



## SUPPLEMENTARY LOCAL RULES

Twenty-First Judicial District  
Benton County Circuit Court

State of Oregon

Effective February 1, 2022

Pursuant to ORS 3.220, a circuit court may make and enforce local rules consistent with and supplemental to the Oregon Uniform Trial Court Rules (UTCRC). These Supplementary Local Rules follow the chapter numbers of the applicable UTCRC.

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## **CHAPTER 1 — General Provisions**

### **1.111 DEFINITIONS**

- (1) “Court” means the Benton County Circuit Court.
- (2) “Days” means calendar days, unless otherwise specified in these rules.
- (3) “Party” means a litigant or the litigant’s attorney, and plural forms.
- (4) “These Rules” means the Supplementary Local Rules adopted by the Benton County Circuit Court.

### **1.151 COURT CONTACTS**

Hon. Joan Demarest, 541-243-7802

Hon. Matthew Donohue, 541-243-7805

Hon. Locke Williams, 541-243-7822

Arbitration Coordinator, 541-243-7844

Central Calendar Clerk, 541-243-7849

Civil Clerk, 541-243-7844

Domestic Relations Clerk, 541-243-7846

Mediation Coordinator, 541-243-7846

Probate Clerk, 541-243-7844

Small Claims Clerk, 541-243-7845

### **1.161 FILING DOCUMENTS WITH THE COURT**

- (1) Conventional in-person filings, permitted or required under UTCR Chapter 21, are accepted at the Benton County Circuit Court in the Benton County Courthouse, 120 NW 4<sup>th</sup> Street, Corvallis, OR 97330.
  - (a) Documents delivered by mail shall be addressed to: Benton County Circuit Court, P.O. Box 1870, Corvallis, OR 97339.
- (2) Electronic filing shall be governed by the rules and regulations set forth in Uniform Trial Court Rules (UTCR) Chapter 21. Excluding the filing of a criminal citation under ORS

133.073, electronic filings shall be transmitted to the court using the Electronic Filing System, as that term is defined under UTCR 21.010(3).

### **1.171 COURT WEBSITE**

The website address for the court is:

<https://www.courts.oregon.gov/courts/benton/Pages/default.aspx>

## **CHAPTER 3 —Decorum in Proceedings**

### **3.141 RESIGNATION OR WITHDRAWAL OF ATTORNEYS**

When there is reason for a court appointed attorney to no longer represent a defendant, a substitution shall be filed pursuant to ORS 9.380 and in conformance with PDSC/OPDS Public Defense Payment Policy and Procedures, as may be updated, unless the defendant has executed a waiver of counsel that has been accepted by the court.

### **3.181 ELECTRONIC RECORDING IN COURTHOUSE PREMISES**

- (1) All news media personnel must request permission in advance to take photographs, films, or audio or video recordings in areas of the Benton County Courthouse under the court's control and supervision.
- (2) Requests for media access shall be made to the trial judge's court staff at least 30 minutes prior to routine trials or hearings and by 3:00 p.m. of the preceding day for major trials.
- (3) The following areas are under the control and supervision of the court:
  - (a) The entire first floor of the courthouse;
  - (b) The entire second floor of the courthouse; and,
  - (c) The judges' chambers, judicial assistants' offices, and connective stairwells and hallways on the third floor of the courthouse.
- (4) Persons who are not members of the news media may not take films, photographs, or audio or video recordings of court proceedings without permission from a judge.
- (5) Members and non-members of the press may obtain copies of the records of court proceedings by purchasing a copy of the tape recording at the normal court charge.

(6) No person may be filmed or photographed in any area under the control and supervision of the court in such a manner that the film or photographs shown to the public depict the person in handcuffs or shackles.

(7) Nothing in this rule is intended to preempt or contradict any provision of UTCR 3.180.

## **CHAPTER 6 —Trials**

For scheduling of trials, show cause hearings and motions, see SLR Chapter 7.

### **6.012 SETTLEMENT CONFERENCE PROCEDURES**

The court, on its own motion or upon the request of any party, may set a settlement conference in any pending civil case. The following procedures shall apply to all settlement conferences:

- (1) If one party requests a settlement conference, the settlement conference shall be held. Except in the case where the court orders a settlement conference, the settlement conference will not be required if the opposing party demonstrates good cause why the settlement conference should not be held. A party requesting a settlement conference shall certify that reasonable efforts to achieve settlement have been attempted by the parties and that they have been unable to resolve the controversy without the court's assistance.
- (2) Each trial attorney and party or representative of a corporation or insurance company who has full authority to settle and compromise the litigation shall personally appear at the settlement conference. However, the assigned judge may permit appearances by remote means for good cause.
- (3) Each settlement conference shall be scheduled to allow adequate time for meaningful settlement discussions. Additional settlement conferences may be scheduled by the judge or by agreement of all attorneys and parties.
- (4) The settlement conference shall not delay the trial or scheduling.
- (5) The settlement conference judge will not preside at the trial unless all parties agree otherwise. No information disclosed at the settlement conference will be revealed by the settlement conference judge or by any of the parties to the judge who will thereafter try the case.
- (6) Not less than 24 hours prior to the settlement conference, each party shall submit to the settlement conference judge, via the judge's judicial assistant rather than the Electronic Filing System, a statement that contains, at minimum:

- (a) A brief summary and analysis of the key issues involved in the litigation; and,
  - (b) The status of any settlement negotiation.
- (7) The settlement conference statements shall be presumed confidential and shall not be placed in the court file, nor shall any notes prepared by the judge be filed or otherwise disclosed, except by permission of the attorneys or by court order.
- (8) Except by order of the court, a settlement shall be placed on the record immediately following a settlement conference.
- (9) The settlement conference judge shall report the outcome of the settlement conference to the Central Calendar Clerk and indicate any future conference or hearing dates that may be required.

#### **6.051 DELIVERY OF TRIAL MEMORANDA AND OTHER DOCUMENTS**

- (1) In civil cases, trial memoranda, witness lists, motions in limine, and exhibit lists shall be delivered to the court and opposing counsel not less than 48 hours prior to the commencement of the trial.
- (2) In civil and criminal trials, requested jury instructions shall be submitted not less than five judicial days prior to trial.

#### **6.085 EX PARTE MATTERS**

Ex parte matters may be presented at 11:30 a.m., Monday through Friday.

- (1) Supporting documents must be filed by 10:30 a.m. the day of an ex parte appearance.
- (2) Any written correspondence that does not comport with UTCR 2.080 and these rules will not be received by the court.

### **CHAPTER 7 —Case Management and Calendaring**

#### **7.015 CRIMINAL CASE SCHEDULING**

The court uses a hybrid centralized/individual judge case scheduling system. The assigned judge is responsible for the management of their assigned cases from time of assignment to ultimate conclusion, including setting of trial.

- (1) Guilty or No Contest Pleas

- (a) Dates for entry of guilty or no contest pleas will be scheduled by the Central Calendar Clerk for those cases not assigned to a trial judge.
- (b) If a trial judge is assigned, the assigned judge's judicial assistant will schedule a date for entry of guilty or no contest pleas.
- (c) The court will not accept a guilty or no contest plea unless the defendant has first read and completed a *Petition to Enter a Plea of Guilty or No Contest* form.

(2) Settlement Conferences

A settlement conference will be set at the request of either party. The procedures set forth in SLR 6.012 shall apply.

**7.017 PREPARATION OF JUDGMENT**

When a defendant is found not guilty or where the charge is dismissed by the court over the state's objections, defense counsel shall prepare and submit the judgment. Dismissal judgments shall be submitted to the court within two weeks of the proceeding unless the court grants additional time.

**7.025 CIVIL CASE SCHEDULING**

The court maintains an individual calendaring case assignment system wherein the assigned judges are responsible for management of their assigned cases from the time of assignment to ultimate conclusion, including post-judgment matters. Except as otherwise provided herein, all issues relating to case scheduling are to be directed to the assigned judge.

(1) Hearings on Motions to Hold a Party in Contempt

- (a) Unless the case has been previously assigned to a judge, the adverse party must be cited to appear at 9:30 a.m., Tuesday, Wednesday, Thursday, or Friday.
- (b) The party requesting the contempt order does not have to appear at the time set in the show cause order.
- (c) The responding party may appear by written response in lieu of this first appearance.
- (d) When the responding party appears, the court will set a contempt hearing for a later date.
- (e) The court will send a written notice when that later hearing date is set.

(2) Settlement Conferences



A settlement conference will be set at the request of any party. The procedures set forth in SLR 6.012 shall apply.

### **7.035 INCLUSION OF OTHER PARTY'S POSITION IN MOTIONS AND SCHEDULING REQUESTS**

In all civil and criminal cases, motions and scheduling requests must contain the other party's position as to the motion or request in the first paragraph of the body of the motion.

- (1) This rule does not apply to ex parte matters or to scheduling requests in civil matters in which time periods for responses are governed by other rules.
- (2) If the party filing a motion or scheduling request has made a good faith effort to obtain a position on the matter from the other party, and been unsuccessful in such effort, the first paragraph of the motion must contain a detailed explanation of the unsuccessful attempts made to obtain a position statement from the other party. Good faith effort to obtain the position of the other party may be demonstrated by documentation of emails sent, letters sent via US Postal Service, or phone calls attempted.

### **7.045 JUDGMENT DEBTOR EXAM SCHEDULING**

- (1) The party requesting the debtor's exam may select the time for the examination, provided:
  - (a) The examination is set at 9:00 a.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that the court is open for business; and,
  - (b) The debtor is allowed at least ten (10) days between date of service and the date of examination.
- (2) The debtor must be cited to appear as follows:
  - (a) Circuit Civil – Benton County Courthouse, 120 NW 4<sup>th</sup> Street, Room 106, Corvallis, Oregon.
  - (b) Small Claims – Benton County Courthouse, 120 NW 4<sup>th</sup> Street, Room 101, Corvallis, Oregon.

### **7.055 ELECTRONIC AND TELEPHONIC REMOTE APPEARANCES**

- (1) In any matter in which counsel, a party, or a witness (collectively "the party") is permitted by the court to appear by telephone:
  - (a) The cost of such call shall be borne by the party requesting the telephonic appearance.

- (b) Local calls shall be placed by the court when the telephonic appearances have been approved by the court. Long distance or other calls for which a toll or fee is charged shall be placed by the party at the time scheduled for the appearance.
  - (c) Unless otherwise directed by the court, long distance calls being placed by the party shall be placed to the Central Calendar Office, 541-243-7849.
- (2) As permitted by law and in accordance with ORS 131.045, the court may require remote appearances for all parties in any proceeding. Notification of a remote appearance and contact instructions will be provided to the parties in the normal course.
  - (3) Unless otherwise arranged and approved by the court, remote appearances by counsel shall be conducted in counsel's office or another appropriate and professional setting acceptable to the court.
  - (4) If the party fails to make a remote appearance because the party fails to telephone or access a remote appearance with the court, or the court is unable to reach the party at the number provided to the court, the party may be deemed not to have appeared and the matter may be decided upon the evidence before the court.

#### **7.065 DISMISSAL OF INACTIVE CASES**

- (1) After the court has rendered a decision in any civil or domestic relations case, if a party does not submit a proposed order or judgment for a period of thirty (30) days or more the trial court administrator shall send a notice to the parties notifying them that the case will be dismissed if an order or judgment is not received within thirty (30) days.
- (2) If an order or judgment is not received within thirty (30) days of the notice sent pursuant to section (1) of this rule, the case shall be dismissed without prejudice, unless otherwise ordered by the court.

### **CHAPTER 8 — Domestic Relations**

For information regarding settlement conferences, see SLR 6.012. For information regarding mandatory mediation and arbitration, please see SLR chapters 12 and 13, respectively.

#### **8.011 PARENT EDUCATION**

- (1) Mandatory Parent Education Program

- (a) The court has established a parent education program authorized by ORS 3.425.

- (b) Parties to dissolution of marriage, separation, or other proceeding involving minor children shall attend the court mandated Co-Parenting Education Seminar or an equivalent parent education approved by the court.
- (c) A copy of this local rule and instructions on how to register for the program shall be served by the initiating party on all parties against whom relief is sought. Service shall be completed in the manner provided in ORCP 7 at the time the initiating documents are served.
- (d) All parties shall have fifteen (15) days after service of the notice upon the opposing party to register for the program. The court may extend the time within which a party must register to attend a parent education program or waive the requirement after reviewing the requesting party's motion and supporting affidavit.
- (e) The parent education program provider shall issue a certificate of completion to the participants when they have completed the program. This certificate must be presented to the court.
- (f) A copy of the current Co-Parenting Education Seminar schedule may be obtained from the court's website at <http://courts.oregon.gov/courts/Benton>, or by calling the Domestic Relations Clerk at 541-243-7846, or requesting by letter to:

Trial Court Administrator  
Benton County Courthouse, Room 101  
PO Box 1870  
Corvallis, OR 97339

## (2) Sanctions

- (a) The court shall actively promote each party's completion of a parent education program. Failure or refusal to complete a program in a timely manner may be considered by the court in making its ruling on issues which are in dispute.
- (b) A party who has completed a parent education program may request that the court strike the pleadings of a party who has not completed the program in a timely manner without good cause.

## (3) Fees

- (a) Each party shall pay a fee to the parent education program provider upon registering for the program.
- (b) The program registration fee may be waived or deferred by the court. The procedure for requesting a fee waiver or deferral shall be the same as used to request a waiver or deferral of the fee when filing a petition for dissolution.

- (c) An application for fee waiver or deferral must be made prior to registering for the program. When registering, either the fee must be paid or the order waiving or deferring the fee must be provided to the program provider by the registering party.

## **8.012 DOMESTIC RELATIONS CASE SCHEDULING**

### **(1) Temporary Relief Hearings**

Requests for temporary relief in annulment, dissolution, or separation proceedings not otherwise resolved via SLR 8.041 will be specially set for hearing.

### **(2) Trial Settings**

Cases deemed appropriate and ready for trial will be set for trial pursuant to a fast-track procedure.

### **(3) Settlement Conferences**

A settlement conference for a dissolution case may be set upon request of either party. The procedures set forth in SLR 6.012 shall apply.

- (4) The court maintains an individual case assignment system wherein the assigned judges are responsible for management of their assigned cases from time of assignment to ultimate conclusion, including post-judgment matters. Except as otherwise provided herein, all issues relating to case scheduling are to be directed to the assigned judge.

## **8.013 STATEMENTS OF ASSETS AND LIABILITIES IN CONTESTED DISSOLUTIONS, SEPARATE MAINTENANCE, AND ANNULMENT ACTIONS**

- (1) In lieu of the filing of separate statements of assets and liabilities, values, and proposed distribution as required by UTCR 8.010(3) and UTCR 8.010(4), the court prefers counsel for the parties file a joint statement containing a list of those assets and liabilities which either or both parties claim to be subject to distribution by the court.
- (2) Such joint statements shall set forth, opposite a description of each listed asset and liability, each party's valuation and proposal for distribution of such asset or liability or a statement that such asset or liability is not subject to distribution by the court, or that the value of the asset or liability should not be taken into account by the court in the division and distribution of the parties' assets and liabilities. The statement(s) must be submitted to the court or the arbitrator at least one week prior to any scheduled settlement conference, arbitration, or trial.
- (3) Statements of assets and liabilities, whether filed jointly or separately, shall, to the extent possible, also reflect the following:

- (a) Assets and liabilities grouped by category and divided or highlighted so as to distinguish property that is disputed as to possession or value from property that is not disputed as to possession or value; and,
- (b) Each line listing a value shall be numbered and must list the source(s) utilized in determining that value, such as “Blue Book,” private appraisal, institution statement, or estimate.

#### **8.041 TEMPORARY RELIEF HEARINGS**

All temporary relief motions shall be show cause motions, except as provided by ORS 107.097, and shall be handled as follows:

- (1) Motions for temporary relief shall be accompanied by an affidavit or declaration setting forth the justification for the requested relief. The order to show cause shall require the filing of a response within fourteen (14) days following service, if the adverse party wishes to contest the relief sought, except that no respondent shall be required to respond before the time required by law to respond on the summons in the case.
- (2) A copy of this SLR shall be served on the adverse party concurrent with true copies of the motion, affidavit, and order to show cause.
- (3) Any motion regarding temporary support must be accompanied by a Uniform Support Declaration.
- (4) The response shall admit or deny the relief sought and shall set forth any counter motions for temporary relief. The response shall be accompanied by an affidavit or declaration setting forth the justification for the relief opposed or sought by the responding party. If temporary support is to be an issue, the response must be accompanied by a Uniform Support Declaration.
- (5) Within ten (10) days following service of the response and responding affidavit or declaration on the moving party or their attorney, the moving party or their attorney may file a supplemental affidavit or declaration in reply to the responding affidavit or declaration. Except for good cause shown, no further pleadings are required or permitted.
- (6) Temporary relief shall be determined without testimony, based upon the affidavits submitted. Failure to submit an affidavit or Uniform Support Declaration where required may result in an adverse ruling or denial of relief. There is no requirement, however, to file supplemental affidavits. On matters of exclusive use of a family residence, custody, or parenting time only, a hearing will be scheduled to review the court’s ruling upon written motion filed within ten (10) days after mailing of the court’s ruling.

### **8.043 REQUESTS FOR IMMEDIATE EX PARTE RELIEF**

Ex parte temporary relief motions and orders may be presented to the court as set forth in SLR 6.085.

### **8.045 MOTIONS TO HOLD A PARTY IN CONTEMPT**

#### (1) Contempt Show Cause Motions and Orders

- (a) A contempt show cause motion and order must be submitted in documents separate from other motions and orders filed in the case. A contempt motion and order may not be included, even as a separate paragraph, in a motion and order for temporary relief or in a motion and order to modify. However, the same affidavit may be used to support the motion for contempt and other motions.
- (b) Every show cause order for contempt of court shall contain the following or a similar notice:

“NOTICE: READ THESE PAPERS CAREFULLY – YOU ARE ORDERED TO PERSONALLY APPEAR IN THE ABOVE-ENTITLED COURT AT THE DATE AND TIME SPECIFIED IN THIS ORDER OR FILE WRITTEN RESPONSE BEFORE SAID DATE AND TIME. IF YOU FAIL TO APPEAR IN COURT ON THIS DATE AND TIME, OR FAIL TO FILE WRITTEN RESPONSE BEFORE SAID DATE AND TIME, YOU MAY BE ARRESTED, HELD IN CUSTODY AND BROUGHT BEFORE THE COURT TO ANSWER THE CONTEMPT CHARGES WHICH HAVE BEEN MADE AGAINST YOU.”

#### (2) Hearings on Motions to Hold a Party in Contempt

- (a) Unless the case has been previously assigned to a judge, the adverse party must be cited to appear at 9:30 a.m., Tuesday, Wednesday, Thursday, or Friday.
- (b) The party requesting the contempt order does not have to appear at the time set in the show cause order.
- (c) The responding party may appear by written response in lieu of this first appearance, except for support enforcement hearings where the respondent is required to make a personal appearance.
- (d) When the responding party appears, the court will set a contempt hearing for a later date. The court will send a written notice when that later hearing date is set.

### **8.051 MOTIONS TO MODIFY EXISTING ORDERS OR JUDGMENTS**

- (1) Modifications to existing orders or judgments have the same requirements for mediation as set forth in SLR 12.005.

- (2) The show cause order will require the opposing party to file a written response within thirty (30) days from the date the order is served.

### **8.075 PARENTING TIME**

A copy of the Benton County Standard Parenting Plan may be obtained from the court's website at <http://courts.oregon.gov/courts/Benton/Pages/default.aspx>, or by calling the Domestic Relations Clerk at 541-243-7846, or requesting by letter to:

Trial Court Administrator  
Benton County Courthouse, Room 101  
PO Box 1870  
Corvallis, OR 97339

### **8.137 PARENTING COORDINATORS**

Parent coordination is a child-focused alternative dispute resolution process in which a mental health or legal professional with mediation training and experience assists high conflict families with implementation of parenting plans.

- (1) The Parent Coordinator (PC) facilitates the resolution of disputes quickly; educates parents about children's needs and communication and conflict resolution strategies; and, makes decisions to resolve conflicts between parents.
- (2) Qualifications. Parent Coordinators in Benton County shall meet or exceed all the following qualifications and will continue to meet ongoing requirements as described:
  - (a) Education. A terminal or doctoral degree from an accredited college or university in law, psychiatry, or psychology;
  - (b) Licensure. A current and active professional license in good standing in the area of law, psychiatry, psychology, counseling, marriage and family therapy, mental health, or social work;
  - (c) Training. Have or acquire within twelve (12) months of assuming the PC role, training or education in all of the following:
    - i. Substance abuse addiction and recovery, including identifying need for treatment;
    - ii. Conflict resolution and theory, including mediation skills and collaborative processes;
    - iii. Child development and psychology;

- iv. Divorce and separation adjustment, including high conflict families and co-parenting strategies;
  - v. Basic knowledge of child and adult psychopathology;
  - vi. Family dynamics and family systems theories;
  - vii. Parenting education models and techniques;
  - viii. Domestic violence issues and concerns, including safety protocols;
  - ix. Cultural and implicit bias sensitivity and awareness of the needs of minority populations;
  - x. Domestic relations law;
  - xi. Ethical standards, including confidentiality, dual roles, boundaries, and objectivity;
  - xii. Training comparable to that set forth in Section 3.3 of the Oregon Judicial Department Court-Connected Mediator Qualifications Rules, effective August 1, 2005 (or as thereafter amended) entitled "Domestic Relations Custody and Parenting Mediation Curriculum."
- (d) Continuing education. As an ongoing obligation, a PC must complete any continuing education requirements of their profession.
- (e) A circuit court judge, notwithstanding the qualifications listed above, may authorize the waiver of any or all of these requirements in ordering the appointment of a specific PC.
- (3) Conduct. As an ongoing obligation, a PC shall subscribe to the specific ethics identified by their profession.
- (a) No individual whose professional license has been revoked or surrendered while disciplinary proceedings are pending before professional licensing entities shall be eligible for initial or continued appointment as a PC.
  - (b) Individuals who have served as a counselor, attorney, mediator, or evaluator to parties will not serve as a parenting coordinator to the same parties without the express written and informed consent of the parties, and careful consideration of potential conflicts of interest. Prior to appointment by the court, attorneys or self-represented litigants should confer with the assigned PC as to conflicts of interest, waivers of conflicts of interest if necessary, and availability of PC to confer on another case.



- (4) Motion for appointment of a PC shall contain certification that the appointee meets the qualifications of this rule.
- (5) All orders for appointment of a PC shall reference the Benton County Circuit Court Parent Coordinator Policy and Procedure as part of the order. A copy of the Parent Coordinator Policy and Procedure may be obtained from the court's website at <http://courts.oregon.gov/courts/Benton>, or by calling the Domestic Relations Clerk at 541-243-7846, or requesting by letter to:

Trial Court Administrator  
Benton County Courthouse, Room 101  
PO Box 1870  
Corvallis, OR 97339

## **CHAPTER 9 — Probate and Adoption Proceedings**

### **9.081 ORAL OBJECTIONS**

#### Location for Making Oral Objections

- (1) Oral objections in probate matters, pursuant to ORS 125.075, may be made in Room 106 of the Benton County Courthouse, 120 NW 4<sup>th</sup> Street, Corvallis, Oregon 97330, during regular office hours. The clerk of the court will provide the means for objections to a motion to be reduced to a written statement.
- (2) The respondent or protected person may also make objections orally to an appointed Court Visitor.
  - (a) Court Visitors are to include any objections by the respondent or protected person in the Visitor Report.
  - (b) The objections shall be in bold and underlined in the same sized font as the body of the report.

### **9.082 PROTECTIVE PROCEEDINGS – NOTICE OF SERVICES**

In a proceeding for the appointment of a guardian for an alleged incapacitated person, the notice required under ORS 125.070 shall include the following language or its equivalent:

“FREE LEGAL SERVICES FOR PERSONS AT LEAST 60 YEARS OF AGE WHO ARE SUBJECT TO A GUARDIANSHIP PROCEEDING MAY BE OBTAINED BY CALLING OREGON LEGAL SERVICE’S SENIOR LAW PROGRAM AT (541) 926-8678 OR (TOLL-FREE) 1-800-817-4605. FREE OR LOW-COST SERVICES MAY BE OBTAINED BY CALLING SENIOR SERVICES AT (541) 967-2090 OR (TOLL-FREE) 1-800-638-0510. SENIOR SERVICES PROVIDES SERVICES TO

HELP PEOPLE MAINTAIN MAXIMUM INDEPENDENCE, REMAIN IN THEIR HOMES AS LONG AS POSSIBLE, SELECT AN APPROPRIATE ADULT FOSTER CARE HOME OR NURSING HOME, OBTAIN NECESSARY PERSONAL OR MEDICAL CARE, OR BOTH, AND STOP OR PREVENT PHYSICAL OR FINANCIAL ABUSE.”

### **9.161 FORM OF ACCOUNTING**

Accounting in estates and conservatorships must be submitted in the format specified in UTCR 9.160.

## **CHAPTER 12 —Mediation**

### **12.005 MANDATORY MEDIATION PROGRAM**

- (1) Upon the filing of a response, except for good cause, mandatory mediation shall be ordered in all domestic relations, dissolution, annulment, or separation cases involving contested issues of child custody or parenting time, or both.
  - (a) Fees for court mandated mediation are set by the Benton County Board of Commissioners.
  - (b) The mediation program policies and procedures are governed by the Benton County Mediation/Arbitration Commission.
- (2) Domestic relations mediation orientation will be held at the Benton County Courthouse at times scheduled by the Family Law Department. A party appearing for mediation orientation shall contact the Domestic Relations Clerk if they have good cause to request a different orientation session.
  - (a) A party may also satisfy the mediation orientation requirement by watching an orientation video at their attorney’s office if the attorney certifies to the court in writing of the client’s participation.
  - (b) Mediation orientation shall be completed within fourteen (14) days of filing responding documents. Failure to complete mediation orientation may result in the sanctions set out in UTCR 1.090.
- (3) Upon receipt of a mediation assignment, each party shall contact the mediator within forty-eight (48) hours to schedule a date and time for the initial mediation session. The initial mediation session shall occur within fourteen (14) days of notice of the assignment to the mediator.

- (4) All mediation proceedings shall be private, and all communications shall be confidential, except as otherwise provided by statute. Legal counsel is not allowed to attend or participate in mediation proceedings.
- (5) In all cases that have been referred to a court-appointed mediator, the mediator shall make a final, written report to the court describing the conclusion of mediation, whether successful or unsuccessful.
- (6) If parties reach full or partial stipulated agreement during mediation, the mediator shall reduce the agreement to writing. The written agreement shall be signed by the parties or by the mediator on behalf of the parties. The mediator shall file the same with the court via conventional or electronic filing and provide copies to the parties and their attorneys no more than fourteen (14) days after the agreement is reached.
  - (a) A mediator shall encourage disputing parties to obtain individual legal review and advice of any mediated agreement before signing any agreement. If the parties choose to sign the stipulated agreement, the document may then be incorporated into the court order or judgment.
  - (b) The agreement shall become final, binding, and enforceable upon the expiration of fourteen (14) days from the mediator filing it with the court unless prior to the expiration of the fourteen (14) day period either party provides the court and the other party with written objections to a parenting plan.
  - (c) The court may refer the matter back to the mediator at its discretion.
- (7) Small Claims. Unless excused by the court, parties in contested small claims cases shall be required to attend a mediation orientation session, after which parties may elect to participate in mediating the case.

#### **12.015 DOMESTIC RELATIONS FINANCIAL ISSUES MEDIATION**

Independent of an order from the court, the parties may agree to mediate financial issues, including but not limited to property and debt division, and support.

#### **12.025 COMPENSATION OF MEDIATOR**

For issues not involved in mandatory mediation, and for financial issues, the parties may agree to mediate with the court-appointed mediator in accordance with these rules. For such matters, the parties are responsible for paying the mediator for their time. The compensation arrangement in such matters shall be between the parties and the mediator, as they may agree in writing, and the compensation rate shall be negotiated by and between the parties and the mediator. Appropriate fee arrangements should be made with the mediator prior to the first session.

## **CHAPTER 13 — Arbitration**

### **13.005 MANDATORY ARBITRATION PROGRAM**

Except as otherwise specified in these rules, domestic relations arbitration shall be governed by the rules and regulations set forth in UTCR Chapter 13.

- (1) The court may require arbitration in any domestic relations case where the sole issues in controversy involve the division of property and debt unless the court finds good and compelling cause to exempt such a case from arbitration.
  - (a) An exemption shall be granted only upon the filing of a motion and affidavit setting forth good cause for the exemption sought.
- (2) This rule does not prohibit the parties from stipulating to arbitration of property and debt issues where there are other issues to be resolved by the court.

### **13.055 REFERRING CASES TO ARBITRATION**

- (1) Cases which are otherwise subject to arbitration will be referred to arbitration as follows:
  - (a) Within twenty (20) days of the date on which the answer is filed; and,
  - (b) At any time as specifically directed by the Presiding Judge.
- (2) The Arbitration Clerk will assign arbitrators to cases in a manner to ensure random selection.
- (3) The parties may stipulate to any arbitrator, including a non-lawyer arbitrator or a lawyer arbitrator who practices outside Benton and Linn counties.
- (4) Once a case is referred to arbitration, all motions against the pleadings, all motions for discovery, and all similar pretrial motions not yet resolved will be determined by the arbitrator. The arbitrator's determination, however, will only apply during the arbitration proceeding.
  - (a) If an appeal is filed, those issues may be raised again in the trial court.
  - (b) If a party feels that the arbitrator's decision on a pretrial motion will prejudice the parties if an appeal from the arbitrator's decision is filed, the party may file an appropriate motion with the Presiding Judge of the court.

### **13.095 ARBITRATION PANEL**

- (1) The Twenty-First Judicial District Arbitration Panel will consist of a panel of attorneys practicing in Benton or Linn Counties, or both, selected by the Benton County

Mediation/Arbitration Commission, subject to approval of the presiding judge, and having the following qualifications:

- (a) Five years continuous practice including significant experience in civil litigation, with a present emphasis in their practice of law on civil litigation; or,
  - (b) A retired, senior, or pro tem judge.
- (2) A list showing the names of the members of the Arbitration Panel will be available for public inspection in the Arbitration Clerk's office.
- (3) A person desiring to serve as an arbitrator shall complete an information sheet on the form prescribed by the court. Execution of the form, oath, and agreement to serve must be completed and filed before an applicant is eligible to arbitrate a case.
- (4) Refusal and Disqualification
- (a) The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator must notify the Arbitration Clerk immediately if refusing to serve or if any cause exists for the arbitrator's disqualification from the case upon any grounds of interest, relationship, bias, or prejudice governing the disqualification of judges.
  - (b) If disqualified, the arbitrator must immediately return all materials in the case to the Arbitration Clerk.

### **13.285 TRIAL SETTINGS WHERE REQUEST FOR DE NOVO TRIAL IS FILED**

Unless otherwise allowed by the court, for every case in which a request for a trial de novo is filed a trial date will be assigned within sixty (60) days of the date that the request for a trial de novo is filed.

## **CHAPTER 15 —Small Claims**

### **15.015 DISMISSAL FOR WANT OF PROSECUTION**

A judgment of dismissal, without prejudice, for want of prosecution, may be filed and entered on the court's own motion, following notice by the court of intent to dismiss pursuant to ORCP 54B(3), ninety (90) days after the date a claim is filed, unless the claim is set for a hearing or a default judgment is entered.

## CHAPTER 16 —Violations

### 16.005 PRE-ARRAIGNMENT, ARRAIGNMENT, AND APPEARANCE

This section governs any case initiated as a traffic violation under the Oregon Vehicle Code, or any other offense or violation issued on a uniform citation, or any misdemeanor treated as a violation pursuant to ORS 161.568, and for which the only penalty is a fine or forfeiture of a presumptive fine.

- (1) Prior to any arraignment date or at the date and time of arraignment specified on the summons, the defendant may exercise one of the following options to dispose of the case:
  - (a) The defendant may plead no contest and pay the fine specified as the presumptive fine amount on the summons; or, if available and requested, the reduced Violations Bureau fine, by entering a written plea of no contest and mailing the written plea and a check or money order for the fine to the court;
  - (b) The defendant may enter a written plea of no contest and submit a written explanation of the incident in support of seeking a penalty reduction. A defendant electing this option must submit the presumptive fine with the written explanation to the court;
  - (c) The defendant may plead no contest and pay the fine specified as the presumptive fine amount on the summons by going to the court's website, <http://courts.oregon.gov/Benton/>, and following the directions on the ePay link;
  - (d) The defendant may enter a written plea of not guilty and request that the matter be set for a court trial. Any defendant electing to proceed under this subparagraph must verify their residence address, current mailing address, and telephone number.
    - i. Defendants may enter the not guilty plea and request a court trial in person or by mail.
    - ii. A defendant must provide a list of witnesses they plan to call at trial.
  - (e) Individuals cited for MIP pursuant to ORS 471.430 may enter a plea of no contest and, if eligible, apply for the court diversion program.
- (2) A defendant electing to proceed in accordance with subparagraph (1)(d) of this rule may submit as evidence the written testimony of a witness, by affidavit or by declaration under penalty of perjury, in lieu of taking the testimony of the witness orally in court.
  - (a) The submission of the defendant's own written testimony shall be deemed a waiver of any right defendant may have to directly confront witnesses for the state. The submission of the written testimony of any defense witness other than defendant's

own shall not be deemed a waiver by the defendant of their right to confront the state's witnesses.

- (b) Absent a waiver pursuant to subparagraph (2)(a) above, the submission of written testimony of a witness for the state is subject to receipt by the court of a signed statement from the defendant waiving the right to have the testimony presented orally in court. The court shall provide a waiver form to the defendant at the defendant's last known address.
- (c) A declaration under penalty of perjury submitted as testimony in lieu of the taking of testimony orally in court must be submitted on a form provided by the court.



**STATE OF OREGON – COUNTY OF BENTON**

I certify that this is a true and correct copy of a document in the possession of the court administrator for the Benton County Circuit Court.

DATED: December 23, 2021

Court Administrator for Benton County Circuit Court:

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Christopher C. Westfall