CHAPTER 1—General Provisions

1.010 SCOPE OF THESE RULES

(1) Effective October 1, 1985, these rules apply uniformly to all proceedings and actions in circuit court except those proceedings and actions specified in UTCR 1.010(3) or proceedings and actions for which a limited application is specifically provided by these rules.

(2) These rules shall be construed so as to achieve consistency with statutory provisions and to promote the just, speedy and inexpensive determination of every proceeding and action as well as the efficient use of judicial time and resources.

(3) Chapters 2 to 13 of the UTCR do not apply to small claims or violations or parking violations, except that:

(a) UTCR 7.050 applies to all cases that may be subject to a federal bankruptcy stay, including small claims cases.

(b) SLR relating to these subjects are placed in chapters as provided by UTCR 1.080(3).

(4) These rules apply to attorneys and to persons representing themselves.

1.020 AMENDMENT OF THESE RULES; EFFECTIVE DATE

(1) The UTCR may be amended by order of the Chief Justice.

(2) The effective date of any amendments to the UTCR shall be August 1 of each year, unless otherwise ordered by the Chief Justice.

(3) Proposed amendments to the UTCR will be posted on the Oregon Judicial Department website (http://www.ojd.state.or.us) and will allow no less than a 49-day period for public comment, unless otherwise ordered by the Chief Justice.

(4) Once approved by the Chief Justice, the final rules with any amendments which are adopted will be posted on the Oregon Judicial Department website (http://www.ojd.state.or.us) no less than 49 days before their effective date, unless otherwise ordered by the Chief Justice

(5) When either of the time limits set forth in subsections (3) and (4) of this rule have been waived by order of the Chief Justice, the amendment shall be posted for public comment as soon after adoption as is practicable, and the amendment shall be placed on the agenda of the next regularly scheduled UTCR Committee meeting.

(6) The UTCR Reporter may correct typographical errors, grammatical errors, and inaccurate website addresses if the correction does not change the substance of the rule. The UTCR Reporter shall give appropriate notice of corrections to the public.

REPORTER'S NOTE (8-1-04): Proposed amendments and final rules will continue to be published in the Oregon Appellate Courts Advance Sheets, but official notice will be posted on the Oregon Judicial Department website.

1.030 TRANSITION TO THESE RULES

(1) On their effective date, these rules, and any amendments, shall apply to all actions and proceedings pending on or commenced after that date, except to the extent that, in the opinion of the court, application of the amendments in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event, the former rules or procedures apply.

(2) Upon the effective date of these rules, and any amendments, all supplementary local rules (SLR) or portions thereof which are inconsistent with these rules or their amendments, are superseded, except that, when justice requires, a judge may order that an action or proceeding pending on that date be governed by the previous SLR or practice of the court.

1.040 LOCAL RULES OF COURT NOT PERMITTED; EXCEPTION

No circuit court may make or enforce any local rule except as provided in UTCR 1.030, 1.050 and 1.060.

1.050 PROMULGATION OF SLR; REVIEW OF SLR; ENFORCEABILITY OF LOCAL PRACTICES

(1) Promulgation of SLR

(a) Pursuant to ORS 3.220, a court may make and enforce local rules consistent with and supplementary to these rules for the purpose of giving full effect to these rules and for the prompt and orderly dispatch of the business of the court.

(b) A court must incorporate into its SLR any local practice, procedure, form, or other requirement ("local practice") with which the court expects or requires parties and attorneys to comply. A court may not adopt SLR that duplicate or conflict with the constitutions, statutes, ORCP, UTCR, Chief Justice Orders, Supreme Court Orders, disciplinary rules for lawyers, judicial canons, or ORAP. A court may not adopt SLR that establish internal operating procedures of the court or trial court administrator that do not create requirements or have potential consequences for parties or attorneys.

(c) Every court must promulgate an SLR governing the scheduling and notification of parties for criminal trials, show cause hearings and motions. A temporary rule may be issued for a specified period of time with Chief Justice approval if the procedures are under revision or study by the affected court.

(d) All forms required by SLR must be submitted as part of the SLR. Such forms shall be placed in an appendix and organized by chapter and SLR number. SLR and related forms shall contain cross-references to one another.

(2) Review of SLR

(a) The presiding judge must give written notice of any new rules and changes to existing rules to the president(s) of the bar association(s) in the affected district and allow the bar association(s) at least 49 days before the date of submission of the rules to the Office of the State Court Administrator (OSCA) to provide the presiding judge with public comment. Subsequent changes made to those SLR in response to recommendations from the UTCR Committee do not need to be submitted to the president(s) of the bar association(s) in the affected district.

(b) Proposed local rules will be considered by the Chief Justice or designee not more often than once each year. To be considered, the proposed rules and a written explanation of each proposed new rule and change to an existing rule must be received by OSCA on or before September 1.

(c) The Chief Justice or designee shall issue any disapprovals on or before December 15 of the same year.

(d) Judicial districts shall file with OSCA a final certified copy and a final electronic copy in PDF which must be received by OSCA no later than January 1 of the next year. Those SLR shall become effective on February 1 of the next year.

(e) Proposed local rules submitted to the Chief Justice for review under subsection (2)(b) of this rule must show the proposed changes to the local rule as follows: proposed new language in the SLR and proposed new SLR will be in bold and underlined, language proposed to be deleted and SLR proposed to be repealed will be in italics and have brackets placed before and after the deleted language ([...]). When final SLR are submitted to the State Court Administrator after review under subsection (2)(b) of this rule, changes shall not be indicated as required by this subsection.

(f) The Chief Justice may waive the time limits in this section upon a showing of good cause.

(g) If a local rule is disapproved, notice of that action shall be given to the presiding judge of the court submitting the rule.

(3) Enforceability of Local Practices Not Contained in SLR

When any local practice is not contained in a court's SLR, the court may not enforce such local practice or impose any sanction therefore, unless the court has first afforded the party or attorney a reasonable opportunity to cure the violation by complying with the local practice.

1987 Commentary:

Subsection (2) renumbered as paragraph (1)(c) as of August 1, 1994: This subsection requires a court to promulgate local rules governing the scheduling and notification of counsel for trials, show cause hearings, and for motions. The purpose of this subsection is to give counsel, everywhere in the state, notice of how critical case events are scheduled by each local court. The purpose of this subsection, therefore, is not to promote any particular calendaring procedure, but rather to eliminate unwritten rules of court.

1.060 NUMBERING OF COURT RULES

UTCR shall be numbered as follows:

(1) Chapters and sections shall be numbered with Arabic numerals. Chapters shall be designated to the left of the decimal point. Sections shall be designated to the right of the decimal point. There shall be three decimal places to the right of the decimal point.

(2) When a section consists of more than one primary paragraph, each shall be numbered with an Arabic number in parentheses.

(3) If a section contains only one primary paragraph, which includes secondary paragraphs, the primary paragraph shall not be numbered, but the secondary paragraphs shall be numbered with Arabic numbers in parentheses.

(4) If a section contains more than one primary paragraph, any one or more of which includes a secondary paragraph, the secondary paragraphs shall be designated by lower case letters in parentheses.

(5) The use of paragraphs beyond primary and secondary paragraphs should be avoided.

(6) SLR approved pursuant to UTCR 1.050 must conform to this rule.

1.070 CITATION OF COURT RULES

(1) The Uniform Trial Court Rules (UTCR) shall be cited as UTCR by chapter and section number. Paragraph numbers and letters shall be included in the citation when appropriate.

(2) Supplementary local rules of the trial courts shall be cited as SLR by chapter and section number. Paragraph numbers and letters shall be included in the citation when appropriate. Identification of the particular court, county or judicial district which issued the rules also shall be included when such identification is necessary.

1.080 FORMAT AND LOCATION OF COURT RULES

(1) All UTCR and SLR must include a table of contents; must be printed on paper measuring 8-1/2 x 11 inches; printing must be on both sides when practical; each sheet must be three-hole punched to fit a standard three-ring binder.

(2) When SLR are printed, each page of the rules must include a footer that shows the following: the page number, the revision date applicable to the set of SLR, the judicial district number, and the name of the court.

(3) SLR must be numbered as closely as possible to and in the same chapter as related UTCR, without using numbers reserved for UTCR. The following chapter numbers are reserved for the placement of SLR related to the subjects described for the chapter numbers:

(a) Chapter 12, SLR relating to mediation.

(b) Chapter 14, SLR relating to reference judges.

(c) Chapter 15, SLR relating to small claims.

(d) Chapter 16, SLR relating to violations.

(e) Chapter 17, SLR relating to local parking violations.

(f) Chapter 18, SLR relating to Forcible Entry and Detainer (FED) actions.

(g) Chapter 20, SLR relating to voluntary arbitration.

1991 Commentary:

For purposes of UTCR 1.080(3) the Committee did not intend that SLR required by UTCR 1.050(1)(c) be placed in Chapter 1 but intended that such SLR be placed in Chapter 7 or other chapters related to the particular subject.

1.090 SANCTIONS

(1) For failure to file a pleading or other document in the manner, the form or the time required by these rules or SLR, the court may strike the pleading or document.

(2) For willful and prejudicial resistance or refusal to comply with UTCR or SLR, the court, on its own motion or that of a party after opportunity for a hearing, may do any of the following:

   (a) Assess against the noncompliant party or attorney or both reasonable costs, expenses and attorneys fees incurred by a party, attorney or the court.

   (b) Otherwise award reasonable costs, expenses and attorneys fees incurred by a party, attorney or the court.

   (c) Strike the offending pleading or other document.

   (d) Treat as established an allegation or claim.

1.100 RELIEF FROM APPLICATION OF COURT RULES

Relief from application of these rules or SLR in an individual case may be given by a judge on good cause shown if necessary to prevent hardship or injustice.

1.110 DEFINITIONS

As used in these rules:

(1) Party means a litigant or the litigant's attorney.

(2) Trial Court Administrator means the court administrator, the administrative officer of the records section of the court, and where appropriate, means trial court clerk.

(3) Plaintiff and Petitioner mean any party asserting a claim for relief, whether by way of claim, third-party claim, crossclaim, or counterclaim.

(4) Defendant and Respondent mean any person against whom a claim for relief is asserted.

(5) Days mean calendar days, unless otherwise specified in these rules.

1.120 DISBURSING MONIES; MOTION AND ORDER

(1) The trial court administrator will not disburse monies without order of the court in any instance where the trial court administrator is unable to determine any of the following:

(a) The amount to be disbursed including, but not limited to, instances where the trial court administrator is required to calculate interest, past payments, or proceeds remaining from a sale.

(b) The specific party or parties to whom the trial court administrator is to disburse monies.

(2) In any instance described under subsection (1), the trial court administrator must give notice to the presiding judge and to any parties the trial court administrator can reasonably determine might have an interest in the monies. The following apply to notice under this subsection:

(a) Notice must be in writing.

(b) Notice must include all the following to the extent possible: an indication that it is being given under this section, the amount of the money in question, identification of the source from which the trial court administrator received the money, a copy of any papers received with the money, a description of the circumstances of receiving the money, identification of any case to which the trial court administrator can determine the monies may be related, and a description of the reasons for not disbursing monies.

(c) The trial court administrator shall enter in the register the fact of giving the notice, the time of giving notice, the manner of giving notice, and the persons to whom notice was given.

(3) At any time the trial court administrator does not disburse monies for reasons described under subsection (1) of this section or for any other reason, the court or any person with an interest in the money may submit a motion for an order to disburse the monies. The following apply to a motion under this subsection:

(a) Notice of the motion must be given to persons which the submitting party reasonably determines might have an interest in the money.

(b) The motion must indicate that it is being submitted under this section.

(c) The motion must include all the following: an explanation of the party's interest in the money, supporting mathematical calculations showing the amount of money that should be disbursed, any supporting documentation or affidavits that might assist the court in its determination, the name and address of the person to whom the monies should be disbursed, a proposed order to disburse.

(d) The motion is not a new filing or appearance but a continuation of an existing proceeding and no fee is required for filing the motion.

(4) If the court determines money is to be disbursed, the court must enter an order to disburse directing specific amounts of money held by the trial court administrator to be disbursed and specific persons to whom the trial court administrator is to disburse the monies.

(5) A trial court administrator must hold any monies subject to this section in the court trust account and follow the established accounting procedures until the trial court administrator receives the order to disburse.

1990 Commentary:

Situations to which this section applies include, but are not limited to, a trial court administrator receiving and being unable to disburse monies under ORS 23.300(3), 23.410(1), 23.490(5), 87.475(3), or 88.100.

1.130 TIME COMPUTATION

ORCP 10 shall be followed in computing any time period prescribed by these rules.

1.140 REQUESTS FOR EXTENDED RETENTION OF COURT RECORDS

(1) Notwithstanding the retention period established in the schedule adopted by the State Court Administrator under ORS 8.125, the following procedures allow persons to extend records retention as described:

(a) AUTOMATIC EXTENSION. Any party to a case may request an automatic extension of retention for records described in this paragraph that are related to the person's case. A trial court administrator will automatically grant a request under this paragraph. The court will not discard records subject to the request before one year from the date of entry of the request for automatic extension in the register of actions. A party may submit a new request under this paragraph prior to the expiration of a previous request. An automatic extension of records retention under this paragraph can apply only to the following records for the requestor's case:

(i) Records shown by the register maintained under ORS 7.020 as having been received by the court in the case, other documents maintained in the court file specifically established for the case, and the register of actions and judgment docket for that specific case.

(ii) The audio or video recordings and logs, court reporter notes or transcripts for that case which the court has and which are identified with the case number.

(b) JUDICIAL EXTENSION. Any person may request a judicial extension of the retention period for any records maintained by a court as described by this paragraph. Granting a request under this paragraph is at the court's discretion. The court will not discard records for which an extension is granted under this paragraph before the date certain set in the extension order. Where an extension order under this paragraph does not establish a specific date for extended retention, the extension runs for one year from the date an order granting the extension is entered in the register of actions. A request for a judicial extension under this paragraph can be made:

(i) For records not covered by paragraph (a) of this subsection.

(ii) By a person seeking an extension for records subject to paragraph (a) of this subsection for a period longer than provided under paragraph (a).

(iii) By any person not allowed to request an automatic extension under paragraph (a) of this subsection.

(2) EVERY REQUEST under this rule must:

(a) Be in writing, or where available, on the form specified by the court.

(b) Be submitted to the trial court administrator for the court where the records are maintained.

(c) Where the records subject to a request relate to a specific case, specify the case number and case title for the applicable case.

(d) Indicate that the request is being made under this rule.

(3) In addition to the requirements under subsection (2) of this rule, every request for an AUTOMATIC EXTENSION under this rule must:

(a) Be notarized.

(b) Specify the records described under paragraph (1)(a) of this rule to which the request applies.

(c) Be a separate request for each case.

(4) In addition to the requirements under subsection (2) of this rule, every request for a JUDICIAL EXTENSION under this rule must:

(a) Be accompanied by a supporting affidavit giving the reason for the request.

(b) Include a proposed order which provides a specific date to which the extended retention will run.

(c) If the request relates to records not described under paragraph (1)(a) of this rule, specify the records with sufficient detail for the court clerk to be able to identify the records to be retained. A request does not meet the requirement to specify records with sufficient detail for purposes of this paragraph if a request requires a clerk to perform substantial research to either identify the records or determine whether the records exist.

(d) If the request relates to records described under paragraph (1)(a) of this rule, specify the records described under paragraph (1)(a) of this rule to which the request applies.

(5) No fee will be charged for a request under this rule.

(6) Where the schedule adopted under ORS 8.125 specifies that a retention period runs from last document entry in the register of actions, entry in the register of a request or order granting or denying a request under this rule changes that retention period only to the extent granted under, according to the provisions of, and for the times established by this rule.

1.150 HOURS OF COURT OPERATION

Each judicial district must adopt an SLR to announce where the following information can be found: when each court location in the judicial district is open to conduct business; the hours when papers will be received and may be filed at each location, if different from when the court location is open to conduct business; and special arrangements, if any exist or may be made, for filing of documents at times when the court location is not open to conduct business. SLR 1.151 is reserved for SLR adopted under this section.

1.160 FILING OF DOCUMENTS IN COURTS; LOCAL SLR

(1) Except as provided in subsection (2) of this rule, a document to be filed with the court or the clerk of court or the trial court administrator must be filed with the office of the local trial court administrator or designee. No document delivered to a judge, judge's staff, judge's mailbox, courtroom, or chambers is filed until it is received by the office of the trial court administrator or designee. For every document to be filed, other than an order or judgment submitted to a judge for signature, the original is to be delivered to the trial court administrator's office.

(2) Notwithstanding subsection (1) of this rule, local courts may adopt SLRs to allow filing of documents in places other than required by subsection (1). Such SLRs may allow such filing generally or in specific circumstances as convenient to the court adopting the SLR. SLR number 1.161 is reserved for the purposes of such SLRs.

1.170 COURT WEBSITES

SLR 1.171 is reserved for judicial districts to announce the website addresses of their courts. Links to these websites may also be found at the Oregon Judicial Department website: http://www.ojd.state.or.us.

1.200 INFORMATION ON FREE OR LOW-COST LOCAL LEGAL SERVICES

Each judicial district must post in a conspicuous location information, including the telephone numbers, of any free or low-cost legal services and other relevant services available in the district and the nature of those services.