

## **ARBITRATOR INSTRUCTION AND FORMS PACKET**

### **WELCOME TO CLATSOP COUNTY ARBITRATION PROGRAM:**

These instructions will assist you in your role as arbitrator. It is the arbitrator's responsibility as a court-appointed arbitrator to become familiar with UTCR Chapter 13, ORS 36.400 to 36.425, and Chapter 13 of Clatsop County Supplementary Local Rules. For additional assistance, call the court at (503) 325-8555.

Panels: There are two arbitration panels in Clatsop County: Torts/Civil and Domestic Relations.

Assignment of Arbitrator: Not sooner than 14 days from the date of all parties having appeared in a case, the court will send to the attorneys a Notice Assigning Case to Arbitration and attached Notice of Selection of Arbitrator Form which will provide a random list of 3 proposed arbitrators. The parties may stipulate to an arbitrator from the list provided or another arbitrator of their choosing. If the parties do not stipulate to an arbitrator, each party may strike one unacceptable name from the list and return the list to the court within 14 days. The clerk will then appoint an arbitrator from those remaining on the returned list. When you have been chosen for a case, you and the attorneys in the case will receive a Notice/Order of Appointment of Arbitrator.

Setting the Hearing Date: It is your responsibility to set the date in accordance with the arbitration rules. The hearing should be held in a neutral location, unless otherwise agreed to by the parties and the hearing should not require more than a half day. A Notice of Arbitration Hearing Date should be sent to the parties and the original returned to the Arbitration Clerk for posting pursuant to ORS 36.420.

Except for very good cause, do not change the date of a hearing. A new date must meet the time requirements of UTCR 13.160 and requires that a Notice/Request Change of Arbitration Hearing Date be filed with the court for posting pursuant to ORS 36.420.

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

The following are exceptions to this procedure: Resignation of Counsel, Motion to Set Aside, Motion for Change of Venue, Bankruptcy Stay. These motions will be decided by the court and if you receive copies, consider them as informational only.

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

Prehearing statement of proof: Each party shall provide the arbitrator, at least 14 days prior to the hearing, with copies of pleadings and other documents contained in the court file which they deem relevant. Parties shall also provide a list of exhibits to be offered, witnesses to be called, and an estimate of length of hearing. You may wish to suggest to the parties that they submit their exhibits at the time prehearing statements of proof are submitted.

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

If a case is settled prior to the hearing, fill out the Arbitration Award or Notice of Settlement form and send it to the court. Do not wait for proposed legal documents.

Cases That "Become" Inappropriate for Arbitration: In the event a motion is allowed by you which causes the case no longer to be subject to mandatory arbitration, the party filing such a pleading must so notify the Arbitration Clerk. If the arbitration is terminated, it would be appropriate for you to bill the attorneys for whatever time you spent on the case.

Voluntary Withdrawal of Arbitrator: Complete the Withdrawal of Arbitrator Form, provide parties with a copy of the withdrawal form (along with returned exhibits and documents) and file the original with the court.

Compensation: The fees set by the Commission are \$100.00 per hour, with a maximum fee of \$400.00 for a two party case, unless you and all parties agree to a different hourly rate or maximum amount. Each additional party will add an additional \$100 to the maximum. If the arbitrator suggests that extraordinary conditions justify a different fee and any of the parties do not concur, then the arbitrator may apply to court for additional fees (UTCRC 13.120). These fees should be tendered to you (on a pro rata basis by the parties) within 14 days of the appointment of arbitrator. (Example: Five parties on case, \$700 maximum, pro rata amount of \$140). It is your responsibility to collect any fees owed to you. Subject to the maximum, you may collect for any time spent on a file, whether or not it goes to hearing. You may not charge for costs incurred by you such as phone costs, copying costs, postage, mileage, etc. Travel time will not be compensated.

If the Petitioner fails to pay the prescribed fee within fourteen (14) calendar days of assignment, the court may exercise its authority under UTCRC 1.090 to strike the complaint which constitutes dismissal of the proceedings, absent relief prescribed by ORS 36.420(3).

If the Respondent fails to pay the prescribed fee within fourteen (14) calendar days of assignment, the Court may exercise its authority under UTCRC 1.090 to impose an appropriate sanction.

At the conclusion of your work, provide the parties with Arbitrator's Itemization of Time Used and if appropriate, a pro rata refund to the parties.

A waiver/deferral of fees shall be governed by ORS 36.420.

Preparing and Filing the Award: When you have made your decision, please immediately complete the Arbitration Award form in this packet. In completing the award form please follow the directives of UTCRC 13.210 and follow the directives of UTCRC 13.220 regarding the filing of the award form with the court.

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

#### SMALL CLAIMS (Request for Jury Trial)

In conformance with proposed UTCRC 13.120(3), notwithstanding the above, when a Respondent in a small claims case requests a jury trial pursuant to ORS 46.455(2)(c), the request must be accompanied by a jury fee and the Respondent's pro rata share of the arbitrator's fee. In accordance with ORS 46.221(2), if the fees are not so paid, the jury trial demand will not be acted upon by the Arbitration clerk and the case will proceed in the small claims department. Any partial portion of jury or arbitrator's fee paid by the Respondent will be refunded.

Upon receipt of the Respondent's request for a jury trial, the jury fee and the arbitrator fee, the court will notify the Petitioner that the case will be assigned for arbitration due to the Respondent's request for a jury trial and payment of the Respondent's pro rata portion of the arbitrator's fee, and that the Petitioner must pay Petitioner's pro rata share of the fee to the court within 21 days or the claim will be dismissed.

Upon receipt of the arbitrator's fee from all of the parties, the court will transfer the claim to its arbitration program. When the arbitration has been concluded, the arbitrator will submit an itemized fee statement of the court, with a copy to each party, which statement will be paid from the fees deposited by the parties. Any unused

fees shall be refunded to the parties on a pro rata basis.

Relief from the payment of arbitration fees, in whole or in part, as provided for in ORS 36.420(3), must be applied for immediately upon a case or a small claim becoming eligible for arbitration. The court will provide the arbitrator with a certified copy of any order waiving or deferring all or any part of the fees.

If the court has granted a fee waiver to a party, at the completion of the hearing, complete an invoice for your fee and submit it to the court for payment from mandated funds.

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CLATSOP  
ARBITRATION PROGRAM

\_\_\_\_\_,  
Petitioner,  
and  
\_\_\_\_\_,  
Respondent,  
and  
\_\_\_\_\_.  
\_\_\_\_\_.

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

WITHDRAWAL OF ARBITRATOR

I, \_\_\_\_\_, am disqualifying myself from this case for the following reasons: \_\_\_\_\_

I have notified the parties and have returned to them all appropriate documents.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Arbitrator

Original to court

cc: pet/pet atty  
rsp/rsp atty  
arbitrator



CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CLATSOP  
749 Commercial Street  
P O Box 835  
Astoria, OR 97103

\_\_\_\_\_  
Petitioner,  
and  
\_\_\_\_\_  
Respondent,  
and  
\_\_\_\_\_  
\_\_\_\_\_.

Case No. \_\_\_\_\_  
\_\_\_\_\_ ARBITRATION AWARD  
\_\_\_\_\_ NOTICE OF SETTLEMENT

\_\_\_\_\_ This case has been settled. The parties will submit appropriate documents (decree, judgment, judgment of dismissal, etc.) to the court within \_\_\_\_\_ days.

\_\_\_\_\_ This arbitration hearing was held on \_\_\_\_\_, 2\_\_\_\_\_.

MONEY JUDGMENT

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

1. Judgment creditor(s): \_\_\_\_\_  
Address and Phone No. \_\_\_\_\_

2. Judgment creditor's attorney: \_\_\_\_\_  
Address and Phone No. \_\_\_\_\_

3. Judgment debtor(s): \_\_\_\_\_  
Address & Phone No. \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Social Security Number: \_\_\_\_\_  
Driver's License: \_\_\_\_\_ State: \_\_\_\_\_

4. Judgment debtor's attorney: \_\_\_\_\_  
Address & Phone No. \_\_\_\_\_

5. Amount of judgment: \_\_\_\_\_

6. Amount of costs: \_\_\_\_\_

7. Amount of attorney fees: \_\_\_\_\_

8. Interest information: \_\_\_\_\_

Is there any other person or public body known to the judgment creditor, other than the judgment creditor's attorney, who is entitled to any portion of a payment made on the judgment? \_\_\_\_\_ NO  
\_\_\_\_\_ YES. If yes, please provide name: \_\_\_\_\_

Was any part of this award based upon the failure of any party to participate? \_\_\_\_\_ Yes \_\_\_\_\_ No.  
If yes please identify: \_\_\_\_\_

Additional Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date

Signature of Arbitrator

\_\_\_\_\_

Address

City

State

Zip code

To the Arbitrator: This award must be made in accordance with UTCR 13.210 & 13.220. Send a copy of this award to each party and send the original with PROOF OF SERVICE to: Clatsop County Circuit Court Arbitration Program, P O Box 835, Astoria, OR 97103.

Original to court

cc: pet/pet atty  
rsp/rsp atty  
arbitrator

CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CLATSOP  
749 Commercial Street  
P O Box 835  
Astoria, OR 97103

\_\_\_\_\_ ,

Petitioner,

and

\_\_\_\_\_ ,

Respondent,

and

\_\_\_\_\_ ,

\_\_\_\_\_ .

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

NOTICE/REQUEST CHANGE OF  
ARBITRATION HEARING DATE

The hearing in the above entitled case has previously been scheduled for:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Place: \_\_\_\_\_

Parties have stipulated to a continuance date of:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Place: \_\_\_\_\_

This continuance is for the following reason: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ This date does not exceed the maximum 49-day time period.

\_\_\_\_\_ This date does exceed the maximum 49-day time period.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Arbitrator

Original to Court (for posting pursuant to ORS 36.420)

cc: ptf/ptf atty  
def/def atty  
arbitrator

CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CLATSOP  
749 Commercial Street  
P O Box 835  
Astoria, OR 97103

\_\_\_\_\_ ,

Petitioner,

and

\_\_\_\_\_ ,

Respondent,

and

\_\_\_\_\_ ,

\_\_\_\_\_ .

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

ORDER REGARDING CHANGE OF  
ARBITRATION HEARING DATE

The parties in the above entitled case have stipulated to continue the Arbitration Hearing to a date that exceeds the maximum 49-day time period for completion of Arbitration.

The court approves \_\_\_\_\_ denies \_\_\_\_\_ the requested continuance.

Dated: \_\_\_\_\_

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

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CLATSOP  
ARBITRATION PROGRAM

\_\_\_\_\_,'

Petitioner,

and

\_\_\_\_\_,'

Respondent,

and

\_\_\_\_\_,'

\_\_\_\_\_.

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

NOTICE OF ARBITRATION  
HEARING DATE AND  
ARBITRATORS OATH

The hearing in this case has been scheduled for: \_\_\_\_\_ at \_\_\_\_\_ a.m/p.m.  
and will be held at \_\_\_\_\_  
Previous hearing date (if this date is a continuance) \_\_\_\_\_

Each party shall provide the arbitrator, at least 14 days prior to the hearing, with copies of pleadings and other documents contained in the court file which they deem relevant. Parties shall also provide a pre-hearing statement of proof in accordance with UTCR 13.170 and their pro rata share of arbitrator's compensation.

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Arbitrator's Oath

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

\_\_\_\_\_  
Arbitrator's Signature

\_\_\_\_\_  
Address

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

Original to Arbitration Clerk (for posting pursuant to ORS 36.420)

cc: pet/pet atty  
rsp/rsp atty  
arbitrator