disbursements
 - Attorney fees
- Affidavit of Non-Military Service and that defendant is not a minor/incapacitated person [ORCP 69B(1)(d) & (4)]
- Affidavit of Amount Due [ORCP 69B(1)(e)]
- Statement of Costs/Disbursements [ORCP 69B & C(3)-(4)]
- Statement of Attorney Fees [UTCR 5.080 & ORCP 68C]
- Other documents if necessary:
 - Contract/Note supporting attorney fee interest > 9%
 - Contract/Note supporting principal interest > 9%
 - Original Negotiable Instrument [UTCR 2.060]

If submitting a contract/note supporting a specific interest rate, it must be LEGIBLE and please HIGHLIGHT the portion of the document supporting the interest percentage. Clerks will not read the entirety of a contract to find the information and may reject the Judgment if they cannot find/read the information.

Service Member Civil Relief Act

[50 USC Appx. §§501 et seq, as amended] The services provided on this site are FREE

Welcome to the Official Servicemembers Civil Relief Act (SCRA) Website

Home | Single Record Request | Multiple Record Requests | User's Guide | FAQs | News | My Account

Single Record Request

Use this page to request a Certificate verifying Active Duty Status for an individual on a specified date.

* Indicates a required field

* SSN

* Repeat SSN

* Birth Date
MM/DD/YYYY(e.g., 09/16/2012)

SSN OR Birth Date Required

* Last Name

First Name

Middle Name

* Active Duty Status Date
MM/DD/YYYY(Default will be today's date e.g., 11/06/2013)

Tips & Notes

- Without a Social Security Number, DMDC cannot authoritatively assert that this is the same individual that your query refers to. Name and date of birth alone do not uniquely identify an individual.
- Check your data entry before submitting it.
- Response may take up to 15 seconds after clicking "Submit".

Resources

- [Download Adobe Reader](#)
- [Unexpected results?](#)

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Nov. 13, 2012

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Last Updated: 07/28/2010,
Eastern Standard Time

Servicemembers' Civil Relief Act (SCRA) Certificates

To obtain certificates of service or non-service under the Servicemembers' Civil Relief Act of 2003 (formerly known as Soldiers' and Sailors' Civil Relief Act of 1940) you can use the public website: <https://www.dmdc.osd.mil/appi/scra/scraHome.do>. This website will provide you with the current active military status of an individual. There is no charge for this certificate.

You can also receive certificates from the individual Services by sending your correspondence to the appropriate military office listed below. If other than current status needs to be verified, then you need to send your request direct to the Services listed below. The charge for each SCRA certificate (as of February 21, 2002) is \$5.20. Checks should be made payable to "Treasurer of the United States".

ARMY:

Army World Wide Locator Service
Enlisted Records and Evaluation Center
8899 East 56th Street
Indianapolis, IN 46249-5031
NOTE: All requests must be in writing.

NAVY:

Bureau of Naval Personnel
PERS-312E
5720 Integrity Drive
Millington, TN 38055-3120
(901)874-3388

AIR FORCE:

Air Force Personnel Center
AFPC/DPDXIDL
550 C Street West, Suite 50
Randolph Air Force Base, TX 78150-4752
Locator Service:
<http://www.afpc.randolph.af.mil/library/airforcelocator.asp>
(210) 565-2660
DSN: 665-2660

MARINE CORPS:

Commandant of The Marine Corps
Headquarters, U.S. Marine Corps (MMSB10)
2008 Elliott Road, Suite 201
Quantico, VA 22134-5030
Locator Service: (703)784-3941-3944

QUESTIONS?

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Clackamas County Circuit Court Construction Litigation Procedures

REFEREE PROGRAM PROCEDURE

The Clackamas County Circuit Court will allow parties to opt out of the normal 12-month trial system in construction litigation cases by participating in a new Referee system based on ORCP 65. The Referee system is a procedure that was designed to deal with complex construction litigation (especially construction defect cases). If the parties do not choose to participate in this program, they will not be granted trial extensions beyond the 12-month period designated in UTCR 7.020(5) absent extenuating circumstances upon application. Cases in the Referee system will be designated complex cases under UTCR 7.030 for purpose of trial scheduling. The parties will be responsible for the Referee's fees.

REFEREE AUTHORITY

Under the Referee system, the Referee will have the authority to manage discovery and case scheduling, including submitting a recommended trial date all parties agree to which is within 18 months of initial filing date. Any request for trial extension beyond 18 months will require the Referee's recommendation to do so and approval by Presiding Court. In no event will a trial date setting be allowed beyond 24 months. The Referee will have the authority to rule on discovery motions. The Referee will also have the authority to hear and decide motions to join parties beyond the 90 days specified in ORCP 22, however, the Referee may only allow the joinder of additional parties during the one year period following the initial filing date. The Referee shall have authority to rule on Rule 21 motions as well as motions relating to discovery issues, and conduct settlement conferences. The Referee shall also have authority to rule on summary judgment motions with the consent of the parties. All decisions rendered by, or orders issued by, the Referee may be reviewed by Presiding Court or its designee upon application under ORCP 65E(3).

REFEREE SELECTION

The parties can stipulate to being part of the new Referee system. Absent a stipulation, any party can file a Motion to Designate as Complex Litigation and Appoint Referee (motion) asking the Court to rule on whether the case will be allowed to go into the new system. The motion must be filed with the Presiding Court, or designee, no later than 30 days after the date the party is served with Summons and Complaint.

The plaintiff must file the motion no later than 30 days after the last party is joined or within 180 days of filing, whichever is sooner.

The parties have three options for selecting a Referee: 1) pick a Referee from a list provided by the Presiding Judge; 2) stipulate to a Referee; or 3) the Presiding Court will select a Referee at a

scheduling conference if the parties do not select one by a date certain.

The Presiding Judge's office will maintain a list of pre-qualified Referees. Referees will be required to meet the qualifications established for court appointed arbitrators under UTCR 13.090, except that a Referee shall also have a minimum of 7 years of experience handling construction matters or be a Senior Judge for the State of Oregon. The rule is to be applied to the Referee system by substituting the term "Referee" for the term "arbitrator".

The rights, obligations, and procedures established for arbitrators and conciliators and parties under ORS 36.476 (Disclosure by Proposed Arbitrators and Conciliators; Waiver of Disclosure; Grounds for Challenge), ORS 36.478 (Procedure for Challenging Arbitrator), ORS 36.480 (Withdrawal of Arbitrator; Termination of Mandate) and ORS 36.482 (Substitute Arbitrator; Effect of Substitution) will apply equally to Referees and the parties under the Referee system, including without limitation, parties brought into the suit after the Referee is appointed. The statutes are to be applied to the Referee system by substituting the term "Referee" for the term "arbitrator". In addition, a party which anticipates bringing third party practice claims under ORCP Rule 22C will provide the Referee a list naming all the potential third/fourth/etc. party defendants so that the Referee can make the disclosure required under ORS 36.476.

CRITERIA FOR REFERENCE

In addition to the criteria contained in UTCR 7.030(2) the Court will also consider: 1) the amount(s) in controversy; and 2) the involvement of insurance carriers and insurance coverage issues.

CONTENTS OF ORDER APPOINTING REFEREE; TWO TRACK SYSTEM

The Referee will operate on two simultaneous "tracks". The first track is the core case. As part of the core case, once a Referee has been agreed upon or appointed the parties will submit a recommended Order Confirming Appointment of Referee in Complex Construction Case (Order) to the Court for review, approval, and execution. A generic form of Order is attached for reference. The second track will address any applicable insurance coverage issues.

The Order will contain mandatory provisions and optional (but encouraged) provisions. The mandatory provisions will include: 1) discovery deadlines; 2) dispositive motion deadlines; 3) alternative dispute resolution deadlines (including a deadline for selection of a mediator - who may be someone other than the Referee); 4) a presentation by the Plaintiff(s) of a defect list, a.k.a. Bill of Particulars; 5) a Defendant's statement of which of its third/fourth/etc. party defendants performed the work being complained of in the Third/Fourth/etc. Party Complaint; and 6) a trial date. The optional provisions may include: 1) the response of each party to the claims against it; 2) the preparation of and a timeline for the

scope of repair proposed by Plaintiff(s); 3) a demand by a Third/Fourth/etc. Party Plaintiff to those defendants it sued in the case; 4) a joint defense response to the statement of claims, defects and damages of Plaintiff(s); 5) a joint defense scope of repairs; 6) disclosure of experts; 7) exchange of expert reports; 8) depositions of experts; 9) depositions of other witnesses; and 10) any other collaborate effort to expedite and streamline the litigation.

On the second coverage track, the Referee may require each party to submit the following: 1) the names of all potential insurance carriers for each party; 2) copies of the Reservation of Rights letters from each carrier; 3) the name and contact information for the adjuster for each carrier; 4) copies of each carrier’s policy for each party. The Referee will have the ability to advise the parties to retain coverage counsel. Regardless of whether or not the Referee chooses to provide this advice, the Referee shall not be deemed to be providing legal advice.

The Referee will have the ability to require the parties to engage in mediation on either or both of the two “tracks”. For insurance-related mediation, the Referee may require insurance adjusters to physically attend the mediation and that the adjuster have complete authority to settle the claim. The mediator will be someone other than the Referee. However, the mediator will report any non-compliance to the Referee, who will have the power to hear show cause motions for remedial contempt.

If mediation does not resolve the case, the Referee will prepare a report discussing the value of each of the claims (both monetarily and legally) and an allocation of responsibility among the parties. The Referee will submit a copy of this report under seal to the court to be used only after trial on the merits, and the trial judge may consider the Referee’s report as a factor in considering the reasonableness of attorneys’ fee awards, if attorneys’ fees are at issue in the case.

If you have any questions regarding the new Referee system you may call the Presiding Court Judge’s office at 503-655-8644.

Dated: _____

/s/ Robert D Herndon
Clackamas County Presiding Judge

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF CLACKAMAS

3 _____)
4 _____)
5 _____,) Case No. _____
6 Plaintiff(s),)
7) ORDER DESIGNATING CASE
8 COMPLEX vs.) LITIGATION AND APPOINTING
9) REFEREE REGARDING
10 _____)
11 _____,) _____
12 Defendant(s),) (THE "PROJECT")

11 THIS MATTER coming before the Court on Motion of _____
12 [MOVING PARTY], _____ [NAME],
13 _____
14 _____ [ADDRESS], _____ [PHONE], _____

15 [FAX], shall be appointed Referee pursuant to ORCP 65 on the above referenced matter,
16 which is hereby designated a complex case under UTCR 7.030, on a showing that exceptional
17 conditions require it, to hear and determine certain pre-trial matters including motions
18 regarding pleadings, discovery, discovery motions, case management and settlement
19 negotiations and to report findings and make recommendations to the Court, and good cause
20 appearing.

21
22 Scope of Order. This Order Appointing Referee, as may be modified and supplemented
23 by further orders of this Court, shall govern all further discovery, case management, and
24 settlement matters in this action. All such matters shall be set for hearing and heard before the
25 Referee. Before setting such matters, available dates must be verified.
26

1 with the Referee. Before setting such matters, available dates must be verified with the Referee.

2 The Referee shall be responsible for hearing ORCP 21 motions but shall not hear motions for summary
3 judgment, or other substantive motions as addressed in the Hearings Review paragraph, unless by
4 unanimous consent by all parties. The Referee may not rule upon the admissibility of evidence. Further,
5 the Referee does not have the authority to put witnesses on oath nor may the Referee personally examine
6 witnesses.

7 Scheduling Teleconference. Counsel for all parties shall conduct a telephone conference
8 no later than 90 days after service of the Complaint, or 30 days after Third-Party Complaint or final
9 “third-party practice” pleadings under ORCP 22, whichever occurs last, to establish a schedule for:
10 1) discovery deadlines including a deadline for Plaintiff to submit a defect list, aka Bill of
11 Particulars and for Defendant(s) to submit a statement of which of its third/fourth/etc. party defendants
12 performed the work complained of in the third/fourth/etc. party complaint; 2) dispositive motion
13 deadlines; 3) alternative dispute resolution date; and 4) trial date. In the event this Scheduling
14 Teleconference does not occur within the time prescribed in this Order or if the parties cannot agree on
15 the required deadlines or dates, counsel for any party may request the Referee to conduct a Scheduling
16 Teleconference with all counsel and the Referee shall do so on a schedule convenient to the Referee. The
17 Referee shall be the final arbiter of the schedule subject to a party’s opportunity to apply for *de novo*
18 review pursuant to the Hearings Review paragraph. The Referee shall have the discretion to schedule
19 additional teleconferences with the parties’ counsel for case scheduling or other purposes and will notify
20 counsel of the call-in number and the confirmation number for such teleconferences.

21 Service of this Order. A copy of this Order and all subsequent Orders regarding this reference
22 shall be served with any third-party practice pleading under ORCP 22C bringing in a new party for any
23 claims related to or arising from the Project. Failure to comply with this paragraph may result in a
24 discovery sanction, at the discretion of the Referee, upon motion to the Referee.
25
26

1 Hearings: Review. All matters of any kind pertaining to pleadings, discovery, case management and
2 settlement matters shall be noticed to be heard before the Referee. The time limitations applicable to
3 serving the Referee with a motion to compel or to produce, and oppositions and replies thereto shall be as
4 set forth in all court rules with respect to timely filings of similar motions with the Court, unless
5 shortened by the Referee. Such motions may be heard by the Referee, at the discretion of the Referee,
6 for good cause shown, on a shortened time and on an informal basis. Matters involving substantive legal
7 issues not related to discovery, case management, pleading issues or settlement matters, shall be
8 submitted to the Court upon proper motion and notice, unless by unanimous consent of all parties to
9 submit such matters to the Referee. Rulings of the Referee may be reviewed by applying to the Presiding
10 Court or its designee. A party must file its motion for review within 10 days of service of the ruling
11 from the Referee. If the request is not filed within that time period, the ruling of the Referee will become
12 final and subject to enforcement by order of the Court confirming the ruling.

13 Investigation and/or Destructive Testing by Plaintiff(s). Absent a stipulation by all parties'
14 counsel, Plaintiff(s) shall provide prior written notice of the dates of all "investigation and/or destructing
15 testing" to all counsel. "Investigation and/or destructive testing" means the dismantling of any of the
16 components or materials related to the Project for the purpose of analyzing, testing, inspection or other
17 evaluation, the results or outcome of which are intended to be used at trial or any other legal proceeding
18 (including but not limited to use in connection with summary judgment motions). Such notice must be
19 sent by fax, overnight mail or hand delivered not less than fifteen (15) business days prior to the first date
20 of any testing. Notice of the specific location(s) and time(s) for all inspections and testing shall be
21 provided to all counsel not less than seven (7) working days prior to each inspection date, with
22 subsequent updates of the location(s) and/or schedule(s) to be provided as these change. Counsel and
23 experts for each party in the case may attend to observe. The Referee shall resolve any dispute arising
24 out of the time, place and manner of investigation and/or
25
26

1 motion of a party. If timely notice is not given, all evidence obtained by Plaintiff(s), including any and
2 all findings, analyses and opinions of Plaintiff(s) and its consultant(s) and expert(s) based or derived
3 from such investigation and/or testing will be barred from use in the trial of this action upon motion of
4 the aggrieved party.

5 Repairs by Plaintiff(s). Plaintiff(s) shall provide seven (7) working days prior written notice to
6 all counsel before performing any repairs involving the Project, except that Plaintiff(s) may perform
7 “emergency repairs”, so long as written notice is given to all parties within twenty-four (24) hours after
8 counsel for Plaintiff(s) has actual notice of such repairs. “Emergency repairs” are those repairs which,
9 in accordance with recognized engineering or construction practices, are deemed immediately
10 necessary to prevent imminent injury to persons or property. If timely notice is not given, all evidence
11 obtained by Plaintiff(s), including any and all findings, analyses, and opinions of Plaintiff(s) and it
12 consultant(s) and expert(s) based on or derived from such repairs may be barred in the Court’s
13 discretion from use at trial. In deciding whether such evidence is excluded on this basis, the Court may
14 consider the prejudicial effect of the lack of notice to Defendants, and whether such actions were
15 intentional, resulted from mistake, inadvertence, surprise or excusable neglect. However, the Court
16 may also consider any other factors it may deem as relevant in deciding whether to exclude evidence
17 that was procured by Plaintiff(s) without proper notice to Defendants as described in this paragraph.
18 Plaintiff(s) will make all best efforts to save any removed materials, if practical and if requested by one
19 of the Defendants. Defendants will have access to such materials upon request.

21 Investigation and/or Destructive Testing by Defendants. Absent a stipulation by all parties, all
22 defense investigation and/or destructive testing will be completed 180 days from service of the last
23 third-party practice pleading under ORCP 22C unless otherwise ordered by the Referee. Defendants
24 shall give notice to all parties not less than 15 business days prior to the first date of any investigation
25 and/or destructive testing.

1 To the extent practicable, Defendants shall coordinate their respective investigation and/or destructive
2 testing with other Defendants so as to minimize the impact to the Project and its occupants. All
3 arrangements for investigation and/or destructive testing shall be made through counsel for
4 Plaintiff(s). Notice of the specific location(s) and time(s) for all investigation and/or destructive testing
5 shall be provided to all counsel not less than seven (7) working days prior to each inspection date, with
6 subsequent updates of the location(s) and schedule(s) to be provided as these change. Counsel and
7 experts for each party in the case may attend to observe. The Referee shall resolve any dispute arising
8 out of the time, place and manner of investigation and/or destructive testing, upon motion of a party.
9 If timely notice is not given, all evidence obtained by the investigating/testing party, including any and
10 all findings, analyses and opinions of its consultant(s) and expert(s) based or derived from such
11 investigation and/or testing will be barred from use in the trial of this action upon motion of the
12 aggrieved party.

13
14 Optional Provisions. Upon stipulation by all parties, the Referee may facilitate an expedited and
15 streamlined discovery process that may include:

- 16 1. The response of each party to the claims against it;
 - 17 2. The preparation of and a timeline for the scope of repairs proposed by Plaintiff(s);
 - 18 3. A demand by a Third/Fourth/etc. Party Plaintiff to those defendants it sued in this case;
 - 19 4. A joint defense response to the Plaintiff's(s') statement of claims, defects, and damages;
 - 20 5. A joint defense scope of repairs;
 - 21 6. Disclosure of experts;
 - 22 7. Exchange of expert reports;
 - 23 8. Depositions of experts; and/or
 - 24 9. Depositions of other witnesses.
- 25
26

1 The parties may also stipulate to any other collaborate effort to expedite and streamline the litigation.

2 At the request of any party's counsel, the Referee shall conduct a teleconference among all counsel, at
3 the Referee's convenience, to inquire whether and to what extent all counsel are willing to agree to
4 these optional activities. Conversations and documents produced and exchanged in the course of these
5 optional expediting/streamlining activities shall be considered confidential settlement communications
6 under Oregon Evidence Code Rule 408. They cannot be used for any purpose connected with the trial
7 nor does the party's voluntary participation in these optional activities subject that party, its clients or
8 expert to any discovery requirements beyond what is required in the ORCP, including, without
9 limitation, that no party shall be required to produce its expert witness for deposition.

10 Insurance Issues. Where applicable, the Referee may require each party to submit within 45
11 days from the Referee's order, the following: 1) the names of all potential insurance carriers for each
12 party; 2) copies of all reservations of rights letters from each carrier; 3) the name and contact
13 information for the adjusters for each carrier; and 4) copies of each carrier's insurance policy for each
14 party. The Referee may increase the time for production of insurance information upon the *ex parte*
15 motion of a party. If these documents are ordered to be produced, they shall be provided to any other
16 party that requests them at the requesting party's own copying expense.

17
18 The Referee has the ability to advise a party that, she or it may want to retain independent
19 insurance coverage counsel, at that party's sole expense. Regardless of whether or not the Referee
20 chooses to provide this advice, the Referee shall not be deemed to be providing legal advice.

21 Further Status Conferences. At such time as the Referee may find it necessary, all parties shall
22 attend further status conferences before the Referee.
23
24
25
26

1 Settlement Discussions. On date(s) to be determined by the Referee, the Referee may order
2 the parties to commence Mandatory Settlement Conferences with a separate mediator, which shall
3 continue from time to time thereafter at the discretion of the Referee. If all parties agree the Referee
4 may serve as the mediator for settlement conference purposes. All counsel and their principals and
5 insurance representatives where applicable will be required to personally attend with full settlement
6 authority.

7 The parties' experts and/or consultants may be required to attend at the discretion of the Referee. The
8 mediator will report any non-attendance at the Mandatory Settlement Conference to the Referee. The
9 Referee is authorized to hear show cause motions for contempt brought by any party against another
10 Who failed to appear with counsel, principals and insurance representatives where applicable at the
11 Mandatory Settlement Conferences. Said show cause motion shall be briefed under the timeline
12 prescribed in UTCR 5.030. The Referee may excuse a party's attorney, principal, and/or insurance
13 representative upon the *ex parte* request of the party's counsel. The cost of the mediator's services will
14 be split in the same manner as prescribed in the paragraph below for the Referee Fees.
15

16 After the last Mandatory Settlement Conference, if the case does not settle, the Referee shall
17 prepare a report discussing the value of each of the claims, counter-claims, cross-claims and third-party
18 claims, both monetarily and legally, and shall prepare an allocation of responsibility among the parties.
19 The Referee will submit a copy of this report to the parties' counsel prior to the trial of the case.
20 Counsel shall deliver a copy of the Referee's report to their respective clients and insurance
21 representatives.

22 The Referee will also submit a copy of this report to the trial judge after trial on the merits if the Court
23 is considering the issue of attorney fee awards. The Court may use the Referee's report to assist in its
24 determination of reasonableness of attorneys' fees.

25 Ex Parte Orders. All applications to the Referee for *Ex Parte* Orders require twenty-four (24)
26 hour telephone or fax notice to all parties affected by the motion.

///
///

Clackamas County Circuit Court

**Fifth Judicial District
807 Main Street
Oregon City, OR 97045**



Application for Referee

Specially-Designated Construction Cases

Name	
Business Address	
Phone / Fax	
OSB No.	
E-mail	
List Bar Memberships and dates of admission	
Years practicing in construction law	

Describe construction practice and experience:

Describe construction trade organization and construction bar activities:

Describe ADR experience:

Describe other activities, which might bear on ability to perform referee duties (prior work history, degrees, etc):

DOMESTIC RELATIONS TIPS

***Ex Parte* Time**

Clackamas County Court hears *ex parte* matters Monday through Friday, excluding holidays, at 8:30 a.m. and 1:00 p.m. See the *Ex Parte* section (page 12) of this guide for specific process and procedure information.

Default Judgments

Pursuant to the Service members Civil Relief Act (SCRA), 50 USC app.521, 201(b)(3), the Affidavit in Support of Motion for Order of Default or declaration required by Service Members Civil Relief Act (2003) must address the following:

- a. Whether the respondent is or is not in active military service and state supporting facts;

Or

- b. If unable to determine if the respondent is in active military service, state that the petitioner is unable to determine if the respondent is in active military service and what reasonable efforts were made to make a determination.

If you are unable to determine if the respondent is in active military service, the court may require additional proof of the respondent's military status.

Requests for determining the military status of parties to an action can be made through the Department of Defense at <https://www.dmdc.osd.mil/appj/scra/scraHome.do> (see page 29).

See page 53 for General Judgment Checklist.

Orders to Show Cause

In Clackamas County, Orders to Show Cause are set for hearing and require a personal appearance by the parties. The court will not grant a default order/judgment based on the opposing party's failure to file a written response with the court within 30 days of service. See page 52 for "How to get an order to show cause signed in Clackamas County Circuit Court."

Certificates of Pending or Existing Child Support Cases

A Certificate Regarding Pending and/or Existing Child Support Orders and/or Judgments, in substantially the same form as specified in Form 8.090 in the UTCR Appendix of Forms, shall be included with motions and petitions filed pursuant to ORS 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, and 125.025, as required by ORS 107.085(3), 107.135(2)(b), 107.431(2)(b), 108.110(4), 109.100(3), 109.103(3), 109.165(3), and 125.025(4)(b).

Please make sure that you are filing this certificate in any case that involves minor children, whether support will be ordered or not. Please note that a copy of the pending or existing child support case should be attached to the certificate.

When to Serve Petition to Department of Justice

In any domestic relations case involving minor children, wherein the child support rights of one or both of the parties are assigned to the state (defined in ORS 25.010), a true copy of the petition shall be served by mail or personal delivery on the Administrator of the Division of Child Support of the

Department of Justice or on the branch office providing support services to the county in which the suit is filed. ORS 107.087, 109.103(4), and ORS 109.125(4).

In many of these cases, particularly when the minor child/ren are on public health insurance, the state has an interest in collecting support as reimbursement for public assistance. A certificate of service should be completed and included in the file to verify that this requirement has been complied with.

Child Attending School/Adult Child

Any domestic relations case involving any unmarried child between the ages of 18 and 21, whether or not the child qualifies as a “child attending school” (CAS) per ORS 107.108, should be included as a party to the action. When reviewing judgments, the judicial assistant is looking for proof of service or an acceptance of service from the CAS or adult child, as well as a signature on the judgment from the CAS or adult child, stipulating to the terms of the judgment, default order, or waiver of further appearance form signed by the CAS or adult child. In addition, if the child is attending school and support will be ordered for that child, the judgment should include a child support calculation worksheet as required by UTCR 8.060.

Money Awards

Pursuant to ORS 18.042(1), judgments containing awards for money must contain a “separate section” clearly labeled as a money award. Any judgment in a civil action that includes a money award but does not contain a “separate section” clearly labeled as a money award does not create a judgment lien...If the judgment includes a support award, the label of the separate section must so indicate (ORS 18.042(4)) This means that the court clerk will only enter the award in the docket register if the judgment complies with ORS 18.042(1). If the judgment’s money award does not comply with the statute, the clerk will still enter the judgment in OJIN, but will **NOT** enter the award in the docket register to create a lien.

The separate money award section should be placed directly above the judge’s signature line, and include the judgment creditor’s name and address, as well as the name, address and phone number of the creditor’s attorney. It should include the name of the judgment debtor, and *to the extent known: Debtor’s address, year of birth, tax identification number or last four digits of the Social Security number, final four digits of the driver license number and state of issuance and the name of any attorney for the debtor.

*Clackamas County SLR 5.105 states, “Any information that is required to be provided to the extent known by the judgment creditor must either be provided or the separate section must state affirmatively that the information required by the statute is unknown.” Any judgment that includes a money award, but does not contain all required information or a statement that the required information is unknown, will be returned to the submitting party for compliance with the SLR.

Health Insurance

ORS 25.323 requires that one or both parents provide **private** health care coverage for a child that is **appropriate** and **available** at the time the order is entered. The judgment needs to indicate what type (private or public) of health insurance is currently being provided. If appropriate **private** health care coverage is not available to one or both of the parents at the time the order is entered:

1. The order must require that one or both parents provide **private** health care coverage at any time when such coverage becomes available; and
2. Either require the payment of cash medical support, or include finding as to why cash medical should not be required.

Segregation Rules UTCR 2.130 vs. UTCR 2.100

UTCR 2.130 Confidential Personal Information

UTCR 2.130 is the required procedure to segregate “confidential information” in cases under ORS chapters 25, 106, 107, 108, 109, 110, and 416. As used in this rule, confidential personal information includes a party’s or a party’s child’s social security number; date of birth; driver license number; former legal names; and employer’s name, address and telephone number.

Use of the Confidential Information Form (CIF) is mandatory when the disclosure of such confidential personal information, as defined above, is required by statute or rule in a domestic relations pleading. If a new case is being filed, or documents that would normally require the disclosure of confidential information are being filed into a case where a CIF has not previously been filed, **the filing party must file a separate CIF for each person about whom the party is required to provide confidential personal information.**

The filing party need only include information of joint minor children on his or her CIF. There should be a separate CIF for any joint children between the ages of 18 and 21 since they are a party to the case.

The CIF is a restricted access document; it is available for inspection by court staff, other government agencies for the purpose of their work and the Child Support Program. These agencies must not further disclose the confidential personal information, unless otherwise ordered or authorized by law. The party filing the CIF must complete and deliver/mail a copy of the Notice of Filing Confidential Information Form to all other parties in the case. A certificate of delivery/ mailing must be filed with the court. These forms can be found in the UTCR Appendix of Forms.

The CIF and Notice of Filing CIF should be in substantially the same form as UTCR 2.130.1 and 2.130.2 respectively. UTCR 2.130 applies to any document, including exhibits and attachments, which are filed family law cases under the applicable chapters of the ORS. Where the confidential personal information would otherwise appear, the filing party would redact (black out) the information, and make a notation that the information is separately provided in UTCR 2.130.1. This does not apply to documents that are required to be court certified copies. The rule also does not apply to the truncated information required to be included in a money award under ORS 18.042.

UTCR 2.100 Segregated Information

UTCR 2.100, though no longer the “required” method of segregating social security numbers in domestic relations cases, still has its place as a valuable segregation tool. Parties may choose to utilize the UTCR 2.100 Long Form to segregate “protected personal information” not covered under UTCR 2.130, such as: credit card numbers, bank or other financial account, numbers, bank or other financial account locations financial account access numbers, or similar information that is used for financial transactions and can be kept confidential under ORS 192.502(2).

Entire documents, such as tax returns or pay stubs, are not included; only the identifying information described above that appears in the document.

Requests to segregate information under UTCR 2.100 should be filed using an affidavit and an information sheet containing the identification information. Both should be filed concurrently with the document(s) from which the information has been segregated.

The Affidavit Requesting Segregation and Segregated Information Sheet filed with the court should be in substantially the same form as UTCR 2.100.4a and 2.100.4b respectively.

There are no fees for either UTCR 2.130 CIF or UTCR 2.100 Affidavit filings.

UTCR 2.110 Redacting Information

UTCR 2.110 establishes a procedure for a person to identify and segregate protected personal information. When the information already exists in a document in a court case file and to request the information be kept from inspection by the public.

This rule may be followed to segregate and protect the same information already existing in a case file that could be segregated and protected at the time of submission under UTCR 2.100; the definitions in UTCR 2.100 (see above) apply to this rule.

Pay required fee of \$25.00 per case plus \$1.00 per page

Court's Responsibility

The court has no obligation to, and will not, review documents in the court's files to redact information contained in a CIF. Please note that to redact confidential information or personal identification information from a document on file with the court; you will need to follow the procedure outlined in UTCR 2.110.

Parent Education Class

Supplementary Local Court Rule 8.015 requires **all parties** in a family law case, where the interest of a minor child is involved, to complete the divorcing parents education program offered by Clackamas County Resolution Services (formerly known as Family Court Services).

Judge Jones's office operates under the following policy, regarding parent education classes:

- Prior to submitting a judgment that contains custody and/or parenting time provisions SLR 8.015 requirements must be met. The rule requires all parties to complete the class. This includes grandparents, interveners, and /or psychological parents, in addition to the legal parents. A copy the Certificate of Completion must be filed with the judgment, or the original must be on record in the court file before the judgment will be signed. The judgment will be returned unsigned to submitting party if there is no record of completion.
- If a default judgment is being submitted, and the respondent is the non-custodial parent, the court will defer the requirement for respondent based on petitioners' completion of the class. The document preparer should include language in the body of the judgment that petition has successfully completed the SLR 8.015 requirement, and the respondent will not be allowed to modify or enforce any of the terms of the custody and parenting plan until he/she has successfully completed the required parent education class.
- If there is good cause why the court should defer or waive the required class, a motion, supporting affidavit and order must be filed for the judge's consideration.
- Prior approval is needed to attend or take any alternative parenting class not offered through the county court in which the party is located. This includes on-line classes.

Resignation of Attorney

Judge Jones's judicial clerk reviews all withdrawal of attorney motions and orders on domestic cases prior to submitting them to Judge Jones for review and signature. A checklist is used to determine if all requirements have been met. Please use the checklist in preparing your documents. If your pleadings do not meet the requirements on the checklist, your documents will not be signed. Judge Jones's judicial clerk will notify the filing party of any deficiencies via facsimile. You may send the corrected documents back to Judge Jones's judicial clerk via facsimile; it is not necessary to send another original to the court. Effective January 1, 2012, HB 2685 amends ORS 9.380 and 9.390 to allow "notice of termination of

attorney-client relationship” to be filed at the conclusion of a case instead of a motion and order to withdraw. See page 54 for the Resignation of Attorney checklist.

Petitions for Appeal de Novo on Administrative Child Support Order

- The filing fee to request an appeal of an administrative child support order can be found in the courts fee schedule. The current fee schedule may be found on the Court’s website at <http://courts.oregon.gov/clackamas/>.
- A Petition filed under ORS 416.427(6) should not be combined with any other request for relief. It must be filed within 60 days of the administrative child support order being entered with the circuit court.
- A copy of the Petition must be mailed to all parties, including the administrative agency. A certificate of service should be filed with the court to avoid dismissal of the Petition.

New Child Support Guidelines and Calculator

Child Support Guidelines

Child support administrative rules will be amended at the beginning of 2014 (no official date yet). To see a summary of the rule changes, go to <http://www.oregonchildsupport.gov/laws/nprm/121012/summary.pdf>. Included on pages 49-51 is an old versus new comparison of the rules. It gives a succinct breakdown of the major changes.

Child Support Calculator

A new child support calculator went into effect July 1, 2013. Worksheets submitted after the effective date must be the most current version. Be careful with default judgments and amounts calculated on pre-2013 worksheets.

Vital Statistics Health Record Form

The Department of Human Services, Vital Records office has created an on-line form for use in dissolution of marriage/registered domestic partnership and annulment cases. This one form replaces the two old NCR forms – the dissolution of marriage/annulment form with an orange stripe, and the dissolution of registered domestic partnership with the brown stripe. You are welcome to use up your old *original* NCR forms, but please **DO NOT** make copies of the old form. DHS does not recognize copies of the NCR forms to be originals, and as such, while the court may accept the document to meet our requirements, the agency will not. Parties may end up being divorced without having any records of the dissolution at the state agency. Because the new form is electronic, but not everyone has the ability to use it electronically, it is perfectly ok to download the form and make as many copies as you need. The form is available on the State Court’s website:

http://courts.oregon.gov/OJD/docs/OSCA/cpsd/courtimprovement/familylaw/DHS-VS-46-12_Combined_Dissolution.pdf

Domestic Relations Fees

Pursuant to ORS 21.110(5), a pleading or other document shall be filed by the clerk only if the fee required under this section is paid by the person filing the document, or if a request for a fee waiver or deferral is granted by the court.

This means that the court will not enter or sign any pleading submitted without the appropriate filing fee. Please visit the Clackamas County Court’s website at <http://courts.oregon.gov/clackamas/> for a link to the current fee schedule.

NOTE: Most fees in domestic relations cases were changed, effective October 1, 2013. There is no longer an *ex parte* fee. There are no longer hearing fees; although we do still have trial fees.

No fee or request for waiver/deferral

Any pleading or document which requires a fee that is submitted without payment or an approved fee waiver/deferral, will be returned to your office “not filed”.

Insufficient fees

The Civil Case Unit clerk will place one (1) courtesy call to your office requesting additional fees be submitted. If additional fees are not submitted within 5 days, the pleading or document will be returned to your office.

In the instance where additional fees are needed on an already signed pleading or document, the Civil Case Unit will place one (1) courtesy call to your office and if additional fees are not submitted within 5 days the Presiding Judge will vacate the signature and the pleading or document will be returned to your office.

Pleadings or documents with hearing date set

The Civil Case Unit clerk will place one (1) courtesy call to your office requesting fees be paid on all pleadings or documents that have already been filed with a hearing date set, such as an Order to Show Cause. At the time of notification to your office the clerk will also notify the Calendaring Unit and the motion may or may not be assigned to a courtroom for a hearing.

First Appearance Fees

The first appearance fee will be charged to any party filing a motion or other responsive pleading with the court. This means that if the respondent in a default judgment later moves the court for modification, he/she will be charged the current first appearance fee plus any applicable motion fees.

Petitions filed to open a domestic relations case are subject to their own appropriate filing fee and shall not be filed in Administrative Child Support Cases.

Consolidated FAPA Restraining Order Cases

When a Family Abuse Prevention Act Restraining Order (FAPA) is consolidated with another domestic relations case, any orders vacating the Restraining Order should be filed separately in the FAPA case, in the county in which the original FAPA was granted. This will ensure that the court clerk sends a copy of the order to the Sheriff for entry into the Law Enforcement Data System (LEDS).

Please do not include language inside a domestic relations general judgment dismissing a FAPA. Furthermore, it is not appropriate to include provisions in a Clackamas County Circuit Court case to vacate the order of another county's court.

Child Support Guidelines – Old vs. New
(Old – Effective 1/4/10/New – Effective 7/1/13)

Old Medical	New Medical
<p>Double Coverage:</p> <ul style="list-style-type: none"> - If both parents have HCC available, order both to provide. - Parents may agree to single coverage when there is no medical assigned. 	<p>Single Coverage:</p> <ul style="list-style-type: none"> - If both parents have HCC available, order one parent to provide. Parent with more parenting time (PT) chooses. - Parents may agree to double coverage. - If 50/50 PT, lowest out of pocket premium will be chosen by CSP if parents don't agree on a policy. CSP can order higher cost policy with a finding.
<p>Reasonable in Cost (RIC) Cap for HCC:</p> <ul style="list-style-type: none"> - Use individual parent's 4% of adjusted income for that parent's cap. - Oregon minimum wage parent's cap is zero. 	<p>Reasonable in Cost (RIC) Cap for HCC:</p> <ul style="list-style-type: none"> - Combine both parents' 4% of adjusted income for a total shared cap (this cap may be different now than the cash medical cap). - Oregon minimum wage parent's cap is still zero. - Each parent's contribution amount is limited to the parent's available income, if less than 4% of the parent's adjusted income.
<p>Reasonable in Cost Cap for Cash Medical:</p> <ul style="list-style-type: none"> - 4% of obligated parent's adjusted income. - Zero for Oregon minimum wage obligor. 	<p>Reasonable in Cost Cap for Cash Medical:</p> <p>No change:</p> <ul style="list-style-type: none"> - 4% of obligated parent's adjusted income, or less if limited by the parent's available income. - Zero for Oregon minimum wage obligor.
<p>No apportioning of HCC:</p> <ul style="list-style-type: none"> - Both parents ordered to provide HCC when available at their individual RIC. 	<p>Apportioning Share of HCC Cost:</p> <ul style="list-style-type: none"> - Total premium cost multiplied by each parent's income share to get premium share. - When O provides: Cash child support decreases by obligee's share of premium. - When OE provides: Cash child support increased by O's share. - When only one parent has income above minimum wage, only that parent can be ordered to provide coverage, and that parent bears the entire cost.
<p>When Neither Parent Has Appropriate Private HCC:</p> <ul style="list-style-type: none"> - Both parents ordered to provide private HCC when available at RIC. - Obligor ordered to pay cash medical when not providing HCC. 	<p>When Neither Parent Has Appropriate Private HCC:</p> <ul style="list-style-type: none"> - Both parents ordered to provide private HCC when available at RIC. When one parent enrolls child, other parent is no longer required to provide. - Obligor with income > minimum wage to pay cash medical until obligor provides HCC.
<p>Contingent Cash Medical (CSP Implementation):</p> <ul style="list-style-type: none"> - Obligor always ordered unless finding of reason not to. - Included both when private HCC available and when not available at the time of the order. 	<p>Contingent Cash Medical (CSP Implementation):</p> <ul style="list-style-type: none"> - No longer ordered when a parent is providing HCC at the time of the order. - CSP will only order contingent cash medical when private HCC not available to any parent at the time of the order.

	18-Year Old Children Attending High School and Living with Parent
	<ul style="list-style-type: none"> - Includes 18-year old child in high school and living with the parent for non-joint child deduction. CSP will still not take a new order for an 18 year old in high school. - For mods, the 18-year old CAS in HS living with a parent will be calculated as a minor. - Support will still be distributed directly to the CAS unless the order provides otherwise.
Old Calculation of Additional Child Deduction	New Calculation of Non-joint Child Deduction
<ul style="list-style-type: none"> - Deduct scale amount for parent's income and number of non-joints. - Need a support order to receive non-joint credit for a CAS. -Term used: "additional child". 	<ul style="list-style-type: none"> - Obtain scale amount for parent's income and total number of joint and non-joint children, then prorate for only non-joint children for amount to deduct. - Lowers deduction. - Non-joint deduction given for 18-year old in high school in parent's home. - Going back to "non-joint child" terminology.
Old Parenting Time Credit	New Parenting Time Credit
<ul style="list-style-type: none"> - Multiplied basic support per scale by 1.5 - 25% threshold before any credit given - Multiplied percentage share of PT by basic support amount for amount of credit. - Written agreement/order required by Program. 	<ul style="list-style-type: none"> - No multiplier; no threshold - Percentage of credit is calculated from the number of overnights using a graduated curve. - Creates low credits for lower numbers of overnights and closer to equal credits toward 50% overnights. - Written agreement/order still required by CSP.
<ul style="list-style-type: none"> - Credit based on aggregate parenting time in parenting plan, but applied to the support for all children, including a CAS' portion. - Formula: 1.5 X basic support amount X parenting time percentage. - Result: More credit applied when there are CAS. 	<ul style="list-style-type: none"> - CAS's support is not included in the amount of basic support used to determine the parenting time credit*, but the final support is still divided between all the children. - Formula: Multiply minor children's proportionate share of basic support X the parents' parenting time credit percentage. - The PT credit percentage is based on overnights and derived from a complex formula. (See OAR 137-050-0730.) - Result: Less credit applied when there are CAS. * Exception: Where the CAS is 18-years old, attending high school and living with a parent, the CAS's basic support <i>is</i> included in the parenting time credit.
Old Income	New Income
<ul style="list-style-type: none"> - Presumed minimum wage at full-time when party unemployed, or employed less than full-time, income less than full-time Oregon minimum wage, or no evidence of any income. 	<ul style="list-style-type: none"> - Always begin with actual income. - Then add potential income where supportable based on the parent's earnings history and present ability and the opportunities available in the community. - Default to minimum wage only when there's no information about the parent's wage history. -Minimum wage still applies to TANF recipients.

<p>Old definition of potential income:</p> <ul style="list-style-type: none"> - (5) "Potential income" means the greater of: (a) The parent's probable full-time earnings level based on employment potential, relevant work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community; or (b) The amount of income a parent could earn working full-time at current state minimum wage. 	<p>New definition of potential income:</p> <ul style="list-style-type: none"> - Based on relevant work history, hours worked, hours available, qualifications, education, physical/mental health, prevailing job opportunities.
Old Adjusted Income	New Adjusted Income
- Deduct parent's own HCC to insure them if necessary to enroll child and if child's premium is reasonable.	- Always deduct parent's own HCC costs to insure themselves, even if not enrolling the child.
Old Child Care Costs	New Child Care Costs
- Include total child care amount, including subsidies.	- Include only costs actually paid up to maximum cost allowed. No longer includes subsidy amounts.
- Include caretaker's child care costs.	- Continue to include caretaker's child care costs.
- Refer to maximum cost table.	- Updated maximum cost table per DHS – amounts increased for "other locations".
- Calculate child care tax credit and deduct from child care cost.	- Removed tax credit computation.
<p>Computation:</p> <ul style="list-style-type: none"> - Compare to income after self-support reserve. Do not exceed. 	<p>Computation:</p> <ul style="list-style-type: none"> - Still compare to self-support reserve. Do not exceed.
Old Agreed Amount	New Agreed Amount
- Parties may consent to amount within 10% of calculated support amount (including rebuttals).	- Parties may consent to amount within 15% of calculated support amount (including rebuttals).
Rule Commentary	Rule Commentary
- Not available.	- Restored and updated rule commentary.

How to Get an Order to Show Cause Signed in Clackamas County Circuit Court

Orders to Show Cause may be signed twice a day at ex parte. *Ex parte* occurs at 8:30 a.m. and 1:00 p.m. any day of the week that the court is open. When you are ready to have a judge sign your Order, please arrive at the courthouse early enough to complete the following steps:

1. **Schedule Hearing Date:** You must schedule your hearing date on your Order to Show Cause in person **before** seeing the judge. Please go to **Room 200** on the second floor of the courthouse to obtain a court date, prior to appearing for ex parte. Make sure that your court date is scheduled for at least 30 days in the future, plus adequate time to allow someone to serve the other party (about 10–14 days). Write in the date you are given on your Order to Show Cause. The clerk in Room 200 will tell you where to go for ex parte.
2. **Pay Fees:** Unless you have a Fee Waiver Order, all fees, are due in full and must be paid in the courtroom **before** the judge can review your documents. Fees are subject to change. Please verify the current filing fees by visiting the Court’s website at <http://courts.oregon.gov/Clackamas> or contact the Civil Case Unit at (503) 655-8447, select option 3. If using a sheriff for service, please contact the county sheriff whom you will be asking to complete service for their current service fees.

NOTE: *If you represent the respondent in this case and he/she has never paid a first appearance fee, you will be required to pay a current first appearance fee in addition to the appropriate fee for the action you are presently filing.*

3. **File Documents and Conform Service Copies:** Hand your *ex parte* documents to the clerk. Once your Order is signed by the judge, the clerk will keep your original documents and file them for you. You will need to bring at least two additional copies of the papers you are filing (personal copy and service copy), plus a third copy if child support is an issue. Please sign the bottom of the copies where it says, “I certify this to be a true copy of the original.” If you are not able to make your own copies, the Court will make them for you at a charge of \$0.25 per page.

IMPORTANT INFORMATION

You must call the CALENDARING UNIT two business days before your hearing to confirm the date and time. Please call (503) 655-8643 and press option 2 for Civil and Domestic Calendaring.

General Judgment Checklists

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF CLACKAMAS
807 MAIN ST. OREGON CITY, OR 97045

DR _____

- ___ Fees have been paid, waived or deferred, including \$125 trial fee.
 - ___ Vital Statistics form (Dissolution/Annulment cases only) UTCR 8.010(7)(d)
 - ___ Certificate of Pending Child Support Cases w/ copy of order(s) UTCR 8.090
 - ___ Certificate of Mailing to DOJ when parties' child support rights are assigned to State ORS 107.087, 109.103(4), and ORS 109.125(4).
 - ___ UTCR 2.130 Confidential Information Forms (CIF) filed for ___ PET ___ RSP ___ Adult Child
 - ___ Proof of Service pursuant to ORCP 7(F) including mailing on Substitute Service ORCP 7(D)(2)(b)
 - ___ *Service made on adult child party to action
 - ___ Default Order/Affidavit ORCP 69(A) and ORCP 7(C)(2)
 - ___ Adult child party to action
 - ___ Affidavit of Non-military Service per ORCP 69(B)(4) with additional proof of Respondent's military status per the SCRA, 50 USC app.521, 201(b)(3)
 - ___ Affidavit in Support of Judgment Without Hearing including income statements and jurisdictional information if minors involved ORS 107.095(4)(a)(b)
 - ___ Attorney's/Author's information on pleading UTCR 2.010(6)(7)
 - ___ Mandatory Parenting Class taken pursuant to SLR 8.015 ___ PET ___ RSP ___ Other Party. To schedule, contact Clackamas County Resolutions Services (503) 655-8415
 - ___ General Judgment must be signed, and if stipulated, must be signed by all parties; including adult child who is party to action ORCP 67(F)(2)
 - ___ Legal description of real property if interest in property being transferred (you may get this info from the County Recorder or your Deed)
 - ___ Spousal Support shall be identified as Transitional, Compensatory and/or Maintenance and have findings ORS 107.105(d)(A)-(C)
 - ___ Maintenance of health care coverage for child, cash medical if applicable, uninsured expenses, and maintenance of life insurance as security for support ORS 107.106(1)(a)(A)(B)&(C) and ORS 25.323
 - ___ Custody information and minimum parenting plan (visitation) ORS 107.102(2)
 - ___ Support Computation Worksheet pursuant to ORS 25.270 to 25.290
 - ___ Notice of residency change (60 miles) ORS 107.159(1)
 - ___ Notice to parties to inform DOJ of change in information ORS 25.020(8)(b)(A)
 - ___ Notice of Income Withholding ORS 25.384(1)
 - ___ Income withholding exceptions if applicable ORS 25.396
 - ___ Support/Visitation Responsibility Language ORS 107.106(1)(b)
 - ___ Notice of Periodic Review ORS 25.020(8)(b)(B)
 - ___ Separate section labeled, "Money Award" in compliance with ORS 18.042, including truncated personal information, or statement as to "unknown" if required info is unknown to creditor.
 - ___ Copy of Judgment and CIF's for Dept of Justice per UTCR 8.010(9) and ORS 25.140
 - ___ Motion, Order and Affidavit to Reinstate if case has been dismissed
 - ___ "Court Findings of Paternity" form for Dept. of Health Records (only in paternity cases)
 - ___ Corroborating evidence of paternity from witnesses (if paternity by default ORS 109.145)
 - ___ Other:
-
-
-

FAX
Jeffrey S. Jones
Circuit Court Judge
807 Main St., Rm. 203
Oregon City, OR 97045
503-655-8687 Phone
503-650-3512 Fax

Date: _____
To: _____
Fax #: _____
From: Judicial Clerk to Jeffrey S. Jones
Subject: Motion for Attorney Withdrawal
RE: _____

****PLEASE FAX REVISED DOCUMENT(S) OR REQUESTED
INFORMATION. MAILING ORIGINAL OF FAX IS NOT
NECESSARY****

Based upon UTCR 3.140 and the policy of this court, your Motion to Withdraw as attorney of record cannot be signed at this time for the following reason:

- It does not contain the name, address and telephone number of your client and the new attorney, if substituted.
- It has not been served on your client the opposing party's attorney or If there is no attorney for the opposing party, the application must be served on the opposing party.
- It does not contain the date of scheduled trial/hearing or state that no trial/hearing is scheduled.
- It does not state good and sufficient cause.
- Pursuant to UTCR 2.010, on or after August 1, 2005, the attorney's fax number and e-mail address, if any, must also be included.
- Other: _____

Helpful Information – Domestic Relations

Reporting “Ready” Tips (i.e. report actual time you need, not what you think will get a hearing)

Call 503-655-8643, option 2, two business days prior to the hearing. Tell the clerk how much time you anticipate the hearing will take, if there are any out of town witnesses, the total number of witnesses and if there will be any expert witnesses. Reporting “not ready” is not an option. If you feel you won’t be ready for the hearing, you must file the appropriate motion with the Civil Case Unit.

****Please note: If you have a hearing that was originally set on the short docket, but now needs longer than 30 minutes, Calendaring will move it to the long docket, **if space is available**. If space isn’t available, Calendaring will reset your hearing **normal course**. ****

Reserving a Technology Courtroom

You may request a high tech courtroom, but it cannot be guaranteed. If you do not get a high tech courtroom, you will need to provide for your own technological needs.

Procedure for Motions to Exclude Judges (beginning and in middle of case)

Calendaring will not consider any communication other than an Affidavit Disqualifying Judge when assigning cases. If an affidavit is filed the day of the hearing/trial and the case has been assigned to the judge you would like to affidavit, Calendaring will try to move the case to another judge but may result in the case being reset normal course. You must file the affidavit by 5:00 p.m. the day of the hearing. Filing your affidavit in advance of assignment is the only way to ensure you will not be assigned to a particular judge.

****Please note: If a specific judge has already made a significant ruling on a case, the court may not consider an affidavit. ****

Docketing Procedures and Knowing What to Ask for (long docket/short docket/motions docket)

Short Docket

If you need 30 minutes or less for your Order to Show Cause hearing, and the issue is NOT contempt or modification of custody, it may be set on the short docket. There is less wait time for this docket, and the hearings don’t get bumped. These matters are heard by Pro Tem judges. However, if you have a hearing originally set on the short docket that ends up needing longer than 30 minutes, Calendaring will move it to the long docket, **if space is available**. If there is no space available, Calendaring will reset your hearing **normal course**.

Long Docket

If your Order to Show Cause needs more than 30 minutes, up to one-half day, or is a contempt/modification issue, it will be set on the long docket at 1:30 p.m.

If your Order to Show Cause needs more than one-half day, it will be placed on the 9:00 a.m. docket.

Motion Docket

Motions must conform to the requirements set forth in UTCR 5.050-Motion must request oral argument, if desired, and include an estimate of the time required for argument and a statement whether official court reporting services are requested. If oral argument is not requested, the motion will be ruled on in chambers and placed on the 8:45 a.m. “non-oral” motion docket. In

addition, please provide a Certificate of Service showing when the opposing party was served a copy of the motion.

****Please note: You do not need to appear for the 8:45 a.m. non-oral motion docket. ****

Health Insurance: Private or Public? Cash Medical or Not?

The court needs to know what type of health insurance is currently being provided for the benefit of the minor child/ren. Pursuant to ORS 25.323(4):

- (4) A medical support clause must require that one or both parents provide **private** health care coverage for a child that is appropriate and available at the time the order is entered. If **private** health care coverage for a child is not appropriate and available at the time the order is entered, the order must:
- (a) Require that one or both parents provide **private** health care coverage for the child at any time thereafter when such coverage becomes available; **and**
- (b) Either require the payment of cash medical support, or include findings on why cash medical support has not been required.

Mandatory Parent Education Class Policy

If the judgment is by default, and the respondent has not taken the parenting class, it is not necessary to file a motion to defer or waive the class as to Respondent; Petitioner still must attend the class. If the judgment is by stipulation, then both parties must take the class. If one party to the stipulated judgment has not taken the class, you will need to file a motion to defer or waive the class. If you are preparing the judgment, and the party who has not taken the class is not your client, it is still your responsibility to file the motion to defer/waive.

On-line parent education courses are allowed under special circumstances. You need court approval prior to taking an online class for it to fulfill the parent education requirement. The court has a short list of classes that meet criteria, but cannot recommend or give the names of approved on-line classes. If approved to take an on-line course, you will need to call the court before taking an alternative class to make sure it is approved.

If a party has taken the class in a different case, they will not need to take the class again; even if this case involves another party. You must provide a copy of the certificate for the current case.

EASY WAYS TO HELP CLERKS HELP YOU

Double-check your pleadings to make sure you are listed as representing the correct party. Quite often, two different pleadings for the same case will say you represent different parties.

Make sure the correct filing fee accompanies your pleadings. A current fee schedule is listed on our website, or you can verify fees by calling the Civil Case Unit at 503-655-8447, ext 3. Pleadings filed with insufficient fees will be rejected.

Pursuant to **SLR 2.011**, please 2-hole punch all pleadings before filing them with the court. Also, please staple separately each pleading or similar document submitted for filing. The clerks can return them to you if this is not done.

Please individually staple multi-page documents; not as an entire packet of documents. Additionally, please don't send in multi-page documents loose or separated with binder clips and/or paper clips.

If you are sending in a certificate of service for a pleading, please staple it to the pleading about which you are notifying the court you have sent. If you send the certificate in separately, it will only be placed in the folder as a non-pleading, and will not be entered, unless it has a proper case caption

If you are submitting pleadings for consolidated cases, make sure the case number you want the pleading to be filed in appears first (at the top) in the case caption. Remember, you are responsible for providing an original for each case, if you want the pleading filed in both cases.

Always double-check that the case number is correct on your pleadings. As simple as this may seem, we frequently receive papers with the wrong case number.

If you are submitting a judgment or order as a result of a hearing, please put the name of the judge that heard your case in the findings.

Clerks are unable to exchange or add pages to your filed documents, even if you ask politely.

It is helpful to the clerks if you use blue ink when signing original pleadings. We must file originals; it can be difficult to tell which are originals and which are the copies when signed in black ink.

Provide an envelope that is large enough, with sufficient postage for your conformed copies to be mailed back to you.

These are just a few of the simple things you can do to help us be more efficient with our time. Help us help you to get pleadings filed and entered more quickly.
Thanks!

PROBATE TIPS

Probate Staff

Hon. Robert Herndon	Presiding Judge
Robin Huntting	Civil and Probate Supervisor
Jeff Petty	Probate Coordinator
Christine Poole	Audit Clerk
Matt Pennington	Probate Clerk

Voucher Destruction/Return

Clackamas County Court Probate has developed a notice to inform the attorneys when the Order Approving Accounting has been signed with no arrangement for the return of vouchers. This notice is to inform the attorney that they have 30 days to arrange for pick up or delivery of the vouchers or they will be destroyed. If requesting vouchers to be returned by court staff, please provide a self-addressed stamped envelope (large enough to handle all vouchers).

Ex Parte Matters

Clackamas County Court hears *ex parte* matters Monday through Friday, excluding holidays, at 8:30 a.m. and 1:00 p.m. See the *Ex Parte* section (page 12) of the Lawyer's Survival Guide for specific process and procedure information. The Probate Coordinator must first review any probate matter that will be presented for signature at *ex parte*. If the Probate Coordinator is not available, the Probate Supervisor or Clerk will review the matter. The Probate Coordinator is located on the first floor of the Courthouse, Room 104 and may be reached by telephone at 503-655-8623.

Bonding Requirement

In most instances, at least a minimum bond will be required on any estate where the will does not waive bond and non-restricted conservatorships. An adequate bond covers all assets plus one year's income.

Courtesy Notice/Letter

In an attempt to dispose of all aged probate filings, Clackamas County Court reviews files and mails either a courtesy notice or letter to inform the party of the delinquent status. Each party is given 30 days to rectify the delinquency or they will receive a citation to appear in front of the Probate Judge. In an attempt to resolve these issues, the Court works with the attorneys, acknowledges the fact that the attorney's file may be in storage or has been destroyed due to the age of the filing, and time extensions may be granted.

Please remember, if you are the petitioning attorney, you are responsible for completing all steps of the closure process. You should not attempt to simply withdraw from the case.

Personal injury or creditor-initiated estates must also comply with closure requirements. Please remember if you begin the process under one of those issues, you must finish the process. The petitioner is responsible for the finalization of the estate.

Extensions of Deadlines

Extensions of deadlines for filing pleadings are discouraged. Statutorily prescribed deadlines for filings should be adhered to in order to effectuate efficient administration. Nevertheless, the court recognizes that unforeseen circumstances may hinder timeliness. When good cause exists to allow for an extension, a request for extension should be submitted in writing to the Probate Coordinator. The Probate Coordinator has authority to approve (or deny) one 60-day extension only. If an extension has previously been allowed or a request seeks more than 60 days, the extension request must be in the form of Motion and Order to the judge. Any granted extension runs from the original due date of the filing; the issue date of any courtesy notice sent as a reminder is irrelevant to the extension.

Request for Set-over / Continuance of Scheduled Court Proceedings

Requests for set-over's / continuance of scheduled hearings require that an affidavit, motion and order be submitted. The Judicial Officer assigned to Probate will determine the appropriateness of the set-over / continuance request.

Court Visitors for Adult Guardianship

In Clackamas County, the attorney is responsible for selecting the Court Visitor and coordinating the payment of the visitor's fee directly with the visitor. An Order Appointing Visitor, with the selected visitor's name, should be filed along with the petition.

List of Clackamas County Court Approved Visitors:

- Billie Bell, MSW, PO Box 4226, Portland, OR 97242--Ph: 503-234-4866
- Starla Gustafson Brown, PO Box 30595, Portland, OR 97294--Ph: 503-320-2588
Fax: 503-666-0347
- Edna Chambers, RN, Ph: 503-310-1272- Email: edna@ednaseldercare.com
- Polly Fisher, PsyD, 6975 SW Sandburg St #340--Ph: 503-684-6205-Fax: 503-624-1322
- Catherine M. Garman (Katie), PO Box 1097, St Helens, OR 97051--Ph: 503-366-2844
Cell: 503-803-2266 Fax: 503-366-3681
- Angela Plowhead, PsyD, PO Box 835, Oregon City, OR 97045--Ph: 503-896-0927- Email: capacsolutions@gmail.com

Request for Fees

Attorney Fees

Requests for payment of attorney fees must be accompanied by an itemized affidavit as these fees must be approved by the court. Attorney fees are not allowed in Estate proceedings prior to General Judgment of Final Distribution unless they are necessary for tax purposes and the necessity is so stated or explained in the petition.

Fiduciary Fees

Requests for payment of fiduciary fees must be accompanied by an itemized affidavit.

The fiduciary must obtain approval from the court prior to paying a family member or individual with whom he or she has a pecuniary or financial interest to perform management duties. See ORS 125.221 for specific requirements.

****Attorneys, please discuss reasonable fiduciary fees with your clients. ****

Reporting Requirement

All guardianships (including minor guardianships) require an annual report to be filed. See pages 77-79 for an example of the report format. The Court *does not* send a report form to guardians. Report forms are available both at the courthouse and online under the "Materials & Resources" tab of the court's homepage, <http://courts.oregon.gov/clackamas/>. Annual guardian reports must be signed by each guardian and must be served upon the protected person if the protected person is 14 years or older.

All Estate and Conservatorship proceedings require an Annual Accounting to be filed. Annual Accountings must comply with UTCR 9.160.

An annual Report of Restricted Funds will be accepted on Minor Conservatorship filings that have all assets held in a restricted account. Acknowledgment of Restrictions must also be on file. See page 76

for an example of Acknowledgement of Restricted Status on Frozen Assets and pages 74-75 or Annual Report of Restricted Funds. They are also available online at: <http://courts.oregon.gov/clackamas/>.

Labeling of Probate Judgments/Orders

The statute requires that all judgments must be submitted as General, Limited, or Supplemental Judgments. It is important to remember that Probate Judgments and Orders were also affected by the new statute for labeling. See pages 61-63 for a reference guide on the proper labeling of your judgments.

Probate Hearings

Contested probate matters are heard on alternating Fridays by Circuit Court Judges on a rotating schedule. Parties should report to room 200 of the Clackamas County Circuit Court, 807 Main Street, Oregon City, Oregon 97045.

All Will Contest matters and Trust Litigation matters are required to have a settlement conference prior to the matter being heard. All settlement conferences will be scheduled by the Calendaring Unit, Room 200, Clackamas County Courthouse, 807 Main Street, Oregon City, Oregon. Each party participating in the conference shall pay a \$200.00 fee to the court before the conference is conducted.

*******PROBATE REMINDERS*******

1. All pleadings must comply with UTCR 9.030 - (Address, telephone number, etc.)
2. All orders must comply with UTCR 2.010(12)(a) - (2 lines of text above Judges' name on orders)
3. Estates must comply with Department of Human Resources, Estate Administration Unit notification, ORS 113.145(6)
4. Estate petitions must address ORS 113.035(8) and (9)
5. Remember to notify Long Term Care Ombudsman when respondents are residents of a nursing home or residential facility, ORS 125.060(7)(b).
6. Requests for a waiver of the bond requirement must address SLR 9.055.
7. Remember that it is the responsibility of the attorney to have the Acknowledgment of Restrictions signed by the institution, UTCR 9.050 page 76.
8. Accountings *must* comply with UTCR 9.160. Asset schedules are required pursuant to UTCR 9.160(2). Although Clackamas County audits accountings, our auditor is not a replacement for diligent and attentive accounting practices. Compliance with the UTCR streamlines the audit process, which results in your orders and judgments reaching the judge sooner.
9. If parties are acting as co-guardians, each guardian must sign the annual report of guardianship. As many attorneys withdraw after a guardianship has been established, attorneys should remember to educate their clients as to reporting responsibilities prior to withdrawal.
10. Practice varies from county to county and these differences may not be addressed within the Supplemental Local Rules. Please contact the probate staff if you have questions about our local practice.

Judgments and Orders in Probate Court

Compiled by Philip N. Jones, Duffy Kekel LLP

Court Action	Probate Estates	Conservatorships	Guardianships
Decision on a petition for appointment of fiduciary.	Limited judgment. ORS 111.275.*†○ Usually also admits will to probate.	Limited judgment. ORS 125.030 (1).† See ORS 125.400.	Limited judgment. ORS 125.030 (1).† See ORS 125.305.
Admitting will to probate.	Limited judgment, if it also appoints a personal representative. ORS 111.275.*†○		
Decision on a petition for removal of fiduciary.	Limited judgment, whether granting or denying removal. ORS 111.275 (1).*○	Limited judgment, if it appoints a new fiduciary. ORS 125.030 (1).†	Limited judgment, if it appoints a new fiduciary. ORS 125.030 (1).†
Decisions in will contests.	Limited judgment. ORS 111.275 (1).*○		
Placement of a protected person.			Limited judgment. ORS 125.030.*○
Sale of residence of protected person.		Limited judgment. ORS 125.030 (2).*○	
Declaratory judgment decisions.	Limited judgment. ORS 111.275 (1).*○	Order.	Order.
Decisions awarding fees and/or expenses (see below for final accountings).	Limited judgment. ORS 111.275 (1).*○	Limited judgment. ORS 125.030 (2).*○	Limited judgment. ORS 125.030 (2).*○
Approving an interim accounting without objection and without awarding fees or expenses.	Order.	Order. ORS 125.480.	

Court Action	Probate Estates	Conservatorships	Guardianships
Decisions on interim accountings after objection, or awarding fees or expenses	Limited judgment. ORS 111.275 (1).*○	Limited judgment. ORS 125.030 (2).*○	
Decisions on petitions for final accounting, approving distribution, and awarding fees and expenses, or after an objection	General judgment approving final accounting and approving final distribution. ORS 111.275 (1);*○ ORS 116.113; ORS 18.005 (7).	Limited Judgment approving final accounting. ORS 125.030 (2).*○	
Decisions on petitions for final accounting and approving distribution without objection, but <u>not</u> awarding fees or expenses.	Order approving final account and general judgment of final distribution. ORS 116.113; ORS 18.005(7).	Order approving final account and general judgment closing the proceeding. ORS 125.090; ORS 125.480; ORS 18.005(7).	
Termination of a protective proceeding.		General judgment. ORS 125.090; ORS 18.005(7).	General judgment. ORS 125.090; ORS 18.005(7).
Discharging fiduciary after general judgment on final account.	Supplemental judgment. ORS 116.213; ORS 18.005(17).		
Additional decisions after entry of general judgment.	Supplemental judgment. ORS 18.005(17).	Supplemental judgment. ORS 18.005(17).	Supplemental judgment. ORS 18.005(17).

Footnotes:

* ORS 111.275(2) and ORS 125.030(3) both required that the court must determine “that there is no just reason for delay” before entering a limited judgment under ORS 111.275(1) and ORS 125.030(2). However, the limited judgment document need not reflect that determination. *Interstate Roofing v. Springville*, 347 Or. 144 (2009). The safest practice would be to include that representation in the petition and then to include that determination in the limited judgment. It is also not necessary to use the word “adjudged” in a limited judgment, *Interstate Roofing v. Springville*, 347 Or. 144 (2009).

○ ORS 111.275(1) and ORS 125.030(2) provide that a limited judgment “may” be used in these situations. Most courts now require the use of a limited judgment, even though the use of an order appears to be permissive in the statute. An order would be appropriate in these situations if there is a reason for delaying entry of an appealable judgment, such as when a proceeding is close to being terminated and a general judgment can be used to combine all of the rulings of the court. Note, however, that a limited judgment is always used to appoint a fiduciary in a protective proceeding. ORS 125.030(1). When appointing a personal representative, ORS 125.030(2) states that a limited judgment “may” be used.

† The use of the phrase “limited judgment” may be confusing to financial institutions and others dealing with a fiduciary operating pursuant to an appointment under a limited judgment. To clarify that the fiduciary has full powers to act as fiduciary, it is suggested that both the caption and the body of the limited judgment reflect those full powers. For example, the document appointing a personal representative might be labeled as a “limited judgment admitting will to probate and appointing personal representative with full powers.”

General Notes:

1. The provisions summarized above were enacted by HB 2359 (2005 Oregon Laws Ch. 568). That act has been codified as part of ORS Chapters 111 (general provisions), 116 (probate estates), and 125 (protective proceedings). Additional changes were made by SB 370 (2009 Oregon Laws Chapter 50).

2. ORS 112.205(4) states that the probate court operates through orders and judgments. ORS 111.275(1) and 125.030(2) provide that limited judgments may be used only in certain enumerated situations. In estates, ORS 116.113 states that a general judgment will be used to direct the distribution of assets. In protective proceedings, ORS 125.090 states that a general judgment will be used to terminate a proceeding. The statutes do not authorize limited or general judgments in other situations. Accordingly, this chart (see above) indicates that an order should be used in all situations where the statute is silent as to the type of document to employ. For the same reason, court decisions should be in the form of orders in situations not described in this chart.

3. For the definition of general judgments and limited judgments, see ORS 18.005. A general judgment is defined as a judgment which disposes of all the remaining issues (requests for relief) that have not previously been decided by a limited judgment. ORS 18.005(7). However, a proceeding might result in interim rulings on various issues, and those interim rulings will be entered as limited judgments if they dispose of one or more issues (open or more requests for relief), but less than all of the issues. ORS 18.005(13). They will be entered as orders if they do not dispose of a request for relief. ORS 18.005(13). A limited judgment may not be used to dispose of a “portion of a claim...; rather, a limited judgment must dispose of a whole claim or of all claims against a party.” *Steele v. Mayoral*, 231 Or. App. 60 (11/4/09). Supplemental judgments are entered after the entry of a general judgment; they usually deal with the discharge of the fiduciary and other matters specifically authorized by statute. ORS 18.005(17). Limited judgments, general judgments, and supplemental judgments are appealable, assuming the appealing party preserved their right to appeal by timely objecting to the entry of the judgment, and filed their notice of appeal within the applicable time period. ORS 19.205. The time period for appeal is generally 30 days from entry of the judgment. ORS 19.255.

4. In trust proceedings, a general judgment is usually entered at the conclusion of the proceeding. However, a proceeding might result in interim rulings on various issues, which are discussed above. In those situations, ORS 111.275 (which governs probates) does not apply, and ORS 18.005(7)(a) and ORS 18.005(13(d)) do apply. That latter statute authorizes limited judgments only when a legal authority specifically authorizes the use of a limited judgment. As a result, limited judgments are available to a lesser degree in trust matters than in probates and orders should be used for most interim rulings in trust proceedings.

5. In wrongful death probates, an order should be used to approve a settlement and/or an apportionment of the proceeds of the wrongful death action pursuant to ORS 30.040 and 30.050. After the order is entered and the proceeds distributed, file receipts with the court and request a general judgment incorporating the prior orders(s), discharging the personal representative, exonerating the bond (if any), and closing the estate.

6. In a proceeding to appoint a successor custodian under ORS 126.862(6), petition the probate court and then enter a general judgment appointing the successor. A limited judgment is not necessary because the court will not have continuing supervision over the fiduciary.

7. This is a summary only; please review the text of the statutes regarding the application of the law to particular situations. Statutes not cited here may also be relevant.

Probate Checklists

GUARDIANSHIP – MINOR

Name of Protected Person: _____ Age: _____

_____ Venue [ORS 125.020] Case Number: P _____

_____ Petition (Needs to state order sought in the caption): [ORS 125.055]

_____ Respondent’s information (name, age, residence address & current location) [(2)(a)]

_____ Proposed Guardian information [(2)(c)]
(relationship to respondent, name, age, residence/ mailing address)

_____ If fiduciary is not the petitioner, name, age, address and interest of petitioner [(2)(b) and (c)]

_____ If fiduciary is not the petitioner, statement of fiduciary regarding willingness to serve [(2)(d)]

_____ A statement if proposed fiduciary has been convicted of a crime, has filed for or received protection under the bankruptcy laws or has had a license revoked or canceled that was required by the laws of any state - if yes, explanation [(2)(d)]

_____ Name and address of any fiduciary that has been appointed by any Court, any Trustee for an established or testamentary Trust, any appointed health care representative and any person acting as attorney-in-fact under a Power of Attorney [(2)(e)]

_____ Name and address of the respondent’s treating physician and care providers [(2)(f)]

_____ Factual information that supports the request [(2)(g)]

_____ Adequate resources statement of fiduciary

_____ Statement of intention regarding placement [(2)(h)]

_____ General description of the estate and resources of respondent [(2)(i)]

_____ Statement regarding fiduciary as public or private agency providing services to respondent or employee of such [(2)(j)]

_____ Statement if guardian will have control of respondent’s estate and if yes, statement of respondent’s assets and monthly income [(3)]

_____ UCCJEA information. _____ ORS 109.1119

_____ Notices sent: [ORS125.065, ORS 125.060]

___ Respondent if 14 or over (personal service required, cannot waive notice)

___ Person with care/custody for last 60 days [125.060(2)(f)]

___ Parents of respondent (paternity allegations) [125.060(2)(b)]

___ If no living parents, person nominated as fiduciary in will or writing [125.060(2)(g)]

___ If none of above family, to person most closely related

___ Anyone cohabiting with respondent who is interested

___ Any person who has requested notice

___ Any nominated fiduciary

___ Dept of Veterans Affairs, Adult Family Services if receiving \$ from them

___ Any attorney who is representing the respondent in any capacity

___ If respondent is a foreign national, to the consulate [125.060(2)(k)]

___ Federal Indian Child Welfare Act

_____ Waivers/Consents

_____ 15 day notice period expired

_____ OJIN OK

_____ If fiduciary is not the petitioner, acceptance by fiduciary [125.215(1)]

_____ If non-parent is guardian, may want to appoint a visitor [125.150(1)]

_____ Orders and Judgments comply with UTCR 2.010(12) and UTCR 9.030

_____ Diary Date for Guardian Report (1 year and 30 days) [ORS 125.325]

NOTES:

_____ **Date**

of Initial Review: _____ **By:** _____ (Initials)

GUARDIANSHIP – ADULT

Name of Protected Person: _____ Age: _____

_____ Venue [ORS 125.020] Case Number: P _____

_____ Order to Appoint Visitor [ORS 125.150]

_____ Petition (Needs to state order sought in the caption): [ORS 125.055]

_____ Respondent’s information (name, age, residence address & current location) [(2)(a)]

_____ Proposed Guardian information [(2)(c)]
(relationship to respondent, name, age, residence/ mailing address)

_____ If fiduciary is not the petitioner, name, age, address and interest of petitioner [(2)(b) and (c)]

_____ If fiduciary is not the petitioner, statement of fiduciary regarding willingness to serve [(2)(d)]

_____ A statement if proposed fiduciary has been convicted of a crime, has filed for or received protection under the bankruptcy laws or has had a license revoked or canceled that was required by the laws of any state - if yes, explanation [(2)(d)]

_____ Name and address of any fiduciary that has been appointed by any Court, any Trustee for an established or testamentary Trust, any appointed health care representative and any person acting as attorney-in-fact under a Power of Attorney [(2)(e)]

_____ Name and address of the respondent’s treating physician and care providers [(2)(f)]

_____ Factual information that supports the request, as well as names and addresses of all persons with information regarding incapacity [(2)(g)]

_____ Adequate resources statement of fiduciary

_____ Statement of intention regarding placement [(2)(h)]

_____ General description of the estate and resources of respondent [(2)(i)]

_____ Statement regarding fiduciary as public or private agency providing services to respondent or employee of such [(2)(j)]

_____ Statement if guardian will have control of respondent’s estate and if yes, statement of respondent’s assets and monthly income [(3)]

_____ Notices sent: [ORS125.065, ORS 125.060]

- ___ Respondent (personal service required, cannot waive notice)
- ___ Spouse of respondent
- ___ Parents of respondent
- ___ Adult children of respondent
- ___ If none of above family, to person most closely related
- ___ Anyone cohabiting with respondent who is interested
- ___ Any person who has requested notice
- ___ Any nominated fiduciary
- ___ Dept of Veterans Affairs, Adult Family Services if receiving \$ from them
- ___ Any attorney who is representing the respondent in any capacity
- ___ If respondent is a resident of nursing home/residential facility or intended to be placed in home/residential facility, the office of the Long Term Care Ombudsman

_____ Waivers/Consents

_____ 15 day notice period expired

_____ Visitor’s Report

_____ OJIN OK

_____ If fiduciary is not the petitioner, acceptance by fiduciary [125.215(1)]

_____ Orders and Judgments comply with UTCR 2.010(12) and UTCR 9.030

_____ Diary Date for Guardian Report (1 year and 30 days) [ORS 125.325]

NOTES: _____

Date of Initial Review: _____ By: _____ (Initials)

CONSERVATORSHIP

Name of Protected Person: _____ **Age:** _____

_____ **Venue** [ORS 125.020] **Case Number: P** _____

_____ **Petition (Needs to state order sought in the caption):** [ORS 125.055]

- Respondent's information (name, age, residence address & current location) [(2)(a)]
- Proposed conservator information [(2)(c)] (relationship to respondent, name, age, address)
- If fiduciary is not the petitioner, name, age, address and interest of petitioner [(2)(b) and (c)]
- If fiduciary is not the petitioner, statement of fiduciary regarding willingness to serve [(2)(d)]
- A statement if proposed conservator has been convicted of a crime, has filed for or received protection under the bankruptcy laws or has had a license revoked or canceled that was required by the laws of any state - if yes, explanation [(2)(d)]
- Name and address of any fiduciary that has been appointed by any Court, any Trustee for an established or testamentary Trust, any appointed health care representative and any person acting as attorney-in-fact under a Power of Attorney [(2)(e)]
- Name and address of the respondent's treating physician and care providers [(2)(f)]
- Factual information that supports the request, as well as names and addresses of all persons with information regarding incapacity [(2)(g)]
- Petitioner's estimate of the value of the estate [ORS 125.055(4)]
- Statement regarding fiduciary as public or private agency providing services to respondent or employee of such [(2)(j)]
- Bond amount: \$ _____ Restriction of assets? _____ (total: assets plus annual income)
- If funds restricted, limited judgment must state that acknowledgment of restriction to be received within 30 days. Attorney's responsibility to see that it gets filed. [UTCR 9.050]
- If for purpose of lawsuit or settlement and requesting no bond, limited judgment must contain language And settlement or award without prior court approval@
- Settlement of personal injury claim must comply with UTCR 9.040

_____ **Notices sent:** [ORS 125.065, ORS 125.060]

- Respondent, if 14 or older (personal service required, cannot waive notice)
- Spouse of respondent
- Parents of respondent
- Adult children of respondent
- If none of above family, to person most closely related
- Anyone co-habiting with respondent who is interested
- Any person who has requested notice
- Any nominated fiduciary
- Dept of Veterans Affairs, Adult Family Services if receiving \$ from them
- Any attorney who is representing the respondent in any capacity

_____ **Waivers/Consents**

_____ 15 day notice period expired [ORS 125.065(3)]

_____ **OJIN OK**

_____ If fiduciary is not the petitioner, acceptance by fiduciary [125.215(1)]

_____ **Orders and Judgments comply with UTCR 2.010(12) and UTCR 9.030**

_____ **Diary Date for Inventory (90 days)** [ORS 125.470]

_____ **Diary Date for Annual Accounting (1 year and 60 days)** [ORS 125.475]

NOTES: _____

Date of Initial Review: _____ **By:** _____ (Initials)

GUARDIANSHIP AND CONSERVATORSHIP – ADULT

Name of Protected Person: _____ Age: _____
Venue [ORS 125.020] Case Number: P _____

Order to Appoint Visitor [ORS 125.150]

Petition (Needs to state order sought in the caption): [ORS 125.055]

Respondent's information (name, age, residence address & current location) [(2)(a)]

Proposed Guardian AND Proposed Conservator information [(2)(c)]
(relationship to respondent, name, age, residence/ mailing address)

If fiduciary is not the petitioner, name, age, address and interest of petitioner [(2)(b) and (c)]

If fiduciary is not the petitioner, statement of fiduciary regarding willingness to serve [(2)(d)]

A statement if petitioner has been convicted of a crime, has filed for or received protection under the bankruptcy laws or has had a license revoked or canceled that was required by the laws of any state - if yes, explanation [(2)(d)]

Name and address of any fiduciary that has been appointed by any Court, any Trustee for an established or testamentary Trust, any appointed health care representative and any person acting as attorney-in-fact under a Power of Attorney [(2)(e)]

Name and address of the respondent's treating physician and care providers [(2)(f)]

Factual information that support the request, as well as names and addresses of all persons with information regarding incapacity [(2)(g)]

Adequate resources statement of fiduciary

Statement of intention regarding placement [(2)(h)]

General description of the estate and resources of respondent [(2)(i)]

Statement regarding fiduciary as public or private agency providing services to respondent or employee of such [(2)(j)]

Statement if guardian will have control of respondent's estate and if yes, statement of respondents assets and monthly income [(3)]

Bond amount: \$ _____ Restriction of assets? _____ (total: assets plus annual income)

If funds restricted, limited judgment must state that acknowledgment of restriction to be received within 30 days. Attorney's responsibility to see that it gets filed. [UTCR 9.050]

If for purpose of lawsuit or settlement and requesting no bond, limited judgment must contain language And settlement or award without prior court approval@

Settlement of personal injury claim must comply with UTCR 9.040

Notices sent: [ORS125.065, ORS 125.060]

Respondent (personal service required, cannot waive notice)

Spouse of respondent

Parents of respondent

Adult children of respondent

If none of above family, to person most closely related

Anyone co-habiting with respondent who is interested

Any person who has requested notice

Any nominated fiduciary

Dept of Veterans Affairs, Adult Family Services if receiving \$ from them

Any attorney who is representing the respondent in any capacity.

If respondent is a resident of nursing home/residential facility or intended to be placed in home/residential facility, the office of the Long Term Care Ombudsman

Waivers/Consents

15 day notice period expired

Visitor's Report

OJIN OK

If fiduciary is not the petitioner, acceptance by fiduciary [125.215(1)]

Orders and Judgments comply with UTCR 2.010(12) and UTCR 9.030

Diary Date for Guardian Report (1 year and 30 days) [ORS 125.325]

Diary Date for Inventory (90 days) [ORS 125.470]

Diary Date for Annual Accounting (1 year and 60 days) [ORS 125.475]

Diary Date for Annual Accounting (1 year and 60 days) [ORS 125.475]

Date of Initial Review: _____ By: _____ (Initials)

ESTATE PETITION (ORS 113.035)

(Requirements that apply ONLY to testate estate are in bold)

Decedent's Name: _____ Case Number: _____

_____ Ancillary? Yes / No (Circle One)

_____ Proof of Primary Probate - certified copies of **Will** & Order (113.065)

_____ Wrongful Death Only? Yes / No (Circle One)

_____ **Original Will** (date _____) **Codicil?** ___ yes ___ no (date _____)
_____ Intestate Estate

_____ **Affidavit of Witness (113.055)**

_____ Venue

_____ Information re: ___ decedent ___ PR ___ heirs ___ **devisees**

_____ Statement that reasonable efforts have been made to locate heirs [113.035(6)]

_____ ORS 113.035(8): persons asserting interest based on will ineffective, another will exists, or promise to make/revoke will, not make/revoke will, or die intestate

_____ ORS 113.035(9): person asserting interest based on contention that a parent willfully deserted or neglected decedent

_____ Personal Representative(s) ___ **per Will** or ___ per ORS 113.085: _____
_____ PR is Sole Heir

_____ **Alternate Personal Representative(s):** _____
_____ **Consents/Declinations**

_____ PR is eligible per ORS 113.092, .095 (OJIN review)

_____ Bond/Restrictions

_____ Amount of Bond: \$_____

_____ Amount of Restricted Property: \$_____

_____ Verification of Restriction?

_____ **Bond Waived in Will? Yes / No (Circle One)**

_____ Bond Waived by Consent? Yes / No (Circle One)

_____ If yes, statement of no creditors?

_____ Initial Estate Value: \$_____

_____ Inventory due _____ (transfer to corner of Limited Judgment)

Notes:

Date of Initial Review: _____ **By:** _____ (Initials)

SMALL ESTATE CHECKLIST

Decedent's Name: _____

Case Number: SE _____

Decedent:

- ____ Name, age, address, SSN, date and place of death 114.525(1)(2)
- ____ Certified copy of death certificate. 114.525(2)

Venue (at least one):

- ____ Place of death, ____ domicile, and/or ____ location of property. 114.515(1)-113.015

Filing Fee: ____ \$105.00 (PBSE)/Other: _____

Eligibility:

- ____ At least 30 days since date of death, 114.515 (3)
- ____ Personal Property total is Less than or equal to \$75,000 (for date of death on or after 01/01/10), and
- ____ Real Property total is less than or equal to \$200,000 (for date of death on or after 01/01/10). 114.515(2)
- ____ No Probate filed 114.525 (4)

Testate or Intestate : 114.525 (5),(6),(7)

- ____ Affidavit states "testate" or that a will exists and ORIGINAL will and AFFIDAVIT are included, ____ list of Heirs and ____ Devisees
- ____ Affidavit states "intestate" and there is NO will -- ____ list of Heirs

Affiant is (verify per will):

- ____ An heir, ____ A devisee, ____ Personal Representative, ____ A creditor 114.505(1),(2)
- ____ State Agency: Division of State Lands, DHS, or OHA 114.505(2)(a) or 114.515 (1)(c)

Creditors: 114.525 (9),(10)

- ____ Statement that reasonable efforts have been made to ascertain creditors, if there are, then:
 - ____ Names and addresses of the creditors and ____ amounts claimed
 - ____ State that a copy will be mailed to each creditor
- ____ State that claims may be barred per ORS 114.525 (12) and (13)

Notice:

- ____ Affidavit indicates a copy will be mailed to all parties named in the affidavit **and** to **DHS** and/or **Oregon Health Authority** 114.525(7),(11)

Asset information:

(value must be Fair Market Value without reduction for liens or debts) 114.515(5)

- ____ **Vehicles:** MUST have year, make, model, estimate of fair market value as of the date of death. SHOULD have VIN and license number, but not required 114.545 (1)(e)
- ____ **Bank and Investment Accounts:** MUST have name of bank/brokerage and type of account (ex: checking, savings, IRA, 401(k), brokerage, etc.). If available, MUST ALSO have last four digits of each account number, and balance on each account (or total balance of all accounts) as of the date of death.
- ____ **Stocks:** MUST have name of company, number of shares, and fair market value on date of death.
- ____ **Bonds:** MUST have description of type of bond and fair market value of date of death.
- ____ **Real Estate:** MUST have the legal description, and a statement of "real market value" (RMV) from property tax statement as of the date of death. 114.525(3)
- ____ **Tangible Personal Property:** MUST have estimate of fair market value as of the date of death. Property may be lumped together as "household property and furnishings" or something similar. However, items of particular value (over \$500) MUST be separately listed (jewelry, silver, art, collections, etc.) with value for each.
- ____ **Manufactured Home:** We MUST know if it is real or personal property. A manufactured home on a solid foundation is real property; otherwise generally personal property. We MUST have a description (year, make, model, location). We SHOULD have a serial number. 114.545(4)

PROBATE DEPARTMENT ANNUAL ACCOUNTING COVER SHEET

CASE NO.: P _____ ANNUAL ACCOUNTING

NAME:

If Minor: Date of Birth: _____ Date of Majority: _____

Non Minor: Date of Birth: _____ Date of Death: _____

Period of Accounting: From: _____ To: _____

TYPE: ESTATE _____ Acct Filed: _____
CONS _____ Proof of Notice filed: _____
GDNSHP _____ Objection Date Exp: _____
TRUST _____

TOTAL INVENTORY or PREVIOUS ASSETS ON HAND:

\$ _____

Income/receipts:

Last account: \$ _____ This account: \$ _____

Disbursements:

Last account: \$ _____ This account: \$ _____

TOTAL ASSETS ON HAND THIS ACCOUNT:

\$ _____

PLUS: Estimated Annual Income:

\$ _____

TOTAL

\$ _____

LESS: Total Restricted Assets: (Acknowledgment ?) _____

\$ _____

Atty Fees/Fiduciary Fees/Other Requested:

\$ _____

Assets to be bonded:

\$ _____

CURRENT BOND: \$ _____ Sufficient? _____ Still in effect?

Fiduciary Fees This Account: \$ _____ Itemization submitted: _____ Checked _____

Attorney Fees This Account: \$ _____ Itemization submitted: _____ Checked _____

NEXT ACCOUNTING DUE: _____

Comments/special requests: _____

REVIEWED BY: _____ Date: _____

ESTATES

PARTIAL DISTRIBUTIONS

Make sure that the following has happened:

- ___ Affidavit of Publication – (Notice to creditors ORS 113.155)
- ___ Affidavit of Compliance – (Search for creditors ORS 115.003)
- ___ Inventory – (ORS 113.165)
- ___ 4 months from date of first publication expired (Unless Liability)
- ___ Notice & Proof of service to all devisees/heirs (if not all heirs are receiving \$)
- ___ Notice to creditors with unsatisfied claims.
- ___ Distribution is equal to all devisees/heirs (Exception would be if there was an Asset that was burdensome to the estate being distributed)
- ___ Who distribution is to and how much

ESTATE FINAL ACCOUNTING SHEET

- ___ Affidavit of Publication expiration date _____
- ___ Affidavit of Mailing Notice
- ___ DHS Notification
- ___ Affidavit of Compliance
- ___ Tax Language re: returns & payment
- ___ Affidavit Mailing Notice of Final Account
 - Notice period end date _____
 - Waiver/consents _____
- ___ Affidavit of Attorney Fees (itemized)
- ___ Fees: Attorney _____ PR _____
- ___ Inventory: _____
- ___ Amended: _____

Claims:

amount	who?	satisfied (y/n)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER STATE (ORS 125.840)

Name of Protected Person: _____ Case Number: _____

Petition:

- _____ Certified copy of other state’s provisional order of transfer. ORS 125.840(1)
- _____ Notice: (same people as required for a petition for appointment of guard/conserv. (2)
 - _____ Respondent (personal service required if 14 or older, cannot waive notice)
 - _____ Spouse of Respondent
 - _____ Parents of Respondent
 - _____ Adult children of Respondent
 - _____ If none of above, then person most closely related
 - _____ Persons cohabiting with Respondent who are interested.
 - _____ Persons who have requested notice
 - _____ Nominated or appointed fiduciaries (trustees, health care reps, etc.)
 - _____ Dept. of Veteran Affairs, Adult and Family Services, OHA- if receiving \$ from them
 - _____ Any attorney representing the respondent
 - _____ If respondent is in nursing/residential facility, or will be placed in one, the office of the Long

Term _____ Care Ombudsman

- _____ Provisional Order shall issue, unless: (4)
 - _____ Transfer would be contrary to PP’s interests
 - _____ Guardian/Conservator is ineligible in this state

- _____ Final Order accepting proceeding, and appointing guard/conservator – after original court forwards a final order issued under provisions similar to ORS 125.837, eg: (5)
 - _____ PP is physically present in OR or is reasonably expected to move here permanently, or has significant connection to Oregon
 - _____ Objection to transfer has not been made, or objector has not established that transfer is contrary to PP’s interests
 - _____ Adequate arrangements for the management of the protected person’s property have been made

_____ Within 90 days after issuing final order, court shall determine if the guard/csv needs to be modified to conform to the laws of OR (6)

Notes:

The court shall recognize the guardianship/conservatorship order from other state including the determination of incapacity and appointment of guard/conservator (7)

Denial by OR court of petition for transfer, does not affect ability of guardian/conservator to seek appointment in this state so long as OR would have jurisdiction (8)

Date of initial review: _____ By: _____

TRANSFER OF GUARDIANSHIP/CONSERVATORSHIP TO ANOTHER STATE (ORS 125.837)

Name of Protected Person: _____ Case Number: _____

_____ Petition

- _____ Notices to must be given to persons entitled to notice as in an appointment of guardian or csv
 - _____ Respondent (personal service required if 14 or older, cannot waive notice)
 - _____ Spouse of Respondent
 - _____ Parents of Respondent
 - _____ Adult children of Respondent
 - _____ If none of above, then person most closely related
 - _____ Persons cohabiting with Respondent who are interested.
 - _____ Persons who have requested notice
 - _____ Nominated or appointed fiduciaries (trustees, health care reps, etc.)
 - _____ Dept. of Veteran Affairs, Adult and Family Services, OHA- if receiving \$ from them
 - _____ Any attorney representing the respondent
 - _____ If respondent is in nursing/residential facility, or will be placed in one, the office of the Long Term Care Ombudsman

_____ Provisional Order to Transfer **Guardianship** instructing guardian to petition for guardianship in other state if:

- _____ Court is satisfied that guardianship will be accepted in the other state
- _____ The incapacitated person is present or expected to move permanently to that state
- _____ Plans for and Services for the incapacitated person are in the other state are reasonable and sufficient

_____ Provisional Order to Transfer **Conservatorship** instructing conservator to petition for conservatorship in the other state if:

- _____ The court is satisfied the conservatorship will be accepted in that state, and
- _____ The PP is present or expected to move permanently to that state, or the PP has sufficient connection to that state (ORS 125.815(2)), and
- _____ Objection has not been made, or if made, objector has not established that transfer would be against PP's best interests, and
- _____ Adequate arrangements will be made for management of the protected person's property.

_____ Final Order confirming transfer and terminating guardianship or conservatorship upon receipt of:

- _____ Provisional order accepting the transfer from the other state, with provisions similar to ORS125.840.
- _____ Documents required to terminate the guardianship and conservatorship in this state.

Date of initial review: _____ By: _____

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS
Probate Department

In the Matter of the Conservatorship)
)
) Case No. P _____
)
 of)
) ANNUAL REPORT OF
) RESTRICTED FUNDS
)
 _____)
(Enter Name of Protected Person or Minor))
)
 Birth Date of Protected Person _____)

Pursuant to ORS 125.475, the undersigned reports to the Court as follows:

1. My name is _____

2. My residence address and telephone number are: _____

Phone: _____

3. The name (if applicable), and address of the place where the protected person now resides is: _____

4. A brief description of major decisions made on the protected person's behalf during the past year: _____

5. FUNDS HELD IN RESTRICTED ACCOUNTS TOTAL VALUE \$ _____

NAME OF INSTITUTION WHERE RESTRICTED FUNDS ARE HELD _____

6. **DATE OF THIS ACCOUNTING AND CONFIRMING THE BALANCE ON HAND**
HEREBY CERTIFY THAT SINCE MY LAST REPORT: (All questions MUST be completed)

- A. I have been convicted of the following crimes (not including traffic infractions):
(If none, so state)

- B. I have filed for or received protection from creditors under the Federal Bankruptcy code:
No _____ If Yes, Bankruptcy Case No. _____
- C. I have had a professional or occupational license revoked or suspended:
No ___ Yes ___ Explain: _____
- D. I have had my driver's license revoked or suspended: No _____ Yes _____

7. **REQUEST FOR RELEASE OF RESTRICTED ASSETS** (If applicable)
 _____ The conservator herewith petitions the court for the release of the amount
 of \$_____ from restricted conservatorship assets for the following purpose:

8. **I HEREBY CERTIFY THAT A TRUE COPY OF THIS REPORT HAS BEEN GIVEN OR MAILED TO THE PROTECTED PERSON OR MINOR (IF 14 YEARS OF AGE OR OLDER) AND ANY OTHER PERSON WHO IS ENTITLED TO OR HAS REQUESTED NOTICE AS FOLLOWS:**

<u>PERSON</u>	<u>By Personal Service or by Mail at:</u>	<u>Date served/mailed</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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.

DATED: _____

 SIGNATURE OF CONSERVATOR

APPROVED this _____ day of _____, 20____

 _____ Judge of the Circuit Court
 _____ Probate Coordinator

8. Please describe the protected person's mental condition:

9. Please describe the contacts you made with the protected person during the past year:

10. Please describe major decisions made on the protected person's behalf during the past year:

11. The protected person is currently engaged in the following programs and activities and receiving the following services (brief description):

12. Since my last report, I have delegated the following powers over the protected person for the following periods of time:

Name of Person: _____

Powers delegated: _____

Period(s) of time: _____

13. I was paid for providing the following items of lodging, food or other services to the protected person:

14. Should the guardianship continue? (Circle one) **YES NO** Describe why, or why not:

15. At the time of my last report, I held the following amount of money on behalf of the protected person:
\$_____

Since my last report, I received the following amount of money on behalf of the person:
\$_____. The source of this money was _____

I spent the following amount of money on behalf of the person: \$_____

I now hold the following amount of money on behalf of the person: \$_____

16. **I HEREBY CERTIFY THAT SINCE MY LAST REPORT:**

A. I have been convicted of the following crimes (not including traffic infractions):
(If none, so state) _____

B. I have filed for or received protection from creditors under the Federal Bankruptcy code:

TREATMENT COURTS

Treatment Court programs provide an alternative to normal case processing. Treatment Courts serve specific populations of defendants with the goal of decreasing recidivism, increasing public safety and providing defendants with the tools to change their lives and become productive citizens.

Clackamas County has the most diverse group of Treatment Courts in the state of Oregon and is known for its innovation on a statewide level. If you have questions about defendant eligibility or program requirements, please contact one of the people listed below:

Contact Information for Treatment Courts

Adult Drug Court

Judge Kathie Steele administers the Adult Drug Court program.

Any questions regarding the program can be addressed to Dawn Haskett, Treatment Court Coordinator, at 503-655-8495.

Driving Under Influence of Intoxicants (DUII) Treatment Court

Judge Susie Norby administers the DUII Treatment Court program.

Any questions regarding the program can be addressed to Dawn Haskett, Treatment Court Coordinator, at 503-655-8495.

Clackamas County Overland Park Community Court

Judge Kenneth Stewart administers this program.

Any questions can be addressed to Bill Stewart, Deputy District Attorney at 503-722-2786.

Domestic Violence Deferred Sentencing Program

Judge Katherine Weber administers the DVDSP program.

Any questions regarding this program can be addressed to Priscilla Bunting, Judicial Assistant at 503-722-2732.

Family Dependency Drug Court

Judge Eve Miller administers the Family Drug Court.

Any questions regarding this program can be addressed to Dawn Haskett, Treatment Court Coordinator, at 503-655-8495.

Juvenile Drug Court

Judge Deanne Darling administers the Juvenile Drug Court.

Any questions regarding this program can be addressed to Marlene Ward, Judicial Assistant at 503-655-8342.

Mental Health Court

Judge Kathie Steele administers the Mental Health Court.

Any questions regarding the program can be addressed to Wendy Robinson (Clackamas County Health Centers) at 503-722-6502.

COURT-MANDATED ARBITRATION

Court-mandated arbitration is governed by Oregon Revised Statutes 36.400-425, and Uniform Trial Court Rules, Chapter 13. Refer to both sections if you have questions, but if you still have an inquiry please contact Regina Watkins, Judge Susie L. Norby's Judicial Assistant. Regina Watkins is the Arbitration Coordinator for Clackamas County. She can be contacted at:

E-Mail: Regina.M.Watkins@ojd.state.or.us

Fax: 503-650-8909

Voice: 503-650-8902

She will be able to answer procedural questions. See pages 84-93 for arbitration forms.

Applications to Serve as an Arbitrator

The court is currently accepting applications to serve as an arbitrator. Effective March 30, 2010 there are new requirements for current arbitrators and those applying to serve as an arbitrator. Please go to the Court's website, at <http://courts.oregon.gov/Clackamas/arbitration.page> to view the Order Regarding Rules for Training and Continuing Education for Clackamas County Arbitrators and the April 6, 2010 Letter to Arbitrators.

Pleadings

The title of a pleading must contain the language: "SUBJECT TO MANDATORY ARBITRATION" or "CLAIM NOT SUBJECT TO MANDATORY ARBITRATION" per UTCR 13.060(3). Compliance with this language will facilitate processing the case more quickly and efficiently.

UTCR 13.040(3) requires that once a case has been assigned to arbitration pleadings be filed with the arbitrator. Please file the original pleading with Civil Case Unit, Room 104 and provide a copy to the arbitrator.

Transfer to Arbitration

Referral to Mandatory Arbitration: ORS 36.405(1) requires that a civil case be transferred to arbitration where all parties have appeared if:

- (a) The only relief claimed is recovery of money or damages: not exceeding \$50,000, or
- (b) A domestic relations suit in which the only contested issue is the division or other disposition of property between the parties.

Exempt/Remove From Arbitration: ORS 36.405(2) states that the Presiding Judge may exempt or remove a case from arbitration if good cause exists.

Other:

- Stipulation for Arbitration, pursuant to ORS 36.410;
- Waiver of Amount of Claim Exceeding \$50,000 pursuant to ORS 36.415; and
- Motion for Referral to Arbitration: pursuant to ORS 36.415.

Assignment to Arbitrator

Upon receipt of notice that the case has been transferred to arbitration, plaintiff's attorney (or self-represented litigant) must contact the defendant's attorney (or self-represented litigant) and:

- Agree on an arbitrator;
- Contact the arbitrator and schedule the hearing; and
- Notify the court of arbitrator selection and hearing date.

If parties cannot agree within 2 weeks:

- Plaintiff must notify the court. Upon receipt, the court will assign an arbitrator; or
- If plaintiff does not report to the court within 2 weeks, the court will assign an arbitrator.

When notified of appointment by either method outlined above, the arbitrator will schedule the hearing and notify the parties of the hearing date. *The arbitrator is not required to consult the parties before setting the hearing.*

Failure to appear at the arbitration hearing may result in a judgment against the absent party.

Time for Arbitration

UTCRC 13.160(3) states that "...the hearing must be scheduled to take place not sooner than 14 days, or later than 49 days, from the date of assignment of the case to the arbitrator...Any continuances or postponements beyond such period require the arbitrator to obtain approval of the Presiding Judge."

UTCRC 13.160(4), states that "Continuances and postponements shall not be granted except in the more unusual circumstances. Approximately 2 months are allocated for the arbitration process. The arbitrator is given the power to enforce the rules and will be required to maintain the schedule.

Forms

The arbitrator is responsible for submitting the appropriate pleadings to the court for processing, i.e., Notice of Arbitration Hearing Date, Order of Continuance of Arbitration Hearing Date, Award. The arbitration forms may be found on the court website, in the arbitration handbook and on the CD available with the training materials at the Law Library. See pages 84-93 for arbitration forms. The forms are also available on-line at <http://courts.oregon.gov/clackamas/> under the "Materials & Resources" tab.

Setting Cases for Settlement Conference and Trial

In addition to arbitration dates and deadlines, arbitration cases will be set for trial and settlement conference. You must arbitrate the case before the trial date (Refer to UTCRC 13.280). There should be at a minimum 45 days between the arbitration hearing date and the settlement conference date in order for the arbiter to submit his/her Award to the court for processing, and the 20-day appellate time to run. If there is an appeal, the case is expected to be tried on the date set for trial. If you are unable to try your case on the date set, submit a Motion to Continue, Affidavit, and Order to the Presiding Judge. The judge will then rule on the Motion in the normal course. An arbitration hearing will not be set beyond the settlement conference date unless the Presiding Judge allows the Motion to Continue the trial date.

Award and General Judgments

An arbitrator's Award is not a General Judgment. The arbitrator shall designate which party will prepare and submit the General Judgment. General Judgments must comply with ORS 18.042 and be submitted to the court for a judge's approval and signature. General Judgments that do not comply with the Oregon Revised Statutes will not be acted on.

If a General Judgment is not submitted or is rejected, the Court will send a 28 day dismissal notice to all parties and at the conclusion of that time period will dismiss the case unless a General Judgment or an extension request has been submitted.

Proof of Service

When submitting an Award to the court for processing, it must be accompanied by a Proof of Service.

Arbitration Due Dates

The following are common arbitration due dates:

Case No.: _____ Case Name: _____

ARBITRATION TICKLE DATES

Transfer **D**ate (TD): _____ Trial Date: _____

Arbiter: _____

Motion for Exemption Due : TD+14= _____ Actual: _____

Arbitrator **A**ssigned By : TD+21= _____ Actual: _____

Hearing Notice Due : AA+14= _____ Actual: _____

Hearing **D**ate By : AA+49= _____ Actual: _____

Award Due (Civil) : HD+14= _____ Actual: _____

Award Due (Disso) : HD+21= _____ Actual: _____

Request extension to file award

Must file w/in 14 days of hrg : HD+14= _____ Actual: _____

Appeal Due : AW*+20= _____ Actual: _____

49-day extension to : _____

28-day dismissal : _____

Disposition: _____ **Date:** _____

***-File Date**

DO NOT REMOVE THIS TICKLER FROM FILE DURING ARBITRATION PERIOD

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

Plaintiff(s)

vs

Defendant(s)

) CASE NO. _____
)
) **ARBITRATOR'S:**
) _____ **NOTICE OF HEARING DATE CHANGE, OR**
) _____ **49-DAY EXTENSION REQUEST, OR**
) _____ **AWARD DEADLINE EXTENSION REQUEST**
)
)

Notice of hearing date change - hearing date within 49 days of assignment to arbitration.

The parties have stipulated to, or the arbitrator has allowed, a continuance to:

Date: _____ Location: _____

Time: _____

Request for new hearing date more than 49 days from assignment.

Subject to the approval of the court, and for the reason set out below, the parties request a continuance to:

Date: _____ Location: _____

Time: _____

Request for extension of award filing deadline.

Subject to the approval of the court, and for the reason set out below, the arbitrator requests an extension of the award filing deadline from _____ to _____.

Reason for request: _____

CERTIFICATION

I certify that the above information is accurate and that I have sent copies of this notice to all parties/attorneys of record.

Date

Arbitrator (Print Name)

Arbitrator's Signature

Approved: _____ Denied: _____

Date

Judge

ARBITRATOR'S NOTICE/REQUEST

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

_____) CASE NO. _____
Plaintiff(s))
) _____ **SETTLEMENT NOTICE**
vs)
) _____ **BANKRUPTCY NOTICE**
)
Defendant(s)) _____ **ARBITRATOR'S AWARD**

- Settlement:** This case has been settled. No arbitration award will be filed.
 - Bankruptcy:** I have been informed that a party to this case has filed for bankruptcy. (Attach copy of Bankruptcy notice or information if available.)
 - Arbitrator's Award:** An arbitration hearing was held on _____. The claims were resolved as follows: _____

- Is any part of this award based on the failure of any party to participate?
 Yes. No. If "Yes", identity of non-appearing party: _____

ARBITRATION AWARD

Judgment Creditor: _____
Judgment Creditor Atty: _____
Judgment Debtor: _____
Judgment Debtor Atty: _____
Judgment Amount: _____ Interest Rate: _____
Amount of Atty Fees: _____ Pre-Judgment Interest: _____
Amt of Costs: _____ Post-Judgment Interest: _____
(incl prevailing & arb fees)

Judgment to be prepared and filed within 14 days by: _____

ARBITRATOR CERTIFICATION

I certify that the above information is accurate and that I have sent copies of this notice to all parties/attorneys of record.

Date

Arbitrator's Signature
OSB #: _____

SETTLEMENT NOTICE/ BANKRUPTCY NOTICE/ ARBITRATOR'S AWARD

Notice to All Parties
re: Appeal of Arbitration Award

Time within which appeal must be filed:

ORS 36.425 (2)(a) Within 20 days after the filing of a decision and award with the clerk of the court under subsection (1) of this section, a party against whom relief is granted by the decision and award or a party whose claim for relief was greater than the relief granted to the party by the decision and award, but no other party, may file with the clerk a written notice of appeal and request for a trial de novo of the action in the court on all issues of law and fact. A copy of the notice of appeal and request for a trial de novo must be served on all other parties to the proceeding. After the filing of the written notice a trial de novo of the action shall be held. If the action is triable by right to a jury and a jury is demanded by a party having the right of trial by jury, the trial de novo shall include a jury.

Fees and Deposit Required:

ORS 36.425 (2)

(b) If a party files a written notice under paragraph (a) of this subsection, a trial fee or jury trial fee, as applicable, shall be collected as provided in ORS 21.270.

(c) A party filing a written notice under paragraph (a) of this subsection shall deposit with the clerk of the court the sum of \$150. If the position under the arbitration decision and award of the party filing the written notice is not improved as a result of a judgment in the action on the trial de novo, the clerk shall dispose of the sum deposited in the same manner as a fee collected by the clerk. If the position of the party is improved as a result of a judgment, the clerk shall return the sum deposited to the party. If the court finds that the party filing the written notice is then unable to pay all or any part of the sum to be deposited, the court may waive in whole or in part, defer in whole or in part, or both, the sum. If the sum or any part thereof is so deferred and the position of the party is not improved as a result of a judgment, the deferred amount shall be paid by the party according to the terms of the deferral.

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON

2 FOR THE COUNTY OF CLACKAMAS

3 _____)
 4 _____)
 5 _____) CASE NO. _____
 6 Plaintiff / Petitioner,)
 7 v.) **GENERAL JUDGMENT**
 8 _____)
 9 Defendant / Respondent.)

10 Based on the Award returned to the court by the arbitrator and a notice of appeal and
 11 request for trial de novo has not been filed as provided by ORS 36.425, general judgment is to be
 12 entered as follows:

13 **MONEY AWARD**

14 JUDGMENT CREDITOR: _____
 15 Address & Phone No. _____

16 CREDITOR’S ATTORNEY: _____
 17 Address & Phone No. _____

18 JUDGMENT DEBTOR: _____
 19 Address & Phone No. _____

20 Date of Birth _____ SSN _____

21 Driver’s License _____ State _____

22 DEBTOR’S ATTORNEY: _____
 23 Address & Phone No. _____

24 OTHER PERSONS/PUBLIC _____

25 BODIES ENTITLED TO ANY _____

26 PORTION OF A PAYMENT _____

MADE ON THE JUDGMENT _____
 Address & Phone No. _____

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PRINCIPAL AMOUNT: _____

PRE-JUDGMENT INTEREST: _____

POST-JUDGMENT INTEREST: _____

AMOUNT OF ATTORNEY FEES: _____

AMOUNT OF COSTS (includes prevailing & arbitrator fee): _____

(ITEMIZATION OF COSTS OPTIONAL) PREVAILING FEE: _____

ARBITRATOR FEE: _____ OTHER FEES: _____

Was any part of this award based upon failure of any party to arbitrate? ___Yes ___No.

If “yes,” identify: _____

IT IS HEREBY ORDERED that the foregoing General Judgment is entered as a final judgment of this court.

DATED this _____ day of _____, 20____.

Circuit Court Judge

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
 2 FOR THE COUNTY OF CLACKAMAS

3 _____)
 4 _____)
 5 Plaintiff / Petitioner,)
 6 v.)
 7 _____)
 8 Defendant / Respondent.)

CASE NO. _____

**ARIBTRATOR'S
 ITEMIZATION
 OF TIME UTILIZED**

9
 10 () Case Settled () Hearing held and award filed.

<u>Date</u>	<u>Hours</u>	<u>Activity</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(If more space is needed, use the back of this form)

21 TOTAL HOURS: _____

23 _____, 20____
 24 Date

Signature of Arbitrator

25 Arbitrator's name (printed)

26 This form to accompany the Arbitration Award / Settlement. Send original to Court and copies to each party. The Arbitrator shall refund to parties any deposit in excess of the Arbitrator's actual fee.

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

Plaintiff(s))	CASE NO. _____
)	
vs)	ARBITRATOR'S REQUEST FOR
)	PAYMENT OF ARBITRATOR FEE
)	(FEE DEFERRAL CERTIFICATE)
)	
Defendant(s))	

In accordance with SLR 13.122(3), I certify to this court the following:

1. A waiver/deferral of arbitrator fee was granted by this court and a copy is attached.
2. An itemized statement of my time is attached.
3. The information required for reimbursement is as follows:

Case No: *See case caption above*

Total Hours: _____

Share of hours chargeable to indigent party: _____

“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 SUBJECT TO PENALTY FOR PERJURY.”

Date	Arbitrator (Print Name)	Arbitrator's Signature
------	-------------------------	------------------------

Arbitrator's OSB #: _____ Tax ID #: _____

Approved:

Date	Susie L. Norby, Circuit Judge
------	-------------------------------

ARBITRATOR'S REQUEST FOR PAYMENT OF ARBITRATOR FEE

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

Plaintiff,)
vs.)

Defendant.)

No. _____

**NOTICE OF APPEAL FROM
ARBITRATION AWARD AND
REQUEST FOR TRIAL DE NOVO**

_____ hereby gives notice of appeal from the arbitration award
filed on _____ and requests a trial de novo on all issues of law
and fact.

Date: _____

Signature

Printed Name

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

_____))
Plaintiff/Petitioner) No. _____
vs))
_____))
Defendant/Respondent) **MOTION TO REMOVE CASE FROM
ARBITRATION and ORDER**

THE UNDERSIGNED plaintiff _____ defendant _____ moves the court for an order removing this case from arbitration for the following reason:

____ As provided by ORS 36.405(1)(a), the case includes a claim for money damages exceeding \$50,000, or includes claims for relief other than money damages.

____ As provided by ORS 36.405(1)(b), this is a domestic relations case in which there are contested issues other than the division of property.

____ As provided by ORS 36.415(2)(b), there are good reasons, which are set out in the attached declaration or affidavit, for the court to find it appropriate to exempt this case from arbitration.

CERTIFICATION

I hereby certify that the above information is accurate and that I have sent copies of this motion to all parties/attorneys of record.

DATE: _____

Party or Attorney
OSB# _____

ORDER

- Allowed
- Denied

Dated: _____

Circuit Judge

REQUEST FOR DIGITAL RECORDING OF COURT PROCEEDINGS

We are now able to send FTR Recordings electronically!

Request Forms / Letter

Requests must be made in writing either by letter or using the FTR Recording “Request for Copies of Court Proceedings” form and “Request for a Copy of FTR Recording – Juvenile Court Proceedings,” form located on the Court’s website at: www.court.oregon.gov/clackamas/pages/courtrecords.aspx
Please note that we will not take requests over the telephone.

Letter requesting copies **must** contain:

- a. date of the proceeding;
- b. judge who heard the case;
- c. courtroom number (if known);
- d. case name **and** number;
- e. name, address and phone number of person making request; and
- f. email address where electronic records can be sent to; and
- g. indication whether to call for pickup when ready or to be mailed, or to be sent electronically

Requests

Written requests should be made in one of the following three ways:

- **Mail:**

**FTR Coordinator
807 Main Street, Room 104
Oregon City, OR 97045**

- **Delivery:**

Delivery to the court cashier window in Room 104 (first floor) of the Clackamas County Courthouse.

- **E-Mail:**

Send e-mail to cla-sftp@ojd.state.or.us

Information Line

The FTR information line number is **503-722-2719** if you have any questions.

Transcripts

The Court **DOES NOT** provide written transcripts. If you need a written transcript, you can take your recording to a certified transcriber. You should be able to find a list of transcribers or court reporters in the yellow pages of the phonebook or on-line yellow pages.

Payment

The cost of a digital recording (FTR) is \$10 per CD/hearing/Day (Example: 4 day trial = \$40) plus applicable postage (there is no postage if you are receiving digital recordings electronically). Your FTR request will not be processed until payment has been received in full.

You may pay as follows:

- **Mail:** Please make checks payable to the State of Oregon.
- **Phone:** Pay by phone by calling 503-655-8453, Option 2
- **In person:** hand in your request and make payment at the Court Cashier Window located at 807 Main Street, Room 104, Oregon City, OR 97045.

Completion of Request

Please allow at least 21-28 judicial days for completion of your request.

TRANSCRIPTS ON APPEAL

Transcripts to be prepared on appeal are assigned by the transcript coordinator. Patricia Clark in Judge Thomas Rastetter's office is the transcript coordinator; she can be contacted at 503-655-8432. Once a Notice of Appeal has been served on the transcript coordinator, she will assign a transcriber to the case. The transcriber will contact the attorney for payment arrangements.

Ralph Holman Law Center Conference Rooms

821 Main Street, Oregon City, OR 97045
lawlibrary@co.clackamas.or.us, 503-655-8248

POLICY AND PROCEDURES

POLICY

The Clackamas County Circuit Court now has three conference rooms available in its Ralph M. Holman Law Center located at 821 Main Street, Oregon City, Oregon. These conference rooms are shared by the Clackamas County Circuit Court (Court) and the Alden E. Miller Law Library of Clackamas County (Law Library). The Law Library schedules the use of the conference rooms. Room 116, the Media Conference Room, is configured for media use and members of the media are given priority for the usage of this room. Members of the Clackamas County Bar Association are given priority for the usage of Room 114, the Ailsa Werner Conference Room. All of the conference rooms can be used and/or reserved by anyone conducting Court-related or Law Library-related business. The Court reserves the right to refuse and/or terminate usage of the conference rooms to any person(s) at any time for any stated reason upon the recommendation of the Law Library or otherwise.

PROCEDURES

Conference Room Availability

The conference rooms are available for use from 8:00 a.m. through 5 p.m., Monday through Friday unless special arrangements have been made with the Trial Court Administrator (e.g., trial continues after 5:00 p.m. and media needs access to room 116).

The conference rooms remain locked when not in use.

Preference will be given to people with reservations.

The conference rooms can also be used on a “first-come” or “as available” basis. Each conference room has the following approximate room capacity:

- Room 114, the Ailsa Werner Conference Room: 6 people
- Room 115, the Justice Holman Conference Room: 6 people
- Room 116, the Media Conference Room: 10 people

Conference Room Reservations and Use

The Law Library maintains statistics on conference room usage. In order to use a conference room, the user must supply their name, contact information, approximate length of use and reason for use.

The conference rooms can be reserved in person, through email or by telephoning the Law Library (503-655-8248).

The conference rooms can be reserved for up to three months in advance. Standing reservations can be made for up to one month in advance.

In order to use a conference room, a person other than court staff must obtain a key from a staff member at the front desk in the Law Library (Room 101). Prior to 8:30 a.m., the security guard can unlock the conference rooms if the person has already reserved the room.

If a Law Library staff member or security guard is not available when a conference room needs to be used, please contact the Trial Court Administrator's Office, Room 310 in the Courthouse.

The conference room key must be returned to a Law Library staff member when usage is complete.

A Law Library staff member will check each conference room after each use to ensure proper maintenance and order of the rooms.

The Law Library and Court do not provide food, drink, office supplies, telephones, or secretarial services to conference room users.

Food and non-alcoholic beverages in covered containers are permitted in the conference rooms.

Users are responsible for depositing trash in proper receptacles, removing personal belongings, and returning tables and chairs to their proper positions.



Alden E. Miller Law Library of Clackamas County

821 Main Street, Room 101, Oregon City, OR 97045

lawlibrary@co.clackamas.or.us, 503-655-8248

Attorney Resources and Services

PRINT COLLECTION

- Collection includes print and electronic materials
- Oregon and federal primary and secondary books and access online
- Oregon, California and Washington practice materials
- Wide selection of legal texts and treatises
- Oregon law reviews in print and access to others online
- ORS from 1953, Oregon Laws from 1845 and OARs from 1980 in print
- Oregon legislative history materials in print, microfiche and microfilm
- Clackamas County Bar Association Newsletter

Clackamas County attorneys can check out materials that have a call number for up to 10 business days.

ONLINE SERVICES

- Internet access for legal research purposes
- Lexis/Nexis, including Shepard's
- Westlaw, including Keycite
- Oregon Judicial Information Network (OJIN)
- Research Institute of America (RIA tax database)

8 computer terminals are available at no cost for performing legal research. Results retrieved using Lexis can be directly emailed or faxed from the terminal at no cost. Attorneys may request by telephone or email up to ten citations per day to be emailed or faxed from Law Library staff.

CONTINUING LEGAL EDUCATION

- All OSB CLE desk books
- OSB and OLI CLE program handbooks with audiocassettes, compact discs or dvd's available to check out for credit

OTHER SERVICES

- Oregon attorneys can apply for and obtain 24-hour access cardkeys
- Conference Rooms (reservations required, no charge)
- Billing services for printer copies, photocopies and fax fees
- Reference assistance and staff-provided document retrieval
- Legal information purchasing resources
- Self-service photocopying for ten cents per page
- Sending or receiving faxes available for a fee

Please contact the Law Library for more information or to obtain copies of our policies and procedures.

CLACKAMAS COUNTY SHERIFF – CIVIL SECTION

Primary Phone Number

(503) 655-8351

Hours of Operation

9:00 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m. Monday through Friday, except holidays.

Location

Clackamas County Sheriff Civil Section is located in the Courthouse on the First Floor, Room 100.

Attorney Courthouse Identification Badge

If you are interested in applying for an Attorney Courthouse Identification Badge, please contact the Clackamas County Sheriff's Office Civil Section for the application.