CHAPTER 7—Case Management and Calendaring

7.010 PLEAS, NEGOTIATIONS, DISCOVERY AND TRIAL DATES IN CRIMINAL CASES

(1) At the time of arraignment, the court may either accept a not guilty plea and set a trial date or set a date for entry of a plea in accordance with subsection (2) of this section.

(2) Plea agreements, negotiations, discovery, and investigations must be concluded by a date as set by the court which is:

  (a) for defendants in custody, not less than 21 days after arraignment but, in any event, not later than 21 days prior to the trial date; and

  (b) for defendants who are not in custody, not less than 35 days after arraignment, but not later than the 35th day prior to the trial date.

(3) Not later than the date set pursuant to subsection (2), trial counsel must report the following:

  (a) whether a jury trial is requested;

  (b) the probable length of trial;

  (c) the need for a pretrial hearing; and

  (d) any other matter affecting the case.

(4) Relief from the dates set pursuant to subsection (2) of this rule shall be granted for good cause shown.

1988 Commentary:

Relief from application of the deadlines set by this rule is subject to UTCR 1.100, as are all UTCR provisions.

1990 Commentary:

As used in this section, arraignment means the initial appearance of the defendant in the court having jurisdiction to dispose of the case.

Relief from time set in this section is subject to UTCR 1.100, as are all UTCR provisions. The purpose of this rule, among others, is to give certainty in trial dockets. Therefore, the last date for entry of a plea will change with changes in trial dates.

Section 4.010 of UTCR should be read in conjunction with this section. In this regard, the parties may request that the court decide any legal issue, including motions to suppress, before plea negotiations are concluded. Nothing requires the court to allow that request.

7.020 SETTING TRIAL DATE IN CIVIL CASES

(1) After service is made, the serving party must forthwith file the return or acceptance of service with the trial court administrator.

(2) If no return or acceptance of service has been filed by the 63rd day after the filing of the complaint, written notice shall be given to the plaintiff that the case will be dismissed for want of prosecution 28 days from the date of mailing of the notice unless proof of service is filed within the time period, good cause to continue the case is shown to the court on motion supported by affidavit or the defendant has appeared.

(3) If proof of service has been filed and any defendant has not appeared by the 91st day from the filing of the complaint, the case shall be deemed not at issue and written notice shall be given to the plaintiff that the case will be dismissed against each nonappearing defendant for want of prosecution 28 days from the date of mailing of the notice unless one of the following occurs:

(a) An order of default has been filed and entry of judgment has been applied for.

(b) Good cause to continue the case is shown to the court on motion supported by affidavit.

(c) The defendant has appeared.

(4) If all defendants have made an appearance, the case will be deemed at issue 91 days after the filing of the complaint or when the pleadings are complete, whichever is earlier.

(5) The trial date must be no later than one year from date of filing for civil cases or six months from the date of the filing of a third-party complaint under ORCP 22 C, whichever is later, unless good cause is shown to the presiding judge or designee.

(6) Parties have 14 days after the case is at issue or deemed at issue to:

(a) Agree among themselves and with the presiding judge or designee on a trial date within the time limit set forth above.

(b) Have a conference with the presiding judge or designee and set a trial date.

(7) If the parties do neither (a) nor (b) of (6) above, the calendar clerk will set the case for trial on a date that is convenient to the court.

<u>1987 Commentary</u>:

Nothing in this rule precludes a court from issuing its trial notices prior to 91 days after filing of the complaint.

<u>1988 Commentary</u>:

It is recognized that some cases may not be appropriate for trial setting "in the ordinary course" of the court's business. Special settings of trial dates in complex or other appropriate cases is permissible and may be initiated by any party or the court.

7.030 COMPLEX CASES

(1) Any party in a case may apply to the presiding judge to have the matter designated as a "complex case."

(2) The criteria used for designation as a "complex case" may include, but shall not be limited to, the following: the number of parties involved, the complexity of the legal issues, the expected extent and difficulty of discovery, and the anticipated length of trial.

(3) A presiding judge shall assign any matter designated as a "complex case" to a specific judge who shall thereafter have full or partial responsibility for the case as determined by the presiding judge.

(4) A "complex case" shall not be subject to the time limitation or trial setting procedures set forth in UTCR 7.020(5), (6) and (7); however, any such case will be set for trial as soon as practical, but in any event, within two years from the date of filing unless, for good cause shown, the trial date is extended by the assigned judge.

7.040 NOTIFY COURT OF SETTLEMENTS AND OTHER MATTERS

The parties shall report immediately to the court any resolution of any matter scheduled on the court's docket.

7.050 EFFECT OF BANKRUPTCY PETITION

(1) Upon notice that proceedings in an action are subject to a federal bankruptcy stay, the court must stay the action until it is shown to the court’s satisfaction that the federal bankruptcy stay has been terminated or is not applicable to the action.

(2) Upon motion of any party, the court may sever a claim that continues to be subject to the federal bankruptcy stay or a claim as it applies to the bankruptcy debtor and proceed with the remainder of the action if:

   (a) the action includes multiple claims or multiple parties; and

   (b) it is shown to the court’s satisfaction that, as to one or more claims, the federal bankruptcy stay has been terminated or is not applicable.

(3) A court must not dismiss the action stayed under this rule solely because of the bankruptcy filing. Nothing in this rule limits a court’s ability to initiate the process to dismiss an action stayed under this rule for want of prosecution under ORCP 54B(3) or as provided by statute. However, if a party to the action responds to the court notice concerning dismissal for want of prosecution by timely application to continue the action because bankruptcy proceedings are ongoing:

   (a) the ongoing bankruptcy proceedings constitute good cause to continue the action for purposes of ORCP or statute; and

   (b) the court must continue the action as a pending case.

(4) Time periods established by UTCR 7.020 or by SLR for proceeding with an action are not applicable during the stay to that action or part of an action stayed under this rule. For all or part of the action stayed under this rule, time periods held in abeyance under this subsection continue when the court proceeds and only as to that part of the action with which the court proceeds.

(5) Nothing in this section limits a court's ability to grant dismissal of an action stayed under this rule as provided under ORCP 54A.

(6) References in this rule to federal bankruptcy stays are to a stay under provisions of 11 U.S.C. Sections 105, 362, 1201, or 1301. As provided under UTCR 1.010(3), this rule is applicable to all cases that may be subject to a federal bankruptcy stay, including small claims cases.

7.060 AMERICANS WITH DISABILITIES ACT (ADA) ACCOMMODATION

(1) If special accommodation under the ADA is needed for an individual in a court proceeding, the party needing accommodation for the individual must notify the court in the manner required by the court as soon as possible, but no later than four judicial days in advance of the proceeding. For good cause shown, the court may waive the four-day advance notice.

(2) Notification to the court must provide:

(a) the name of the person needing accommodation;

(b) the case number;

(c) charges (if applicable);

(d) the nature of the proceeding;

(e) the person's status in the proceeding;

(f) the time, date, and estimated length of the proceeding;

(g) the type of disability needing accommodation; and

(h) the type of accommodation, interpreter, or auxiliary aid needed or preferred.

7.070 FOREIGN LANGUAGE INTERPRETERS

(1) If a foreign language interpreter is needed for a court proceeding, the party in need of an interpreter must notify the court in the manner required by the court as soon as possible, but no later than four judicial days in advance of the proceeding. For good cause shown, the court may waive the four-day advance notice.

(2) Notification to the court must include:

(a) the name of the person needing an interpreter;

(b) the case number;

(c) charges (if applicable);

(d) the nature of the proceeding;

(e) the person's status in the proceeding;

(f) the time, date, and estimated length of the proceeding; and

(g) the language to be interpreted.

7.080 INTERPRETERS' REQUESTS FOR INFORMATION

If requested by a neutral court interpreter, parties in civil and criminal cases shall provide a list of specialized terminology expected to be used in the proceeding in which the interpreter will be providing services. The list shall be provided prior to the commencement of the proceeding. The list shall be kept confidential by the interpreter and is not discoverable.