

**Changes in Supplementary Local Rules  
Effective February 1, 2011  
Circuit Court of the State of Oregon for Multnomah County  
And Explanation**

**{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.** }

Explanation: New rule to assist with the scheduling of matters where the prosecuting attorney has determined there is a victim and the victim wants to be notified and to appear at critical-stage hearings (ORS 147.510). To the extent that notice can be provided to the prosecuting attorney of the intent to set or re-set an event, the greater the probability that the event will not have to be continued further than needed to permit the state to contact the victim. The rule is a beginning in realigning the boundaries of criminal due process in light of the constitutionally enumerated rights to which crime victims are entitled.

**5.015      CIVIL ACTION MOTION DOCKET; MOTION PRAECIPE RULE;  
AUTOMATIC CONSENT TO HEARING BY NON-APPEARING PARTY**

**Motion Praecipe Rule: General Requirements and Applicability; Exceptions; and Delivery**

**General Requirements and Applicability**

(4) Unless specifically excepted from this requirement by provision of this rule, a motion praecipe form shall be attached by the moving party to the front of all copies of motions,

including motions granted an expedited hearing, sent to the judge hearing the motion and to the parties. It is not required to attach a motion praecipe to the original file copy of the motion to be heard. A motion praecipe shall be attached or delivered when required under this rule, even when the moving party waives appearance. Except for motions set on the motion calendar by the granting of an expedited hearing, every motion to be set by praecipe must begin the setting process by calling the Civil Calendaring Motion Clerk at (503) 988-3168. **{The Civil Calendaring Motion Clerk sets motion hearings far enough into the future to provide time for a response and reply; a hearing should not be set if the motion will not be filed within seven days. Seven days permits sufficient time for responding document filing and service.}**

### **Service Period on Court and Opposing Parties, Copy of Motion, Response and Reply to Assigned Judge**

(10) Except as provided in section (5) of this rule, the party responsible to deliver the praecipe as provided by this rule shall deliver the praecipe together with the courtesy copy of the motion to the assigned judge and serve the parties on the date the motion is filed with the court; the motion must be filed [*without unreasonable delay once*] **{within a reasonable time but not more than seven days following the date on which}** a judge, date, and time is assigned for the hearing. Any party opposing a motion in which a praecipe is required to be delivered under this rule shall submit a courtesy copy of the responding documents to the assigned judge at the same time the response is filed with the court, but in no event less than one judicial day prior to the date of the hearing unless the praecipe delivery time has been shortened by the rule or the Presiding Judge or designee at civil ex parte. Any party filing a reply to a response to a motion, must deliver a copy of the reply document to the assigned judge on the date the reply is filed with the court, but in no event less than one judicial day prior to the date of the hearing.

### **{Failure to File Motion within Seven Days}**

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

### **Absence at Motion Hearing**

[(11)]{**12**}) A matter set on the civil motion docket may be decided even though some or all of the parties or attorneys are not present. Such a hearing shall be deemed consented to by the parties not appearing.

Explanation: The changes to SLR 5.015 are a series to address a single problem. In civil actions required to provide notice of a motion setting by delivery of a praecipe along with the service copy of the motion, the moving party is required to file the motion “without unreasonable delay” after setting the hearing date, time and judge. Some parties delay filing the motion and service, however, to the point of disadvantage to the opposing party. The correction for this dilatory behavior is resetting the motion hearing to permit the opposing party a reasonable amount of time to respond. The amendments to the rule document the reason timely filing after

setting the hearing is important, the period of time for filing the motion that is reasonable, and that there may be sanctions under UTCR 1.090 for violation of the “reasonable” seven day standard.

#### **{5.071 REMOVING A PARTY FROM A FILED ACTION**

**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.**

Explanation: In civil actions with a large number of parties there are situations where a complaint is amended and a party is missing from the list of parties in the caption of the document when compared to the immediate past version of the pleading being amended. This new rule will provide a direction to be followed if a named party is to be removed from an action that has been filed.

#### **[5.065 ] {5.161} JUDGMENT DEBTOR ORDERS**

Explanation: Renumbered rule.

#### **[5.085] {5.181} CHALLENGE TO GARNISHMENT NOT TO CONTEST JUDGMENT**

Explanation: Renumbered rule.

#### **7.071 SCHEDULING FOREIGN LANGUAGE INTERPRETERS UNDER UTCR**

**{(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.}**

*[(2)]* **{3}** The Court Interpreter Services Office in Multnomah County may be contacted by **{e-mail at [MUL.Interpreter.Services@ojd.state.or.us](mailto:mul.interpreter.services@ojd.state.or.us) or}** by calling (503) 988-3515. The Interpreter Services Office is open 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.

Explanation: Amendment to make clear that when parties schedule an interpreter under UTCR 7.070, there is a concomitant duty to advise Interpreter Services whenever the schedule or duration of the proceeding changes. Whether the interpreter is being flown to Oregon from Los

Angeles or Chicago or is a Staff Interpreter in the courthouse, notice of changes in the circumstance can save time and money in coordinating the availability of interpreters.

#### **8.012 DOCKETING**

(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. “Regular 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. [*Motions not settled or reset within 5 months of filing will be automatically dismissed without notice to the parties.*]

Explanation: Removes a phrase found to be insufficient notice of the consequence if a motion is not heard within five months. “In our view, the text of SLR 8.012(2) does not provide adequate notice to a party that a motion that has never been set for a hearing in the first place is subject to automatic dismissal.” ARG v NDG, 348 Or 525 (2010), at 533

#### **12.022 COURT-CONNECTED MEDIATOR LISTS ESTABLISHED**

[*There shall be maintained three*] {**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, [*and*] 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?](http://courts.oregon.gov/Multnomah/General_Info/Civil/listofapprovedmediators.page?)**}.

Explanation: Expands the categories of mediators for which the court will maintain separate lists.

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

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

Explanation: Removes a requirement that the mediation will be the same day as the trial of the small claim.

#### **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.**}

Explanation: Sets a 90 day expectation for arbitrators to submit a claim for payment by OJD for arbitration services when one or more of the parties are covered by a fee waiver or deferral. Limits payment amount for any single party to amounts set in the court's compensation schedule.