

**OPERATING STATEMENT  
COMMERCIAL COURT PROGRAM  
SECOND JUDICIAL DISTRICT  
LANE COUNTY CIRCUIT COURT**

The Commercial Court Program (Commercial Court) of the Second Judicial District (Lane County Circuit Court) was implemented on October 1, 2006. This Operating Statement sets forth the manner in which the Commercial Court will operate generally. It is intended to supplement the Oregon Rules of Civil Procedure (ORCP), Uniform Trial Court Rules (UTCRC) and Lane County Supplementary Local Rules (SLR) in a manner that will provide judges and litigants with appropriate procedural mechanisms for the fair, efficient and expeditious management of commercial and business litigation. The Commercial Court is designed to handle commercial disputes that would be burdensome to the normal docket of the court. The Commercial Court is not intended to replace the normal civil docket of the court. This Operating Statement must be read together with applicable provisions of ORCP, UTCRC and SLR.

**I. VENUE**

Any party may file a motion to have a case assigned to the Commercial Court. The court, on its own motion, may assign a case to the Commercial Court. The presiding judge or the presiding judge's designee shall hear the motion. The ruling on the motion is final and is not subject to review or appeal, except that the presiding judge or the presiding judge's designee may, for good cause shown, remove a case from the Commercial Court.

Cases assigned to the Commercial Court shall be under the direct supervision of a single judge for all purposes including referral to mediation, assignment to a settlement judge, and trial. Cases that properly fall within the jurisdiction of the Circuit Court of the State of Oregon with venue in any other judicial district of the state may be transferred to the Lane County Commercial Court. A party to a case filed in another judicial district who seeks assignment to the Commercial Court shall first confer with the other parties and the Lane County presiding judge or the Lane County presiding judge's designee to determine whether the case is appropriate for assignment to the Commercial Court. If the case is determined to be appropriate for the Commercial Court, the party seeking such assignment shall then apply for change of venue pursuant to ORS 14.110(1)(c). Upon completion of the change of venue, that party shall move to have the case assigned to the Commercial Court pursuant to SLR 7.031(1).

## **II. ADMINISTRATIVE AND TECHNICAL SUPPORT**

The Second Judicial District will provide staff, administrative, and technical support for the Commercial Court Program as needed, including tracking cases and maintaining a database of commercial court cases accepted and denied.

## **III. TYPES OF COMMERCIAL COURT ACTIONS**

The determination of whether a case will be accepted in the Commercial Court shall be within the discretion of the Presiding Judge pursuant to SLR 7.031(1). The Presiding Judge may consider the following types of actions in determining assignment to the commercial court.

1. Actions relating to internal and external affairs of businesses.
2. Actions, including preliminary injunctions, relating to trade secret, non-compete, non-solicitation and confidentiality agreements.
3. Securities transactions.
4. Insurance coverage actions where the underlying action involves a commercial dispute or insurance coverage actions where there are multiple layers of applicable insurance coverage.
5. Cases involving electronic technology and intellectual property cases.
6. Commercial real property disputes.
7. Land use cases.
8. Construction defect cases.
9. Professional malpractice cases.
10. Product liability, medical device litigation and pharmaceutical litigation.
11. Mass tort litigation and other multiple party litigation.
12. Environmental litigation including environmental insurance coverage cases.
13. Class Actions.
14. Other cases assigned at the discretion of the presiding judge or presiding judge's designee.

## **IV. CASE MANAGEMENT POLICIES**

If a case is assigned to the Commercial Court, the parties shall be bound by these policies and shall be obligated to:

1. Attempt in good faith to achieve early resolution of their dispute by use of appropriate forms of non-binding alternative dispute resolution (ADR) to which the judge may direct the parties to engage, or such other forms of ADR in which the parties may agree.
2. Cooperate in identifying, and thereafter promptly engaging in, limited-issue discovery in aid of early dispositive motions or settlement;

3. Cooperate with each other and the court in establishing a firm discovery plan and entering into appropriate stipulations for the purpose of saving time during the pretrial and trial phases of the case.
4. Cooperate with each other and the court in good faith efforts to reach a fair and reasonable settlement or other final resolution of the case.

## V. CASE MANAGEMENT PROCEDURES

1. **Initial Case Management Conference.** A case management conference shall be held within thirty days of assignment to the Commercial Court. The purpose of the initial case management conference is to identify the essential issues in the litigation and to avoid unnecessary, burdensome, or duplicative discovery and other pretrial procedures to ensure the prompt resolution of the dispute. The following shall be considered at the initial or subsequent case management conferences:
  - a. assignment of a trial date within 12 months of initial filing;
  - b. determining whether additional parties are essential to the complete resolution of the case and set a time limit for a determination of filing of third-party complaints or bringing in additional parties;
  - c. determining whether severance, consolidation or coordination with other actions is desirable;
  - d. setting a discovery schedule and determining if protective orders or other limitations allowed by ORCP 36C are appropriate;
  - e. setting a time schedule for motion practice;
  - f. determining at what point the case can be referred to mediation or a settlement judge and the identity of the assigned neutral (the case can be assigned to a private mediator, or any other judge that the parties agree upon). However, if the case has not settled within 45 days of the trial date, the case shall be assigned for settlement conference to a judge other than the trial judge;
  - g. use of technology, videoconferencing and/or teleconferencing;
  - h. organizing a master list of contact information for counsel;
  - i. determining the method of jury selection, juror questionnaires and voir dire;
  - j. such other matters as the court or the parties deem appropriate to manage or expedite the case;
  - k. determining if a Rule 104 hearing is necessary on scientific issues and setting a schedule for such hearing;
  - l. scheduling of further conferences.
2. **Meeting of parties before conference.** Before the date set by the court for the initial case management conference, all parties shall meet and confer concerning the matters to be raised at the conference and shall attempt in good faith to reach agreement on as many of the

issues as possible. The parties shall report the results of their conference to the court at the case management conference.

**3. Sanctions.** Any party who fails to participate in good faith shall be subject to sanctions as set forth in ORCP 46B and UTCR 1.090.

**4. Pretrial preparation of exhibits and stipulations.** No later than ten days prior to trial the parties shall meet and disclose all exhibits (except impeachment exhibits) to each other. They shall be numbered. The parties shall attempt to agree upon the receipt of exhibits and shall file with the court a list of exhibits indicating the status of each exhibit. Likewise, the parties shall attempt to agree upon foundation of other exhibits to which they might have substantive objections. Any such agreement will be noted on the exhibit list filed with the court. The trial judge shall meet with the parties upon completion of the above to resolve any disputes on exhibits or other matters upon which a stipulation might be reached to make the trial more efficient.

## **VI. COMMERCIAL COURT DECISIONS**

Written decisions explaining a ruling may be posted on the Lane County Circuit Court Web Site under a Commercial Court category.

## **VII. TERMINATION OF COMMERCIAL COURT CASE**

If a case is assigned to the Commercial Court from Lane County, and the assigned judge finds good cause to remove the case from the Commercial Court, the assigned judge shall confer with the Presiding Judge. If the Presiding Judge agrees, the case shall be removed from Commercial Court and placed on the regular Lane County court docket.

If the case is transferred to the Commercial Court from another judicial district and the assigned judge finds good cause to remove the case from the Commercial Court, the assigned judge shall confer with the Presiding Judge. If the Presiding judge agrees, the Presiding Judge or the presiding judge's designee shall discuss the removal and return of the case with the Presiding Judge of the originating district before action is taken. The case may be placed on the regular Lane County court docket or transferred to another judicial district pursuant to ORS 14.110 and 14.120.