

**Circuit Court of the State of Oregon for Multnomah County
Draft Supplementary Local Rules
Effective February 1, 2015**

Summary of Changes by Rule

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Summary of Changes by Amended Rule

Change 1, SLR 2.011: Deleting the rule for the Civil Case Management Cover sheet. The Cover Sheet was added in 2010 as an interim measure until eFiling of documents was available for filing in the Circuit Court. With the installation of eFiling using Odyssey File and Serve within the Oregon eCourt system, effective on July 7, 2014, and with mandatory eFiling for Oregon State Bar members on December 1, 2014, the need for this rule has been met. The rule and the required form are deleted.

[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)]*

Change 2, SLR 2015: Updates the existing rule on the return of documents received for filing to permit the return of documents that are motions or orders, as well as judgments issued by a nonexistent foreign court, and that documents provided by “telephonic” facsimile transmission are not accepted. This is to avoid confusion with the sending of documents through the Oregon eCourt system using Oregon File and Serve.

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.

Change 3, SLR 4.007: Makes adjustment in citation for 2011 Session Laws to current 2013 assigned ORS number.

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 98, Appendix of Forms), or in a document that is in the same format and contains the same heading, caption and content.

Change 4, SLR 4.025: The change updates the means by which a continuance may be requested in Criminal Procedure Court.

4.025**CRIMINAL CASE POSTPONEMENTS BY PRESIDING JUDGE; CRIMINAL EX PARTE; {and, CRIMINAL PROCEDURE COURT POSTPONEMENTS}**

- (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.* **{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.**

Change 5, SLR 5.161: This change adds a reference back to SLR 5.021 to insure that the person seeking remedial contempt sanctions on a judgment debtor is direct to the standard under these rules for submitting a motion seeking remedial contempt sanctions.

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.}

Change 6, SLR Chapter 8: Change to conform the language in the SLR heading to the terminology adopted for purposes of Oregon eCourt to cover both the Change of Name proceedings under ORS 30.410 and Change of Sex under ORS 33.460 under the inclusive heading of “Identity Changes”.

CHAPTER 8

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

Change 7, SLR 8.016: Adds a new mandatory requirement that parties participate in appropriate dispute resolution in certain actions with only spousal support, personal or real property or debt as issues to be decided. While cases with only property distribution are required to participate in arbitration, some are excused from that requirement, and for those and the remainder subject to this rule, there will be a requirement to participate in some form of appropriate dispute resolution, unless waived

{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.

Change 8, SLR 8.075: Narrows and corrects the scope of the parenting plan by deleting a reference to parenting “time” and adding a statement of focus for the plan.

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/>.

Change 9, SLR 8.155: Changes the rule from applying to just Name Changes, to apply to Identity Changes to encompass Change of Sex proceedings under ORS 33.460 as well as Change of Name proceedings.

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.

Change 10, SLR 9.015: Clarifies that the Chief Family Law Judge may designate a another judge to act for the Chief Judge in “probate proceedings”.

9.015 SUBJECT MATTER JURISDICTION; TRUST CASES

(1) The Chief Family Law Judge {or a judge designated by the Chief Family Law Judge} (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.

Change 11, SLR 9.025: Updates the rule for the setting of probate matters for hearing or conference with the Chief Probate Judge by deleting the three day requirement for notice to the party if the matter requires an appearance.

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 **{and/or self-represented litigants}** and advise the Probate Section staff of the estimated time required. (Refer to SLR 8.012 and 8.015 for “[*call*]{**trial**}/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.

Change 12, SLR 9.026: Adds to the rule a new subsection section setting out the process to be followed for filing matters under seal.

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.}

Change 13, SLR 9.045: Adds a reference to require compliance with UTCR and statutes on resignation of counsel.

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.}

Change 14, SLR 9.073: Aligns the rule with modern banking practices for the maintenance of financial documentation in protective proceedings.

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 require all twelve (12) months of bank statements with these expenditures highlighted.

Change 15, SLR 9.075: Requires deposit for visitor's investigation at the time of paying the filing fee for the petition; requires attorney for petitioner to provide copies at time of order appointing court visitor.

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

Change 16, SLR 9.076: Creates mandatory education program for certain nonprofessional fiduciaries in protective proceedings and decedent's estates.

{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.

Change 17, SLR 9.095: Adds category for explanation of attorney fee expenses submitted to the court for approval.

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.

Change 18, SLR 13.032: Establishes Presiding Judge as position to which copies of certain documents concerning arbitration must be delivered. There is no longer a “chief alternative dispute resolution” judge and the presiding judge now oversees the arbitration program directly.

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.

Change 19, SLR 13.055: Change to reflect that the Presiding Judge is managing the arbitration program.

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.

Change 20, SLR 15.051: Removes reference to discontinued facility and adds address of current East County Courthouse.

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 I22nd 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*].

Change 21; SLR 15.125: Corrects internal reference due to rule renumbering in prior years.

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

Change 22; SLR 15.135: Corrects internal reference due to rule renumbering in prior years.

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

Change 23, SLR 16.025: Establishes that parties in proceeding may appear at any time up to the time set in the citation for arraignment.

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 107, 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.

Change 24, SLR 16.075: Add the requirement of notice to prosecuting attorney if filing notice of representation of counsel, clarifies that notice cannot be by “telephonic facsimile” transmission, to distinguish that medium of transmission clearly from eFiling of the Notice of Representation.

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).

Change 25, SLR 17.015: Changes language on options to appear on a parking citation.

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.

Change 26, SLR 17.025: Adds language regarding the dismissal of a parking citation for parking with disabled placard to include 2014 amendment to Portland City Code.

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 **or is subject to the restrictions under Portland City Ordinance 16.20.640 (Metered Districts)** ;
 - 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.

Change 27, SLR 17.067: Corrects rule to align with ORS 153.820 on the timing of the entry of a default judgment after notice of the citation is sent to the registered owner, and removes reference for a “warrant” to tow a vehicle, only an order is required.

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*]{**notice**}. 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.