

## **MANDATORY ARBITRATION PROGRAM**

**Cases to be arbitrated:** The statutory scheme for the mandatory arbitration program is found in ORS 36.400 to 36.425. It applies to civil cases where the only relief claimed is for the recovery of money or damages and the amount claimed is less than \$50,000.00, exclusive of attorney fees, costs and disbursements. Mandatory arbitration also applies to domestic relations suits in which the only contested issue is the division or other disposition of property between the parties.

Indicate in the caption of your pleading if the case is not subject to mandatory arbitration.

The procedures for arbitration are set forth in the provisions of ORS 36.400 to 36.425, Chapter 13 of the Uniform Trial Court Rules and Chapter 13 of Clatsop County Supplementary Local Rules.

Cases may be exempted from arbitration or removed from arbitration by a Clatsop County Judge if good cause exists for that exemption or removal. Under UTCR 13.070 a Motion for Exemption must be filed within 14 days after notification by the court that the case is being transferred to arbitration.

Other civil cases that exceed the jurisdiction limit may go to arbitration on the stipulation of the parties.

**Who will be your arbitrator?:** As soon as all parties have appeared in a case, the court will send the attorneys a Notice Assigning Case to Arbitration and attached Notice of Selection of Arbitrator Form which will provide a random list of three (3) proposed arbitrators. The parties may stipulate to an arbitrator from the list provided or another arbitrator of their choice.

If the parties do not stipulate to an arbitrator, each party may strike one unacceptable name and return the list to the court within 14 days. The clerk will then appoint an arbitrator from those remaining on the returned lists and notify the arbitrator and all parties.

Unless otherwise ordered or stipulated, an arbitrator must be a member of the Oregon State Bar, must have been a member of any bar for at least five years, or a retired or senior judge.

**Setting the hearing date:** It is the arbitrator's responsibility to set the date in accordance with the arbitration rules. The hearing should be held in a neutral location, unless otherwise agreed to by the parties, and should not require more than a half day. A Notice of Arbitration Hearing Date will be sent to the parties with the original to the Arbitration Clerk for posting pursuant to ORS 36.420.

**Pre-hearing statement of proof:** Each party shall provide the arbitrator, at least 14 days prior to the hearing, with copies of pleadings and other documents contained in the court file which they deem relevant. Parties shall also provide a list of exhibits to be offered, witnesses to be called, and an estimate of length of hearing. The arbitrator may suggest that parties submit exhibits at the time pre-hearing statements of proof are submitted.

**Motions:** In arbitration eligible cases all motions, including Motion for Summary Judgment, must be filed with the court and a copy sent to the arbitrator. These motions will be determined by the Arbitrator.

The following are exceptions to this procedure: Resignation of Counsel, Motion to Set Aside, Motion for Change of Venue, Bankruptcy Stay.

**Compensation:** The fees set by the Commission are \$250.00 per hour, with a maximum of \$1,000.00 per day. If extraordinary conditions justify a different fee, and all of the parties agree, the fees may be adjusted accordingly. If any party does not concur, the arbitrator shall ask the court to determine an appropriate fee. (UTCR 13.120). These fees should be tendered to the arbitrator within 14 days of the appointment of arbitrator. The arbitrator may not charge for incidental expenses such as phone costs, copying costs, postage, mileage, etc. Travel time will not be compensated.

If the plaintiff fails to pay the prescribed fee within fourteen (14) calendar days of assignment, the court may exercise its authority under UTCR 1.090 to strike the complaint which constitutes dismissal of the proceedings, absent relief prescribed by ORS 36.420(3).

If the defendant fails to pay the prescribed fee within fourteen (14) calendar days of assignment, the Court may exercise its authority under UTCR 1.090 to impose an appropriate sanction.

At the conclusion of the work, the arbitrator will provide the parties with an itemized statement of time spent and if appropriate, a pro rata refund to the parties.

A waiver/deferral of fees shall be governed by ORS 36.420.

**Arbitrators Award:** Pursuant to the directives of UTCR 13.210, the arbitrator will complete the Arbitrator's Award and it will be filed with the court and served upon the parties as directed in UTCR 13.220.

**Exhibits:** All exhibits will be returned to the appropriate parties by the arbitrator.