

**Changes in Supplementary Local Rules
Effective February 1, 2013
Circuit Court of the State of Oregon for Multnomah County**

1) 1.015 DEFINITIONS

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

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

Explanation: Clarifies definition that two years is the maximum but lesser time may be allowed and that any stay is discretionary with the court.

2) 1.161 DIVISIONS OF THE OFFICE OF THE TRIAL COURT ADMINISTRATOR WHERE DOCUMENTS ARE RECEIVED FOR FILING

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

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

Addresses for other court locations are as follows:

[*Gresham*] East County Courthouse
[until opening of the East County Courthouse new facility set for April, 2012]
150 W Powell

Gresham, OR 97030

after March 2012 the new facility address will be]
18480 SE Stark Street
[*Gresham*]{**Portland**}, OR 97233

Explanation: The “Gresham” courthouse actually has a street address that the US Post Office only recognizes as “Portland”. The address change is made here.

3) 3.182 USE OF CELL PHONES AND OTHER PERSONAL DATA AND COMMUNICATION DEVICES WHICH HAVE AUDIO RECORDING, PHOTOGRAPHIC OR ANY OTHER VISUAL OR IMAGE RECORDING OR

REPRODUCTION CAPABILITY

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

Explanation: Updated for coverage of personal data device technology changes.

4) **4.007 WRITTEN PETITION REQUIRED TO BE FILED BY VICTIM OR PERSONAL APPEARANCE OF VICTIM FOR HEARING TO REMOVE NO CONTACT ORDER IMPOSED UNDER ORS 135.250 OR CHAPTER 232 OREGON LAWS 2011**

- (1) "Petition" as used in ORS 135.250 (2)(b)(A) and in [*subsection (4), section 1, chapter 232 Oregon Laws 2011*] **ORS 135.247 (4)** means a written petition signed and filed or presented at the hearing for filing in the criminal action by the victim or by a district attorney who has agreed to assert this right for the victim. In the alternative, an appearance by the victim at the hearing to modify or remove the no-contact conditions and stating on the record orally the petition to waive the required condition of release or custody that the defendant not have contact with the victim of the domestic violence or of the sex crime satisfies this requirement.
- (2) Absent a written petition or appearance by the victim at the hearing as set out in section (1) of this rule, the court will continue the no contact order imposed under ORS 135.250 (2)(a) or [*chapter 232 Oregon Laws 2011*] **ORS 135.247** pending a petition by the victim.
- (3) A written petition under section 1 of this rule may be filed on the court's form (see Form [03-58]{**23-90**}, Page 98, Appendix of Forms), or in a document that is in the same format and contains the same heading, caption and content.

Explanation: Update for ORS citation and correction in form number.

5) **4.016 IN CAMERA REVIEW OF RECORDS**

- (b) For cases to be heard in the downtown courthouse, motions for in camera review of records in misdemeanor cases will be calendared on the Criminal Procedure Court (CPC) docket. Motions for in camera review of records in felony cases will be

calendared on the Presiding Judge's Short Matters call docket for assignment. Motions on cases proceeding in the [Gresham] East County Courthouse will be set on a Gresham judge's calendar for hearing.

(c) If the motion for the *in camera* review is granted, documents shall be directed to Room 131 of the Courthouse for cases that will be heard in any courtroom in that facility. Cases that are to be heard in the [Gresham Branch]{**East County Courthouse**} shall be directed to [150 W. Powell, Gresham, Oregon 97030 until April 2012, and thereafter directed to] 18480 SE Stark Street, [Gresham, Oregon]{**Portland, OR**}, 97233.

Explanation: Address update.

6) 4.066 PAYMENT OF SECURITY DEPOSITS; PAYMENTS OF OTHER COURT ORDERED OBLIGATIONS

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

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

Explanation: Facility name update.

7) 4.075 DUII DIVERSION

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

Explanation: Facility name update.

8) [4.091 ELECTRONIC FILING OF VIOLATION, MISDEMEANOR AND FELONY CITATIONS, WITH OR WITHOUT COMPLAINTS

(1) Pursuant to ORS 153.770 and ORS 133.073, and UTCR 4.090, violation complaints and criminal citations (herein after collectively referred to as citations for purposes of this rule) may be filed electronically by law enforcement agencies and parking enforcement agencies. Citations filed electronically must meet the following criteria:

(a) the data transmitted to the circuit court by the filing agency contains all

information required by ORS 153.770 (2) (a) and ORS 133.073, to be included in an electronically filed citation;

(b) the electronically filed citation contains a unique identification number of the law enforcement or parking enforcement officer issuing the citation, the officer's name, and the identity of the agency employing the officer;

(c) if the citation is a criminal citation with a form of complaint, then no complaint may be filed in the circuit court until the review required by ORS 133.069 (2) has been conducted by the district attorney;

(d) an image of the citation issued by the law enforcement officer or the parking enforcement officer must be transmitted to the circuit court by the issuing agency to be available to the public under ORS 153.770 (2) (c) and ORS 133.073;

(e) each citation submitted for filing must be numbered by the issuing agency using a number series approved by the Trial Court Administrator, and the number assigned to the citation by the agency must be unique and not duplicate any number previously submitted to be filed; and,

(f) the transmission of data and images as provided in this rule has been tested and meets completely the system requirements for electronically uploading data and images into the Oregon Judicial Department's automated information systems. Testing of data for electronic filing shall be administered by Oregon Judicial Department staff. No citations may be filed electronically until written approval for electronic filing is provided to the agency by the Trial Court Administrator. This standard for testing and approval applies only to agencies requesting to implement electronic filing on or after the effective date of this rule.

(2) Subject to the limits regarding the type of offenses which may be included in a criminal citation, set out ORS 133.066, a citation filed electronically, as provided by this rule, may contain up to 10 offenses on a single citation.

(3) Citations submitted by a law enforcement agency or parking enforcement agency which do not comply with this rule may not be filed electronically.

(4) Members of the public may obtain from the circuit court a printed image of a citation filed electronically by a law enforcement agency or parking enforcement agency in the same manner as for paper records of the circuit court by requesting a copy of the image in Room 131 of the Courthouse, or by mailing to the Records Supervisor, Multnomah County Courthouse, such a request. The mailing address for the courthouse is set out in SLR 1.161. Fees applicable to court records apply to requests for images of electronically filed citations.]

Explanation: Rule no longer necessary with the out of cycle implementation of UTCR 4.090.

9) 5.015 CIVIL ACTION MOTION [DOCKET]{SETTING}; MOTION PRAECIPE

RULE; {RESPONSIBILITY OF MOVING PARTY FOR ACTIONS SUBJECT TO SLR 7.011;} AUTOMATIC CONSENT TO HEARING BY NON-APPEARING PARTY

Method{s} of Setting {Civil} Motions

(1) In circuit court civil actions, contested pretrial motions (excluding ex parte) shall be placed on the civil motion docket only by motion praecipe, by an Order to Show Cause, by order of the Presiding Judge or the Presiding Judge's designee, or as directed at the initial case management conference for civil actions subject to SLR 7.011 **{for actions filed on or after February 1, 2012}.**

(3) Requests for an expedited setting of a civil motion must be made at the **{presiding judge's} ex parte {time, if the civil action was filed prior to February 1, 2012}** *[appearance specifically for requests to expedite the setting of a motion in a civil action. This proceeding is held once each business day and rotates among the judges. The time and location is available by calling the Presiding Judge's Office or Civil Calendaring].* **{For civil actions filed on or after February 1, 2012 and subject to SLR 7.011, the request for an expedited hearing must be presented to the judge assigned as the motion judge in the action. If no motion judge has been assigned, then the request must be made at the presiding judge's ex parte.}**

Motion Praecipe Rule: *[General Requirements and Applicability; Exceptions; and Delivery]* {Paragraphs (4) through (9) of this Rule}

Exceptions

(5) Motion praecipe are not required on small claims, FED, family law, juvenile or probate cases, nor on civil cases which have either been assigned to arbitration, specially assigned to a judge for all pretrial proceedings, are placed on a motion docket by an order to show cause or an order of the Presiding Judge, or are **{filed after February 1, 2012 and thereby}** subject to SLR *[2.011,] 7.011 [and 7.015].*

{Notice of motion hearing time, date and location for motions subject to SLR 7.011}

{(10) For cases subject to SLR 7.011, and except for motions for Summary Judgment, if a motion judge for the case is assigned at the Initial Case Management Conference, the moving party must coordinate for all parties dates of availability to the court for a motion hearing and provide to all parties notice of the hearing date set for the motion by the assigned motion judge or the judge's staff. Notice to the parties may be by any means of communication to which the parties mutually have agreed. If notice is challenged, in a hearing on the matter of absence of a party at a hearing under paragraph (13) of this Rule, the moving party shall have the burden of proving notice in the manner agreed by the parties to the action was provided to the challenging party. Failure to provide notice of a hearing's time, date and location as required by this section may result in sanctions as provided by UTCR 1.090, including striking the underlying motion. Motions for Summary Judgment in actions subject to this paragraph must be set by calling the Civil Calendaring Motion Clerk at (503) 988-3168.}

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

[(10)] **{11}** {For actions subject to praecipe delivery [Except as provided in section (5) of this rule], the party responsible to deliver the praecipe as provided by this rule shall deliver the praecipe together with the courtesy copy of the motion to the assigned judge and serve the parties on the date the motion is filed with the court; the motion must be filed within a reasonable time but not more than seven days following the date on which a judge, date, and time is assigned for the hearing. Any party opposing a motion in which a praecipe is required to be delivered under this rule shall submit a courtesy copy of the responding documents to the assigned judge **{and serve the parties}** at the same time the response is filed with the court, but in no event less than one judicial day prior to the date of the hearing unless the praecipe delivery time has been shortened by the rule or the Presiding Judge or designee at civil ex parte. Any party filing a reply to a response to a motion, must deliver a copy of the reply document to the assigned judge **{and serve the parties}** on the date the reply is filed with the court, but in no event less than one judicial day prior to the date of the hearing.

{For actions subject to SLR 7.011, and which are not otherwise removed from this requirement by court order, the moving party shall deliver a courtesy copy of the motion to the assigned motion judge and serve the parties on the date the motion is filed with the court. If the action has not been assigned a motion judge at the time the motion is filed because the Initial Case Management Conference is not completed, then a courtesy copy of the filed motion must be provided to the assigned motion judge within 7 days of setting the motion for hearing. In all other circumstances, the moving party must file the motion, serve the opposing parties and provide a judge's courtesy copy of the document not later than 7 days following the date on which the time and date for a hearing is set for the motion. Any party opposing a motion shall submit a courtesy copy of the responding documents to the assigned judge and serve the parties at the same time the response is filed with the court, but in no event less than one judicial day prior to the date of the hearing unless time has been shortened by the assigned motion judge. Any party filing a reply to a response to a motion, must deliver a copy of the reply document to the assigned judge and serve the parties on the date the reply is filed with the court, but in no event less than one judicial day prior to the date of the hearing.}

Failure to File Motion within Seven Days

[(11)]**{12}** If the moving party fails to file the motion within seven days after the motion is assigned to a judge for a date and time certain under paragraph [(10)] **{(11)}** of this rule, **{absent an order of the court permitting additional delay,}** the court may impose sanctions as provided by UTCR 1.090.

Absence at Motion Hearing

[(12)]**{13}** A matter set on [the] **{a}** civil motion docket may be decided even though some or

all of the parties or attorneys are not present. Such a hearing shall be deemed consented to by the parties not appearing.

Explanation: Adding detail for cases subject to the new civil case management rules, SLR 7.011 and SLR 7.015, regarding motion practice. The amendment provides also that summary judgment motions must first be scheduled with civil calendaring for cases subject to the new process notwithstanding the assignment of a motion judge to the case.

10) 5.025 CIVIL EX PARTE MATTERS

(1) Ex parte matters shall be heard each judicial day before the Presiding Judge or designee at 9:30 am[, **for**] at 1:30 pm[, *and at other times designated by the Presiding Judge for the consideration of whether a petition for the expedited hearing of a civil motion shall be allowed*]. (See Form 05-27, Page 100, Appendix of Forms, {**for requesting an Order to Show Cause**}.)

Explanation: The “Expedited Motion Hearing” ex parte has been dropped. Requests for an expedited motion hearing must be presented to the presiding judge, or, if appointed, the motion judge assigned to the case at the Initial Case Management Conference. Directs parties to the Motion for Show Cause Hearing form.

11) 5.161 JUDGMENT DEBTOR ORDERS

Authorized Without Predetermined Hearing Date

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

Valid for Six Months

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

Location of Appearance Limited to Multnomah County Courthouse and [*Gresham*]

East County Courthouse

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

Explanation: Facility name update.

12) 6.014 PRE-TRIAL CASE MANAGEMENT CONFERENCES IN CIVIL ACTIONS

(1) In any civil action except actions subject to SLR [2.011,] 7.011 [*and 7.015*], when it appears to the court that an action will be pending for longer than 270 days measured from the date of filing of the first pleading in the action, the court may schedule a case management conference and, upon notice, require the parties to appear. The purpose of the case management conference is to address the readiness of the action for trial. The court will ask the parties to identify remaining tasks to be resolved including discovery issues, expected remaining pretrial motions, and any known scheduling problems for parties and witnesses. In addition, related issues listed in UTCR 6.010 will be covered. Parties are expected to be prepared to discuss these matters at the case management conference.

Explanation: Shortens the string of rules to indicate that the case is under the “new” civil case management process.

13) 6.025 PAYMENT OF TRIAL FEES AND HEARING FEES

(1) A fee receipt, fee waiver, or fee deferral must be presented to the courtroom clerk prior to commencement of a trial or hearing where a fee is required to be paid under ORS {21.225 or} [21.270,] 105.130 [*or chapter 595 Oregon Laws 2011*].

Explanation: updates citation to assigned ORS number.

14) 6.027 PERSONAL COMMUNICATION DEVICES IN JURY ROOMS DURING DELIBERATIONS AND IN COURTROOMS DURING PROCEEDINGS

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

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

Explanation: Updated for coverage of personal data device technology changes.

15) 6.055 BUILDING SECURITY

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

Explanation: Facility name update.

16) 7.015 TRIAL READINESS CIVIL CASE MANAGEMENT CONFERENCE

(3) Thirty five days prior to the conference the Court will send notice to all counsel or self-represented litigants who have appeared in the case. The notice will announce the date **{and time}** for the conference **{,the location}** and instruct the parties to come prepared with three agreed upon trial dates within the “time to trial” guidelines as set by the court. The court will then set the trial date. Any request for a postponement of the trial date selected at the trial readiness conference must be presented as provided in SLR 7.035 (2) (f) and will not be granted without a showing of good cause.

Explanation: Adds clarification of notice content for the case management conference.

17) 7.021 UTCR 7.020 CONTINUANCES; STAY OF DEFAULTED PARTIES PENDING TRIAL; STIPULATED TRIAL DATES UNDER UTCR 7.020

(3) **{This paragraph applies only to actions filed prior to February 1, 2012.}** The parties may mail to the Presiding Judge an agreed date as a stipulated date under UTCR 7.020. Stipulated dates which are within 10 months of the date of the filing of the complaint will be approved by the Presiding Judge and the initial trial assignment date will be set to the stipulated date. A stipulated date which places the trial beyond 10 months from the date of filing will not be approved if submitted by mail. Such a stipulated setting must be presented at ex parte and may require a postponement conference with the Presiding Judge. The Court will exercise its discretion in granting or denying such a request based on all circumstances made known to the Court.

Explanation: limits application of paragraph (4) to actions file prior to the effective date for cases subject to the new case management process.

18) 7.045 MOTION FOR CHANGE OF JUDGE

(1) If a judge is assigned at Call [*or*] {,} at a case scheduling conference before the presiding judge {**or at an Initial Case Management Conference before any judge**}, and a party intends to file a motion for a change of the judge assigned, the intention to file the motion must be announced at the time of assignment. An original and two copies of a motion, order, and supporting affidavit must be delivered to the Presiding Judge. Failure to submit all three documents timely, with the copies, will result in sanctions as provided by UTCR 1.090. The requesting party is responsible for serving a copy of the motion, affidavit and order on the judge being disqualified and each other party to the action who is not in default.

(5) For purposes of ORS 14.250 et seq. and this Rule, a judge who [*handles*] **enters rulings or orders in** any arraignment, pre-trial release request at the time of arraignment, pre-trial conference, **an Initial Case Management Conference pursuant to SLR 7.011,** or daily Call pursuant to SLR 7.055, shall not be considered to have ruled on a particular matter within the meaning of ORS 14.260(3). A party shall not waive any right pursuant to ORS 14.250 et seq. as to such judge by failing to move for change of judge at the time of appearance before such judge at any [*arraignment, pre-trial conference, or daily Call*] **proceeding listed in this paragraph**.

Explanation: Paragraph (1): Adds a judicial supervised Initial Case Management Conference under SLR 7.011 to the list of events at which a decision to file a Motion of Change of Judge must be made when the name of the judge is announced for the assignment. The judge assigned is the “motion judge” for all motions other than Motions for Summary Judgment, and often the parties have motions to set immediately on the day following the appointment. If the assignment of the motion judge is made without the parties being before a judge, by written notice, then the Motion for Change of Judge would be subject to SLR 7.045 (3).

Paragraph (5): An Initial Case Management Conference is added to the event which are by rule not to constitute a “ruling on a particular matter” for purposes of ORS 14.260 (3).

19) 7.055 CALL

Assignment Times

(2) Unless altered by the Presiding Judge or designee, Call shall be at 9:00 am for all felony offenses and civil matters[, *and at 8:45 am for misdemeanor offenses*].

Abated and Stayed Cases

(7) For good cause shown, the Presiding Judge may abate any case upon motion of counsel or upon motion of the Court. (See Forms 05-32 and 05-38, Pages 103 and 105, Appendix of Forms.)

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

Explanation: (2): Removes reference to misdemeanor call which is no longer part of the presiding call process.

(7) (a): Corrects language. “Removal” is a term which should only be used with regard to cases “removed” to the federal courts.

20) 12.035 MEDIATION IN SMALL CLAIMS ACTIONS; FAILURE TO COMPLY WITH SETTLEMENT

(1) All small claims actions [*without witnesses*] shall go to mediation orientation before going to trial.

Explanation: Expands the scope of cases sent to small claims mediation to reflect that these events are now set four weeks in advance of the trial date. Formerly, the mediation was set the day of trial, and “witness cases” were excused from the requirement to avoid delay and potential loss of witnesses during the time required to conduct a mediation with the parties.

21) 16.085 POSTPONEMENTS

(1) Arraignment

(d) Requests made in written form for a postponement must be delivered for filing to the Circuit Court at:

(ii) [*150 W. Powell Blvd, Gresham Oregon, 97030 through March 2012 and at*] 18480 SE Stark Street, [Gresham] **{Portland, OR}** [, *OR thereafter*] for cases cited to appear in the [*Gresham*] East County Courthouse.

(2) Court Trials

(a) A party’s first request for a postponement of a court trial must be made in written form signed by the party and received in the Criminal Calendaring Section at the downtown courthouse, or the [*Gresham*] East County Courthouse if the violation [is proceeding] **{was filed}** in [*Gresham*] **{the East County Courthouse}**, more than 14 calendar days prior to the scheduled trial date.

(ii) Requests made in person shall be submitted ex parte in courtroom 112 of the downtown courthouse, or in [*Gresham*] **{the East County Courthouse}** if the case is cited to appear in that facility, at 8:30 am or 1:30 pm, Monday through Friday when court is in session.

Explanation: Facility name update.

22) 17.015 PARKING CITATIONS - DEFENDANT'S APPEARANCE

(1) A person receiving a parking citation has three options to appear:

(a) Plead guilty by paying in full the bail indicated on the citation, either by **{paying on-line,}** mailing or personally delivering the payment, together with the citation, to the Multnomah County Courthouse. All payments in full must be received within 30 days of the date of violation.

Explanation: adds “on-line payment” to the list of options.