

## NOTICE RE SLR CHANGE INVOLVING PROPOSED ORDERS – 8.041(4)

Multnomah County Local Supplementary Rules were amended effective February 1, 2009. The complete text of these rules and a one-page summary is posted on this website.

This notice highlights operation of Rule 8.041(4), regarding proposed orders.

The intent of this rule was to provide a fair and uniform process for dealing with the multitude of motions (with proposed orders) that are routed to Family Court judges without a hearing being set on that motion or information for the other party about the timeframe or procedure for objection. Motions for telephonic testimony, change of venue, discovery, reinstatement of the case, and for attorney withdrawal are common but nonexclusive examples.

**The rule requires that motions *not including the following* be accompanied by a separate, proposed order served on the party with notice of a 14 day period to file a Request for Hearing.** This step will ensure that the adverse party is aware of the exact nature of relief being requested and the procedure to object.

Not included in this rule are:

1. Stipulated motions,
2. Motions that provide a scheduled hearing date (e.g., by Order to Show Cause),
3. Motions that are accompanied by a statutorily-required notice regarding the other party's right to request a hearing. (Examples – Motions for Modification under ORS 107.135, for Temporary Protective Orders of Restraint under ORS 107.097, for pre-Judgment Temporary Emergency Custody under ORS 107.097, for post-judgment Temporary Emergency Custody under ORS 107.139, and for post-judgment Status Quo Orders under ORS 107.138). All of the motions in this category have statutes setting out objection processes and the SLR therefore does not cover them; and.
4. Motions permissible for presentation at *ex parte* time under the SLR.

**This rule does not eliminate the show cause process for Motions for Temporary Relief in marital actions or otherwise. It simply provides an additional option.** A party may choose to follow existing procedures to obtain an Order to Show Cause for a hearing on pre-judgment temporary relief under ORS 107.095 or otherwise. But a party is free to use the 14-day Proposed Order option if s/he chooses. The movant will need to assess the advantages and disadvantages of the Proposed Order route (and a possible Request for Hearing being filed anyway) against the advantages and disadvantages of the Show Cause Hearing option. The nature of the relief requested, the expected response of the other party, and the urgency of the relief are some of the factors in that analysis. Parties may also wish to consider that if the served party resides out-of-state, time needed to process a possible fee deferral request could lengthen an otherwise reasonable 14-day objection time in the Court's view.

Please note that the movant must inform the served party of the option to file a "Request for Hearing" (not a "Response"). The UTCR Committee was rightfully concerned that objections to motions would be confused with pleadings (i.e., responses to Petitions or Motions to Modify Judgments).

Nan G. Waller, Chief Family Court Judge  
January 28, 2009