Draft Supplementary Local Rules

For

The Circuit Court of the State of Oregon for Multnomah County

The Fourth Judicial District

Effective

February 1, 2015

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Table of Contents

CHAPTER 1
GENERAL PROVISIONS

1.015 DEFINITIONS 1
1.025 APPLICATION TO CIRCUIT COURT AND DEPARTMENTS DEARTMENTS 1
1.035 CREDIT CARDS 1
1.151 HOURS FOR THE CONDUCT OF BUSINESS WHEN DOCUMENTS MAY BE RECEIVED TO BE FILED 1
1.161 DIVISIONS OF THE OFFICE OF THE TRIAL COURT ADMINISTRATOR WHERE DOCUMENTS ARE RECEIVED FOR FILING 2
1.165 NOTICE TO TRIAL COURT ADMINISTRATOR REQUIRED FOR ORDERS TO SEAL A FILE, TRANSFER MONEY TO OR FROM AN INTEREST BEARING ACCOUNT, A JUDICIAL EXTENSION OF A RECORD RETENTION PERIOD OR DOCUMENTS SUBMITTED UNDER SEAL 3
1.171 WEB ADDRESS 3

CHAPTER 2
STANDARDS FOR PLEADING AND DOCUMENTS

[*2.011 CIVIL CASE MANAGEMENT COVER SHEET*] 4
2.015 RETURN OF A DOCUMENT TO PARTY 4
2.025 FEE DEFERRALS OR WAIVERS IN CIVIL ACTIONS 5
2.035 DESIGNATION OF KNOWN PARTIES BY FICTITIOUS NAME 5
2.045 REQUIREMENTS OF PETITION FOR WAY OF NECESSITY ACTION 5
2.055 SECURITY DEPOSIT TO BE PAID ON FILING OF PETITION FOR WAY OF NECESSITY ACTION 6
2.065 APPOINTMENT OF INVESTIGATOR; FILING AND SERVICE OF REPORT 6

CHAPTER 3
DECORUM IN PROCEEDINGS

3.171 LOCAL ATTORNEY AS ATTORNEY OF RECORD 7
3.181 PUBLIC ACCESS COVERAGE IN AREAS OUTSIDE OF COURTROOMS 7
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 7

CHAPTER 4
PROCEEDINGS IN CRIMINAL CASES

4.005 CRIMINAL PROCEDURE COURT ESTABLISHED 9

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……..9
4.012 SCHEDULING MOTIONS IN FELONY AND MISDEMEANOR CRIMINAL ACTIONS.....9
4.015 DISCOVERY.....10
4.016 *IN CAMERA* REVIEW OF RECORDS.....10
4.017 WAIVER BACK TO JUVENILE COURT FOR CRIMINAL ACTION WAIVED TO CRIMINAL COURT UNDER ORS 419C.370(1).....11
4.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS……...11
4.024 DEFENSE NOTICE OF SCHEDULING OR RE-SCHEDULING OF A CRITICAL STAGE HEARING IN CASES SUBJECT TO ORS 147.500 TO 147.550..……..... 11
4.025 CRIMINAL CASE POSTPONEMENTS BY PRESIDING JUDGE; CRIMINAL EX PARTE.....12
4.035 ISSUANCE OF SEARCH WARRANTS.....12
4.045 VIEWING EXHIBITS IN CRIMINAL PROCEEDINGS 13
4.055 CIVIL COMPROMISE.....13
4.065 MOTIONS TO REMIT SECURITY FORFEITURE JUDGMENTS 13
4.066 PAYMENT OF SECURITY DEPOSITS; PAYMENTS OF OTHER COURT ORDERED OBLIGATIONS.....14
4.067 REFUND PROCEDURES.....14
4.075 DUII DIVERSION.....14
4.081 APPEARANCE AT CRIMINAL PROCEEDINGS BY MEANS OF SIMULTANEOUS ELECTRONIC TRANSMISSION 16
4.101 HABEAS CORPUS – DOCUMENTS AND FILING 16

CHAPTER 5
PROCEEDINGS IN CIVIL CASES

5.014 ASSIGNMENT OF A MOTION JUDGE FOR A CIVIL ACTION……...17
5.015 CIVIL ACTION MOTION SETTING; RESPONSIBILITY OF MOVING PARTY; AUTOMATIC CONSENT TO HEARING BY NON-APPEARING PARTY…….. 17
5.017 SERVICE OF MOTION AT OR BEFORE DELIVERY OF COPY TO JUDGE.....19
5.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS 19
5.025 CIVIL EX PARTE MATTERS 19
5.035 ORDERS BY PREVAILING PARTY; PRESENTING JUDGMENTS AND ORDERS FOR JUDICIAL SIGNATURE.....20
5.036 *IN CAMERA* REVIEW OF RECORDS.....20
5.045 NO MOTIONS FOR RECONSIDERATION; EXCEPTIONS.....20
5.071 REMOVING A PARTY FROM A FILED ACTION OR THIRD PARTY ACTION IF AMENDED COMPALINT OMITS THE PARTY.....21
5.105 PRIOR TO SUBMITTING JUDGMENT FOR SETTLEMENT OF PERSONAL INJURY OR WRONGFUL DEATH CLAIMS: REQUIREMENTS WHEN MINOR CHILD OR INCAPACITATED PERSON APPEARS BY GUARDIAN AD LITEM 21

5.161 JUDGMENT DEBTOR ORDERS 21
5.181 CHALLENGE TO GARNISHMENT NOT TO CONTEST JUDGMENT 22

CHAPTER 6
TRIALS

6.012 PRE-TRIAL SETTLEMENT CONFERENCE PROCEDURES 23
6.015 SUBMISSION AND COPIES OF MOTIONS, BRIEFS, MEMORANDA, AND POINTS AND AUTHORITIES; COPIES TO BE DESIGNATED TRIAL COURT COPY 24
6.025 PAYMENT OF TRIAL FEES AND HEARING FEES 24
6.027 PERSONAL COMMUNICATION DEVICES IN JURY ROOMS DURING DELIBERATIONS AND IN COURTROOMS DURING PROCEEDINGS 25
6.045 MOTIONS TO CORRECT TRANSCRIPTS 25
6.055 BUILDING SECURITY 26
6.145 HAZARDOUS SUBSTANCES 26

CHAPTER 7
CASE MANAGEMENT AND CALENDARING

7.015 TRIAL READINESS CIVIL CASE MANAGEMENT CONFERENCE……..…....28
7.016 PARTICIPATION IN APPROPRIATE DISPUTE RESOLUTION……...28
7.021 UTCR 7.020 CONTINUANCES**;** STAY OF DEFAULTED PARTIES PENDING TRIAL; STIPULATED TRIAL DATES UNDER UTCR 7.020 29
7.025 POSTPONEMENT CONFERENCES 29
7.035 CALL NOTICES; MINIMUM NOTICE FOR POSTPONEMENTS 30
7.045 MOTION FOR CHANGE OF JUDGE 30
7.055 CALL 31
7.056 DISPOSITION OF CASE AFTER ASSIGNMENT TO TRIAL JUDGE, MOTION TO POSTPONE CASE ASSIGNED AT CALL MUST BE PRESENTED TO PRESIDING JUDGE 34
7.061 NOTICE TO THE COURT FOR SPECIAL ACCOMMODATION UNDER THE AMERICANS WITH DISABILITIES ACT (ADA) 34
7.071 SCHEDULING FOREIGN LANGUAGE INTERPRETERS UNDER UTCR 7.070 35
7.101 HABEAS CORPUS – DOCUMENT FILING IN THE CIVIL SECTION OF THE COURT 35
7.201 POST-CONVICTION RELIEF-DOCUMENT FILING IN THE CIVIL SECTION OF THE COURT…….35
7.202 POST-CONVICTION RELIEF-PLEADING WHEN COUNSEL IS APPOINTED UPON FILING OF THE PETITION…….. 36
7.203 POST-CONVICTION RELIEF-MOTIONS OR DEMURRER TO THE PETITION……...36
7.204 POST-CONVICTION RELIEF-EXHIBITS……36
7.205 POST-CONVICTION RELIEF-ADDITIONAL BRIEFING & EXHIBITS……..37

7.206 POST-CONVICTION RELIEF-FILING OF DOCUMENTS WHEN PETITIONER

IS REPRESENTED BY COUNSEL……...37
7.207 POST-CONVICTION RELIEF-HEARINGS ON MOTIONS & DEMURRERS……..37
7.208 POST-CONVICTION RELIEF-CASES SPECIALLY ASSIGNED TO CHIEF CRIMINAL JUDGE FOR ALL PRETRIAL MOTIONS & DEMURRERS; COURTESY COPY DELIVERY REQUIRED……...37
7.209 POST-CONVICTION RELIEF-TRIAL……..38

CHAPTER 8
DOMESTIC RELATIONS, CIVIL COMMITMENT AND NAME CHANGES

8.011 SUBJECT MATTER JURISDICTION 39
8.012 DOCKETING 39
8.013 IN CAMERA REVIEWS 41
8.015 CASE ASSIGNMENT.....41
{**8.016 PARTICIPATION IN APPROPRIATE DISPUTE RESOLUTION**} 41
8.017 TRIAL SETTINGS FOR DISSOLUTION, ANNULMENT, AND SEPARATION PETITIONS; CASE AGE LIMITATIONS.....42
8.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS* 42
8.041 EX PARTE APPEARANCES AND OTHER MATTERS NOT DOCKETED FOR HEARING.....43
8.044 MOTIONS TO SET ASIDE ORDERS AND JUDGMENTS OF DISMISSAL.....44
8.045 See SLR 12.015 regarding mediation in family law cases. 44
8.046 MEDIATION COMPLIANCE REQUIRED TO PROCEED TO HEARING.....44
8.047 CUSTODY AND PARENTING TIME EVALUATIONS BY FAMILY COURT SERVICES DIVISION 45
8.057 WHEN FAMILY COURT SERVICES DIVISION WILL NOT BE REQUIRED OR AVAILABLE TO CONDUCT AN EVALUATION.....45
8.061 CHILD SUPPORT WORKSHEETS 46
8.075 MULTNOMAH COUNTY PARENTING PLAN GUIDELINES.....46
8.077 SUPERVISED PARENTING TIME 48
8.085 APPOINTMENT OF COUNSEL FOR CHILDREN 48
8.125 PARENT EDUCATION PROGRAM 49
8.135 FAMILY COURT SERVICES 51
8.137 PARENTING COORDINATORS.....51
8.138 CUSTODY OR PARENTING TIME ISSUES IN PATERNITY CASES.....52
8.145 CIVIL COMMITMENT PROCEEDINGS.....53
8.155 NAME CHANGES 54

CHAPTER 9
PROBATE PROCEEDINGS

9.015 SUBJECT MATTER JURISDICTION; TRUST CASES 55
9.016 ALTERNATE DISPUTE RESOLUTION.....55
9.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS 55

9.025 HOW MATTERS FOR PROBATE ARE TO BE PRESENTED; CONFERENCE; HEARING; EMERGENCIES 55
9.026 IN CAMERA REVIEWS 56
9.035 DELINQUENT FILINGS 56
9.045 RESIGNATION OF COUNSEL; NOTIFICATION REQUIREMENTS 56
9.055 SETTLEMENT OF PERSONAL INJURY OR WRONGFUL DEATH CLAIMS: REQUIREMENTS WHEN MINOR CHILD OR INCAPACITATED PERSON APPEARS BY GUARDIAN AD LITEM 56
9.065 BONDS IN ESTATES WHERE PERSONAL REPRESENTATIVE OF INTESTATE ESTATE IS SOLE HEIR OR DEVISEE 58
9.073 VOUCHERS 58
9.075 GUARDIANSHIPS 58
{**9.076 NONPROFESSIONAL FIDUCIARY EDUCATION PROGRAM**} 59
9.081 PRESENTATION OF ORAL OBJECTIONS 60
9.085 SELF-REPRESENTED PARTY APPEARANCES IN PROBATE COURT; APPROVAL .60
9.095 ATTORNEY FEES AND CORPORATE FIDUCIARY FEES APPROVAL 61
9.161 FORM OF ACCOUNTINGS 62

CHAPTER 10
RESERVED FOR EXPANSION

CHAPTER 11
JUVENILE COURT

11.015 JUVENILE COURT MATTERS 64
11.017 PETITION NUMBER AND JJIS NUMBER REQUIRED 64
11.035 REFEREES 64
11.037 MOTION FOR A JUDGE, CHANGE OF JUDGE 65
11.045 GENERAL PROCEDURES FOR SCHEDULING HEARINGS FOR JUVENILE CASES 65
11.065 MOTIONS FOR SUBSTITUTION OF COUNSEL 66
11.066 IN CAMERA REVIEWS 66
11.067 NOTICE OF SCHEDULING OR RE-SCHEDULING OF A CRITICAL-STAGE HEARING IN CASES SUBJECT TO UTCR 4.100 TO 4.120 67

CHAPTER 12
MEDIATION

12.015 FAMILY-LAW MANDATORY CUSTODY OR PARENTING TIME MEDIATION; VOLUNTARY MEDIATION; GOOD FAITH REQUIRED; WAIVER 68
12.016 See SLR 8.125 for the mandatory Parent Education Program 70
12.021 MEDIATION COMMISSION 71
12.022 COURT-CONNECTED MEDIATOR LISTS ESTABLISHED 71
12.023 APPOINTMENT TO COURT-CONNECTED MEDIATOR LIST 71
12.025 ALTERNATE MEDIATION PROCEDURE IN CIVIL AND DOMESTIC RELATIONS ACTIONS SUBJECT TO 36.400 TO 36.425 72

12.035 MEDIATION IN SMALL CLAIMS ACTIONS; FAILURE TO COMPLY WITH SETTLEMENT 73
12.045 MEDIATION IN PROBATE PROCEEDINGS 73

CHAPTER 13
ARBITRATION

13.025 REQUEST FOR AND OBJECTIONS TO ARBITRATION 78
13.032 SUBMISSION OF COPIES OF MOTIONS AND OTHER DOCUMENTS TO CHIEF ALTERNATIVE DISPUTE RESOLUTION JUDGE 78
13.035 COURT SHALL DETERMINE WHETHER CASE IS SUBJECT TO ARBITRATION 78
13.042 ASSIGNMENT TO ARBITRATION 79
13.048 INDIGENT PARTIES 79
13.055 ARBITRATORS 80
13.065 STIPULATIONS 80
13.071 UNTIMELY FILED MOTINOS TO EXEMPT FROM ARBITRATION 81
13.075 See 12.025 et seq. for mediation as an alternative to arbitration. 81
13.085 FILING AWARD 81
13.165 TIME FOR ARBITRATION HEARING - 91 DAY TIME PERIOD PURSUANT TO UTCR 13.160 (2) 81
13.255 RETURN OF WRITTEN NOTICE OF APPEAL AND REQUEST FOR TRIAL DE NOVO SUBMITTED FOR FILING BEYOND THE TIME PERMITTED 81

CHAPTER 14
REFERENCE JUDGES

14.015 STENOGRAPHIC REPORTER NOTES; MOTIONS TO CORRECT TRANSCRIPTS 83
14.025 COMPENSATION OF THE REFERENCE JUDGE 83
14.035 RECORDS OF PROCEEDINGS 83

CHAPTER 15
SMALL CLAIMS DEPARTMENT

15.015 FILING PROCEDURES 84
15.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS 84
15.025 APPOINTMENT OF GUARDIAN AD LITEM 84
15.035 HEARING NOTICE 85
15.045 DISMISSAL FOR FAILURE TO PURSUE CLAIM 85
15.055 REPRESENTATION BY ATTORNEY ONLY BY COURT ORDER 85
15.065 TIME EXTENSION 85
15.075 COMMUNICATION IN WRITING 85
15.085 TRANSFER OF CLAIM FROM SMALL CLAIMS DEPARTMENT 85
15.095 REQUESTS FOR POSTPONEMENT 86

15.105 See SLR 12.035 for mandatory mediation in small claims action. 86
15.115 AUTHORIZED AGENTS IN SMALL CLAIMS CASES 86
15.125 See SLR 5.065 for Judgment Debtor Exams in Small Claims Actions 86
15.135 See SLR 5.085 for Claims of Exemption Not to Contest Judgment 86
15.145 See SLR 6.025 for Payment of Trial Fees and Hearing Fees 86
15.155 See SLR 7.045 for Motion for Change of Judge 86

CHAPTER 16
VIOLATION OFFENSES

16.025 PRE-ARRAIGNMENT AND ARRAIGNMENT APPEARANCE OPTIONS 87
16.065 VIOLATIONS BUREAU 88
16.075 NOTICE OF REPRESENTATION BY ATTORNEY 88
16.085 POSTPONEMENTS 88
16.195 SETTING ASIDE DEFAULT JUDGMENTS 90

CHAPTER 17
PARKING VIOLATIONS

17.015 PARKING CITATIONS - DEFENDANT'S APPEARANCE 91
17.025 DISMISSAL OF A PARKING CITATION BEFORE TRIAL 91
17.035 TOWING AND IMPOUNDMENTS 93
17.045 NOTICE OF REPRESENTATION BY AN ATTORNEY 94
17.055 POSTPONEMENTS AND OTHER MOTIONS 95
17.065 HEARING PROCEDURE IN PARKING CITATION CASES 95
17.067 FAILURE TO APPEAR 95

CHAPTER 18
FORCIBLE ENTRY AND DETAINER (FED)

18.015 STAY OF DEFAULT, FED EX PARTE TIME 97
18.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS 97
18.025 AUTHORIZED AGENTS 97
18.035 MEDIATION IN FED FIRST APPEARANCES 97
18.045 PAYMENT OF ADDITIONAL FILING FEES FOR TRIAL DEMAND 97
18.055 See SLR 7.045 for Motion for Change of Judge 98
18.065 See SLR 7.055 for Call/Assignment 98
18.075 See SLR 7.055(7) for Abated and Stayed Cases 98
18.085 See SLR 7.055(8) for Duty of Attorney at Call/Assignment 98
18.095 See SLR 15.095 for Requests to Postpone Hearings 98

CHAPTER 19
CONTEMPT PROCEEDINGS

19.021 ALL DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL

SANCTIONS 99

CHAPTER 20
RESERVED FOR EXPANSION

CHAPTER 21
RESERVED FOR EXPANSION

CHAPTER 22
RESERVED FOR EXPANSION

CHAPTER 23
RESERVED FOR EXPANSION

CHAPTER 24
OREGON eCOURT IMPLEMENTATION

24.201 ELECTRONIC DOCUMENTS…… 104
24.202 ELECTRONIC COURT SIGNATURES…….. 104
24.203 COMBINED MOTION AND ORDER DOCUMENT NOT PERMITTED……. 104
24.205 BINDING DOCUMENTS, USE OF STAPLES PROHIBITED…… 104
24.501 STIPULATED OR *EX PARTE* MATTERS MAY BE ELECTRONICALLY FILED….. 105
24.601 SUBMISSION OF REQUESTED JURY INSTRUCTIONS AND VERDICT FORMS.. 105
24.801 ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT; DOCUMENTATION FOR DEPARTMENT OF JUSTICE, DIVISION OF CHILD SUPPORT……105
24.901DELIVERING PROBATE MATERIALS TO THE COURT, NO SELF-ADDRESSED, STAMPED ENVELOPE OR POSTCARD IF DOCUMENT ELECTRONICALLY FILED (UTCR 9.010 DOES NOT APPLY TO AN ELECTRONICALLY FILED DOCUMENT)…….…..…105

FORMS APPENDIX TO SUPPLEMENTARY LOCAL RULES

CHAPTER 1

GENERAL PROVISIONS

1.015 DEFINITIONS

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

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

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

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

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

1.025 APPLICATION TO CIRCUIT COURT AND DEPARTMENTS

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

1.035 CREDIT CARDS

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

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

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

(2) Except as provided in UTCR Chapter 21, documents which do not require the payment of a

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

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

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

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

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

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

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

Addresses for other court locations are as follows:

Justice Center
Third Floor
1120 SW Third Avenue
Portland, OR (send mail to the courthouse)

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

East County Courthouse
18480 SE Stark Street
Portland, OR 97233

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

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

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

1.171 WEB ADDRESS

http://courts.oregon.gov/Multnomah

CHAPTER 2

STANDARDS FOR PLEADING AND DOCUMENTS

[*2.011 CIVIL CASE MANAGEMENT COVER SHEET*

In civil actions, except small claims, FED, family law, juvenile, protective proceedings or probate cases, any complaint or petition initiating an action shall be accompanied by a Civil Case Management Cover Sheet.

(1) The cover sheet shall identify:
- *(a) All parties: plaintiff/petitioner and defendant/respondent;*
- *(b) Any related cases pending in the Fourth Judicial District (Multnomah County Circuit Court) and their case numbers;*
- *(c) Contact information for plaintiff/petitioner's attorney, including;*
  - *(i) Name, mailing address, phone number and OSB number;*
  - *(ii) Email address for all court-generated electronic notices; and,*
- *(d) The type of case, selected from a list provided by the court on the Cover Sheet form.*

(2) The cover sheet, if so indicated, will serve as notice of a change of address pursuant to UTCR 2.010(14);

(3) A form of Civil Case Management Cover Sheet is available from Presiding Court and in Room 210 of the courthouse. It is available on-line at http://courts.oregon.gov/Multnomah/. (See Form 05-95, Page 115, Appendix of Forms)]

2.015 RETURN OF A DOCUMENT TO PARTY

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

(a) A document with an existing case number and case caption from another jurisdiction, unless filed pursuant to an order signed by a judge allowing a change of venue or authorizing the filing on some other basis;

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

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

(d) A document which requires court action, but the court action cannot be taken without

the filing of statutorily-required preceding documents;

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

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

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

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

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

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

2.025 FEE DEFERRALS OR WAIVERS IN CIVIL ACTIONS

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

2.035 DESIGNATION OF KNOWN PARTIES BY FICTITIOUS NAME

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

2.045 REQUIREMENTS OF PETITION FOR WAY OF NECESSITY ACTION

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

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

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

2.065 APPOINTMENT OF INVESTIGATOR; FILING AND SERVICE OF REPORT

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

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

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

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

CHAPTER 3

DECORUM IN PROCEEDINGS

3.171 LOCAL ATTORNEY AS ATTORNEY OF RECORD

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

3.181 PUBLIC ACCESS COVERAGE IN AREAS OUTSIDE OF COURTROOMS

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

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

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

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

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

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

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

(3) In addition to any other consequence permitted under law or court rules, violators of this rule

are subject to being ordered by the court to delete from the device any audio recording, photographic or any other visual or image recording or reproduction made in a court facility.

CHAPTER 4

PROCEEDINGS IN CRIMINAL CASES

4.005 CRIMINAL PROCEDURE COURT ESTABLISHED

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

4.007 WRITTEN PETITION REQUIRED TO BE FILED BY VICTIM OR PERSONAL APPEARANCE OF VICTIM FOR HEARING TO REMOVE NO CONTACT ORDER IMPOSED UNDER ORS 135.250 OR [*CHAPTER 232 OREGON LAWS 2011*] {ORS 135.247}

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

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

(3) A written petition under section 1 of this rule may be filed on the court's form (see Form 23-90, Page 107, Appendix of Forms), or in a document that is in the same format and contains the same heading, caption and content.

4.012 SCHEDULING MOTIONS IN FELONY AND MISDEMEANOR CRIMINAL ACTIONS

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

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

Except for cases specially assigned to a specific judge for all purposes, or for motions to be heard on the day of trial by the judge assigned for trial from a Call or Criminal Procedure Court

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

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

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

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

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

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

4.015 DISCOVERY

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

4.016 *IN CAMERA* REVIEW OF RECORDS

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

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

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

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

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

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

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

4.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS

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

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

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

Notice for purposes of this rule may be provided by writing delivered to the office of the district attorney or by conferring with the prosecuting attorney or the prosecuting attorney's designee within the district attorney's office and providing the information.

(2) The duty to provide notice under this rule does not apply in any case where, for every person determined to be a victim by the prosecuting attorney, the prosecuting attorney has filed a "notice of compliance with victims' rights" as required by ORS 147.510 that reflects the victim waived their right to be informed in advance of any critical stage of the proceeding.

4.025 CRIMINAL CASE POSTPONEMENTS BY PRESIDING JUDGE; CRIMINAL EX PARTE; {<u>and, CRIMINAL PROCEDURE COURT POSTPONEMENTS</u>}

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

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

(3) [*The first or second request for postponement of a misdemeanor or other case assigned to the Criminal Procedure Court may be presented at the Friday pre-trial conference, if the requested postponement is for a period of less than five weeks. A written motion is not required for first set-over requests, except in cases involving domestic violence; a written request is required for every domestic violence set-over request and for a second set-over request to set-over any other misdemeanor case.*

(4) Third or subsequent requests for postponement of a misdemeanor assigned to the Criminal Procedure Court or requests for a postponement longer than five weeks will be referred to the Criminal Procedure Court Judge. Written requests for postponement are required in those circumstances. The motion shall set forth the specific reason for the request and contain a statement that opposing counsel was contacted and indicate counsel's position. Opposing counsel must also be identified by name in the motion.] {**<u>For misdemeanor cases and for felony cases assigned to the Criminal Procedure Court, requests for postponement of these cases or requests to rescind bench warrants ordered in these cases must be presented to the Criminal Procedure Court.</u>**

4.035 ISSUANCE OF SEARCH WARRANTS

(1) A request for a search warrant may be made to any Circuit Court Judge, subject to any

procedures established by the Presiding Judge.

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

(a) Obtain prior approval from a District Attorney who has personally reviewed the facts underlying the application;
(b) Provide the name of the reviewing District Attorney; and

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

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

4.045 VIEWING EXHIBITS IN CRIMINAL PROCEEDINGS

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

4.055 CIVIL COMPROMISE

The defendant must appear personally for a civil compromise hearing.

4.065 MOTIONS TO REMIT SECURITY FORFEITURE JUDGMENTS

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

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

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

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

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

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

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

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

(c) If the full amount of security is posted in the form of real or personal property, stocks or bonds, as prescribed in ORS 135.265 (3), the security release must be processed by the Criminal Division of the Trial Court Administrator's Office, and a Judge must review the supporting affidavits prior to the defendant's release from custody.

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

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

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

4.067 REFUND PROCEDURES

All refunds are made by mail.

4.075 DUII DIVERSION

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

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

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

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

(4) The court will arraign the defendant at first appearance. If the district attorney has determined that the defendant is eligible to enter DUII Diversion, then the case will be continue for the defendant to file the diversion petition and to appear to enter a plea of guilty. (See 08-27 Forms 1-6, Pages117-126, Appendix of Forms.) If the state is not able to determine if the incident or the defendant are diversion eligible at the time of arraignment or determines that the defendant is not eligible to enter diversion and files objections, then the case will be set for jury trial in the normal course with leave to the defendant to file a petition, if timely, and to set a hearing for the court to make a final determination on this issue.

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

(6) Objections to Diversion

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

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

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

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

(e) If an objection is contested and the Court sustains the objection to diversion, or if the

defendant elects not to contest the objection, the case shall be set for trial or plea.

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

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

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

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

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

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

4.081 APPEARANCE AT CRIMINAL PROCEEDINGS BY MEANS OF SIMULTANEOUS ELECTRONIC TRANSMISSION

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

4.101 HABEAS CORPUS – DOCUMENTS AND FILING

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

CHAPTER 5

PROCEEDINGS IN CIVIL CASES

5.014 ASSIGNMENT OF A MOTION JUDGE FOR A CIVIL ACTION

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

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

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

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

Methods of Setting Civil Motions

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

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

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

judge must be made at the presiding judge's ex parte, as provided in SLR 5.014 (2).

Notice of motion hearing time, date and location

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

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

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

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

Failure to File Motion within Seven Days

(7) If the moving party fails to file the motion within seven days after the motion set for a date and time certain under paragraph (3) of this rule, absent an order of the court permitting additional delay, the court may impose sanctions as provided by UTCR 1.090.

Absence at Motion Hearing

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

appearing.

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

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

5.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS

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

5.025 CIVIL EX PARTE MATTERS

(1) Ex parte matters shall be heard each judicial day before the Presiding Judge or designee at 9:30 am or at 1:30 pm. (See Form 05-27, Page 108, Appendix of Forms for requesting an Order to Show Cause)

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

(a) Motion to postpone trial;

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

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

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

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

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

(3) All judgments, orders, and other documents requiring the signature of a specific judge shall be sent directly to that judge.

5.036 *IN CAMERA* REVIEW OF RECORDS

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

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

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

5.045 NO MOTIONS FOR RECONSIDERATION; EXCEPTIONS

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

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

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

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

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

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

5.161 JUDGMENT DEBTOR ORDERS

Authorized Without Predetermined Hearing Date

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

Valid for Six Months

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

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

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

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

5.181 CHALLENGE TO GARNISHMENT NOT TO CONTEST JUDGMENT

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

CHAPTER 6

TRIALS

6.012 PRE-TRIAL SETTLEMENT CONFERENCE PROCEDURES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6.025 PAYMENT OF TRIAL FEES AND HEARING FEES

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

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

shall be deemed concluded when the jury returns a verdict.

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

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

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

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

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

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

6.045 MOTIONS TO CORRECT TRANSCRIPTS

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

(a) Trial court reporter or audio transcriber;

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

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

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

(4) If the signed order permits correction or addition to the transcript, then the trial court reporter or audio transcriber shall give notice and, upon any payment due, serve copies of the corrected or added material in the same manner as provided by ORS 19.370 for the initial uncorrected or un-augmented transcript.

6.055 BUILDING SECURITY

The Multnomah County Courthouse, the Multnomah County Justice Center, 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:

(1) Direct physical assault upon any person;

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

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

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

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

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

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

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

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

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

6.145 HAZARDOUS SUBSTANCES

In addition to the definition found in UTCR 6.140 (2), a hazardous substance is defined as any substance listed in, or hereinafter added to, the Federal Aviation Authority Regulations on Hazardous Substances, any provisions of the United States Code defining hazardous substances, or the Federal Controlled Substances Act; or is any potentially dangerous or contaminated substance

capable of inflicting death or serious physical injury either immediately or over the course of time. A hazardous substance shall include any device or implement which carries, contains, or exhibits such characteristics.

CHAPTER 7

CASE MANAGEMENT AND CALENDARING

7. 015 TRIAL READINESS CIVIL CASE MANAGEMENT CONFERENCE

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

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

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

7.016 PARTICIPATION IN APPROPRIATE DISPUTE RESOLUTION

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

(2) All parties and their attorneys, if any, are required to participate in some form of appropriate dispute resolution, beyond negotiation directly or indirectly to reach a joint settlement, including, but not limited to, arbitration, mediation or judicial settlement conference. The parties must sign and file, within 365 days from the filing of the first complaint or petition in the action, a certificate (See Form 05-31, Page 100, Appendix of Forms) indicating that the parties have participated in such ADR mechanisms. If the action is fully disposed of in the circuit court within 365 days from the filing of the first complaint or petition in the action, no certificate need be filed under this rule.

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

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

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

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

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

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

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

7.021 UTCR 7.020 CONTINUANCES; STAY OF DEFAULTED PARTIES PENDING TRIAL

(1) Continuances pursuant to UTCR 7.020 shall be on a form prescribed by the Court. (See Form 05-41, Page 113, Appendix of Forms) A request for a continuance must be presented at the Presiding Judge's ex parte.

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

7.025 POSTPONEMENT CONFERENCES

A conference with the Presiding Judge may be required to postpone a civil case currently 12 months of age or which will exceed 12 months of age if a set over is granted.

7.035 CALL NOTICES; MINIMUM NOTICE FOR POSTPONEMENTS

(1) Attorneys of record in each case taken from the list of cases set for trial will be notified at least 28 days before the date of Call, unless this period is waived or shortened by the Presiding Judge.

(2) Counsel seeking postponements of assigned trial dates shall give opposing counsel(s) not less than one judicial day's notice of the date and time when an application for postponement is to be presented to the Court at ex parte as required by these Rules and SLR 5.025.

(a) Motions for postponement shall be on a form prescribed by the Court and shall be submitted in duplicate (See Form 05-82, Page 114, Appendix of Forms);

(b) Any motion for postponement, including an opposed motion, must be presented at the ex parte time;

(c) Counsel must appear in person and present good cause for the postponement of the trial date in every instance. Opposing counsel may appear and be heard.

(d) Three judicial days or less before the Call date, a motion for postponement will not be considered. Appearance at Call is mandatory.

7.045 MOTION FOR CHANGE OF JUDGE

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

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

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

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

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

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

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

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

7.055 CALL

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

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

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

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

Call calendar.

Assignment Times

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

Presiding Judge to assign judge, day and time

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

Cases set to follow

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

Standby Cases

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

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

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

Carried Cases

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

Abated and Stayed Cases

(7) For good cause shown, the Presiding Judge may abate any case upon motion of counsel or upon motion of the Court. (See Forms 05-32 and 05-38, Pages 110 and 112, 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 abatement order if the case has not been removed from abated status or dismissed at an earlier time. A case may be removed from abated status upon motion of counsel or on the Court's own motion.

(b) No abated case shall be placed on the trial docket, or be subject to court arbitration or

mediation, or have any motion practice conducted during the period of abatement. Parties may by mutual consent proceed with discovery during the period of abatement or inactive status.

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

(d) Once a case is reinstated to the active trial docket, the case will be assigned a trial date within 30 days. (See Form 05-33, Page 111, Appendix of Forms)

Duty of Attorney at Call

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

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

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

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

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

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

Multiple Case Assignment

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

Felony Defendants to Appear at Call

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

Cases Specially Set

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

Advising Presiding Judge

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

Improper Influencing of Case Assignment

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

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

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

7.061 NOTICE TO THE COURT FOR SPECIAL ACCOMMODATION UNDER THE AMERICANS WITH DISABILITIES ACT (ADA)

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

(2) The Trial Court Administrator's Office Multnomah County may be contacted by calling (503) 988-3957 or TDD (503) 988-3907. The Trial Court Administrator's Office is open to take calls under this rule each business day from 8:00 am to 5:00 pm.

7.071 SCHEDULING FOREIGN LANGUAGE INTERPRETERS UNDER UTCR 7.070

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

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

(3) The Court Interpreter Services Office in Multnomah County may be contacted by e-mail at MUL.Interpreter.Services@ojd.state.or.us or by calling (503) 650-3055. The Interpreter Services Office is available to take both e-mail and calls each business day from 8:00 am to Noon and from 1:00 pm to 5:00 pm.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.204 POST-CONVICTION RELIEF --- EXHIBITS

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) All post-conviction relief cases are specially assigned to the Chief Criminal Judge for purpose of all pretrial case management procedure and process. The Chief Criminal Judge will conduct scheduled monthly status conferences for post-conviction relief cases pending trial and,

unless otherwise ordered by the court, will hear all pretrial matters, including any motions for delay of an assigned trial date.

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

7.209 POST-CONVICTION RELIEF --- TRIAL

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

(2) Unless otherwise ordered by the court, all post-conviction relief trials in which petitioner is in the custody of the Oregon Department of Corrections shall be held by video conferencing or, if video conferencing is not available, by telephonic conferencing. The petitioner shall remain in and appear from the correctional facility in which the petitioner is being held.

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

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

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

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

CHAPTER 8

DOMESTIC RELATIONS, CIVIL COMMITMENT, AND [*NAME*] {IDENTITY}CHANGES

8.011 SUBJECT MATTER JURISDICTION

The following cases shall be subject to the rules of this chapter: dissolution and annulment of marriages, separation, child and spousal support, filiations, dissolution of domestic partnerships, family abuse prevention, adoption, name changes, and habeas corpus proceedings involving children, civil commitments and such other cases as shall be assigned to the Chief Family Law Judge for case management purposes by the Presiding Judge.

8.012 DOCKETING

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

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

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

(b) The Family Law Rotation Docket consists of multiple matters set for the same start time and expected to last only 30 minutes or less. On Monday and Thursdays, these matters are abuse prevention restraining order hearings; on Tuesdays, the matters are State child support cases. Early Thursday morning, name change requests are also heard on this docket. The Family Law Rotation does not handle short matters other than these proceedings.

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

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

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

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

(5) Motions to modify judgments require written responses from opposing parties within 30 days from the date of service if the motion is contested. If a written response is filed, the Family Law Clerks will set the motion on the Trial Assignment Docket for assignment for hearing and will send notice to all parties of the date set for Trial Assignment for assignment of the motion. If the motion to modify a judgment is filed on a case that has been retained by a specific judge, then the Family Law Clerks will notify the judge. The judge's staff will set the motion to modify the judgment for hearing and will notify the parties of the date and time of the event; all scheduling issues must be submitted to the judge who retained the case.

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

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

8.013 IN CAMERA REVIEWS

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

(2) The motion will be placed on the Trial Assignment Docket to be assigned for hearing. If the motion is stipulated, the parties will report to the Family Law Clerks that fact and the estimated amount of time needed for the review when the case is assigned. The Judge receiving the assignment from the Trial Assignment Docket will conduct the in camera review if the motion is granted or stipulated. If the case has an assigned Judge of the Case, the party requesting the review must contact that trial department to schedule a hearing on the motion. The Judge of the Case will make arrangements for another judicial officer to conduct the review, if the motion for review is granted.

(3) Parties seeking in camera reviews shall direct delivery of the documents to be examined to room 131.

8.015 CASE ASSIGNMENT

Case Assignment for Family Law from the Trial Assignment Docket

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

(2) In all cases set on the Trial Assignment Docket, the parties must report in person at the designated courtroom at 9:00 a.m. on the court business day prior to the date of the hearing or trial. The parties shall report at that time the settlement or the time needed for hearing or trial of the case. A party may report information for another party only with the agreement of both parties. The courtroom designated for Trial Assignment is listed daily on the Domestic Relations bulletin board in Room 210. When assignment to a specific judicial officer is made at the time of Trial Assignment, a party desiring a change of judge must inform the judge presiding at Trial Assignment that a Motion to Change Judge will be filed.

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

(4) Cases needing status as a "special set" (a case requiring one (1) or more days of judicial time, i.e., six (6) or more hours of court time) will be assigned in advance to an individual judge when a party makes this request to the Chief Family Law Judge or designee.

Advising the Chief Family Law Judge

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

Improper Influencing of Case Assignment

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

{**8.016 PARTICIPATION IN APPROPRIATE DISPUTE RESOLUTION**

(1) This rule applies to cases involving a dissolution or separation of marriage, dissolution of registered domestic partnership, or dissolution of domestic partnership, when the only contested issues involve spousal support, personal or real property, or debt.

(2) All parties and their attorneys, if any, are required to participate in some form of appropriate dispute resolution prior to trial, including but not limited to mediation, arbitration, or a neutral-conducted settlement conference. The parties must sign and file at least 14 days prior to Trial Assignment a certificate indicating that the parties have participated in such a process and identifying that process. If this certificate has not been filed, the parties will be deemed not ready for Trial and the case will not be assigned out.

(3) The requirements of this rule may be waived by court order based on compelling cause.}

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

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

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

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

(4) Cases at issue shall be set for trial. Postponements shall be requested pursuant to SLR 7.035,

to the Chief Family Law Judge or designee, but to the Judge of the Case when one exists.

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

8.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS (New SLR)

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

8.041 EX PARTE APPEARANCES AND OTHER MATTERS NOT DOCKETED FOR HEARING

(1) Matters Heard Ex Parte

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

(2) Matters Heard at Ex Parte Time

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

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

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

(4) Motions Not Docketed for Hearing

(a) All motions or requests shall be handled under this rule unless they are stipulated, have been scheduled for hearing, are accompanied by a statutorily-required notice regarding the opposing party's right to request a hearing, or are appropriately heard under SLR

8.041(1-3).

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

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

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

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

8.044 MOTIONS TO SET ASIDE ORDERS AND JUDGMENTS OF DISMISSAL

Unless stipulated, Motions to vacate (1) Orders of Dismissals when the motion has not been scheduled for hearing and (2) Orders of Dismissal not yet reduced to Judgment are handled under SLR 8.041. Once a Judgment of Dismissal has been entered, parties must comply with ORCP 71 unless they stipulate otherwise.

8.045 See SLR 12.015 regarding mediation in family law cases.

8.046 MEDIATION COMPLIANCE REQUIRED TO PROCEED TO HEARING

(1) No temporary hearing regarding custody or parenting time will be set unless an Order for mediation has been obtained, an Order Waiving Mediation has been entered, or the parties have attended mediation since the filing of the Petition.

(2) When the parties call in to report readiness for a trial setting, if Mediation and Parenting Time Education have not been completed, in cases where child custody or parenting time are at issue, trial will not be set. On cases retained by a Family Court Judge, trial settings sought through that Judge's judicial assistant will not be set unless mediation has been completed or waived or an Order for Mediation has been entered. Parties confirming trial readiness with that judge's department will be expected to confirm completion of Mediation and of Parenting Time Education.

(3) For motions to modify child custody or parenting time, a Mediation Order will be a condition to the setting of a hearing date. If any cases come before the court without completion or waiver of mediation, the hearing will be reset and the parties sent to mediation.

8.047 CUSTODY AND PARENTING TIME EVALUATIONS BY FAMILY COURT SERVICES DIVISION

(1) Evaluations are conducted only by Order of the Court.

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

(3) Parenting time and custody evaluations are not permissible in the following cases:

(a) Contempt or parenting time enforcement cases;

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

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

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

(e) Pending Juvenile Dependency cases;

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

(g) Cases in Probate Guardianship; and

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

(4) At the appearance on Friday morning, the parties shall present to the court a one-page list of reasons why an evaluation is needed.

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

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

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

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

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

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

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

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

(4) If the Family Court Services Division (or one or more staff members) becomes the subject of a complaint to a professional licensing body, or in the event that an action is filed against Multnomah County based on activity of an employee of Family Court Services Division, there shall be no further involvement of Family Court Services Division with the parties.

8.061 CHILD SUPPORT WORKSHEETS

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

8.075 MULTNOMAH COUNTY PARENTING PLAN GUIDELINES

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

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

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

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

i. the developmental stage(s) and any special needs of their child(ren),
ii. the child(ren)'s school and activity schedules, and
iii. practical factors such as the distance between households, the number of transitions for the child(ren), and any other relevant practical considerations.

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

(d) It is usually best for the parties to develop their own parenting time schedule through mediation or with the help of legal counsel. Unless waived by the Court, mediation is required when parents are in dispute about custody or parenting time; and

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

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

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

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

i. Multnomah County Family Law Facilitator's Office, Room 211 of the County Courthouse – 503.988.4003
ii. Multnomah County Family Court Services, Room 350 of the County Courthouse – 503.988.3189
iii. The Multnomah County Circuit Court Website - http://courts.oregon.gov/Multnomah/.

8.077 SUPERVISED PARENTING TIME

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

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

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

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

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

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

(6) The supervisor is required to keep the supervised parent within view and within hearing

range for the duration of the supervised parenting time;

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

8.085 APPOINTMENT OF COUNSEL FOR CHILDREN

The Court may appoint counsel for children in cases arising under ORS Chapter 107 upon its own motion or upon motion of either party pursuant to ORS 107.425(3), and shall appoint counsel if requested to do so by one or more of the children. A reasonable fee may be imposed by the Court against either or both of the parties or as a cost in the proceedings.
The procedure for appointment of counsel for children in cases arising under ORS Chapters 107-109 shall be as follows:

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

(2) A person requesting appointment of counsel for a child or children must petition the Court for an order setting forth the reasons for such request. After reasonable notice to all parties, the person seeking such appointment shall appear and request an Order Appointing Counsel.

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

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

(5) To the extent possible, appointed counsel will represent their clients' legal interests in obtaining a secure, stable home life and a balanced relationship with both parents and will be answerable only to their client and to the Court. The parents or persons having physical custody of the child shall cooperate in allowing counsel opportunity for private consultation with the child or children, including making or assisting with arrangements for the children's transportation to the attorneys' office or some other reasonable meeting place and reasonable phone communication if needed.

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

8.125 PARENT EDUCATION PROGRAM

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

(a) annulment or dissolution of marriage actions;

(b) legal separation actions;

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

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

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

(a) Parties shall register for the program or make application for approval of an alternate program within 15 days of receiving notice of this education requirement.

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

(c) Parties who have completed successfully the parent education program once are not required to repeat this program at a later time in order to seek modification of the judgment.

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

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

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

(6) Upon a showing of good cause, a party may request a waiver of the requirements of this Rule. The request must be made by motion, supported by affidavit, and filed within 15 days of receipt of the Trial Court Administrator's notice.

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

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

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

(7) Court action in these cases shall not be delayed by a party's refusal, failure or delay in registering for or completing this program or the failure to comply with the requirements of this Rule, unless the noncomplying party is the moving party. Upon a party's failure to complete the education program successfully or failure to comply with the requirements of this Rule, the court may take appropriate action including but not limited to denial of the relief sought by that party, or proceedings for contempt.

8.135 FAMILY COURT SERVICES

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

(1) **Conciliation**: The Division provides conciliation services for parties in domestic relation matters as provided by ORS 107.510 to 107.610. All Division conciliation records and conciliation communications, oral or written, are confidential, and Division employees and the parties may not be examined about such records or communications and neither may be used in any civil or criminal action.

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

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

(3) **Evaluation**: When directed by court order or these rules, the Division may conduct an investigation and evaluation of the parties whenever mediation does not resolve all custody,

parenting time and visitation issues or when mediation is inappropriate or waived. The sole purpose of the investigation and evaluation is to assist the Court. In accordance with ORS 107.425, the evaluations will include the character of the parties, family relations and past conduct in a report. The investigative findings shall be offered as and subject to all rules of evidence. Evaluation proceedings are private. Evaluation records, all evaluation communications, oral and written, may not be disclosed to parties outside of the proceedings without a court order.

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

8.137 PARENTING COORDINATORS

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

(a) Education. A Parenting Coordinator must possess at least one of the following
(i) A master's or doctoral degree and professional license in counseling, psychiatry, psychology, social work, marriage and family therapy, mental health or conflict resolution from an accredited college or university; or
(ii) An authorization to practice as a domestic relations mediator in Multnomah County per the Court’s list of approved domestic relations mediators.

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

(i) Parenting coordination;
(ii) Conflict resolution;
(iii) Child development and psychology;
(iv) Mental health and substance abuse;
(v) Domestic violence and child abuse;
(vi) Domestic relations legal issues;
(vii) Ethical standards including confidentiality, dual roles and objectivity

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

(2) Conduct

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

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

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

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

8.138 CUSTODY OR PARENTING TIME ISSUES IN PATERNITY CASES

(1) Proceedings to establish or modify custody or parenting time where paternity has been established must be brought pursuant to ORS 109.103. If support has been established in a separate proceeding and is an issue, the moving party must file with his/her petition a motion and proposed order to consolidate the cases into the proceeding brought pursuant to ORS 109.103.
(2) Custody or visitation proceedings brought under ORS 109.175 as modifications of administrative orders establishing paternity or support will be dismissed upon application of the opposing party or by the Court on its own motion.

8.145 CIVIL COMMITMENT PROCEEDINGS

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

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

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

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

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

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

(a) Opening statement by defense counsel;

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

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

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

(e) The State may present rebuttal;

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

8.155 [*NAME*] {**IDENTITY**} CHANGES

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

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

CHAPTER 9

PROBATE PROCEEDINGS

9.015 SUBJECT MATTER JURISDICTION; TRUST CASES

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

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

9.016 ALTERNATIVE DISPUTE RESOLUTION

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

9.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS

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

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

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

(2) If the matter cannot be approved without an appearance, the party will be so advised [*by notice within three judicial days*] and the matter will be set for conference, or hearing.

(3) Hearings or ex parte appearances may be scheduled by request to the Probate Section. Before requesting a hearing,[*requesting*] counsel should confer with other counsel {**<u>and/or self-represented litigants</u>**} and advise the Probate Section staff of the estimated time required. (Refer to SLR 8.012 and 8.015 for "[*call*]{**<u>trial</u>**}/assignment" process.) [*Requesting counsel is charged with responsibility of notifying all required parties.*]

(4) Probate ex parte matters are heard Monday through Friday at 8:45 am, and must be prearranged with the Probate section.

9.026 IN CAMERA REVIEWS {/MOTIONS TO SEAL}

(1) Parties seeking an in camera review of documents in a probate case shall file a motion in room 224 of the downtown courthouse. Such motions shall describe the records to be reviewed, the information the party seeks to obtain from the records, and the legal authority for the in camera review. [*(2)*] Unless stipulated, the motion will be placed on the Probate Call docket for hearing as prescribed by SLR 9.025(3). If a judge is already assigned to the case, the attorneys must contact that trial department to schedule a hearing on the motion. [*(3)*] If the motion is granted documents shall be directed to room 131 of the [*downtown*] {**Multnomah County**}courthouse.

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

9.035 DELINQUENT FILINGS

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

9.045 RESIGNATION OF COUNSEL; NOTIFICATION REQUIREMENTS

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

{**(2) Resignation of counsel must also adhere to certification of compliance with the requirements of UTCR 3.140, ORS 9.380 and 9.390.**}

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

(1) Except as permitted by ORS 126.725 for a minor child, a petition for approval of a settlement of a personal injury or wrongful death claim on behalf of a minor child, incapacitated person or decedent shall be accompanied by an affidavit which sets forth the following:

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

(b) A description of the injuries;

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

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

(e) The proposed disposition of the settlement proceeds;

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

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

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

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

(2) If a civil action has been filed in this circuit court on behalf of a minor child, incapacitated person or decedent for the loss, injury or death which is the basis of the proposed settlement, the original petition and affidavit must be filed in the civil action. A copy of the petition with a form of proposed order for approval of the settlement shall be delivered to the Probate Section to be forwarded to the probate judge for action.

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

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

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

(c) Approval of damage settlement amounts for the benefit of a minor child or incapacitated person appearing by a guardian ad litem in a lawsuit, except those cases assigned for trial to a trial department, are a basic responsibility of the Probate Court. The allocation of funds and the structuring of such funds is likewise the Court's responsibility.

Minors and incapacitated persons should be provided with independent counsel for such issues and most commonly when a minor's funds are proposed to be withheld from them after age18.

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

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

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

9.073 VOUCHERS

(1) [*All court-appointed fiduciaries shall maintain accounts from which the original canceled checks or copies as provided by the financial institution will be returned with each depository statement, excluding the exemptions allowed a bank or trust company per ORS 116.083(2)(d) and ORS 125.475(3).*

(2) Vouchers shall be submitted in chronological order.

(3) Notwithstanding the provisions of UTCR 9.190, all vouchers and depository statements will be destroyed without notice 90 days after an estate or conservatorship is closed unless the personal representative, conservator, or attorney retrieves the vouchers and depository statements prior thereto, or submits a self-addressed, stamped envelope, with adequate postage for their return.]

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

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

9.075 GUARDIANSHIPS

(1) A Petition for Guardianship shall designate, in the caption, that it is for guardianship of an

adult, whether it is for a temporary or indefinite time (or both), and whether a conservatorship is also being requested. {**The deposit for the visitor's investigation fee shall be paid with the filing of the Petition.**}

(2) {**Upon the issuance of an order appointing Court Visitor, the attorney for petitioning party shall provide c**}[*C*]opies of the petition, marked "VISITOR'S COPY" with supporting documentation and copies of proposed notices and the ORS 125.070 (4) respondent's objection (the blue form) [*attached, should be deposited with the probate clerk. After receipt of the copies, and the deposit for the visitor's investigation fee, the Probate Section staff will prepare an order appointing the Visitor*]{ **to the designated court visitor via e-mail**}.

(3) Petitions for Appointment of a Temporary Guardian should be accompanied by appropriate affidavits and medical reports. The Petition should be filed with the Probate Section of the Civil Division and presented to the Chief Judge at probate ex parte.

(4) Within 30 days after each anniversary of appointment, a Guardian [*for a minor*] shall file with the court a written report. Copies of the Guardian's Report must be given to those persons specified in ORS 125.060 (3). The report shall be in the form prescribed by the court. (See Guardianship Report Form{**s**}, Pages 127-130, Appendix of Forms.)

{**9.076 NON-PROFESSIONAL FIDUCIARY EDUCATION PROGRAM**

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

(a) Any guardian or conservator appointed pursuant to ORS Chapter 125 on or after the effective date of the Rule.

b) Any personal representative appointed pursuant to ORS Chapter 113 on or after the effective date of the Rule.

(c) Any trustee appointed pursuant to ORS Chapter 130 on or after the effective date of the Rule.

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

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

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

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

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

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

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

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

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

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

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

9.081 PRESENTATION OF ORAL OBJECTIONS

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

9.085 SELF-REPRESENTED PARTY APPEARANCES IN PROBATE COURT; APPROVAL

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

estate or interest will be protected, the Court shall take appropriate action.

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

9.095 ATTORNEY FEES AND CORPORATE FIDUCIARY FEES APPROVAL

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

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

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

(i) For establishing and funding trusts, a brief narrative must identify complexities involved;
(ii) For tax planning, describe objectives and activities required;
(iii) For tax returns, indicate the number filed and the nature of the returns;
(iv) For tax audits and hearings, describe the issues addressed;
(v) For disclaimers, describe the circumstances and complexities;
(vi) For real estate management problems, include issues regarding compliance with local, state and federal authorities;
(vii) Discuss sales of real property;
(viii) Discuss operation or sale of business interests;
(ix) Discuss management of family-owned corporation or closely held stock;
(x) For contested matters, indicate whether they were of benefit to or in defense of the estate;
(xi) Discuss election of spouse/marital share;
(xii) Discuss disputed creditor's claims.
{**(xiii) For any other occurrence or issue which contributes to the reasonable costs of administration.**}

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

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

Corporate Fiduciary Fees

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

Private Fiduciary Fees

(4) All requests for fiduciary fees (except those from a Personal Representative) shall be supported by an affidavit which details the services provided, the purpose of the services rendered, the results (if applicable), the hourly rate charged by the fiduciary and the reasons that hourly rate is deemed fair and reasonable.

9.161 FORM OF ACCOUNTINGS

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

CHAPTER 10

RESERVED FOR EXPANSION

CHAPTER 11

JUVENILE COURT

11.015 JUVENILE COURT MATTERS

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

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

(3) Initial shelter hearings. Shelter hearings on delinquency cases will be heard each day at 1:30 pm. Shelter hearings on dependency cases will be heard each day at 2:30 pm.

(4) Rehearings. Requests for rehearing a referee's decision shall be filed with the Juvenile Court Clerk's Office and scheduled through the Call process. A judge may, within his or her discretion, grant an immediate rehearing.

11.017 PETITION NUMBER AND JJIS NUMBER REQUIRED

Documents submitted for filing and entry in the register in an action in the Juvenile Department must contain, in the caption of the document, the petition number and the circuit court case number assigned to the action in which the document is to be entered and the Juvenile Justice Information System (JJIS) number assigned to the child by the Juvenile Community Justice Division or its successor agency.

11.035 REFEREES

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

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

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

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

(4) Other matters upon good cause shown.

11.037 MOTION FOR A JUDGE, MOTION FOR CHANGE OF JUDGE

(1) Motion for a Judge

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

(2) Motion for Change of Judge

A party intending to file a motion for a change of the judge assigned must announce this intent at the time of assignment or at the time the party receives notice of the assignment. An original of a motion, order and supporting affidavit must be received by the Juvenile Clerk's office by the close of business the following day. The Clerk's Office staff will send the filing to the Chief Family Law judge. Failure to comply with these requirements may 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 that is the subject of the motion, and each other party to the action.

11.045 GENERAL PROCEDURES FOR SCHEDULING HEARINGS FOR JUVENILE CASES

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

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

(b) Trial readiness. Trial readiness is heard at Call. Attorneys shall report whether they are ready to proceed to trial. If attorneys are not ready to proceed to trial, a new trial readiness date will be set. If attorneys are ready to proceed to trial, a Call date will be set.

(i) *In custody youth*: trial readiness date is set 2 weeks from the preliminary hearing.
(ii) *Out of custody youth*: trial readiness date is set 5 weeks from the preliminary hearing.
(iii) *Community Detention youth*: trial readiness date is set 4 weeks from the preliminary hearing.

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

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

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

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

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

(3) Termination of parental rights cases

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

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

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

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

(5) Special sets. Any matter requiring a hearing not described in this rule shall be scheduled only by the judge of the case. The requesting party must coordinate with all other parties involved in the case in order to select a mutually agreeable date within the times provided by the judge of the case. The requesting party is responsible for submitting and filing the motion and the signed order.

11.065 MOTIONS FOR SUBSTITUTION OF COUNSEL

Motions for substitution of counsel due to conflicts in the attorney-client relationship must be heard by the judge of the case. All other requests for attorney substitution may be heard by any judicial officer. The motion must show the date of the next scheduled appearance, and must be accompanied by: the most recent name, address, and phone number of the client; a copy of the petition; any police reports; and all discovery material received.

11.066 IN CAMERA REVIEWS

(1) Parties seeking an in camera review of documents in a juvenile dependency or delinquency case shall file a motion with the court clerk in the Juvenile Justice Complex describing the records to be reviewed, the information the party seeks to obtain from the records, and the legal authority for the in camera review. Documents submitted for in camera review shall also be directed to that location.

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

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

Supplementary Local Rule 4.111 applies in juvenile delinquency proceedings for alleged youth offenders and youth offenders in any juvenile delinquency action subject to the provisions of UTCR 4.100 to 4.120.

CHAPTER 12

MEDIATION

12.015 FAMILY-LAW MANDATORY CUSTODY OR PARENTING TIME MEDIATION; VOLUNTARY MEDIATION; GOOD FAITH REQUIRED; WAIVER

Mandatory Mediation

(1) Any formal action filed in Circuit Court involving a controversy over custody of or parenting time for minor children, including contempt disputes involving parties who are non-parents, shall be subject to mediation. However, for parties to a Family Abuse Prevention Act order, mediation will occur only on the request of the petitioner to the FAPA proceeding.

(2) The Court may decline to hear a custody or parenting time dispute until and unless the parties have participated in mediation which has not resolved the issues between them. The Court may order mediation on its own motion.

(3) The provisions of this Chapter shall not apply to those cases specifically exempt from mediation requirements by statute.

Waiver of Mandatory Mediation

(4) A party may seek waiver of mandatory mediation for good cause. Such waivers will be allowed only after a showing of danger or other compelling circumstances. In the absence of an order waiving mediation, all matters including contempt, cases with an out-of-state party or parties where Oregon has jurisdiction over the case, and cases involving allegations of sexual abuse and physical abuse where there is no active Juvenile Court or State Office of Services to Children and Families involvement will be referred to mediation and a custody/ parenting time study.

Request for mediation

(5) Mediation may be requested by stipulation of the parties or upon request of one party.

(a) Commencement of Mediation by Stipulated Request for Mediation. If there is a disagreement between the parents concerning custody or parenting time at any stage of a domestic relations proceeding, both parents, or their attorneys may sign and file with the Court a Stipulated Request for Mediation and a Custody Parenting Time Study in substantially the same form as provided by the Court. The parents will be referred to the Family Court Services Division for mediation, or the parents may agree and stipulate to an independent mediator in their Stipulated Request for Mediation.

(b) Commencement of Mediation by Request for Mediation by One Parent. If there is a

disagreement between the parents concerning custody or parenting time at any stage of a pending proceeding subject to mandatory mediation under this rule, either parent seeking to resolve the matter must file with the Court and serve upon the other parent, or his/her attorney, a Request for Mediation in substantially the form as that prescribed by the Court. The moving party shall obtain the date for appearance for mediation orientation from the Family Law Department or through Family Court Services.

Temporary Support

(6) If the parents cannot agree on the amount of support to be paid by one to the other, and they are also in dispute as to custody and/or parenting time, upon the request of the parents, the mediator may assist in resolving the support issue as well.

Temporary Custody and Parenting Time Orders

(7) At any point during mediation, the Court may approve a Temporary Custody and Parenting Time Order reflecting the parents' agreement as to the issues. If the agreement is reached through mediation by the Family Court Services Division and prepared by one of its counselors, the counselor shall hold the signed agreement for seven calendar days from the date of the last signature and mail notice of the agreement to the parties and their attorneys, if known to the Family Court Services Division. The counselor shall forward the signed agreement to the Court for approval unless, within that time period, the counselor receives written notice of a party's repudiation.

Duration of Mediated Orders

(8) If the parties agree in Mediation through the Department of Family Services (hereinafter Family Services), that agreement shall be reduced to writing and, after the waiting period provided in the SLRs, made an Order of the Court.

If such agreement is reached after a domestic Relations case has been filed but prior to the taking of a judgment, the duration of that Order shall be temporary and, if not reduced to final judgment, will be dismissed if the underlying proceeding is dismissed.

If an agreement is reached after the filing of a Motion to Modify, it will be reduced to an Order which is final and binding on the parties if there are no other issues before the court except those addressed in the Agreement. If there are other issues, the form of Order described above for a temporary duration Order shall be entered.

Good Faith Required

(9) Mediation shall not be used by any parent in bad faith for the purposes of delay or resolution of other issues. If the Court finds at any time that the mediation process is being misused, it may determine that mediation has been unsuccessful.

Unsuccessful Mediation

(10) In the event the parents are not successful in mediating the custody or parenting time controversy, the mediator shall notify the Court. The matter will be scheduled for hearing in the same course and with the same priority on the docket as though there had been no mediation.

Jurisdiction

(11) The Court on its own motion may order parties to mediate their disputes.

(a) The Court may order parties to mediation when the parties have a closed or open case in Multnomah County, as evidenced by a case number, if the parties are not the subject of a Family Abuse Prevention Act order, and:

(i) The custody or parenting time dispute has arisen prior to the entry of a Judgment of Dissolution, Separation, Annulment or Paternity; or
(ii) The Judgment of Dissolution, Separation, Annulment, or Paternity has been entered, and a parenting time dispute has arisen; or
(iii) The Judgment of Dissolution, Separation, Annulment, or Paternity has been entered, and a custody dispute has arisen and a Motion to Modify Custody has been filed with an Affidavit setting forth allegations sufficient to support a claim of change of circumstances; or
(iv) An action alleging a violation of a custody or parenting time order has been filed; or
(v) An action alleging a violation of a custody or parenting time by a parent or a party who is a non-parent has been filed.

(b) As a rule, the Family Court Services Division will decline to mediate or evaluate the parties when:

(i) There is a pending Juvenile Court petition regarding the child or children in question; or
(ii) Temporary or permanent custody or wardship of the child or children in question has been granted to the Department of Human Services; or
(iii) The Juvenile Court has assumed temporary or permanent jurisdiction over the child or children in question.

(c) A domestic relations case filed in the Circuit Court remains under the jurisdiction of that Court in all phases of the proceedings, including mediation. The Court which refers a case to mediation may set, in its referral order, the limits of the mediator's scope of authority in the case.

12.016 See SLR 8.125 for the mandatory Parent Education Program

12.021 MEDIATION COMMISSION

(1) There is established a mediation commission which includes judges and attorneys, some of whom have experience as a mediator, non-attorney mediators, and the presiding judge and the trial court administrator are ex officio members.

(2) All members shall be appointed by, and serve at the pleasure of, the presiding judge for two year terms.

(3) The functions of the mediation commission are to review the qualifications and training of applicants seeking to be identified as court-connected mediators under CJO 05-028, to make recommendations to the presiding judge or designee on the inclusion of such applicants on court-maintained lists, and to monitor the continuing qualifications of mediators included on such lists.

12.022 COURT-CONNECTED MEDIATOR LISTS ESTABLISHED

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

12.023 APPOINTMENT TO COURT-CONNECTED MEDIATOR LIST

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

(2) The mediation commission shall review each application and make a recommendation to the presiding judge or designee.

(3) Appointments to any list shall be at the discretion of the presiding judge or designee. Inclusion on the list shall in no way establish any requirements for compensation for mediators, except as provided in SLR 12.025, nor serve as an endorsement or warranty of the mediator by the court.

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

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

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

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

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

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

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

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

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

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

(8) Within five days of the conclusion of the mediation, the mediator shall file with the court a

report, together with proof of service of the report upon each party, stating the status of the action following mediation as either "settled" or "not settled." If settled, the terms of the settlement may be stated in the report, unless the parties have agreed that the terms shall be kept confidential. A written statement of the terms of the settlement signed by the parties and/or their attorneys shall be retained by the mediator. A written settlement agreement or memorandum of agreement shall be admissible to prove the settlement under to ORS 36.220 to 36.238. If the mediator's report is "settled" the parties must, within 30 days of the filing of the report being filed, submit to the Presiding Judge a stipulated judgment as the final order in the action. If the mediator's report is "not settled" the action will be assigned an initial trial date and will proceed on the court's civil calendar.

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

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

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

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

(2) Agreements reached while in mediation shall be signed by the parties and filed as stipulated orders.

(3) Failure of either party to abide by the stipulated order will be grounds for the opposing party to file an Affidavit of Non-Compliance and obtain a judgment on the original claim, without further hearing.

12.045 MEDIATION IN PROBATE PROCEEDINGS

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

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

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

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

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

(2) Presentation for Mediation

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

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

(3) Nothing in these rules shall prevent:

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

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

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

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

(b) A party may notice a mediation by serving a written notice of mediation on all other parties stating that the party has elected to mediate the matter pursuant to these rules. The Notice shall include a plain and concise statement of the facts that inform the parties and the court of the questions in dispute. The Notice may be substantially in the form set forth as Appendix (See Notice Form, Page 131-132, Appendix of Forms) to these rules.

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

(5) Waiver of Mediation. If a party determines that mediation is not appropriate in the matter at issue, the party may move to waive mediation and serve the motion on all other parties. The motion shall include a plain and concise statement of the facts so as to inform the parties and the court of

why the party is objecting to mediation. The Motion to Waive Mediation may be substantially in the form set forth as Appendix (See Motion Form, Page 123, Appendix of Forms) to these rules.

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

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

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

(6) Other Procedure

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

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

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

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

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

(7) Choice of Mediator

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

(a) By stipulation of the parties.

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

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

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

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

(8) Qualification of Mediator

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

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

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

(9) Date for Mediation

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

(10) Duration of Mediation

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

(11) Mediation Agreement. A resolution of the matter that is the subject of the mediation shall be

memorialized in writing and signed by the mediating parties. Subject to the waiting period set forth below, the agreement shall be binding on all signors.

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

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

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

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

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

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

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

(13) Compliance

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

CHAPTER 13

ARBITRATION

13.025 REQUEST FOR AND OBJECTIONS TO ARBITRATION

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

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

13.032 SUBMISSION OF COPIES OF MOTIONS AND OTHER DOCUMENTS TO [*CHIEF ALTERNATIVE DISPUTE RESOLUTION*] {**PRESIDING**} JUDGE

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

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

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

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

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

(4) If a party seeks to exempt a case from arbitration in accordance with subsection (3) of this rule, or on any other basis, or seeks an order exempting from arbitration a case that would otherwise be referred to arbitration, that party shall file a motion, supported by affidavit, declaration or certification, with the court, and serve the motion:

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

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

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

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

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

13.042 ASSIGNMENT TO ARBITRATION

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

13.048 INDIGENT PARTIES

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

(2) In the event funds are not available under ORS 36.420 for the payment of fees that are waived or deferred by court order, a party may request that the clerk provide to the parties a list of arbitrators who have agreed to serve for no compensation, for compensation from one party only, or at a reduced rate.

(3) The clerk shall provide names of available arbitrators, but no arbitrator is required to serve unless he or she has agreed to such alternate fee arrangement.

13.055 ARBITRATORS

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

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

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

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

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

13.065 STIPULATIONS

No agreement or consent between parties or lawyers relating to the conduct of the arbitration

proceedings, the purpose of which is disputed, will be regarded by the arbitrator unless the agreement or consent is made at the arbitration hearing or is in writing and signed by the lawyers or parties.

13.071 UNTIMELY FILED MOTIONS TO EXEMPT FROM ARBITRATION

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

13.075 See 12.025 et seq. for mediation as an alternative to arbitration.

13.085 FILING AWARD

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

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

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

Pursuant to UTCR 13.160 (2), except for good cause shown, the hearing must be scheduled to take place not later than 91 days, measured from the date of assignment to arbitration. With the exception of applying this 91 day time period in place of the 49 day time period set in UTCR 13.160 (3), all other requirements of UTCR 13.160 (3) and (4) apply to the scheduling, postponement or continuance of an arbitration hearing.

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

A written notice of appeal and request for a trial de novo received by the trial court administrator for filing beyond the time for filing such a notice under ORS 36.425 and, if applicable, ORCP 10 C,

may be returned by the presiding judge, or a designee judge, to the party who submitted the document, with an order, copied to all parties, stating the finding that the document was received beyond the time permitted by law. A copy of the returned notice of appeal and request for trial de novo will be attached to the filed original of the order as a record of the submitted document, but will not be filed separately in the action.

CHAPTER 14

REFERENCE JUDGES

14.015 STENOGRAPHIC REPORTER NOTES; MOTIONS TO CORRECT TRANSCRIPTS

(1) The stenographic reporter or person keeping the audio record of the proceedings shall file the transcript notes or electronic medium containing the audio record and the log of the recordings on the electronic medium of the proceeding with the Court.

(2) SLR 6.045 shall apply to Reference cases.

14.025 COMPENSATION OF THE REFERENCE JUDGE

(1) The reference judge shall deliver to the Presiding Judge the written statement specified in ORS 3.321(3) within 49 days of the termination of the referral of the action. The written statement or facsimile shall specify the amount to be released by the Court to the reference judge.

(2) The amount paid to the reference judge from the Court shall not exceed the amount deposited into court.

(3) If a discrepancy exists in the amount of claimed compensation, the Presiding Judge shall, upon notice from the reference judge, order the parties to deposit further funds with the Court.

14.035 RECORDS OF PROCEEDINGS

(1) The reference judge shall maintain written records for the Court of the following:

(a) Witnesses;

(b) Court reporters or persons keeping the audio record;

(c) Exhibits.

(2) The reference judge may designate a clerical officer to maintain such records. Such an officer shall be approved by the Trial Court Administrator or designee.

(3) The above records shall be kept on forms approved by the Trial Court Administrator or designee.

CHAPTER 15

SMALL CLAIMS DEPARTMENT

15.015 FILING PROCEDURES

(1) Plaintiffs must either file their claim at the Small Claims Department of the Civil Division at the Multnomah County Courthouse; or

(2) If the plaintiff or the defendant resides, or the claim arose, East of l22nd Avenue extending to the North and South boundaries of Multnomah County, the claim may be filed in the [*Gresham Court at 150 W. Powell, Gresham through March 2012 or until the new*] East County Courthouse at 18480 SE Stark Street[, *Gresham is open which is expected to be April 1, 2012*].

15.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS (New SLR)

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

15.025 APPOINTMENT OF GUARDIAN AD LITEM

(1) Plaintiffs and Defendants who are "incapacitated," "financially incapable," or who are "respondents" as defined in ORS 125.005, must have a guardian ad litem appointed to pursue or defend the action. If such an individual is also a "protected person," as defined by ORS 125.005, the conservator or guardian shall be appointed, unless otherwise ordered by the court.

(2) Plaintiffs or Defendants who are unemancipated, unmarried, minors, living apart from their parent(s) or legal guardian(s), and who meet the definition of a "minor" under ORS 109.697, and who also meet the definition of "tenant" under ORS 90.100, may appear in a small claims action based on a contract for a residential dwelling unit or for utility services provided to that unit, without appointment of a guardian or guardian ad litem.

(3) Unemancipated minors to whom the statutory definitions listed in subsection (2) of this rule are applicable, but who wish to appear in small claims court on other grounds not listed in subsection (2), must have a guardian ad litem appointed to pursue or defend the action.

(4) All other unemancipated minors, to whom the statutory definitions listed in subsection (2) of this rule are not applicable, must have a guardian ad litem appointed to pursue or defend a small claims action.

15.035 HEARING NOTICE

The Court will give the parties not less than seven days' notice of the small claims hearing unless otherwise directed by the Presiding Judge or designee.

15.045 DISMISSAL FOR FAILURE TO PURSUE CLAIM

A judgment of dismissal, without prejudice, for want of prosecution, may be filed and entered on the Court's own motion, following notice by the Court of intent to dismiss pursuant to ORCP 54B(3), 90 days after the date a claim is filed, unless the claim is set for a hearing or a default judgment is entered.

15.055 REPRESENTATION BY ATTORNEY ONLY BY COURT ORDER

(1) All requests to employ counsel must be made in writing at least seven days prior to the date of the hearing.

(2) If consent to employ counsel is granted, the requesting party must give written notice to all other parties. Once such permission is granted, any party may retain counsel.

(3) If consent to employ counsel is granted by the Court, the Oregon counsel may associate a foreign counsel under UTCR 3.170.

15.065 TIME EXTENSION

On written request filed with the Small Claims Department at least seven days prior to the hearing date, the Court may extend the time within which to make appearances or file documents. The time extension will not exceed 30 days.

15.075 COMMUNICATION IN WRITING

Any written communication to the Court must be copied to all parties.

15.085 TRANSFER OF CLAIM FROM SMALL CLAIMS DEPARTMENT

SLR Chapter 15 shall cease to govern a claim after the transfer of the claim from the small claims department to a court of appropriate jurisdiction.

15.095 REQUESTS FOR POSTPONEMENT

Requests for postponement of a scheduled hearing must be made in writing at least seven days prior to the hearing.

15.105 See SLR 12.035 for mandatory mediation in small claims action.

15.115 AUTHORIZED AGENTS IN SMALL CLAIMS CASES

An agent shall be designated by any organization filing or defending a Small Claim. The designated agent may be ordered to appear before the Court.

15.125 See SLR 5.{161}[*065*] for Judgment Debtor Exams in Small Claims Actions

15.135 See SLR 5.{181}[*085*] for Claims of Exemption Not to Contest Judgment

15.145 See SLR 6.025 for Payment of Trial Fees and Hearing Fees

15.155 See SLR 7.045 for Motion for Change of Judge

CHAPTER 16

VIOLATION OFFENSES

16.025 PRE-ARRAIGNMENT AND ARRAIGNMENT APPEARANCE OPTIONS

(1) {**At any time p**}[*P*]rior to any arraignment date specified on the summons, the defendant may exercise one of the following options to dispose of the case:

(a) The defendant may file a written plea no contest and pay the base fine amount on the summons, or, if available, the fine established by the Violation Bureau, by mailing the written plea and a check or money order for the fine to the Court. The plea and payment must reach the Court on or before the arraignment date.

(b) The defendant may enter a written plea no-contest and submit a written explanation of the incident in mitigation of the penalty. A check or money order for the amount indicated on the summons must be included. The letter and plea must reach the Court prior to the arraignment date.

(c) Except for violations based on photo radar or photo red light enforcement (ORS 810.434 through ORS 810.439), the defendant may appear, enter a plea of not guilty, and sign a waiver of the defendant's right to have testimony presented orally, as provided in ORS 153.080. (See Form 06-45, Page 116, Appendix of Forms.) The waiver shall be on a form provided by the Criminal Division of the Trial Court Administrator's Office. The waiver shall include an agreement to pay, within 30 days after receiving notification from the court, any fines and fees imposed by the court following review of the case. The waiver of oral testimony will be filed in the case and the matter will be set for trial. At the trial, any witness, including the defendant, may have the witness' testimony presented to the Court by affidavit and need not appear personally.

(d) The defendant may enter a written plea of not guilty and request that the matter be set for court trial. Any defendant electing to proceed under this subsection must verify his or her residence address and current mailing address. Defendants may request a court trial either in writing, mailed to the Court, or in person. The request must be received on, or prior to, the arraignment date. As set forth in SLR 16.195, below, a default judgment which exceeds the base fine amount set on the citation may be imposed against a defendant who requests a court trial but fails to appear in court for such proceeding.

(2) At {**anytime on or before**} the date and time set for arraignment on the summons, the defendant may appear in person, or by counsel, and may enter a plea of no contest, or not guilty.

(a) If the defendant enters a plea of no contest, an explanation or statement may be given in mitigation of the offense charged.

(b) If the defendant enters a plea of not guilty, a court trial will be scheduled. The defendant may sign and file a waiver of oral testimony as provided in subsection (1)(C), above. For violations, based on photo radar or photo red light enforcement (ORS 810.434 through ORS 810.439), the defendant must appear personally for trial (ORS 153.061(6)). The defendant or counsel must contact the court if a trial notice and court date is not received within four weeks of the arraignment.

16.065 VIOLATIONS BUREAU

(1) Pursuant to ORS 153.800, The Fourth Judicial District establishes a Violations Bureau.

(2) A person may appear in person to pay the Violations Bureau fine, costs and assessments, or make payment by mail.

(3) If the cited person appears personally, a form which records the person's appearance and contains a waiver of trial and plea of no contest shall be signed and filed with the Court, pursuant to ORS 153.800(5)(a).

(4) The fine and applicable assessment(s) shall be paid immediately and in full at the Violations Bureau, unless the Court approves a deferred payment.

16.075 NOTICE OF REPRESENTATION BY ATTORNEY

(1) If the defendant is represented by counsel for purposes of a first appearance on the violation, the attorney may file with the court a notice of representation and enter a plea on behalf of the defendant. The notice and plea must be signed by the attorney and the signed original notice must be filed {**on or**} prior to the date of the first appearance set on the summons. {**The notification must certify that a copy has been delivered to the prosecuting attorney.**}

(2) If a defendant is to be represented by an attorney at trial on a violation, and a notice of representation has not been filed previously, notification in writing of such representation together with proof of service on the [*District Attorney*] {**prosecuting attorney**} must be filed. The signed original notice of representation must be filed prior to the date of the trial.

(3) Letters submitted for filing under this rule may not be submitted by {**telephonic**} facsimile transmission (FAX).

16.085 POSTPONEMENTS

(1) Arraignment

(a) Except for cases cited to appear in Community Court, requests for an order for postponement of an arraignment appearance must be made by personally appearing in court or in written form signed by the party. If the request is made in written form, the request must be received by the Court at least two judicial days prior to the original arraignment date. Prior to the arraignment date specified in the summons, the defendant may select one of the options described in SLR 16.025(1) as an alternative to requesting a postponement.

(b) Arraignments for cases cited to appear in a Community Court may not be postponed.

(c) Personal appearances for the purpose of requesting a postponement of an arraignment must be made at the location specified in the citation.

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

(i) 1021 S.W. 4th Ave, Room 106, Portland, Oregon 97204 for cases cited to appear in the downtown court facility; or
(ii) 18480 SE Stark Street, Portland, OR for cases cited to appear in the East County Courthouse.

(2) Court Trials

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

(b) Subsequent requests for a postponement of a court trial must be made by personally appearing in court or in written form signed by the party. The motion must demonstrate good cause for the request in order to be granted.

(i) If the request is made in written form, the request, along with proof of notification of the request for postponement to the opposing party, must be received by the Court at the locations listed in paragraph (1)(d) of this rule more than 14 calendar days prior to the scheduled trial date.
(ii) Requests made in person shall be submitted ex parte in courtroom 112 of the downtown courthouse, or in 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.

(c) The party requesting a subsequent order for postponement must notify the opposing party in writing prior to submitting the request to the Court. The notice must specify whether the postponement request will be made in written form or by personal appearance. If the request is to be submitted by personal appearance, the party must provide notice to the

opposing party of the date, time and location of the appearance, and indicate that the opposing party may appear to contest the request. The opposing party may contest the request either in written form delivered for filing to the appropriate court location, as defined in (1)(d) above, more than eight days prior to the date of the ex parte appearance, or in person by appearing at the ex parte hearing to contest the opposing party's request for the postponement.

(3) Notice to Parties of Postponement

When the court grants a postponement, the court will notify all parties to the action. If the postponement is granted in open court, parties personally present are deemed notified. Any witnesses must be notified of the postponement by the party intending to call the witnesses.

(4) Requests for an order for postponement of an appearance may not be submitted for filing by facsimile transmission (FAX).

16.195 SETTING ASIDE DEFAULT JUDGMENTS

A defendant against whom a default judgment is entered may file a motion for relief from default judgment, within a reasonable time, not to exceed one year. The Court requires a written motion for relief, accompanied by an affidavit setting forth facts which demonstrate that the failure to appear or to exercise one of the options described in SLR 16.025, was due to mistake, inadvertence, surprise or excusable neglect. At the time the motion for relief is filed, the defendant must pay to the court the amount of the fine imposed in the judgment. The payment requirement may be waived by the Court for good cause. A motion for relief cannot be filed until the payment is made or waived. The court may rule on the motion without a hearing or may require the defendant to appear and present oral argument.

CHAPTER 17

PARKING VIOLATIONS

17.015 PARKING CITATIONS - DEFENDANT'S APPEARANCE

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

(a) Plead [*guilty*]{**no contest**} by paying in full the bail indicated on the citation, either by paying on-line, mailing or personally delivering the payment, together with the citation, to the Multnomah County Courthouse. All payments in full must be received within 30 days of the date of violation.

(b) Mail {**to the Multnomah County Courthouse**} the full amount of the bail applicable at the time of the request, together with the citation and a letter of explanation {**and**} [*to the Multnomah County Courthouse,*] requesting a judge to make a determination. {**An appearance by sending a letter of explanation that does not include a request for a court hearing is a waiver of the defendant's right to a court hearing and consent to any judgment rendered.**} The court may refund the bail or forfeit all or part of it.

(c) Request a court hearing either by {**making the request in a**} letter {**mailed to the Multnomah County Courthouse**}or by personally appearing at the Parking Section of the Criminal Division located in the Multnomah County Courthouse. All such requests must be accompanied by a check or money order for the full amount of bail applicable at the time of the request. Bail is forfeited if the person fails to appear at the hearing.

(2) The bail amount set on a parking citation will double [*after 30 days from the date of issuance of the citation*] if the defendant has not appeared in a manner indicated by this rule {and a default judgment is entered}. A partial payment of the bail does not constitute an appearance under this rule.

(3) An Order for impoundment of a vehicle may be issued in the manner set forth in SLR 17.035 if the defendant does not appear in a manner indicated in this Rule.

17.025 DISMISSAL OF A PARKING CITATION BEFORE TRIAL

(1) The Presiding Judge or the Chief Criminal Law Judge may dismiss parking citations without the appearance of the defendant in the following instances:

(a) The parking citation was issued prior to release of title interest and transfer of possession of the vehicle to the new owner, but the new owner is named as the defendant on the notice of delinquency, the new owner will be dismissed from the parking offense without a hearing. However, the new owner's failure to submit an application for title to the

Department of Transportation within 30 days of the transferor's release of interest shall not be grounds for summary dismissal of the citation and an appearance shall be required;

(b) The parking citation was issued subsequent to the release of title interest and transfer of possession to the new owner but the named defendant on the notice of delinquency is the prior registered owner. A prior owner who provides documentation described in SLR 17.025(3), below, will be dismissed from the parking offense.

(c) There was no vehicle license number or other registration number written on the citation;

(d) The vehicle license number written on the citation does not correspond to the vehicle registration information filed with the Motor Vehicles Division;

(e) The mechanical parking space meter at which an overtime parking citation was issued was defective, according to the City of Portland's Office of Transportation;

(f) No violation is indicated on the parking citation;

(g) The parking citation was issued to a vehicle that was reported to the police as stolen within 24 hours of the date and time listed on the citation or was issued on a date when the status of the vehicle remained listed as stolen, and a stolen report was on file with the Police Bureau;

(h) A parking citation was issued to a vehicle on government business of such urgency that the driver was prevented from complying with parking regulations. The driver must sign an affidavit describing the urgent circumstances, and the department owning the vehicle must verify that the vehicle was on urgent government business;

(i) The Court received a special written report from the issuing officer or Parking Patrol deputy explaining that there was no basis for the parking citation and requesting that it be dismissed; or

(j) The exemption or privilege in ORS 811.635 for the holder of a disabled person parking permit is applicable to the type of parking offense cited and the registered owner or other recipient of the ticket provides proof to the Clerk of the Court of a valid disabled person parking permit at the time of the violation. This includes:

(i) Overtime tickets, or tickets for parking in a metered space without paying, unless the zone allows parking for only 30 minutes or less {**<u>or is subject to the restrictions under Portland City Ordinance 16.20.640 (Metered Districts)</u>**} ; or
(ii) Parking in a disabled zone pursuant to ORS 811.615(1)(a); or
(iii) Disabled zone parking offenses cited under Portland City Code 16.20.250 if a disabled person was being transported; or

(k) A parking citation was issued for unlawful use or misuse of a disabled person parking permit for parking in a manner that would otherwise be a privilege for a permit holder and the registered owner or other recipient of the ticket provides proof to the Clerk of the Court of renewal of an expired disabled person parking permit.

(2) The Presiding Judge or the Chief Criminal Judge may dismiss the parking citations listed in SLR 17.025(1) by signing a list containing the license numbers of the vehicles and the reasons for the dismissals.

(3) When a parking citation is subject to dismissal under SLR 17.025(1)(A) or (B), above, the person receiving the notice of the citation must bring the parking citation(s) and relevant documents relating to the transfer of the vehicle, including title, bill of sale or contract and vehicle registration if available, to the Parking Section of the Criminal Division. Proof that the prior owner notified the Department of Transportation of the transfer of the vehicle as required by Oregon law, together with proof of delivery of possession of the vehicle and assignment of title to a transferee, shall exempt the prior owner from liability for the parking of the vehicle by another person, provided the date of issuance of the parking citation is subsequent to the date of transfer of the vehicle reported by the prior owner.

(4) In all cases, the Presiding Judge or the Chief Criminal Judge may order a hearing to prevent abuse of the summary dismissal proceedings.

17.035 TOWING AND IMPOUNDMENTS

(1) The Court may order a vehicle towed and impounded if the registered owner or any other person, has not paid the bail or fine accrued on the parking citation in full, including all amounts that have accrued after the first 30-day period, or posted bail in full and requested a hearing. The Court order for towing and impoundment of the vehicle may be issued 60 days after the date on which the notice of delinquent parking citation is mailed to the registered owner or 90 days following filing of the citation if a registered order cannot be determined. The towing and impoundment order attaches to the vehicle for which it is issued *in rem*, as the instrumentality of the parking offenses, and will not be removed until further order of the court.

(2) Requests for a court hearing on the validity of a parking citation after receipt of an impoundment notice, or after impoundment, must be made personally at the Multnomah County Courthouse. All requests must include the posting of the total amount of the financial obligations against the vehicle for parking citations that are unpaid in full or in part applicable at the time of the request, unless waived by a judge.

(3) Subsequent Bona Fide Purchaser for Value Hearing on Impounded Vehicle

(a) A subsequent bona fide purchaser for value of a vehicle that is towed and impounded under an order of the court for unpaid financial obligations which all relate to the prior owner of the vehicle, other than citations incident to the towing, may request an ex parte hearing to

apply for an order for the release of the vehicle from the impoundment order without complying with the requirement of section (2) of this rule. The person requesting the hearing must provide to the court at the hearing the documents supporting the claim that the person is a bona fide purchaser for value relating to the transfer of the vehicle, including title, if available, bill of sale or contract stating the purchase price for the vehicle and proof that the purchaser has registered and titled the vehicle in the purchaser's name in the appropriate jurisdiction as required by statute and proof that a fair market price was paid for the vehicle. Proof of payment consists of a negotiated bank check payable to the seller (or a bank image of such a check), endorsed by the seller and drawn on the checking account of the purchaser or such other proof of payment as the court may find acceptable. In addition to documentation of the purchase and transfer, the person must provide evidence that the transfer of ownership on the sale was not a transaction between parties with a shared interest in avoiding the towing and impoundment of the vehicle and the financial liability due on the outstanding parking citations. Transfers of vehicles for no value or between family members or individuals who share or have shared a residential address will raise a rebuttable presumption that the transfer or purchase of the vehicle was to avoid the financial obligations due on the parking citations for which the vehicle was impounded and was not a bona fide purchase for value.

(b) An ex parte hearing requested under this rule will be conducted as soon as is possible and within two business days. Following the hearing, the court may release the vehicle to the subsequent bona fide purchaser for value without requiring payment of the outstanding financial obligations by the prior registered owner arising from unpaid parking citations owed on the vehicle. If the court denies relief under this section, then the person may only proceed under section (2) of this rule for a hearing.

(c) The release of the vehicle under this rule will not address any other financial obligations arising from the towing and impoundment of the vehicle owed to third parties or the rights of the subsequent bona fide purchaser for value against a prior owner of the vehicle.

(d) A release without payment of the financial obligations due on the vehicle under this section does not remove the duty of any prior registered owner or defendant to pay those unpaid financial obligations for parking citations incurred in the ownership or use of that vehicle. The release only dissolves the court's hold on the vehicle and removes it from further orders for towing or impoundment based on the citations issued prior to the sale of the vehicle to the person given relief under this process.

17.045 NOTICE OF REPRESENTATION BY AN ATTORNEY

An attorney representing a person in a parking citation case must notify the Court in writing of the representation at least seven days before the date of trial. The notification must certify that a copy has been delivered to the prosecuting attorney.

17.055 POSTPONEMENTS AND OTHER MOTIONS

(1) When requested at least 14 days prior to the scheduled trial date for a parking citation, a person may obtain a single postponement of the court hearing. Such requests may be made in writing or by appearing personally at the Parking Section of the Criminal Division. The person making the request must state a reason for the postponement.

(2) Additional postponement requests must be decided by the Court and will only be granted if good cause is shown. The request must be in writing and state the reasons relied on for the request. Such requests must be received by the Court at least 14 days prior to the scheduled hearing date. At its discretion, the Court may require an appearance, oral argument, and the presentation of evidence on a motion for postponement.

(3) At any time before the trial date, the person cited, whether or not represented by counsel, may withdraw a not guilty plea or remove the case from the court docket by following the procedure for mail pleas set out in SLR 17.015. The Court will notify the police officers, the parking enforcement deputies and volunteers and the District Attorney, when appropriate.

(4) A person whose car has been ordered impounded by the Court may appear personally at the Parking Section of the Criminal Division and request that the matter be placed on the Traffic Court Calendar. Bail is required unless waived by a judge.

17.065 HEARING PROCEDURE IN PARKING CITATION CASES

(1) In trial, the judge may take an active role in questioning the witnesses to insure substantial justice will be done.

(2) Jury trials are not permitted in parking citation cases.

(3) Parking citations issued against a particular defendant's vehicle may be consolidated for trial only at the discretion of the Court.

17.067 FAILURE TO APPEAR

(1) The registered owner of a vehicle for which a parking citation is issued, is required to appear, as described in SLR 17.015, above, on the cited offense. If the registered owner of a vehicle for which a parking citation has been issued, or any other person, fails to appear to answer the citation [*within 30 days*], the court may, after notice to the named defendant, enter a default judgment against the defendant 60 days from the date of the [*citation*]{**<u>notice</u>**}. The notice of citation mailed to the named defendant will indicate the length of time before which the court will make a finding on the citation based on available evidence, without a hearing, and enter judgment thereon. If the determination is one of conviction, the court may impose a sentence of a fine up to the maximum

amount allowed by law and may order [*a warrant for*] the impoundment of the vehicle listed on the citation to enforce the collection of the fine. Citations may also have collection and late fees added to the financial obligations to be paid and be assigned for collection. Unless otherwise ordered by the court, a judgment of conviction on the parking citation shall be entered against the registered owner of the vehicle.

(2) A defendant against whom a judgment is entered under subsection (1) of this section may file a written motion for relief from default judgment within a reasonable time, not to exceed one year. An accompanying affidavit must set forth facts demonstrating that the failure to appear on the citation in a manner set forth herein was due to mistake, inadvertence, surprise or excusable neglect. At the time the motion for relief is filed with the court, the defendant must post bail in the amount of the fine imposed in the judgment. The bail requirement may be waived by the Court for good cause. A motion for relief cannot be filed until the bail is posted or waived by the Court. The Court may rule on the motion without a hearing or may require the defendant to present oral argument, and may grant or deny relief from the default judgment.

CHAPTER 18

FORCIBLE ENTRY AND DETAINER (FED)

18.015 STAY OF DEFAULT, FED EX PARTE TIME

A party seeking to set aside a default judgment in an FED proceeding must obtain a judicial order to stay the judgment pending disposition on the motion to set aside the default. Motions for stay must be presented at FED ex parte proceedings in courtroom 120 at 8:30 am on each judicial day.

18.021 DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS

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

18.025 AUTHORIZED AGENTS

An agent shall be designated by any organization filing an FED. The designated agent may be ordered to appear before the court and answer questions regarding the assets and debts of the organization.

18.035 MEDIATION IN FED FIRST APPEARANCES

If an FED case is not resolved by the parties at first appearance, parties may be required to participate in mediation orientation before the case is set for trial.

18.045 PAYMENT OF ADDITIONAL FILING FEES FOR TRIAL DEMAND

(1) If a defendant makes a demand for a trial under ORS 105.137 (5) at the time of the first appearance, the filing fees required to be paid under ORS 105.130 (3) and (6) shall be paid no later than 5:00 pm of the same judicial day unless otherwise ordered by the court. No trial will be scheduled in the action until the required fees are satisfied.

(2) Failure of the plaintiff to pay the fee required will result in dismissal of the action.

(3) Failure of the defendant to pay the fee required may result in a judgment by default against the defendant.

18.055 **See SLR 7.045 for Motion for Change of Judge**

18.065 **See SLR 7.055 for Call/Assignment**

18.075 **See SLR 7.055(7) for Abated and Stayed Cases**

18.085 **See SLR 7.055(8) for Duty of Attorney at Call/Assignment**

18.095 **See SLR 15.095 for Requests to Postpone Hearings**

CHAPTER 19

CONTEMPT PROCEEDINGS

19.021 ALL DOCUMENTS FILED ON CONTEMPT MATTERS INVOLVING REMEDIAL SANCTIONS

All documents filed on contempt matters involving remedial sanctions shall be separate from documents addressing other matters in the underlying case. This rule applies to motions, affidavits, proposed orders, judgments, and any other document regarding the contempt matter.

CHAPTER 20

RESERVED FOR EXPANSION

CHAPTER 21

RESERVED FOR EXPANSION

CHAPTER 22

RESERVED FOR EXPANSION

CHAPTER 23

RESERVED FOR EXPANSION

CHAPTER 24

OREGON eCOURT IMPLEMENTATION

24.201 ELECTRONIC DOCUMENTS

(1) Depending on the context, as used in these rules, ”document” refers to an instrument in either paper or electronic form.

(2) Documents that are electronically filed or manually imaged, including those to which judicial signatures have been added, and documents generated in electronic format by the court are the official court record.

24.202 ELECTRONIC COURT SIGNATURES

The court may issue judicial decisions electronically and may affix a signature by electronic means.

(1) The trial court administrator must maintain the security and control of the methods for affixing electronic signatures.

(2) Only the judge and the trial court administrator, or the judge’s or trial court administrator’s designee, may access the methods for affixing electronic signatures.

24.203 COMBINED MOTION AND ORDER DOCUMENT NOT PERMITTED

Notwithstanding UTCR 2.010(12)(c) or any other Supplementary Local Rule, a motion and order may not be submitted as a single document. If a motion and corresponding proposed order are electronically filed, the order must be submitted as a separate document from the motion.

24.205 BINDING DOCUMENTS; USE OF STAPLES PROHIBITED

(1) Pleadings and documents submitted to the court for filing that are not electronically filed must be bound by paperclip or binder clip and must not contain staples.

(2) If a document to be filed includes one or more attachments, including but not limited to a memorandum of law, a statement of points and authorities, a documentary exhibit, an affidavit, or a declaration, then
   (a) the document and each attachment must be separately bound by paperclip or binder clip, and

(b) the attachment or attachments must be bound in one packet to the document being filed by paperclip or binder clip.

(3) Subsection (2)(a) does not apply to an attachment to a motion to strike filed under UTCR 5.020(2) or an attachment to a motion for leave to amend a pleading filed under UTCR 5.070. An attachment of either type must be bound in one packet to the document being filed by paperclip or binder clip.

24.501 STIPULATED OR *EX PARTE* MATTERS MAY BE ELECTRONICALLY FILED

(1) Any stipulated or *ex parte* matter may be electronically filed for purposes of submitting to a judge for signature.

(2) If an *ex parte* motion and corresponding proposed order are electronically filed, the order must be submitted as a separate document from the motion.

24.601 SUBMISSION OF REQUESTED JURY INSTRUCTIONS AND VERDICT FORMS

The original of the requested jury instructions and verdict forms must be submitted to the court. The court also may require that a party submit a copy of the jury instructions and verdict forms, in the manner and time that the court specifies.

24.801 ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT; DOCUMENTATION FOR DEPARTMENT OF JUSTICE, DIVISION OF CHILD SUPPORT

Notwithstanding UTCR 8.010(8), parties who have been requested to submit a proposed judgment need not submit a copy of the proposed judgment and the most current confidential information form(s) to the court.

24.901 DELIVERING PROBATE MATERIALS TO THE COURT, NO SELF-ADDRESSED, STAMPED ENVELOPE OR POSTCARD IF DOCUMENT ELECTRONICALLY FILED

UTCR 9.010 does not apply to an electronically filed document.

FORMS APPENDIX
TO SUPPLEMENTARY LOCAL RULES

The following forms are referred to in the Supplementary Local Rules. They can be photocopied or reproduced in your own word processing system. Please follow as closely as possible the format of the form. Where indicated, please be sure to provide the required number of copies for processing.

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

State of Oregon v. _____ Defendant DOB:_____	))))))	Case No: _____ Petition to ☐ Terminate ☐ Modify Domestic Violence No Contact Order; with COURT'S ORDER *ORS 135.250 (2) and ORS 135.247*

Name of Victim(s):_____

☐ I am a named victim in a criminal action. ☐ I am a Deputy District Attorney.
☐ I am the appointed guardian of the named victim and I am authorized by Oregon law to submit this petition on the victim's behalf.

I am asking the Court to:

☐ **TERMINATE** the no contact order.

☐ **MODIFY** the no contact order. I want the defendant to be allowed contact with me or _____(*name of victim*) for the following purposes or in the following ways:

_____

_____

_____

Date Signed_____ _____
Signature

_____
Name Printed

ORDER

Under ORS 135.250 (2) (b) (A) or ORS 135.247, the petition is:
☐ Granted as set out above. ☐ Denied.
The Defendant remains prohibited from conduct that includes any harassing, stalking, or threatening behavior against the victim(s), and any actual, threatened, or attempted use of physical force against the victim(s) reasonably expected to cause bodily injury. Any prior Federal Firearms Findings made in this case remain in effect.
The no-contact order should: ☐ be removed from LEDS ☐ remain in LEDS without change
☐ remain in LEDS as modified here.
☐ Other: _____
_____

Nothing in this order changes the responsibility of the Defendant to comply with any other no contact orders protecting this victim(s) or other persons, whether issued in this case or in another case (such as a restraining order or stalking protective order).

DATED: _____ _____
CIRCUIT COURT JUDGE

23-90 (03/12) See SLR 4.007

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

_____	)	Case Number
Plaintiff	)	
	)	**EX PARTE**
v.	)	
	)	**MOTION FOR SHOW CAUSE HEARING**
_____	)	**and ORDER**
Defendant	)	

_____ comes now before the court and moves the court to set a show cause
(insert the name of the party requesting the show cause hearing)
hearing. The original of the underlying show cause documents are presented to the court herewith to be filed in the office of the clerk of the court.

Nature of the Proceeding For Which A Show Cause Hearing Is Requested:
☐ For Preliminary Injunction ☐ For Writ of Review ☐ For Receivership

☐ Provisional Process. ☐ For Claim and Delivery

☐ Other Proceeding As Follows:_____.

Estimated Length of Hearing:_____.

I certify to the court that I have complied with SLR 5.025 (3) regarding one judicial day's notice of an ex parte appearance to opposing parties, that I will appear at Call as required by SLR 7.055 (8)(A), and will comply with UTCR 7.040 and give the court **immediate notice of resolution of this matter**.

_____
Signature

_____
Name Typed or Printed and OSB Number

ORDER

The request for a Show Cause Hearing is:

☐ Denied and the original show cause documents are returned.

☐ Allowed: The Motion for an order to show cause is set for Call on _____, at 9:00 am, in Courtroom 208, for assignment for hearing on _____ (date). The original show cause documents will be filed by the court with this order.

Date signed:_____.

_____
Signature

_____
Name of Judge Typed or Printed

MOTION FOR SHOW CAUSE HEARING
05-27 (5/00) Distribution: Original--Court Copies--Moving Party (See SLR 5.025 (1))

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

_____	)	
Plaintiff(s)	)	**Case No.**
	)	
vs.	)	**CERTIFICATE OF ALTERNATIVE DISPUTE RESOLUTION**
	)	
_____	)	
Defendant(s)	)	

PURSUANT TO Multnomah County SLR 7.075:

The parties signed below certify that they have complied with the rule by participation in arbitration, mediation, a judicial settlement conference, or some other form of appropriate dispute resolution. The parties participated in the following forms of dispute resolution (check any that apply):

- ☐ Judicial Settlement Conference
- ☐ Arbitration
- ☐ Mediation
- ☐ Other _____ (describe)

Signatures and Date of Signing

Party	Date	Party's Attorney	Date
Party	Date	Party's Attorney	Date
Party	Date	Party's Attorney	Date
Party	Date	Party's Attorney	Date
Party	Date	Party's Attorney	Date
Party	Date	Party's Attorney	Date

05-31 CERTIFICATE OF ALTERNATIVE DISPUTE RESOLUTION (See SLR 7.016 (2))

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

_____	)	
Plaintiff(s)	)	Case No.
	)	
v.	)	**ABATEMENT ORDER**
	)	
_____	)	
Defendant(s)	)	

IT APPEARING TO THE COURT that the above case cannot proceed for the following reason:

- ☐ Bankruptcy; a copy of the petition or notice of bankruptcy is attached
- ☐ Independent Binding Arbitration (stipulation of the parties is attached)
- ☐ Other

IT IS THEREFORE ORDERED that the above case be removed from the active docket of this Court for a period not to go beyond or exceed this date _____. (The date cannot be more than two(2) years from the date of this order.)

IT IS FURTHER ORDERED that this order shall not be rescinded without an order for reinstatement; and

IT IS FURTHER ORDERED that this case shall be dismissed without prejudice at the expiration of the date set and following notice of intent to dismiss pursuant to ORCP 54B(3), unless this case has been reinstated as an active case before the Court, or otherwise continued or resolved.

Signed _____ _____
Date Presiding Judge

Presented By:

Print Name & OSB#

Attorney for

05-32 (4/07) ABATEMENT ORDER (See SLR 7.055(7))

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

_____ Plaintiff	)	No.
v.	)	**MOTION AND ORDER FOR REINSTATEMENT**
_____ Defendant	)	

Plaintiff moves the Court to reinstate the above case, which was dismissed on _____, as to defendant(s) (indicate)_____ or G All, by the following order:

☐ UTCR 7.020 Judgment of Dismissal
☐ ORCP 54B(3) Judgment of Dismissal (including cases that were reported settled and cases dismissed for failure to appear at trial assignment pursuant to SLR 7.055(8)(A))
☐ Abated or inactive status due to bankruptcy, independent arbitration, appeal or other
☐ Judgment of Dismissal for failure to comply with rules of arbitration (requests under this provision must be presented to the Dispute Resolution Department)

Signature of Attorney:
Print Name and OSB #:

****

IT IS HEREBY ORDERED THAT the judgment of dismissal is vacated, the case is reinstated, and:

☐ Continued under UTCR 7.020, subject to the condition that plaintiff obtain service on the defendant(s), secure the necessary appearances to place the case at issue, take default judgment(s), or move for further continuance no later than _____ (specify date)
☐ The trial is set for
☐ A trial date will be assigned in the REGULAR COURSE
☐ The final judgment submitted with this motion and order shall be entered forthwith
☐ Other:

Dated:_____ _____
Presiding Judge

05-33 (1/00) MOTION AND ORDER FOR REINSTATEMENT (See SLR 7.055 (7)(d))

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR MULTNOMAH COUNTY

_____	)	
Plaintiff(s)	)	Case No.
	)	
v.	)	**ORDER FOR SEVERANCE OF PARTY AND ABATEMENT**
	)	
_____	)	
Defendant(s)	)	

IT APPEARING TO THE COURT that a party in the above case cannot proceed for the following reason:

☐ Bankruptcy; a copy of the petition or notice of bankruptcy is attached

☐ Other:

IT IS THEREFORE ORDERED that the above case be removed from the active docket of this Court for a period not to go beyond or exceed this date _____. (The date cannot be more than two (2) years from the date of this order.)

IT IS FURTHER ORDERED that this order shall not be rescinded without an order for reinstatement; and

IT IS FURTHER ORDERED that this case shall be dismissed without prejudice at the expiration of the date set and following notice of intent to dismiss pursuant to ORCP 54B(3), unless this case has been reinstated as an active case before the Court, or otherwise continued or resolved.

Signed _____ _____

Date Presiding Judge

Presented By:

Print Name & OSB#

Attorney for

05-38 (12/00) (See SLR 7.055(7))

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

_____ Plaintiff,	)	Case No.
vs.	)	**MOTION AND ORDER FOR CONTINUANCE (UTCR 7.020)**
_____ Defendant.	)	

Plaintiff moves the Court for an order extending the reporting period established by UTCR 7.020, as to G the defendant(s) listed below, or G all defendants, based upon the attached affidavit and/or the reasons stated below:

Defendant(s):

☐ Service upon defendant(s) indicated above is not complete
☐ Defendant(s) served, and extension for appearance requested
☐ Defendant(s) defaulted by order, but final judgment not yet entered
☐ Continuance necessary to allow for Prima Facie hearing set for _____ (Specify date)
☐ Other:

Signature of Attorney/Party:
Print Name and OSB#:

****

IT IS HEREBY ORDERED THAT the motion for continuance is hereby:

☐ DENIED

☐ GRANTED, subject to the condition that plaintiff obtain service on the defendant(s), secure the necessary appearances to place the case at issue, take default judgment(s), or move for further continuances no later than_____(specify date).

☐ GRANTED, and this case is **STAYED** as to the defendant(s) listed above pursuant to SLR 7.015(3) pending the outcome of the trial.

Date signed:

_____
Presiding Judge

05-41 (10/99) MOTION AND ORDER FOR CONTINUANCE (See SLR 7.021 (1))

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

_____ Plaintiff	)	No.
v.	)	
	)	**MOTION AND ORDER TO POSTPONE CIVIL TRIAL**
_____ Defendant	)	

Pursuant to UTCR 6.030, ☐ Plaintiff ☐ Defendant moves the court to postpone the current trial date of for the following reason(s):

Case Filing (or Reinstatement) Date:
Number of prior postponements:

REQUESTED SETOVER: ☐ Regular course; G to_____(specify date)
Opposing Party: ☐ Consents ☐ Objects
Probable Trial Status ☐ Court ☐ Jury
Estimated Total Length of Trial:

I certify that I have advised my client of this request and served a copy of this motion on all opposing parties. If objected to, at least one judicial day's notice of the date and time of the Ex Parte appearance was give to all opposing counsel.

Dated:_____

Signature of Attorney:
Print name and OSB #:
Attorney for:
Phone number:

****

ORDER

The motion to postpone is **GRANTED**: ☐ in the regular course ☐ to

Dated:_____

_____
Presiding Judge

SUBMIT THE ORIGINAL AND ONE COPY OF THIS FORM

Attach stamped, self addressed confirmation cards for all parties. Any contested request must be presented at Ex Parte. See UTCR 6.030 and SLR 7.035 for further guidelines.

05-82 (9/99) MOTION AND ORDER TO POSTPONE CIVIL TRIAL (See SLR 7.035 (2)(a))

[***CIVIL CASE MANAGEMENT SHEET***
(see SLR 2.011 for required use)

Case no.:

PARTIES (list overflow on separate sheets): *Pleading has Class Action Allegations:* *No* ☐ *Yes* ☐

Plaintiffs:	***Defendants:***

Related cases in Multnomah County Circuit Court (case ***number(s)****):*

_____

_____

Has this case been filed previously, or is it related to a case file previously in this court or in another court?

No ☐ *Yes* ☐ *In this Circuit Court Case No.* _____
Yes ☐ *In another Circuit Court Case No.* _____ *County:* _____
Yes ☐ *In US District Court Case No.* _____ *Location:* _____

PLAINTIFF: ☐ ***I am an Attorney Representing Plaintiff*** ☐ ***I am self-represented***
Name: _____ *OSB Number:* _____
Phone Number: _____
Address: _____
(Street) *(City)* *(State)* *(Zip)*
Email address: _____

☐ ***Notice of a change of address pursuant to UTCR 2.010(14).***

TYPE OF CASE *(select* ***ONE Primary Subject*** *selection does not bind or limit legal theories):*

Tort and Employment

☐ *Motor vehicle (including (UM & UIM)*
☐ *Construction Defect*
☐ *Product liability*
☐ *Wrongful Death*
☐ *Negligence*
☐ *Professional negligence medical*
☐ *Professional negligence (legal, other)*
☐ *Defamation*
☐ *Fraud*
☐ *Intentional injury to property (including nuisance and trespass)*
☐ *Intentional personal injury (including assault, battery, false arrest, intentional infliction of emotional distress)*
☐ *Employer liability (ELL)*
☐ *Employment discrimination/wrongful discharge*
☐ *Wage and hour*
☐ *Employment contract*
☐ *Other (specify):* _____

Contract (other than employment)

☐ *Money Action (consumer credit)*
☐ *Insurance*
☐ *Negotiable instrument*
☐ *Other (specify):* _____

Real Property

☐ *Quiet Title*
☐ *Condemnation/Eminent Domain*
☐ *Foreclosure*
☐ *Specific Performance*

Other

☐ *Declaratory Judgment/Injunctive Relief*
☐ *Intellectual property*
☐ *Derivative Shareholder suit*
☐ *Securities*
☐ *Elder Abuse*
☐ *Interpleader (ORCP 31)*
☐ *Other (specify):* _____

05-95 (02/12) *Civil Case Management Sheet* *(See SLR 2.011 (3))*]

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

STATE OF OREGON,	)	Citation #
	)	
vs.	)	
	)	
_____	)	

NOTICE TO DEFENDANT

You may choose any one of the following ways to take care of the citation issued to you:

☐ 1. Enter a guilty or "no contest" plea in person in Court and make a statement to the judge.

☐ 2. Enter a guilty plea or a no contest plea and submit a written explanation. No personal appearance is necessary, but BAIL MUST BE POSTED. *This option may result in a fine or forfeiture of all or part of the bail posted.*

☐ 3. Enter a not guilty plea and have a trial before the judge with the police officer present. If you do not receive a trial notice and court date within two weeks, you must contact the court immediately.

☐ 4. Enter a not guilty plea but agree to have the police officer's testimony present by affidavit. This means that you will appear in Court, but the officer's testimony will be in writing only, unless more information is needed by the judge.

☐ 5. Enter a not guilty plea and submit the entire trial by affidavits of the officer, defendant and any witnesses. This means that your testimony and that of the officer and any witnesses will be submitted to the judge in writing. You will not have to appear in Court, however, your testimony must be completed and turned in to Room 106 by 5:00 P.M. today . Only if the judge needs more information will testimony other than the written affidavits be considered. The case would be set for a hearing and you would be notified of the date and time of the hearing.

I, the above-named defendant, understand the options available to me and have chosen the option checked above. I agree that if I have chosen option #5, I will pay any fines and fees imposed within 30 days of being so notified by the Court. I understand that if I fail to pay the fines and fees as required, my driver's license and right to apply for a license will be suspended.

Date:_____

_____
Defendant's Signature

_____
Address

_____
City / State / Zip

_____
Telephone Number

06-45 (1/04) Trial by Affidavit (See SLR 16.025 (1)(c))

DUII Diversion Form 1

UNIFORM DUII DIVERSION PETITION AND AGREEMENT

DUII diversion forms 2, 3, and 4 must be filed with this form and served on the district attorney or city attorney who filed the charge.

Petitioner is to provide the information required in this box as follows (print or type):			
Petitioner's Name and Residence: _____ First Middle Last _____ Street City State ZIP _____ Mailing Address (if different)			Court where charge was filed and petition is to be submitted: _____ Court Name _____ Court Case Number _____ Date of DUII Offense
Date of Birth: ____ /____ /_____ Month Day Year	Phone #: _____	Driver License: _____ _____ Number State	

For Court File Stamp

Petitioner's Agreement and Waiver

I, the petitioner, request that this court grant a diversion under ORS 813.200 to 813.270 in this case for the charge of driving under the influence of intoxicants (DUII). If the court allows this petition:

1) I agree to all of the items listed under the "Agreement with the Court" section of DUII Diversion Form 2 (located on the back of this form unless filed electronically) and have read and understand all of the other information in Form 2 and Form 2A;

2) I plead guilty or no contest to the DUII charge as shown in the plea petition (DUII Diversion Form 4) submitted with this diversion petition;

3) I waive (give up) the rights listed in the plea petition; and

4) I waive my former jeopardy rights under the federal or state constitutions and ORS 131.505 to 131.525 in any future action on the charge or any other offenses based on the same criminal incident.

_____ _____ _____

Petitioner's Signature Petitioner's Name (typed or printed) Date

---

COURT ORDER

For Court File Stamp

The court ☐ **(allows)** ☐ **(denies)** the petition for diversion. The DUII charge is alleged to have occurred on _____, 20____. If "allowed," this court withholds entry of a judgment of conviction pending completion or termination of the diversion, and orders that:

1) The diversion period is one year beginning on ____ /____ /_____ and ending on ____ /____ /_____;

2) The petitioner must pay fees to the court for the diversion as required by statute unless waived or deferred; **Fees:** $_____

☐**Due immediately**, or ☐**Payment schedule:** $____ per month due by the ____ day of each month beginning ____ /____ /____

3) The petitioner ☐ (must) ☐ (need not) attend a victim impact panel approved by this court and ☐ (must) ☐ (need not) pay a participation fee to that program;

Victim Impact Panel Date: _____

4) The petitioner must pay court-appointed attorney fees in an amount of $_____ on a schedule set by the clerk of the court;

5) The petitioner ☐ (must) ☐ (need not) file a motion at the end of the diversion requesting that the DUII charge be dismissed;

6) The petitioner must install an ignition interlock device in any vehicle operated by the petitioner during the period of the agreement (beginning on ____ /____ /_____ and ending on ____ /____ /_____) when the petitioner has driving privileges;

7) Other: _____

_____ _____ _____

Name of Judge Signature of Judge Date

08-27 (01/12) Distribution: Original – Court Copies – DA, DMV, Evaluator, Petitioner, Defense Attorney (See SLR 4.075)

DUII Diversion Form 2 EXPLANATION OF RIGHTS AND DUII DIVERSION AGREEMENT

Read this entire form carefully. You are charged with driving under the influence of intoxicants (DUII). You may apply for the DUII Diversion Program but can enter the program only if you meet all eligibility requirements. The court will appoint a lawyer to help you if you request one and the court finds that you are indigent.

ELIGIBILITY FOR DIVERSION PROGRAM. You are eligible to participate in the diversion program only if:

- you meet all requirements described in the attached *Petitioner Sworn Statement of Eligibility* (DUII Diversion Form 3); **and**
- you appeared in court on the date scheduled for your first appearance on the charge or the court finds good reason to excuse your failure to do so; **and**
- you file this petition with the court within thirty (30) days of your first appearance in court, unless the court finds there is good cause to allow a later date.

AGREEMENT WITH THE COURT. The *Uniform DUII Diversion Petition and Agreement* (DUII Diversion Form 1) is your agreement with the court. **To have the DUII charge dismissed, you must do all the following**:

a. Pay to the court the required diversion fees identified in Section 1 of the *Summary of DUII Diversion Fees* (DUII Diversion Form 5). If you cannot afford to pay these fees, tell the judge. The court may waive some of the fees or allow you to make payments over time, depending on your financial situation.

b. Complete an alcohol and drug abuse assessment as directed by the court. You must pay the assessment fee directly to the assessment agency. You must also give the agency accurate and truthful information about your use of drugs and alcohol. The agency will recommend a treatment program if the court finds that you need treatment.

c. Complete the recommended treatment program. You must pay the treatment provider directly. If you cannot pay the cost of treatment, tell the treatment provider. The provider may be able to waive certain costs or allow you to make payments over time.

d. Attend a victim impact panel and pay the participation fee as ordered by the court.

e. Comply with state laws that prohibit the use of intoxicants.

f. Do not use **<u>any</u>** alcohol or other intoxicant during the term of the diversion agreement, except for:
   - sacramental wine given or provided as part of a religious rite or service;
   - alcohol or a controlled substance taken as directed pursuant to a valid prescription; or
   - a non-prescription drug that contains alcohol so long as taken in accordance with the directions for use that are printed on the label.

g. Keep the court advised at all times of your current mailing and residential addresses.

h. Install an approved ignition interlock device in all the vehicles you operate during the term of the diversion agreement when you have driving privileges.

DUII Diversion Form 2 (01/12) (See SLR 4.075)

DUII Diversion Form 2A EXPLANATION OF RIGHTS AND DUII DIVERSION AGREEMENT

ADDITIONAL INFORMATION AND WAIVER OF RIGHTS

a. The diversion agreement applies only to the DUII charge. Prosecution of the DUII charge will be delayed during the diversion period. If you are charged with other offenses arising from the same incident as the DUII, the other charges will be prosecuted separately. By entering into a diversion agreement, you give up the right to have the DUII charge decided at the same time as your other charges (former jeopardy).

b. If you have a prior DUII conviction, the Interstate Compact for Adult Offender Supervision rules may prohibit you from leaving the state without permission during the diversion period.

c. If you successfully complete the diversion agreement you must file a motion at the end of the diversion period asking the court to dismiss the DUII charge.

d. If the court finds that you violated the terms of the diversion agreement or that you were not eligible for diversion, the court will terminate the diversion agreement. The court may hold a hearing where you can "show cause" why the court should not terminate your diversion. **The court will send notice of such hearings by regular mail. If you fail to appear in court, the court can terminate the diversion agreement and may issue a warrant for your arrest.**

e. If the court terminates your diversion agreement or you fail to fulfill the terms of the agreement by the end of the diversion period, the court will sentence you without a trial.

f. You may file a motion asking the court to extend the diversion period, **but you must file the motion within the last 30 days of your scheduled diversion period.** The court may grant an extension if the court finds that you have made a good faith effort to complete the diversion program and that you can complete all remaining conditions within the extension period. The court may grant an extension **only once** and for **not more than 180 days**.

g. The court will find that you have violated the diversion agreement if the court receives notice, at any time during the diversion period, that you committed the offense of DUII or of the open container laws under ORS 811.170.

h. If the court denies the diversion petition, the state cannot use your guilty or no contest plea (in Form 4) when the state continues the prosecution.

ADDITIONAL INFORMATION FOR ACTIVE MILITARY PERSONNEL. The following may apply if you are engaged in active military service:

a. The court **may not deny** your petition for a driving under the influence of intoxicants diversion agreement because:

- You are a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States or the National Guard;
- You have been called to active duty; and
- The military service will impair your ability to complete the diversion program.

b. You may request that the court allow you to participate in a comparable treatment program conducted by or authorized by a government entity in another jurisdiction.

c. You may file a motion asking the court to extend the diversion period. The court may grant an extension if the court finds you have made a good faith effort to complete the diversion program and that you can complete all remaining conditions within the extension period. **If you are serving on active duty, you must file the motion by the end of your scheduled diversion period.** The court may grant an extension **only once** and **may extend the diversion period as necessary** to allow you complete the conditions of the diversion agreement.

I have read the information provided on Form 2A and understand the information on this form:

_____	_____	_____
Petitioner's Signature	Petitioner's Name (typed or printed)	Date

08-27 Form 2A (eff 01/01/12) Distribution: Original-Court Copies-DA, DMV, Evaluator, Petitioner, Defense Attorney

DUII Diversion Form 3

PETITIONER SWORN STATEMENT OF ELIGIBILITY

(This sworn statement must be filed with DUII diversion forms 1, 2, 2A and 4)

(To be filled in by petitioner, please print or type:)

Circuit Court	Multnomah County	_____
Court Name	Court Location	Court Case Number

By signing this document, I swear that I am eligible to participate in a driving under the influence of intoxicants (DUII) diversion program in the case described above, and that all of the following are true:

1. I have never been convicted of a felony DUII offense in Oregon or any other place.

2. On the date I sign the attached petition for a DUII diversion agreement:
   a. There is no charge pending against me in Oregon or any other place, except for the DUII charge in this case, for an offense involving operation of a vehicle while:
      - under the influence of alcohol, a controlled substance, an inhalant, or any combination of the three; or
      - having a blood alcohol content above the allowable blood alcohol content;
   b. I am not participating in a DUII diversion program or any similar alcohol or drug rehabilitation program in Oregon or any other place except a program I may have entered as a result of the charge for the present offense of DUII; and
   c. There is no charge of an offense pending against me in Oregon or any other place for any degree of aggravated vehicular homicide, murder, manslaughter, criminally negligent homicide, or assault that resulted from the operation of a motor vehicle.

3. During the fifteen (15) years before the date of the presently alleged DUII offense and during the time between the presently alleged DUII offense and the date I sign the attached petition:
   a. I have not been convicted in Oregon or any other place for an offense involving the operation of a vehicle while:
      - under the influence of alcohol, a controlled substance, an inhalant, or any combination of the three; or
      - having a blood alcohol content above the allowable blood alcohol content;
   b. I have not participated in a DUII diversion program or any similar alcohol or drug rehabilitation program in Oregon or any other place; and
   c. I have not been convicted, in Oregon or any other place, on any charge of an offense in any degree for aggravated vehicular homicide, murder, manslaughter, criminally negligent homicide, or assault that resulted from the operation of a motor vehicle.

4. The DUII offense described in the attached petition for which I am charged did not involve any deaths or any physical injury to any other person ("physical injury" means impairment of physical condition or substantial pain—ORS 161.015).

5. At the time of the alleged offense, I did not have a commercial driver's license.

6. At the time of the alleged offense, I was not operating a commercial motor vehicle.

_____	_____	_____
Petitioner's Signature	Petitioner's Name (typed or printed)	Today's Date

Subscribed and sworn before me this _____ day of _____, 20_____.

_____

Notary Public for Oregon / Court Clerk / Circuit Court Judge

My commission expires _____.

08-27 Form 3 (eff 01/01/12) Distribution: Original-Court (see SLR 4.075)

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

THE STATE OF OREGON,	)	**Case No. _____**
Plaintiff,	)	**(DUII Diversion Form 4 must be filed with DUII diversion forms 1, 2, 2A, and 3)**
vs.	)	
	)	PETITION FOR ENTRY OF PLEA, WAIVER
_____,	)	OF JURY TRIAL, AND ORDER
Defendant	)	

1. My true name is _____, but I also am known as_____.

2. I am _____ years old. I have gone to school through _____. My physical and mental health are satisfactory. I am not under the influence of any drugs or intoxicants, except _____.

3. I have checked the following that describes me:

   ☐ I am able to read, write, and understand the English language, and I have read this petition completely;
   ☐ I am able to read, write, and understand the English language, and this petition has been read aloud to me completely;
   ☐ I am unable to read the English language, and this petition has been read aloud to me completely;
   ☐ I am unable to read, write, or understand the English language, and this petition has been read aloud to me in the _____ language by _____, a person qualified to interpret the English language into the _____ language.

4. I ☐ (am) ☐ (am not) represented by a lawyer. I understand that I have the right to hire a lawyer or have the court appoint a lawyer to represent me, if the court finds that I cannot afford to hire a lawyer. I choose to give up my right to a lawyer. I will represent myself. (_____) [Defendant initial if giving up right to a lawyer.]

5. If represented by a lawyer, I have told my lawyer all the facts I know about the charge against me. My lawyer has advised me of the nature of the charge and the defenses, if any, that I have in this case. I am satisfied with the advice and help my lawyer has given me.

6. I understand that I have the following rights: a) the right to jury trial; b) the right to see, hear, and cross-examine or question all witnesses who testify against me at trial; c) the right to remain silent about all facts of the case; d) the right to subpoena witnesses and evidence in my favor; e) the right to have my lawyer assist me at trial; f) the right to testify at trial; g) the right to have the jury told, if I decided not to testify at trial, that they cannot hold that decision against me; and h) the right to require the prosecutor to prove my guilt beyond a reasonable doubt.

7. I understand that I give up all of the rights listed in paragraph 6 when I plead guilty or no contest. I understand I give up: a) any defenses I may have to the charge; b) objections to evidence; and c) challenges to the accusatory instrument.

8. By this petition, I am pleading ☐ (guilty) ☐ (no contest) to the crime of driving under the influence of intoxicants (DUII) which is a Class A misdemeanor under Oregon law. The maximum penalties are one year in jail and a fine of $6,250 or $10,000 if the offense was committed in a motor vehicle and there was a passenger younger than 18 and at least three years younger than me. The minimum penalties are 48 hours of imprisonment or 80 hours of community service; and a fine of $1,000 if this is my first conviction, $1,500 if this is my second conviction, $2,000 if this is my third conviction and I am not sentenced to a term of imprisonment, or $2,000 if my blood alcohol level (BAC) was 0.15 percent or greater. I will be required to pay all of the fees listed in Form 5, unless the court finds me indigent and waives all or part of these fees. I will also be required to complete and pay for an alcohol or drug abuse assessment and any recommended treatment. There will be a mandatory suspension of my driving privileges for ____ year(s), and the court may order me to attend a victim impact panel and pay a participation fee.

9. I am submitting this plea along with a petition to enter the diversion program under ORS 813.200 to 813.270. I understand that, if the court grants the petition, the court will accept this plea but will not enter a judgment of conviction at this time.

10. I understand that:

    a. If I fully comply with the conditions of the diversion agreement within the diversion period requested in the attached petition, the court will dismiss the charge with prejudice under ORS 813.250. If the court does not have a policy of automatically dismissing the DUII charge at the end of one year, I will have to file a motion at the end of the diversion period requesting that the charge be dismissed.

b. If I fail to comply with the diversion agreement within the diversion period, the court will enter a judgment of conviction on the charge and will sentence me.

11. I understand that if the court enters judgment on this plea, it is equivalent to conviction and that on this plea alone, without receiving any evidence, this court can find me guilty of the crime of DUII.

12. I understand that, if the court denies the diversion petition and I go to trial, nothing in this petition will be used against me.

13. I understand that if I am not a citizen and the court enters judgment on this plea, it may result in my removal from this country, exclusion from admission to the United States, or denial of naturalization.

14. This plea is based only on what is written on this petition. No promises have been made to me by my lawyer or any officer or agent of any branch of government (federal, state, or local) that I will receive a particular sentence or form of treatment from this or any other court, on these or any other charges, other than is set forth in this petition.

15. ☐ I plead no contest - OR –

☐ I plead guilty because in _____ County, Oregon, I did the following: _____

_____

_____

_____

_____

_____

_____

_____

_____

16. I ☐ (am) ☐ (am not) currently on probation, parole, or postprison supervision. I know that if I am and the court enters judgment on the plea in this case, it may cause revocation of my probation, parole, or postprison supervision and I may be required to serve jail or prison time in that case in addition to any sentence imposed on me in this case.

17. I understand the charge against me and the information in this petition. I am signing this petition and entering this plea voluntarily, intelligently, and knowingly.

18. I understand that if I fail to comply with the terms of the diversion and the court enters a judgment of conviction, I have the right to appeal the conviction by complying with the rights to appeal explained or provided to me at the time the court enters the judgment of conviction.

_____	_____	_____
Date	Defendant's Signature	Defendant's Name (printed or typed)

ORDER

The court finds the defendant's plea of ☐ (no contest) ☐ (guilty) to be knowingly, intelligently, and voluntarily made. The court accepts this plea for purposes of ORS 813.200 to 813.270.

_____	_____	_____
Date	Judge's Signature	Judge's Name (printed or typed)

CERTIFICATE OF COUNSEL

I am the attorney for the defendant in this proceeding and I certify that:

1. I have fully explained to my client the charge and possible defenses that may apply in this case.
2. I have personally examined this plea petition, explained all its provisions to my client, and discussed fully with my client all matters described and referred to in the petition.
3. I have explained to my client the maximum penalty and other consequences of entering a guilty or no contest plea, including possible immigration consequences.
4. To the best of my knowledge and belief, my client's decision to enter this plea is made voluntarily, intelligently, and knowingly.
5. I have told my client that if he or she is eligible for court-appointed counsel and wishes to pursue an appeal, I will transmit the information necessary to perfect the appeal to the Office of Public Defense Services.

Signed by me in the presence of the above-named defendant and after full discussion of the contents of the certificate with the defendant this _____ day of _____, 20____.

_____	_____	_____
Defendant's Attorney's Signature	Attorney Name (typed or printed)	Bar Number

CERTIFICATE OF INTERPRETER

I, the undersigned interpreter, hereby certify that I have read aloud the petition to the above defendant in the _____ language.

Signed by me in the presence of the above-named defendant this _____ day of _____, 20 _____.

_____	_____
Interpreter's Signature	Interpreter Name (typed or printed)

DUII Diversion Form 5

SUMMARY OF DUII DIVERSION FEES

A defendant allowed into a driving under the influence of intoxicants (DUII) diversion program will be required to pay the fees listed below.

Section 1: Fees to the Court

A. The defendant must pay the following fees to the court:

- $386 filing fee
- Court-appointed attorney fees

The court may waive all or part of these fees if it finds the defendant is indigent. The court may also allow the defendant to pay in installments over time.

Section 2: Other Fees

A. The defendant must complete an alcohol and drug abuse assessment.

- The cost of the assessment is $150. The defendant must pay this fee directly to the agency or organization conducting the assessment.
- The defendant must pay for any treatment recommended by the assessment. The cost of treatment varies. The defendant must pay treatment costs directly to the agency or organization providing the treatment. If the defendant is unable to pay, the agency or organization providing the treatment may allow payment in installments over time.

B. The court may order the defendant to attend a victim impact panel and pay a participation fee. The fee can range from $5 to $50. The defendant must pay this fee directly to the panel coordinator on the day of the panel.

C. The court will order the defendant to install an approved ignition interlock device in any vehicle operated by the defendant during the term of the diversion agreement when the defendant has driving privileges. The defendant must pay to the provider installing the device any costs associated with leasing, installing, and maintaining the device, unless the Department of Transportation finds that the defendant is indigent and waives all or part of these fees. The department may also defer the costs or allow payment in installments over time.

08-27B (01/12) DUII Diversion Financial Obligation (See SLR 4.075)

IN THE CIRCUIT COURT, THE STATE OF OREGON
FOR MULTNOMAH COUNTY

For Court File Stamp

THE STATE OF OREGON,	)	
Plaintiff,	)	Case No. _____
vs.	)	
	)	MOTION TO EXTEND THE
_____,	)	DUII DIVERSION PERIOD AND ORDER
Defendant.	)	

I am the defendant in the above case and I request that the court extend my diversion agreement for _____ (insert time that is not longer than 180 days; however, if you are active military personnel, then insert time that will allow you to complete the diversion agreement). I offer the following information in support of this request:

1. I have made a good faith effort to complete the conditions of the diversion agreement.

   a. I have completed the following conditions of the diversion agreement: _____
   _____
   _____

   b. I have <u>not</u> completed the following conditions of the diversion agreement: _____
   _____
   _____

   c. I have <u>not</u> completed the diversion conditions listed in "b" above because (explain): _____
   _____
   _____
   _____
   _____

2. I will be able to complete the conditions of the diversion agreement within the extended period because (explain):
   _____
   _____
   _____

3. I have not asked for or been granted any previous extension of the diversion agreement under ORS 813.225.

4. I understand that:

   a. If I fully comply with the conditions of the diversion agreement within the extended diversion period, the court may dismiss the charge with prejudice if I file a motion under ORS 813.250.
   b. If I fail to comply with the diversion agreement within the extended diversion period, the court will enter a judgment of conviction on the DUII charge and proceed to sentence me without a trial.

08-27 Form 5 (eff 01/01/12) Distribution: Original-Court Copies-DA, DMV, Evaluator, Petitioner, Defense Attorney

5. ☐ (Please check this box if the following applies to you.) I am a member of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States, or the National Guard. I have been called to active duty or received orders that I will be called to active duty. The military service will prevent me from completing the conditions of the diversion agreement and no comparable treatment program is available because (explain):

_____

_____

_____

This motion and proposed order are respectfully submitted by:

_____	_____	_____
Defendant's Name (typed or printed)	Signature of Defendant	Date

_____				_____
Address	City	State	Zip	Telephone Number

For Court File Stamp

ORDER

FINDING. The court finds the defendant named in the above motion ☐ (made) ☐ (did not make) a good faith effort to complete the conditions of the diversion agreement and that the defendant ☐ (can) ☐ (cannot) complete the conditions of the diversion agreement in the requested extended diversion period.

ORDER. The court ☐ (allows) ☐ (denies) the above motion for an order extending the diversion period in case number _____. If "allowed," this court orders the diversion period in this case extended for _____ (not longer than 180 days; however, if the defendant is active military personnel, then extend the diversion period as necessary for the defendant to complete the agreement) beginning on _____ and ending on _____.

_____	_____	_____
Name of Judge	Signature of Judge	Date

CIRCUIT COURT OF OREGON
Fourth Judicial District
MULTNOMAH COUNTY PROBATE COURT
1021 SW Fourth Avenue, #224
Portland, OR 97204
503/988-3022

GUARDIANSHIP OF MINOR REPORT

Minor's Name: **Case Number:**

Minor's Date of Birth: **Date of Guardian's Appointment:**

(2) The address of the minor is:_____

(3) The telephone number for the minor's residence is:_____

(4) The address of the Guardian is:_____

(5) The telephone number for the Guardian is:_____

(6) How is this household financially supported:_____
_____

(7) Is the minor still residing with you? _____yes _____no
If not, tell us with whom the child is living, the relationship of that person to the child, and why the child is no longer living with you: _____
_____
_____
_____

(8) How long has the minor lived with someone else? _____

(9) Please tell us about the child's school attendance and grades:_____
_____
_____
_____
_____

(10) Please list any hobbies or recreational interests enjoyed by this child during the past year:
_____
_____
_____
_____

10. During the past year I have received $_____ from _____ _____to help support this child. I spent $_____ of that income on behalf of this child and I now have $_____ remaining

11. I have (___) / have not (___) been convicted of a crime since my last report.

12. I have (___) / have not (___) filed to receive bankruptcy since my last report.

13. I have (___) / have not (___) had my driver's license suspended or revoked since my last report because of: _____

14. Please provide any other information you feel should be provided to the Court regarding this child's adjustment to your care (use the back of this report form if necessary):_____

_____

_____

_____

"I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury."

Guardian's Signature: _____ Today's Date: _____

Printed Name: _____

If applicable:

Co-Guardian's Signature: _____ Today's Date: _____

Printed Name: _____

Annual Guardian's Report Minor Protected Person (5/16/08) (SLR 9.075(4))

RETURN TO: MULTNOMAH COUNTY COURTHOUSE
1021 SW 4TH AVE., ROOM 224
PORTLAND, OR 97204

In the Matter of the Guardianship of: _____

Case No. _____

I am the guardian for the protected person named above, and I make the following report to the Court as required by law:

1. My name is: _____
2. My address and telephone number is:

_____
_____
_____

3. The name, if applicable, address and telephone number of the place where the protected person now resides is:

_____
_____

4. The protected person is currently residing at the following type of facility or residence: _____

5. The protected person is currently engaged in the following programs and activities and receiving the following services: _____

_____

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

_____

7. The person who is primarily responsible for the care of the respondent at the protected person's current residence is: _____

_____

whose telephone number is: _____

8. The name and address of any hospital or other institution where the protected person is now temporarily or permanently placed is: _____

_____
_____

9. The protected person's physical condition is as follows: _____

_____

10. The protected person's mental condition is as follows: _____

_____

11. I made the following contacts with the protected person during the past year:

_____

12. I made the following major decisions made on behalf of the protected person during the past year : _____

13. I believe this guardianship should/should not (circle one) continue because: _____
_____

14. I received the following amount of money on behalf of the protected person: $_____. I spent the following amount of money on behalf of the protected person: $_____. I now hold the following amount of money on behalf of the protected person: $_____.

15. A true copy of this report will be given to the protected person and/or his/her conservator, and any other person who has requested notice.

16. Since my last report:

A. I have been convicted of the following crimes (not including traffic infractions: _____
_____

B. I have filed for or received protection from creditors under the Federal Bankruptcy Code: YES/NO (circle one).

C. I have had a professional or occupational license revoked or suspended: YES/NO (circle one).

D. I have had my driver's license revoked or suspended: YES/NO (circle one)

17. Since my last report, I have delegated the following powers over the protected person for the following periods of time (provide name of person and powers delegated to):_____

"I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury."

_____
(Signature of Guardian)

DATED this _____ day of _____, 20_____

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNY OF MULTNOMAH
PROBATE MEDIATION PILOT/SUPPLEMENTAL LOCAL RULES 9.016 AND 12.045

IN THE MATTER OF THE _____	)	CASE NO. _____
_____	)	NOTICE OF SELECTION OF MEDIATOR
_____	)	AND SETTING DATE FOR HEARING

PARTY/ATTORNEY	PARTY/ATTORNEY
PHONE NO.	PHONE NO.
FAX NO.	FAX NO.
E-MAIL ADDRESS:	E-MAIL ADDRESS:

THE PARTIES HAVE AGREED THAT THE MEDIATOR WILL BE:

NAME _____ OSB# _____
PHONE _____ FAX NO _____
ADDRESS: _____
_____
_____

THE FACTS IN DISPUTE ARE:
_____
_____
_____

CERTIFICATION

I HEREBY CERTIFY THAT THE ABOVE INFORMATION IS ACCURATE AND THAT I HAVE SENT COPIES OF THIS NOTICE TO ALL PARTIES/ATTORNEYS OF RECORD AND THE MEDIATOR.

DATED: _____

Signature of Party/Attorney (OSB#_____

Certified to be a true copy:

_____

(07/11) Page 1 NOTICE OF SELECTION OF MEDIATOR AND FACTS IN DISPUTE
(See SLR 12.045(4)(a))

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNY OF MULTNOMAH

IN THE MATTER OF THE _____ _____ _____	)))	CASE NO. _____ MOTION TO WAIVE MEDIATION

ON BEHALF OF _____ _____,I MOVES TO WAIVE MEDIATION. GOOD CAUSE EXISTS TO WAIVE THE MEDIATION REQUIREMENT IN THIS CASE BECAUSE: _____
_____
_____
_____

CERTIFICATION

I HEREBY CERTIFY THAT THE ABOVE INFORMATION IS ACCURATE AND THAT I MAILED A TRUE COPY OF THIS MOTION TO ALL PARTIES/ATTORNEYS OF RECORD AS FOLLOWS:

PARTY/ATTORNEY PARTY/ATTORNEY _____
_____
_____
_____

DATED: _____

Signature of Party/Attorney OSB#_____

Certified to be true copy:

_____