RESPONDING TO A PETITION FOR SEPARATION WITH CHILDREN

What these forms do

This set of forms will help you respond to a *Petition for Separation*. Before you fill out your *Response*, review what your spouse or partner has asked for in the *Petition* and think about how you want to handle the issues. If you want to claim spousal/partner support or a share of the petitioner's retirement benefits, you must include your claims as "counterclaims." If you do not put your claims in the *Response*, you may lose your right to receive an award.

Symbols used in this form:

	Important Note
	STOP! You may not be able to use this form
	Caution! You may need a lawyer
	Concerns children
	Concerns money
	Timing requirement

Same-sex couples

If either of you is not the biological or adoptive parent of one of your children, see a lawyer before using these forms, even if both of your names are on the birth certificate. You may need to complete an additional step to get a "Declaration of Parentage" for full legal recognition of your parenting rights. Click *here*[1] for more information.

If Both Parties Already Agree

If you agree with all of the terms in the *Petition* you may not need to file a *Response*. You can sign a stipulated *Judgment*.

If you do not respond and do not sign a stipulated judgment, the Petitioner can ask the court for an *Order of Default*. Judgment will then be entered based on the terms in the *Petition* and without input from you.

[1] http://www.osbar.org/public/legalinfo/LGBTRights.html

TABLE OF CONTENTS

Information about Separation **3**

Step 1: Filing Your Response **5**

Filling Out the Forms 5

Custody and Parenting Time (Visitation) 6

Child Support 7

Spousal/Partner Support 8

Property and Debts **9**

Service 10

Step 2: Temporary Orders **11**

Domestic Violence 11

Step 3: Resolving Your Case **12**

By Default 12

The Judgment **14**

Appendix A– Custody and Parenting Plans **16**

Appendix B - Support for a Child Attending School **18**

Appendix C – Uniform Support Declaration **19**

Appendix D – Statement of Assets and Liabilities **20**

Appendix E– Statutory Restraining Order **23**

Important Contact Information

Oregon Judicial Department – *www.courts.oregon.gov*

Oregon State Bar Lawyer Referral Service – *www.oregonstatebar.org*

Phone: 503.684.3763 or toll-free in Oregon at 800.452.7636

If you are deployed or about to be deployed, contact the Oregon State Bar Military Assistance Panel (*www.osbar.org/ docs/ris/militaryflier.pdf*) for information about special rights and rules that may apply to you.

Information about Separation

- **Duration** - Legal separation can be for a specific period of time (**limited**), or it can have no set end time (**unlimited**). A limited separation will end when the judgment says so, and your marriage or Registered Domestic Partnership (RDP) will be fully intact. Even in a separation of unlimited duration, you may still get divorced or get back together, but you will need to have the court legally change your relationship.

- **Petition and Judgment** - A separation case starts with a "petition." The *Petition* tells the court what the petitioner wants. It ends with a "judgment," which is the court's final decision. The *General Judgment* is the document that finalizes your case and contains your rights and responsibilities. Your separation is effective once the judge signs the judgment. *(See "The Judgment" section for more details about the terms of your judgment)*
  - **NOTE:** the *General Judgment* in this case will create rights and responsibilities that may become permanent. Custody, parenting time, and support orders often can be modified later, but property orders usually can't. Talk to a lawyer if you have questions about these issues.
  - If you do not request child or spousal/partner support in your *Response*, the court will not be able to order it later.
  - You may be entitled to part of the petitioner's retirement benefits (including pensions). If you do not address retirement benefits in your *Response*, you will lose the right to claim your share except in very limited circumstances. These forms cannot be used to *divide* a party's retirement benefits. Talk to a lawyer first if you want to claim a portion of the petitioner's retirement benefits.

- **Divorce** - You can convert a separation into a dissolution (divorce) now or within 2 years of the judgment of separation. After the judgment, conversion requires an additional legal procedure, filings, fees, and appearances. Talk to a lawyer if you have concerns or need advice about the best course to take.

- **Contact Information** - Keep the court and all other parties informed of your current address. **You don't have to use your home address.** You may use any contact address where you regularly check in, as long as it is in the same state as your home. The court will assume that you receive all notices and documents sent to that address. **It is YOUR responsibility to let the court and other parties know if you move or want to get mail at a different address.**

- **Name Change** – if you changed your last name when you got married or registered as domestic partners and want to change it back to a former legal name, you can request that on your *Response*. **NOTE:** You *cannot* use this form to change your name to a name you have never used before.
  - RDPs: If you changed your name through a separate name-change judgment and want to change it back, you should also file for another judgment to do that. Do not rely on the separation judgment to be effective for all purposes, especially federal records like Social Security, Medicare, and immigration. Talk to a lawyer if you have concerns

- **Co-Parenting Education -** Many courts require that parents of minor children go to a court-approved co-parenting class. Some courts will not allow you to finalize your case until you have completed the class and filed a certificate of completion with the court. Contact the court to see if you have to sign up or if the court will send you information after you file.

- **Statutory Restraining Order –** Both you and Petitioner must obey a restraining order preventing *either* of you from:
  - Dissipating (transferring, selling, destroying, removing, disposing of) real or personal property
  - Making changes to insurance policies without the agreement of the other party
  - Making extraordinary expenditures (unusual or high-dollar payments or purchases). Expenditures that are necessary for the safety or welfare of the parties, ordinary business activities, or related to the court case are allowed.

  The order is effective on both you and Petitioner once you have been served with the *Petition*. *(See Appendix E for the text of the Order)* If you violate the order, you may be held in contempt of court and subject to penalties. You may request a hearing if you object to any of the terms in the Statutory Restraining Order. You must fill out and file a ***Request for Hearing re: Statutory Restraining Order*** form.

Notice about these instructions and forms

These instructions are not a complete statement of the law. They cover basic procedures for simple separation cases involving custody, parenting time, and child support. If you have complicated issues or questions about the law, talk to a lawyer.

All of the necessary forms should be online. If you cannot find a form, ask your local court.

Each court has local rules, programs, and procedures that may not be explained in these instructions. Refer to the Supplementary Local Rules for your county. These rules are available online or at your local court or law library. Forms and information about your local court are on the Oregon Judicial Department website.

STEP 1: FILING YOUR RESPONSE

You have **30 days** from the date you were served with the *Petition* to file a written *Response* with the court clerk and pay the filing fee. See page 10 for fee information.

Counterclaims - In the *Response*, you can say that you disagree with certain things that the Petitioner has asked for. You can also ask for things that you want the court to order that were not included in the *Petition*. These are called "counterclaims."

Filling Out the Forms

- MAKE SURE YOU COMPLETE THE COUNTY NAME AT THE TOP OF THE FIRST PAGE OF EACH FORM!

- **You are the "Respondent" on ALL forms throughout this case, and your spouse or partner is the "Petitioner."**
    - Use full names (first, middle or middle initial, last) and print names the same way on all forms – *first, middle, last*.

- **Mandatory Arbitration** - If the ONLY disagreement between you and the petitioner is about property, mark in the caption that the claim ***IS*** subject to mandatory arbitration. *(See "Step 3 – Resolving Your Case" for information about arbitration)*
    - If you disagree about any issue OTHER than property, mark that your claim ***IS NOT*** subject to mandatory arbitration.

Claim { ☐ is ☐ is not } subject to mandatory arbitration

- **Do not put Social Security numbers on your *Response***. Social Security numbers must be given to the court but kept confidential from the public and the other party. Use the *"Confidential Information Form" (CIF)* to protect your identifying information.
    - You must also send a *"Notice of Filing of Confidential Information Form"* to the petitioner. You can serve this with your other documents. See below for information about service.

- **Adult Children (18, 19, 20 years old)**
  If you and the petitioner have any children together who are 18, 19, or 20 years old, each child is a necessary party to this case. Anything you serve on the petitioner must also be served on each adult child. This does not apply if the child is married or was previously emancipated in a separate legal procedure.
  - An adult **Child Attending School** (defined at ORS 107.108) may be entitled to child support until he or she turns 21. Read ORS 107.108 for more information about the specific rights and obligations that apply to a Child Attending School. Or go to: *http://oregonchildsupport.gov/services/pages/child_attending_school.aspx*.

Keep In Mind:

- Issues involving the debts of separated couples are complicated. Talk to a lawyer if either of you might declare bankruptcy, especially for Registered Domestic Partnerships (RDPs). Your judgment of separation affects you and the petitioner, but does NOT bind your creditors. Either party may still be responsible for the debts in spite of this judgment.
  - ✓ Talk to a lawyer if either party is already in bankruptcy. The court may not be able to proceed with your separation until the bankruptcy is resolved.

- **Registered Domestic Partners** (RDPs) should see a lawyer if partner support is requested and either party might move out of state. If the new state does not recognize RDPs, you may have trouble collecting partner support.
  - ✓ Note: Only same-sex couples can have Registered Domestic Partnerships.

- You may be entitled to part of the petitioner's retirement benefits. See the "Property and Debts" section for important information. You may lose this right if you do not include it in your *Response*.

- If Petitioner provides health or other insurance for you, check with each carrier to find out if coverage can be continued during your separation. If so, you must include this in the *Judgment*. If insurance coverage is not included in the *Petition*, you must include it in your *Response* as a counterclaim. Talk to a lawyer if you have any concerns about continuing coverage.

CHILDREN

Custody and Parenting Time (Visitation)

Read ORS 107.137 to see what a court will consider when awarding custody. The most important factor is *always* the best interest and welfare of the *child*.

Custody and Parenting Time

Joint and Sole Custody are legal terms that generally refer to the right to make certain decisions about the child. How much time each parent has with each child

("parenting time") is controlled by the parenting plan. The court can only award joint custody if both parents agree to all of the terms. In most cases, both parents will have equal rights to information about the child regardless of the type of custody ordered. Both parents will have time with the child unless the court orders otherwise.

Parenting Plans
A parenting plan is required for all cases involving a minor child. The plan sets out the schedule and may include rules for each parent's time with the child (formerly called "visitation"). If you and Petitioner don't agree on a parenting plan, the judge will order one. Check your local court's family law website for sample plans your court may have.

See *Appendix A* for more information and resources about custody and parenting time.

Note: If Petitioner has marked the box titled "Parental Authority under ORS 107.154" you should read that law closely. If the court awards sole custody to one parent, the other parent has certain rights regarding information about the child. If this box is checked, the petitioner is asking the court to suspend those rights. Talk to a lawyer if this is an issue in your case.

Moving – The *Judgment* will prohibit either parent from moving more than 60 miles farther away from the other parent without giving written notice to the court and the other parent. Check the *Petition* to see if the petitioner asked for a waiver of this requirement.

You can ask the judge to waive this rule by checking the appropriate box on the *Response* and explaining why you should not have to give notice of a move.

SUPPORT

NOTE: If the petitioner has asked that child or spousal/partner support be payable as of the date of service, you are not required to begin making payments until ordered by the court.

Child Support

Calculating Child Support
In most cases, the court will order child support if you have a child and no child support order already exists. Go to *www.oregonchildsupport.gov/calculator* for worksheets and an interactive program to calculate support. Click on this link:

Go to Guidelines Calculator

Worksheets must be submitted to the court before a judgment can be entered. You can submit them with your *Response*.

- **NOTE:** If you request a child support amount that is *different* from what the calculator or worksheet says, you *must* explain why and how you reached that amount. If not, your case may be delayed until you explain the difference.

Payment of Child Support

Support is usually withheld from the payor's (the person who has to pay the support) paycheck. The court may allow an exception to the income withholding requirement if you qualify under ORS 25.396 and if you request an exception in the *Response*. If the court grants an exception to income withholding, payment can be deposited into the receiver's bank account. If you are *paying* child support directly to the other parent, you should keep proof of every payment, including a receipt if you pay cash.

Child support is NOT taxable as income or deductible to either party.

Note: support is available to adult children who attend school at least half time. See *Appendix B* for more information.

Health Insurance

Your judgment *must* address health insurance for any minor child involved in your case. Health insurance coverage may be provided through an employer or directly from an insurance carrier, or from a public option such as the Oregon Health Plan, which you have to apply to the state for.

Cash Medical Support

In addition to child support, the court may order "Cash Medical Support." Cash Medical Support is to help pay for health insurance and out-of-pocket medical expenses.

If health insurance is not available, the court must order Cash Medical Support unless the judge finds reasons not to. In some situations the judge cannot order Cash Medical Support.

Go to *http://oregonlawhelp.org/resource/insurance-for-children* for additional information about insurance

Spousal/Partner Support

There are three different categories of spousal or partner support in Oregon:

- **Transitional** support is to help you get work-related education and training
- **Compensatory** support may be ordered if you significantly contributed to the education, training, vocational skills, career, or earning capacity of your spouse or partner
- **Maintenance** may be ordered for your general support

Either party may request and be awarded support. More than one type of support may be awarded. Any award may be ongoing or for a particular period of time (such as 3 years, while in school, up to a certain amount, etc.).

If you and Petitioner do not agree on support, you need to submit a ***Uniform Support Declaration***. See Appendix C for more information.

For more information on factors the judge will consider when making the award, see ORS 107.105.

- **NOTE:** Support is also available to **Registered Domestic Partners**. If either partner might leave the state or declare bankruptcy, you should see a lawyer.

Talk to a tax professional about tax impact of spousal/partner support.

Life Insurance

The court can order a party to carry life insurance if that party is ordered to pay either child or spousal/partner support. Life insurance in connection with a support obligation is for the benefit of the person receiving support.

PROPERTY AND DEBTS

You need to tell the court how you want to divide your property and debts. You should be as specific as possible and include everything you and the petitioner own or owe. If any property or debts are not included in this judgment, you cannot return to court to make changes later except in very limited circumstances.

You may be entitled to part of the petitioner's retirement benefits (including pensions). If you do not address retirement benefits in your judgment, you will lose the right to claim your share except in very limited circumstances. These forms cannot be used to *divide* a party's retirement benefits. Talk to a lawyer first if you want to claim a portion of the petitioner's retirement benefits.

STATEMENT OF ASSETS AND LIABILITIES

If your case goes to trial you will need a *Statement of Assets and Liabilities*.

See Appendix D for more information.

Have your documents reviewed

You may have your documents reviewed by a lawyer or a court facilitator before you file. Call your court or go to *www.courts.oregon.gov* to see if your court has a facilitator available. Court facilitators are free. For information about how to find a lawyer, call the Oregon State Bar at the number on Page 1. If you are low-income, you may get your documents reviewed for a smaller fee through the Oregon State Bar's Modest Means program, or call your local Legal Aid office.

Service

Make two copies of all of your completed forms. One for your records and one for Petitioner.

- If Petitioner **does not** have a lawyer, mail a copy to Petitioner's address.
- If Petitioner **is represented** by a lawyer, you must **instead** mail the copy to the lawyer.

MAIL the petitioner's copy to the petitioner or the petitioner's lawyer by US mail. THEN fill out the ***Certificate of Mailing*** at the bottom of the *Response*.

File the forms and pay fees

File the original forms listed below with the court clerk. You will have to pay the filing fees when you file your papers. Go to *www.courts.oregon.gov* for the filing fee.

- ***Response*** *(with Certificate of Mailing completed)*
- ***Confidential Information Form***
- ***Notice of Filing of Confidential Information Form***

- If you are low income, you may ask the court to defer or waive your filing fee. You must complete an ***Application and Declaration for Deferral or Waiver of Fees*** and an ***Order Regarding Deferral or Waiver of Fees*** and file them with your papers if you cannot pay the fees. If the fee is waived, you don't have to pay it now. However, the judge may reconsider waived and deferred fees at the end of the case.

Contact Information - Keep the court and all other parties informed of your current address. **You don't have to use your home address.** You may use any contact address where you regularly check in, as long as it is in the same state as your home. The court will assume that you receive all notices and documents sent to that address. **It is YOUR responsibility to let the court and other parties know if you move or want to get mail at a different address.**

STEP 2: TEMPORARY ORDERS

You can ask the court to make temporary orders. Temporary orders are effective as soon as a judge signs the order. They last until a judge changes the terms, signs the *General Judgment*, or dismisses the case. For example, either party may request an order for spousal/partner or child support, or an order about temporary use of property. To make any of these requests, you must file a "motion" (request) asking the court to do what you want. You may need a lawyer to file these requests.

- **NOTE:** The *General Judgment* may affect earlier temporary orders done by Limited Judgment. Talk to a lawyer if you have questions.

One type of temporary order is called a *Status Quo Order*. This order prevents either parent from changing the children's normal schedules, interfering with parenting time by the other parent, or changing where the children live. This does *not* decide custody or say who can make major decisions for the children. "Normal schedule" means the children's schedule for the three months before the request for a *Status Quo Order* is filed.

Go to *www.courts.oregon.gov* for the forms to request or oppose temporary orders. The forms may not cover all temporary orders you need. Talk to a lawyer for more information. If the petitioner has already filed for or been granted temporary orders, you can request a hearing to challenge or change the orders.

Domestic Violence

All courts have restraining order forms for cases involving domestic violence. A judge will usually hear your request within a day or two of filing. Check with your local court for filing times and procedures.

Refer to *www.courts.oregon.gov/fapa* for Family Abuse Prevention Act (FAPA) forms and information.

Forms for other types of protective order are available at *www.courts.oregon.gov/forms*

STEP 3: RESOLVING YOUR CASE

There are three ways your case can be resolved: by agreement between the parties, by default if you don't respond, or by a judge in a hearing.

By Agreement

It is always better to resolve issues yourselves, since you know what's important to you. Once the case goes to a judge, it is out of your control. If you can't resolve the issues on your own, or if it is not safe for you to talk to Petitioner, the court may provide options to help you, including mediation and arbitration. For information about arbitration, see "By Trial" section below.

Mediation: A mediator is a person trained to help people resolve disagreements. Mediation is confidential. You may ask to meet with the mediator alone if you are uncomfortable meeting with the other party for any reason. Check with your local court clerk to see if there is a fee for this service. Mediators are *not* judges – they cannot impose their decisions on you. Their job is to help *you* reach an agreement. This may be your last chance to retain control over the outcome of the case. Agreements incorporated into a *Judgment* are fully enforceable *(see below)*.

Some courts may require that you mediate before you have a hearing. Check your court's Supplemental Local Rules for more information.

If mediation has not yet been ordered in your case and you would like to request it, you may file a ***Request for Mediation*** form. If your court requires mediation, you may request that the court waive mediation if you have a good reason by filing a ***Motion and Declaration for Waiver of Mediation***. Talk to your court if you have safety concerns.

If you and Petitioner have agreed to all of the issues, one of you must fill out and file:

- ***Declaration in Support of Judgment***
- ***General Judgment of Separation***

  Note: The *Judgment* must be signed by both parties before being submitted to the court.

By Default

If you do not respond to the *Petition* in writing within 30 days of receiving it, the petitioner can ask for an *Order of Default*. This means that all of the requests in the *Petition* will be ordered as part of a *Judgment* without input from you.

If you are on active duty in the military, you may be protected from judgments by default by the federal Servicemembers Civil Relief Act (SCRA) (50 U.S.C. § 3901). The rules about whether you can be protected are very technical and complex. DO NOT rely on your enlistment status to protect you. Speak to a legal advisor or call the state bar association (page 2) if you have concerns or questions.

- If you choose to waive your rights so that Petitioner can get a judgment by default, file a waiver of your right to stay proceedings. The courts do not provide a form for this.

By Trial

If you filed a response and are unable to agree on the terms of a judgment, your case may go to trial

Informal Domestic Relations Trials (IDRTs) are available in all courts if both parties agree. See UTCR 8.120 for more information. Each court handles IDRTs differently. Contact your court for more information.

Conferences with the Judge

Many courts will schedule a "status," "pretrial," or "settlement" conference before a case goes to trial. These meetings usually take place with a judge with both parties present, along with their lawyers (if any). You must attend any conferences that are scheduled unless you have received permission from the judge not to attend. At the conference, the judge may talk to you about how your case is going to be handled, consider requests for temporary orders, or set future court dates.

Some courts may refer certain cases to arbitration. You will receive information from the court if that happens.

- Many courts require that you mediate before you can get a trial. See the BY AGREEMENT section above.

NOTE: You must give the other party an opportunity to review the judgment before you submit it to the court. See UTCR 5.100 for information.

You can represent yourself at trial. Some courts provide information about representing yourself on their websites. Go to *www.courts.oregon.gov* to find your court's website.

The State Family Law Advisory Committee has written a guide that may help you prepare for trial. This guide is NOT a substitute for legal advice! The rules of court can be technical and complex. You may damage your case if you are not properly informed. If your case goes to trial, you are strongly advised to talk to a lawyer. To read the guide, go to:
http://www.courts.oregon.gov/help/Documents/famlawtrialbrochure.pdf

THE JUDGMENT

Regardless of how you resolve your case, a ***General Judgment of Separation*** must be signed by a judge. One of you may be ordered to fill out the judgment form and give it to the court to be signed.

Even if you submitted Child Support Worksheets with your *Response*, you MUST attach worksheets to your *Judgment* if you are responsible for submitting the *Judgment* form to the court, regardless of how you resolve your case.

The judgment finalizes your separation and sets out all of the issues decided in mediation, arbitration, trial, or by agreement.

- **NOTE:** The *General Judgment* may affect earlier temporary orders done by Limited Judgment. Talk to a lawyer if you have questions.

If you are responsible for preparing the *Judgment*, the information should be *exactly* the same as what was decided in mediation, arbitration, hearing, trial, or through your agreement. All parties must review the *Judgment* before you submit it to the court. You must send the *Judgment* along with the *Notice of Proposed Judgment or Order* to the petitioner and any adult children who have not filed a waiver of appearance in the case.

Other parties can object to the *Judgment*. If that happens, you need to discuss the objections and attempt to resolve them before you submit the *Judgment* to the court. If you are not able to resolve the objections, the objecting parties can either send you a written statement explaining their objections, or they can submit their objections directly to the court. You must complete the *Certificate of Readiness* section of the *Judgment* to tell the judge whether there are outstanding objections. See UTCR 5.100(1) for more information about notice and objections.[2]

If the petitioner is responsible for preparing the judgment, they must send the proposed *Judgment* to you before submitting it to the court. Then you can review it and object to it within 7 days of the date it was sent to you. You need to try to resolve your objections with the petitioner. If you are not able to resolve your objections after reasonable efforts, you can either send a written explanation of your objections to the petitioner or directly to the court. You must notify the petitioner of your intentions so that they can advise the judge that there are outstanding issues. The judge may make a decision after reviewing the documents, or the court may contact you with further information.

Make a copy for yourself and one for Petitioner. File the original with the court.

Your separation is effective the date the *Judgment* is signed by the judge. NOTE: the terms of your judgment are not enforceable until the court enters the judgment. You will know that the court has entered the judgment when you receive a *Notice of Entry of Judgment*.

[2] http://courts.oregon.gov/utcr

NOTE: Every document you file must have a mailing address or contact address where you will receive documents related to this case. You do NOT need to use your home address. You are responsible for checking your contact address. Notify the court and the other party in writing if your contact address changes.

Appendix A– Custody and Parenting Plans

Joint Custody and Sole Custody

What does "Custody" mean?

- Custody refers to decision-making about a child. Decisions may include the child's residence, health care, education, religion, and other big issues.
- Joint custody means that the parents have agreed to decide major decisions in the child's life together. Joint custody can also occur when parents agree about how to split up major decisions about a child. The court can order joint custody only if both parents agree to all of the terms, including the parenting plan.
- Sole custody means that one parent can make decisions alone. These are legal terms and don't impact how much time each parent has with the child.

Regardless of the custody order, both parents will usually have time with the child (parenting time) and the right to certain information. Both parents have the right to review school records and medical records, and to authorize emergency medical, dental, psychological, or other health care if the other parent is not available, unless the court orders otherwise.

Read ORS 107.137 to see what a court will consider when awarding custody. The most important factor is *always* the best interest and welfare of the *child*.

A **parenting plan** is where you provide a plan for when each parent will actually be with the child (parenting time). Parenting time is separate from custody. For example, you can have joint custody with one parent having the child 75% of the time, and you can have sole custody with 50-50 parenting time. See below for more information.

Child support is separate from custody. Either parent can be ordered to pay child support regardless of who has custody or what kind of custody is ordered.

Sole Custody

If sole custody is ordered, the other parent will almost always have some parenting time with the child. The non-custodial parent has equal rights to the child's school records and medical records, and to authorize emergency medical, dental, psychological, or other health care if the other parent is not available, unless the court orders otherwise.

Joint Custody

Joint custody does not mean that every day-to-day activity has to be agreed to, but major decisions must be discussed by the parties.

A joint custody order can also specify certain decisions that can be made by one parent or the other. For example, Mother may be allowed to make decisions about religious training, or Father can made decisions about medical care.

A joint custody order might specify that one parent's home is the child's primary residence, but it's not required.

Parenting Time & Parenting Plans

Parenting time is what some people call 'visitation' – it is the time a child spends with each parent. Parenting time is detailed in a "parenting plan," which is usually focused on the parent who does not have sole or primary residential custody. Parenting plans can include specific times for contact. For example, Mother can call on Fridays between 7pm and 10pm."

Once the court enters a judgment with parenting time included, that time is enforceable like any other court order. Parents can file for an expedited (faster) hearing if the other is not following the parenting time in the judgment.

A parenting plan is required for all cases involving a minor child. The plan sets out the schedule and rules for each parent's time with each child. A parenting plan should be written in the space provided in your *Petition* or attached to it as a separate form.

A parenting plan can be as general or as specific as you need it to be. The judge will expect to see some information about the days and times when children will be picked up and dropped off, and some plan for weekends, holidays, and school breaks. Consider whether you have children with different needs. Children at different ages may need different parenting plans. If you have a child with a medical issue, you may want to consider how the plan will impact care.

BE AWARE that if you do not include enough information in your plan and the other parent does not respond, you may have to serve the other parent with corrected paperwork before you can get a *Judgment*.

The parenting plan may include safety provisions for the child if problems like domestic violence, drug or alcohol abuse, or child abuse are involved in your case.

Oregon has a ***Basic Parenting Plan Guide for Parents***. This guide has information about how to develop a plan, information about alternative schedules, and stages of your children's growth that should be considered when creating a plan. A sample parenting plan is included in the guide. The guide can be downloaded at *www.courts.oregon.gov/familylaw*. There is also a *Safety Focused Parenting Plan Guide* on this website. This can help you develop a parenting plan if you have safety concerns for your children. Many local courts also have standard plans in their *Supplemental Local Rules*. Check your local court's website. You can use these plans whole or as a guide to develop your own.

A mediator can help you create a parenting plan. A mediator is a neutral person trained to help you come to your own agreement and cannot make decisions for you. Information about mediation and parenting plans may be available through your court's parent education program, the court facilitator, or your local law library. Your local court may also have a mediation program for parents. Some courts require you to try mediation before your hearing.

Custody/Parenting Time Evaluation - If parents can't agree on a parenting plan, the court may order the parents to hire a custody or parenting time evaluator. Either or both parents may be ordered to pay for the evaluator.

If you and Petitioner don't agree on a parenting plan before trial, the judge will order one.

Appendix B - Support for a Child Attending School

If an adult child is attending school at least half-time according to the school's standards, that child is considered a "Child Attending School." A Child Attending School may be entitled to child support until he or she turns 21. "Child Attending School" is defined at ORS 107.108 and does not include children who are married.

IMPORTANT! After an order is made for support of a child attending school, the child *must* remain enrolled at least half-time AND make sufficient academic progress according to the school to qualify as a child attending school and continue to receive support.

NOTE: you can ask the court to extend child support for minor children to cover them when they qualify as Children Attending School. If a child does not immediately enter higher education after high school or drops out of high school, child support will end.

If you have an order that says support continues *if* the child becomes a Child Attending School, the child must notify the payor *before* the child turns 18 that he or she will be attending school, which school, and when the child expects to graduate or stop taking classes. Support generally continues during summers if the child has properly notified the other parent that the child intends to return to school.

The child must also provide consent to the school to release certain information to any parent paying child support. The requirements are at ORS107.108.

Paying Support for a Child Attending School

Support for an adult child is normally paid directly to the child, whether by the payor directly or by the Division of Child Support. If you have good cause why the child should *not* receive payment, you must explain that in your *Petition*.

There is NO parenting plan or parenting time credit for a Child Attending School who has graduated from high school.

For more information, go to:
http://oregonchildsupport.gov/services/pages/child_attending_school.aspx

Appendix C – Uniform Support Declaration

You may need to complete a ***Uniform Support Declaration*** *(USD)* if you and Petitioner do not agree on an amount for spousal/partner support. If you need to submit a *USD*, you can file it with your *Response*. You must file it within 30 days after serving the *Response* on the petitioner.

If neither party is requesting child or spousal/partner support, or if you have agreed on an amount for support, do not complete the *USD*.

Tips for filling out the *USD*:

- If you are requesting child support for the amount that the Child Support Guidelines recommend, fill out only the *Declaration* and attach the documents it asks for.
  - If you are requesting spousal/partner support *or* a different amount of child support than the Guidelines recommend, fill out *both* the *Declaration* and *Schedule 1*. Attach all of the documents that the *Declaration* and *Schedule* ask for.
- Use your *actual*, *present* expenses. Estimates are fine as long as they are realistic and you have no way of confirming the amount.
  - Some items may not apply to you – mark those spaces "N/A" (Not Applicable), but complete *every* item that does apply.
  - If your amounts are unusual or likely to change soon, include a brief explanation of why (if you are temporarily living with a relative, or if one party moved out and is no longer contributing to shared expenses). Include an estimate of what you believe your expenses will be after the situation changes.
- If you have an expense that is not listed, add it, along with a brief explanation.
- If you anticipate any major changes (birth of a new baby, a child entering or leaving school, a layoff, a car payment or mortgage being paid off), note these as well. Do NOT include fears or possibilities – only things you know or reasonably expect will happen.
- If one of your children has a serious medical problem, note it and include a reasonably accurate estimate of the treatment cost.
- Household items means things like paper towels, cleaning supplies, light bulbs, storage containers.
- If you are attending school, include your tuition payments, supplies and books, and any other necessary school-related costs.

The *Uniform Support Declaration* is available online at: *www.courts.oregon.gov/forms* in the in the *Family Law → Miscellaneous category*.

Certificate of Mailing – the *Uniform Support Declaration* includes a Certificate of Mailing at the bottom of the form. Once the *USD* is completed, copy the entire form and all attachments and mail them to the petitioner. THEN fill out the Certificate of Mailing and file the original with the court. Keep a copy of all documents for your own records.

Appendix D – Statement of Assets and Liabilities

You will need to file a *Statement of Assets and Liabilities* if you have not reached an agreement as your trial date nears. Each party's *Statement* must be filed with the court and served on the other party at least 14 days before your trial. Check your local court's Supplementary Local Rules, Chapter 8 for other time limits and requirements.

Most courts prefer that you complete ONE joint form so that you don't have one form listing "house 1" and the other calling it "123 Main St." Your *Statement* should name the asset as specifically as possible. You and Petitioner should do everything you can to agree on the value of your assets and liabilities. Then list who the court should give each asset to. You can use one of the formats below.

In the examples below, the parties disagree about the value of the Ford Ranger but agree that it should be awarded to Petitioner. The parties agree about the value of the Kia Soul but disagree about who it should be awarded to. Leave the last 2 columns blank – the judge will make a final decision about the value of each asset and who it is awarded to.

DESCRIPTION OF ASSETS	**PETITIONER** Name:		**RESPONDENT** Name:		**COURT**	
	Claimed Value	Proposed Distribution (Pet or Resp)	Claimed Value	Proposed Distribution (Pet or Resp)	Value	Distribution (Pet or Resp)
2008 Ford Ranger	$12,000	Petitioner	$6,000	Petitioner		
2011 Kia Soul	$5,000	Petitioner	$5,000	Respondent		

- **Real Property** - Include property that you own together or separately *and* property owned before the marriage or RDP
  - Include land, houses, mobile homes, and other structures *attached to or built on land*. Also include partial rights to land like the right to fish, farm, cut timber or mine minerals. This does not mean *personal* property like clothes, jewelry, furniture, cars, etc.
  - If possible, use the same legal description of the property that is on the deed. If you improperly describe the property, you may not be able to enforce your judgment.
    - **You should speak with a lawyer if:**
      - there is a <u>home equity line of credit</u> on any real property. This judgment is *not* binding on the bank and may not prevent the other party from using the credit line, even after the judgment.
      - anyone other than you and Petitioner has any interest in the real property either now or in the future. For example:
        - if your title is only for life or for a fixed period of time
        - if anyone has a right-of-first-refusal to buy the property
        - if anyone else's name is on the title
        - if anyone else's name is on a loan that the property is collateral for. These people *must* be joined to the case or the court may not have authority to award that property.
      - You are currently in a bankruptcy proceeding.

- You are concerned about the other party selling real property. You can put a hold on the title of the property during the case (called "lis pendens").

➢ If **ANY** property was used to secure a loan, debt, mortgage, or other encumbrance, it is important that you speak with a lawyer. Future bankruptcy filings by either party *may* create problems for the other party in spite of this judgment. This is especially important for same-sex couples, as bankruptcy and IRS laws are federal and may not recognize the debt award of this judgment.

➢ **Personal Property** is anything you own together or separately that *is not* real property. This includes property owned before the marriage

Debts - The court will divide your debts. Use the table below to list all debts in either or both of your names. Include debts that existed before your marriage/partnership; debts that you each or both incurred during your marriage/partnership; and debts that you each incurred after separation. If any debt includes amounts incurred both during the marriage/partnership *and* after separation, write in the "Who pays" column who should pay how much (see example). Talk to a lawyer if you have questions about who should pay which debts.

Example:

Name of Creditor (who money is owed to)	*What debt is for*	*Amount*	*Who pays*	
			Petitioner	*Respondent*
Chase Bank	*Credit Card*	*$10,000*		*X*
Wells Fargo	*Home Equity Credit Line (petitioner added $10,000 after separation)*	*$20,000*	*$15,000*	*$5,000*
Local Lender	*Petitioner's car loan*	*$4,500*	*X*	

Complete this table for all debts in either or both of your names:

Name of Creditor (who money is owed to)	What debt is for	Amount	Who pays	
			Petitioner	Respondent

Appendix E– Statutory Restraining Order

[Attach to Summons per ORS 107.093(5)]

NOTICE OF STATUTORY RESTRAINING ORDER
PREVENTING THE DISSIPATION OF ASSETS
IN DOMESTIC RELATIONS ACTIONS

REVIEW THIS NOTICE CAREFULLY. **BOTH PARTIES MUST OBEY EACH PROVISION OF THIS ORDER TO AVOID VIOLATION OF THE LAW.** SEE INFORMATION ON YOUR RIGHTS TO A HEARING BELOW.

TO THE PETITIONER AND RESPONDENT:
PURSUANT TO ORS 107.093 and UTCR 8.080, Petitioner and Respondent are restrained from:

1. Canceling, modifying, terminating or allowing to lapse for nonpayment of premiums any policy of health insurance, homeowner or renter insurance, or automobile insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy that names either of the parties or a minor child of the parties as a beneficiary.
2. Changing beneficiaries or covered parties under any policy of health insurance, homeowner or renter insurance, or automobile insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy.
3. Transferring, encumbering, concealing, or disposing of property in which the other party has an interest, in any manner, without written consent of the other party or an order of the court, except in the usual course of business or for necessities of life. This paragraph (3) does not apply to payment by either party of:
    a. Attorney fees in this action;
    b. Real estate and income taxes;
    c. Mental health therapy expenses for either party or a minor child of the parties; or
    d. Expenses necessary to provide for the safety and welfare of a party or a minor child of the parties.
4. Making extraordinary expenditures without providing written notice and an accounting of the extraordinary expenditures to the other party. The paragraph (4) does not apply to payment by either party of expenses necessary to provide for the safety and welfare of a party or a minor child of the parties.

AFTER FILING OF THE PETITION, THE ABOVE PROVISIONS ARE IN EFFECT IMMEDIATELY UPON SERVICE OF THE SUMMONS AND PETITION UPON THE RESPONDENT. IT REMAINS IN EFFECT UNTIL A JUDGMENT IS ISSUED, UNTIL THE PETITION IS DISMISSED, OR UNTIL FURTHER ORDER OF THE COURT.

PETITIONER'S/RESPONDENT'S RIGHT TO REQUEST A HEARING

Either petitioner or respondent may request a hearing to apply for further temporary orders, or to modify or revoke one or more terms of the automatic mutual restraining order, by filing with the court the Request for Hearing form specified in Form 8.080.2 in the UTCR Appendix of Forms.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____

In the Matter of the Marriage or Registered Domestic Partnership (RDP) of:

_____
Petitioner

and

_____
Respondent

Case No: _____

RESPONSE TO PETITION FOR SEPARATION OF
☐ MARRIAGE ☐ RDP
☐ and counterclaims

Claim { ☐ is ☐ is not} subject to mandatory arbitration

and
☐ _____
Unmarried children 18, 19, or 20 years old (per ORS 107.108) *(full names)*

- *I need an interpreter:* ☐ *Spanish* ☐ *Russian* ☐ *other:* _____

1. I, Respondent, appear and oppose the *Petition. List sections opposed and reasons:*

Section Number	Explain

☐Additional page attached titled "Section 1"

2. ☐ I make the following counterclaims:
(see Instructions for information about counterclaims including retirement benefits and support for a child, spouse, or partner)

a	
b	
c	
d	

☐ Additional page attached titled "Section 2"

3. ☐ My former name of *(use FULL name – first, middle, last)* _____ _____ should be restored

4. ☐ I should be allowed to move more than 60 miles farther away from Petitioner without written notice to Petitioner or the court *(explain)*: _____
_____

☐ Additional page attached titled "Section 4"

5. **Child Support Offsets**

☐ Social Security or apportioned veteran's benefits are paid to (or on behalf of) some or all of the children named in the *Petition* as a result of my disability or retirement. I ask that child support be reduced dollar-for-dollar. The amounts per child are included in the attached *Uniform Support Declaration*.

☐ Survivors' and Dependents' Educational Assistance under 38 USC Chapter 35 is paid to (or on behalf of) some or all of the children named in the *Petition* as a result of my disability or retirement, and child support must be reduced dollar-for-dollar. The amounts per child are included in the attached *Uniform Support Declaration*.

6. ***(Optional)*** **Exception to Income Withholding of Child Support:** I understand that payments will be made by income withholding unless an exception applies

☐ I request an exception to the income withholding requirement of ORS 25.378 so that payment can be made another way because good cause exists

☐ Petitioner and Respondent have agreed in writing to the following alternative payment method: _____

_____

_____

☐ Other exception under ORS 25.396 *(explain)*:_____

_____

_____

7. Information Required by the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)

List the places where the minor children of the parties have lived in the last five years and the names of the people they lived with at that time

Dates (from/to)	County, State	Name of Parent/Caretaker	Contact Address of Parent/Caretaker	Which Children

☐ Additional page attached titled "Section 7"

☐ I have not participated in any litigation concerning custody, visitation, parenting time or placement of the children in this or any other state

or

☐ I have participated in the following litigation:

Name of Court	State	Case No.	Date	Result

☐ Additional page attached titled "Section 7"

☐ I do not know of any other domestic violence, custody, parenting time, or placement proceeding involving the children, or of any other court case which could affect this case, pending in any state

☐ except for: _____

_____

(*identify court, case number, and kind of proceeding*)

☐ I do not know any person other than my spouse/partner who has physical custody of the children or who claims to have custody, visitation or parenting time rights

☐ except for: _____

(*list name and address*)

I hereby declare that the above statements are true and complete to the best of my knowledge and belief. I understand they are made for use in court and I am subject to penalty for perjury.

_____ _____

Date Respondent (signature)

_____

Respondent Name

_____

Contact Address City, State, Zip Contact Phone

Certificate of Mailing

I certify that on *(date)*: _____ I placed a true and complete copy of this *Response* in the United States mail to Petitioner at *(petitioner's address)*: _____

_____

_____

_____ _____

Date Respondent (signature)

_____

Respondent Name

Department of Consumer and Business Services
Division of Financial Regulation
P.O. Box 14480, Salem, OR 97309-0405
Phone: 503-947-7980, Fax: 503-378-4351
350 Winter St. NE, Salem, OR 97301-3883
Email: dfr.mail@oregon.gov
dfr.oregon.gov

Notice to parties in a suit for marriage dissolution or legal separation regarding continuation of health coverage

If you or your spouse have filed for divorce or legal separation and currently hold group health insurance coverage through your spouse, your coverage may end when the court grants your divorce or separation. Oregon law offers options that may enable you to continue your coverage. This notice outlines continued coverage options available under Oregon law. Federal law, commonly known as COBRA, may also enable you to continue coverage. *Note*: You must act promptly to continue coverage.

Applying for individual coverage may also be an option. Insurers can no longer deny enrollment to individuals because of health or pre-existing conditions. You may be eligible to enroll in a plan through healthcare.gov or directly from an insurer. If you apply for coverage through healthcare.gov, you may qualify for financial assistance.

For more information about Oregon and federal law, consult your health insurer, the plan administrator for your insurance coverage, the employer through whom your insurance is provided, or your attorney.

The following is a summary of options under Oregon law:

1. **Continuation of existing coverage for a divorced or legally separated spouse who is 55 years of age or older** (ORS 743B.343 to 743B.345). If you are a divorced or legally separated spouse and if you are 55 years of age or older when the dissolution or legal separation occurs, you may continue your existing group coverage until you obtain other group coverage or become eligible for Medicare. In order to continue coverage, you must do both of the following:

   A. You must notify the group health insurance plan administrator in writing of the dissolution or legal separation within 60 days of the entry of the decree of divorce or legal separation.

   B. You must elect to continue and pay for the group coverage. You must make the election on a form provided by the plan administrator.

Note: This provision applies only if your coverage is provided through an employer who employs 20 or more employees or if your coverage is provided by a group health insurance plan that covers 20 or more employees.

2. **Continuation of existing coverage for a divorced spouse when federal law does not provide for continued coverage** (ORS 743B.347). If you are not able to continue your group health coverage under federal law (COBRA), you may continue your existing group coverage upon dissolution of your marriage for a period not exceeding nine months. The following requirements apply:

   A. You must have been continuously covered by the group policy for at least three months prior to your divorce.

   B. You must ask the insurer or the group policyholder, in writing, to continue your coverage. You must also pay the required premiums.

   C. You must make your request by the latter of the following dates:

      (1) Ten days after the date that your coverage under the group policy as a qualified family member ends;

      or

      (2) Ten days after the date on which the employer or group policyholder gives notice of the right to continue coverage.

3. **Apply for individual coverage**. If you were covered by a group health plan and you lost that coverage because of a legal separation or divorce, you may qualify for a special enrollment and be eligible to purchase an individual plan through healthcare.gov or from an insurer. To qualify for this special enrollment:

   (1) Apply through healthcare.gov and pay your premium within 60 days of the date you lost your group coverage;

   or

   (2) Apply for individual coverage from an insurer within 60 days of the date you lost your group coverage.

Remember: The longer you wait to apply, the later your coverage will start. Financial help is available only if you apply for insurance through healthcare.gov. Your insurance agent can also help you apply through healthcare.gov.

Prepared by Oregon Division of Financial Regulation, Department of Consumer and Business Services, under ORS 107.092.
Revised Nov. 3, 2016. Distributed by the Office of the State Court Administrator.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____

_____
Petitioner

and

_____
Respondent

☐ _____
Unmarried children age 18, 19, or 20 years old (per ORS 107.108)

Case No: _____

CONFIDENTIAL INFORMATION FORM

☐ Amended CIF

UTCR 2.130

Submitted by: ☐ Petitioner ☐ Respondent ☐ other: _____

Information about *(name)*:_____
(first, middle, last) ☐ Petitioner ☐ Respondent ☐ other: _____

Date of Birth:	Social Security Number:
Driver License (Number and State):	
Former Legal Names:	
Employer's Name, Address, and Phone:	

Minor children of the parties:[1]

Name:	Date of Birth:	Social Security Number:

☐ Additional page attached

[1] The names of parties and children, and children's ages are not confidential. This form can only be viewed by the party who files it unless the court orders otherwise.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____

_____
Petitioner

and

_____
Respondent

☐ _____
Unmarried children age 18, 19, or 20 years old (per ORS 107.108)

Case No: _____

CONFIDENTIAL INFORMATION FORM

☐ Amended CIF

UTCR 2.130

Submitted by: ☐ Petitioner ☐ Respondent ☐ other: _____

Information about *(name)*:_____
(first, middle, last) ☐ Petitioner ☐ Respondent ☐ other: _____

Date of Birth:	Social Security Number:
Driver License (Number and State):	
Former Legal Names:	
Employer's Name, Address, and Phone:	

Minor children of the parties:[1]

Name:	Date of Birth:	Social Security Number:

☐ Additional page attached

[1] The names of parties and children, and children's ages are not confidential. This form can only be viewed by the party who files it unless the court orders otherwise.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF _____

_____ **Case No:** _____
Petitioner

and

NOTICE OF FILING OF CONFIDENTIAL INFORMATION FORM (CIF)

_____
Respondent

☐ Amended CIF

and

☐ _____
Unmarried children 18, 19, or 20 years old (per ORS 107.108) *(full names)*

I filed Confidential Information Forms with the court about the following parties to this case as required by Uniform Trial Court Rule (UTCR) 2.130 *(Use first, middle, last names below)*:

1) My Name:_____
☐ Petitioner ☐ Respondent ☐ Other:_____

Containing (check all that apply):
☐ Social Security Number (SSN) ☐ Date of Birth (DOB) ☐ children's SSN ☐ children's DOB
☐ employer's name, address, and phone number ☐ driver license number
☐ former legal names

2) Name: _____
☐ Petitioner ☐ Respondent ☐ Other:_____

Containing (check all that apply):
☐ SSN ☐ DOB ☐ children's SSN ☐ children's DOB ☐ employer's name, address, and phone number ☐ driver license number ☐ former legal names

3) Name: _____
☐ Petitioner ☐ Respondent ☐ Other:_____

Containing (check all that apply):
☐ SSN ☐ DOB ☐ children's SSN ☐ children's DOB ☐ employer's name, address, and phone number ☐ driver license number ☐ former legal names

4) Name: _____
☐ Petitioner ☐ Respondent ☐ Other:_____

Containing (check all that apply):
☐ SSN ☐ DOB ☐ children's SSN ☐ children's DOB ☐ employer's name, address, and phone number ☐ driver license number ☐ former legal names

_____ _____
Date Signature

_____
Name (printed)

_____
Contact Address City, State, ZIP Contact Phone