

Supplementary Local Rules
For
The Fifth Judicial District
Circuit Court of the State of Oregon
For Clackamas County

Effective February 1, 2022

**Certificate of Supplementary Local Rules
Fifth Judicial District, Circuit Court of the State of Oregon
for Clackamas County
Effective February 1, 2022**

**State of Oregon
County of Clackamas**

**I certify that this is a true and correct copy of a document in the
possession of the court administrator for the Fifth Judicial District,
Circuit Court of the State of Oregon for Clackamas County.**

Dated: December 9, 2021

**Court Administrator for the Fifth Judicial District, Circuit Court of
State of Oregon for Clackamas County.**

/s/ Debbie D. Spradley



**Supplementary Local Rules
Fifth Judicial District, Circuit Court of the State of Oregon
for Clackamas County
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CHAPTER 1 – GENERAL PROVISIONS

SLR 1.161: WHERE FILINGS AND PAYMENTS MAY BE SUBMITTED

- (1) The Clackamas County Courthouse is open to the public from 8:00 A.M. to 5:00 P.M. on days the court is open for business.
- (2) Court operations may have limited public service hours for document filing, paying of fees and fines and for other court business. Current public service hours and any exceptions will be published on the court’s website at <http://www.courts.oregon.gov/courts/clackamas>.
- (3) The Civil Case Unit and the Accounting and Collection Unit have a drop box located outside of Room 104 for civil case filings, making payments and submitting payment plans. The drop box is available from 8:00 A.M. to 5:00 P.M. on days the court is open for business.

SLR 1.171: COURT WEBSITE

The court’s website is <http://www.courts.oregon.gov/courts/clackamas>.

SLR 1.201: INFORMATION ON FREE OR LOW-COST LEGAL SERVICES

There are free or low-cost legal services or other relevant services available in Clackamas County that may be helpful to the parties in a case. Information about these services is available at the public service counters and the information center on the first floor as well as on the ground floor near the elevator of the courthouse, 807 Main Street, Oregon City, Oregon, 97045.

CHAPTER 2 - STANDARDS FOR PLEADINGS AND DOCUMENTS

SLR 2.015: RETURN OF DOCUMENT TO PARTY

In addition to the authority to decline to receive or file a document under ORCP 9E and UTCR 2.010(12)(c), in certain limited situations, a document may be returned to the party who submitted it, without being filed by the court. Those situations include:

- (1) A document with an existing case number and case caption from another jurisdiction, unless filed pursuant to an order signed by a judge allowing a change of venue or authorizing the filing on some other basis;
- (2) A document that requires a fee but the fee or an order to waive or defer such fee is not provided and the fee requirement has not been satisfied;
- (3) A document without sufficient identifying information to determine in which case it

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should be filed or entered;

- (4) A document which requires court action, but the court action cannot be taken without the filing of statutorily-required preceding documents;
- (5) A document with a case caption from a jurisdiction not recognized by the Oregon Constitution or established by the Oregon Legislature, or a judgment purportedly issued by a nonexistent court; and
- (6) A document submitted for filing by facsimile transmission (FAX), unless expressly authorized by the court.

SLR 2.016: DESIGNATION OF KNOWN PARTIES BY PSEUDONYMS

In civil actions, the designation of a known party by a name other than the party's true name shall be allowed only upon an order of the court. If ordered, the designation of such party shall be by use of such party's initials or a pseudonym other than "Jane Doe" or "John Doe". The name "Jane Doe" or "John Doe" is reserved for a party whose identity is unknown and the party is being designated as provided in ORCP 20H. Petitions to designate known parties by pseudonyms must be filed conventionally. Please see SLR 2.501.

SLR 2.025: FEE WAIVERS AND DEFERRALS

Waiver and deferral requests for all civil court fees and costs shall be submitted to the Collections Unit, 807 Main Street, Room 104, Oregon City, Oregon 97045, not later than 11:30 A.M. on the day of filing for the request to be decided on the same day.

SLR 2.095: FILINGS FOR CONSOLIDATED CASES

- (1) Pleadings, memoranda or other documents filed pursuant to UTCR 2.090, which affect each of the consolidated cases, must include:
 - (a) Complete case captions listing all parties and case numbers; and
 - (b) An original pleading, memoranda, or other document for each case that highlights the case number in which the pleading, memoranda, or other document should be filed.
- (2) Pleadings, memoranda and other documents that do not apply to each of the consolidated cases shall contain only the case caption and case number for the case to which they apply.

SLR 2.501: STIPULATED OR *EX PARTE* MATTERS FOR WHICH THE DOCUMENTS MUST BE PRESENTED CONVENTIONALLY AND MAY NOT BE ELECTRONICALLY FILED.

In the following subject matter areas, the listed stipulated or *ex parte* documents, and any documents that will be served simultaneously with a document listed in this rule, must be presented conventionally and may not be electronically filed, except as provided in subsection (1)(b).

- (1) Family Case Matters.
 - (a) To be presented pursuant to SLR 5.061:
 - (i) Emergency Custody and Parenting Relief based on Immediate Danger
 - (ii) Family Abuse Prevention Act
 - (iii) Elderly Persons and Persons with Disabilities Abuse Prevention Act
 - (iv) Sexual Abuse Prevention Act
 - (v) Orders of Assistance
 - (vi) Pre-Judgment Temporary Protective Orders of Restraint (*Status Quo*)
 - (vii) Fee Deferral and Waiver
 - (viii) Emergency Protective Order
 - (ix) Extreme Risk Protection Order (ERPO)
 - (b) To be heard pursuant to SLR 5.061, but may be submitted electronically or conventionally:
 - (i) Family Abuse Prevention Act
 - (ii) Elderly Persons and Persons with Disabilities Abuse Prevention Act
 - (iii) Sexual Abuse Prevention Act
- (2) Civil Case Matters. To be presented pursuant to SLR 5.061:
 - (a) Assurance of Voluntary Compliance
 - (b) Commission for Out-of-State Deposition
 - (c) Dstraint Warrant
 - (d) Exoneration of Undertaking on Appeal
 - (e) Petition to Designate Known Party by Pseudonym
 - (f) Preliminary Injunction Show Cause / Temporary Restraining Order

- (g) Provisional Process Show Cause
- (h) Receivership Show Cause
- (i) Registration of a Foreign Writ, Mandate, Commission, Letter Rogatory, or Order to Complete Discovery in Oregon pursuant to ORCP 38 and UTRC 5.140
- (j) Writ of Assistance
- (k) Writ of Mandamus
- (l) Writ of Review
- (m) Fee Deferral and Waiver
- (n) Notice of Restitution and Writ of Execution in Landlord / Tenant cases

CHAPTER 3 - DECORUM IN PROCEEDINGS

SLR 3.181: PUBLIC ACCESS COVERAGE IN AREAS OUTSIDE OF COURTROOM

No public access coverage is allowed in any area outside the courtroom that is on the courthouse premises and under the supervision and control of the courts without the written permission of the Presiding Judge. Requests to conduct public access coverage in such areas may be made to the Office of the Presiding Judge at any time during the business day.

SLR 3.185: PERSONAL COMMUNICATION DEVICES IN JURY ROOMS DURING DELIBERATIONS AND IN COURTROOMS DURING PROCEEDINGS

- (1) Unless otherwise permitted by the judge presiding over the trial, personal communication devices (any electronic or other equipment capable of communication with others outside a jury room, including, but not limited to cell phones and pagers) are not allowed in a jury room during jury deliberations.
- (2) After a jury has been instructed and charged to commence deliberations the courtroom clerk will collect all such devices and retain them in a secure place during deliberations.
- (3) Unless otherwise permitted by UTRC 3.180(6) or the judge presiding over the proceeding, personal communication devices (any electronic equipment capable of communicating with others outside a courtroom by transmission of sound or images, including, but not limited to cell phones and pagers) taken into a courtroom by any person shall be turned off upon entering the courtroom and shall remain off until after the person has departed from the courtroom.

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CHAPTER 4 - PROCEEDINGS IN CRIMINAL CASES

SLR 4.021: CASE MANAGEMENT APPEARANCE

- (1) Excluding Ballot Measure 11 / ORS 137.700 offenses and homicide cases, all criminal cases will be given a case management date.
- (2) Ballot Measure 11 / ORS 137.700 offenses and homicide cases not specially assigned to an individual judge will be scheduled for a hearing on the Case Management Calendar for the court to assist the parties with case management issues, including discovery and scheduling of motions and trials.
- (3) The defendant shall appear with counsel, or through counsel under ORS 135.030, and this mandatory appearance cannot be waived.

CHAPTER 5 - PROCEEDINGS IN CIVIL CASES

SLR 5.015: SUMMARY JUDGMENT MOTIONS

Motions for summary judgment (ORCP 47 motions) are scheduled and heard by the court unless a case is in arbitration and the motion will be heard by the arbitrator, or there is a time constraint and the motion cannot be set prior to the trial on the regular docket, at which time, the motion will be set as a special set on a Monday. A motion is not considered filed if the motion fee is not paid. Once filed, the motion will be scheduled and parties will be notified. It is not necessary to file a motion to continue a summary judgment hearing if all parties agree to a reset.

SLR 5.061: *EX PARTE* MATTERS

- (1) *Ex parte* matters will be heard Monday through Friday, excluding legal state holidays, at 1:00 P.M.
- (2) An in-person *ex parte* appearance may be required in those stipulated and *ex parte* matters for which the documents must be presented conventionally and may not be electronically filed as designated in SLR 2.501, except as provided in SLR 2.501(1)(b). An in-person *ex parte* appearance is not required for Orders to Show Cause. If an Order to Show Cause is being filed in conjunction with documents that require an in-person *ex parte* appearance, all documents may be presented at *ex parte*.
- (3) Except as provided in subsection (2) of this rule, any stipulated or *ex parte* matter may be electronically filed for purpose of submitting to a judge for signature. No appearance is required.
- (4) Motions for *ex parte* order must be accompanied by a separate proposed order.

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- (5) When service is required by law, any motion that is to be presented *ex parte* shall have attached to it a certificate of service, which shall include the date, time, manner of service upon the opposing party, and the name of the person served. If no service was made, the moving party shall submit a statement documenting the reasons that no service was made.
- (6) Family Abuse Prevention Act, Sexual Abuse Prevention Order, and Elderly Persons and Persons with Disabilities Abuse Prevention Act petitions filed pursuant to ORS 107.718, ORS 163.760 or ORS 124.010 through ORS 124.020 shall be heard Monday through Friday at 1:00 P.M. in the courtroom designated. Except as provided in SLR 2.501(1)(b), all required documents must be filed in the Civil Case Unit, 807 Main Street, Room 104, Oregon City, Oregon, 97045 no later than 11:00 A.M. on the day of the *ex parte*.
- (7) Matters that may not be submitted *ex parte* are as follows:
 - (a) Motion to Continue Trial or Hearing Date
 - (b) Motion to Continue UTCR 7 Dismissal Date
 - (c) Motion to Set Aside
 - (d) Motion for Attorney Withdrawal
 - (e) Civil Default Judgments
 - (f) Motion for Telephonic Testimony
 - (g) Motion for Alternative Service
 - (h) Motion for In Camera Review
 - (i) All foreclosure matters
 - (j) All probate matters, unless prior approval has been given

SLR 5.105 JUDGMENT IN CIVIL ACTION THAT INCLUDES MONEY AWARD

- (1) Pursuant to ORS 18.042, civil judgments that contain a money award must contain a separate section clearly identified as a money award. This statute sets forth information that is required to be included and information that is required to be included to the extent known by the judgment creditor. Any information that is required to be provided to the extent known by the judgment creditor must either be provided or the separate section must state affirmatively that the information required by the statute is unknown.
- (2) Any judgment in a civil action that includes a money award, but does not contain all

required information, including stating where such information is unknown, the filer may be notified to resubmit a corrected judgment that is in compliance with this rule.

CHAPTER 6 - TRIALS

SLR 6.012: CONFERENCES IN CIVIL PROCEEDINGS

- (1) The court requires settlement conferences prior to trial pursuant to UTCR 6.010(1)(g) on all civil cases except domestic relations, landlord tenant evictions, and small claims. The pretrial settlement conference will be held pursuant to UTCR 6.200(1) & (2)(a) unless the court finds good cause why the settlement conference should not be held. The court may order a settlement conference in selected domestic relations matters.
- (2) A trial-setting conference will not be held prior to the pretrial settlement conference.
- (3) Without the consent of both parties, the settlement conference judge shall not be permitted to act as the trial judge if the case does not settle.
- (4) The following must be personally present at the settlement conference, unless excused in advance by the court for good cause:
 - (a) The parties;
 - (b) The trial attorneys; and
 - (c) The insurance company representatives who have the authority to settle the case.
- (5) When appropriate, an insured party may appear by such party's trial counsel and insurance carrier. Under UTCR 6.010(2), any party who is required to appear, or any insurance agent appearing for the party, may apply to the court to appear by video conference. If a party secures advance permission of the court for an appearance by video conference, that party must provide the laptop and the technology to accomplish the video conference. The party making the request shall be responsible for setting up the video conference and ensuring a successful video and audio connection for the duration of the conference.
- (6) Notwithstanding the information required in subsection (7) of this rule, pretrial statements are not required in civil cases. Upon the request of either party, any pretrial statements and supporting documents that are voluntarily submitted by the parties are maintained in a separate confidential file, except for those documents required to be filed in domestic relations cases.
- (7) In domestic relations cases, information and documents required under UTCR 8.010 (4) and (5), regarding distribution of assets and support, must be filed and served at the time

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of the pretrial conference.

- (8) When a case is reported settled, the court will remove it from the trial calendar and will send out a twenty-eight (28) day Notice of Dismissal to all parties. If the court does not receive an appropriate order or judgment within twenty-eight (28) days of the Notice, the case will be dismissed for want of prosecution in accordance with UTCR 6.020(2).
- (9) The materials and notes prepared by the pretrial settlement judge are not placed in the trial court file and are maintained as separate confidential records.
- (10) Failure to comply with any of the above may result in sanctions being imposed by the court as provided under UTCR 1.090, ORCP 69B, or any other applicable rule or law.

SLR 6.025: PAYMENT OF TRIAL FEES AND HEARING FEES

- (1) The court shall verify that payment has been made or that fees have been waived or deferred prior to the commencement of trial or hearing where a fee is required to be paid under ORS Chapter 21 and ORS 105.130. If the court is unable to verify that payment has been made, a fee receipt, fee waiver or fee deferral must be presented to the courtroom clerk prior to the commencement of a trial or hearing.
- (2) Fees payable at the conclusion of the trial shall be paid by 5:00 P.M. on the day trial concludes unless the fee is waived or deferred. If the trial concludes after the close of business, the fees shall be paid the morning of the first court day thereafter. For purposes of this rule, a jury trial shall be deemed concluded when the jury returns a verdict.
- (3) The trial judge may elect to delay commencement of the trial or hearing until the fees are paid, but failure to pay the fees as stated in SLR 6.025(1) shall not be grounds for granting a postponement sought by a party.

SLR 6.031: POSTPONEMENT OF TRIAL

A request to postpone trial must be made by filing a motion, affidavit and order with the appropriate processing unit. Faxes will not be accepted. All requests to postpone trial will be forwarded to the Presiding Judge for a decision, and a hearing will be held only at the direction of the Presiding Judge. Requests to postpone trial will not be accepted at *ex parte*.

SLR 6.081: VALUE OF EXHIBITS OFFERED AS EVIDENCE

In order for the Trial Court Administrator to comply with Oregon Judicial Department Policy pertaining to the listing and valuing of exhibits offered as evidence, the exhibits will be assigned a value of zero (0), unless the party submitting the exhibit supplies a written opinion as to their value to the Trial Court Administrator.

SLR 6.082: EXHIBIT MARKING

In addition to marking the exhibits pursuant to UTCR 6.080, the case number shall also be noted on the exhibit label.

SLR 6.083: PRETRIAL DISCLOSURE AND STIPULATION TO EXHIBITS

All exhibits marked pursuant to UTCR 6.080 shall be shown to opposing party before the commencement of trial. Parties shall stipulate to those exhibits to which there are no objections and shall deliver the stipulated exhibits to the clerk. At the commencement of the trial, the judge shall state on the record that the stipulated exhibits have been received into evidence.

SLR 6.084: NUMBER OF EXHIBITS REQUIRED

All documentary exhibits, excluding audio and visual, must be submitted to the court with one (1) original and three (3) copies.

CHAPTER 7 - CASE MANAGEMENT AND CALENDARING

SLR 7.015: CRIMINAL TRIALS

- (1) Felony and misdemeanor criminal trials in which the defendant is in custody are set at arraignment.
- (2) Felony and misdemeanor criminal trials in which the defendant is out of custody are set at a pre-plea conference/Case Management Hearing (CMA). The CMA is held approximately forty-five (45) days following defendant's arraignment.
- (3) Criminal motions in Circuit Court are heard prior to the beginning of trial and must be filed in accordance with UTCR 4.010. Parties will be notified of the scheduled motion hearing date.

SLR 7.016: REMOVING PARTY FROM FILED ACTION OR THIRD PARTY ACTION IF AMENDED COMPLAINT OMITTS THE PARTY

After commencing an action under ORCP 3 or after commencing a third party action under ORCP 22, a party named will only be removed from the case as a party by entry of a court generated order pursuant to UTCR 7.020 or by an appropriate form of judgment (Limited or General) presented to the court. Merely omitting a party previously named from an amended pleading does not remove that party from the case.

SLR 7.025: CIVIL TRIALS, MOTIONS AND SHOW CAUSE HEARINGS

Civil motion oral argument is heard on Monday morning. Parties will be notified of the scheduled motion hearing date.

SLR 7.044: APPEARANCES BY TELEPHONE

- (1) A motion for the telephonic appearance of counsel, a party, or a witness (collectively “the party”) may be made for any matter before the court pursuant to ORS 45.400. The request must include the following:
 - (a) Hearing type;
 - (b) Date, time and location of hearing;
 - (c) The reason for the request;
 - (d) If the motion is for the telephonic appearance of a witness, the subject matter of the witness’s testimony;
 - (e) The position of opposing party; and
 - (f) Whether appearance by video transmission is readily available.
- (2) If the motion for telephonic appearance is granted:
 - (a) The cost of the telephonic appearance shall be borne by the party requesting the telephonic appearance.
 - (b) If the party fails to telephone the court or the court is unable to reach the party at the number provided, the party may be deemed to not have appeared and the matter may be decided upon the evidence before the court.
- (3) The rules established in subsection (1) and (2) of this rule do not apply to the juvenile dependency and delinquency case types. In those actions, the judge presiding over the matter may implement a more informal process for reviewing requests for parties or witnesses to appear telephonically.

SLR 7.055: ABATED AND STAYED CASES

For good cause shown, the Presiding Judge may abate any case upon motion of counsel or upon motion of the court.

- (1) Unless prohibited by law, an abated case may be dismissed, without prejudice, for want of prosecution following notice by the court of intent to dismiss pursuant to ORCP 54B(3) two (2) years from the date of removal order if the case has not been removed from abated status or dismissed at an earlier time. A case may be removed from abated

status upon motion of counsel or on the court's own motion.

- (2) No abated case shall be placed on the trial docket, or be subject to court arbitration or mediation, or have any motion practice conducted during the period of abatement. Parties may proceed with discovery during the period of abatement or inactive status by mutual consent.
- (3) A notice of bankruptcy will stay a case pursuant to UTCR 7.050, rather than abate as provided in this section.
- (4) Once a case is reinstated to the active trial docket, the case will be assigned a date for trial.

SLR 7.061: NOTICE TO THE COURT FOR SPECIAL ACCOMODATION UNDER THE AMERICANS WITH DISABILITIES ACT (ADA)

- (1) Parties requesting special accommodations under the Americans with Disabilities Act (ADA) must comply with UTCR 7.060. All requests for special accommodation must be made no later than four (4) judicial days prior to each proceeding in the action and must be made to the Trial Court Administrator's Office. For good cause shown, the court may waive the four (4) judicial days advance notice.
- (2) A Request for ADA Accommodations form may be found on the Oregon Judicial Department website at <http://www.courts.oregon.gov/services/ada>. The request form is also available at the Trial Court Administrator's Office, located at Clackamas County Circuit Court, 807 Main Street, Room 310, Oregon City, Oregon 97045.
- (3) The Trial Court Administrator's Office in Clackamas County may be contacted by calling (503) 655-8627 or by fax at (503) 650-3963. Requests may be made in person or in writing to: ADA Coordinator, Clackamas County Circuit Court, 807 Main Street, Room 310, Oregon City, Oregon, 97045. The Trial Court Administrator's Office is open each business day from 8:00 a.m. to 5:00 p.m.

CHAPTER 8 - DOMESTIC RELATIONS PROCEEDINGS

SLR 8.015: EDUCATION FOR DIVORCING PARENTS

- (1) The following cases are subject to this rule: Annulment or dissolution of marriage actions, legal separation actions or petitions to establish custody or visitation and post-judgment litigation involving custody or visitation.
- (2) All parties, where the interest of a child under the age of eighteen (18) years is involved, shall successfully complete the education for divorcing parents program offered by the court-designated providers or a pre-approved alternative education program. Parties shall

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register for the program or make application for approval of an alternate program within fifteen (15) days of receiving notice of this education requirement. All parties shall complete the program before trial or entry of judgment.

- (3) Notice and instructions to the petitioner of the requirement that the parties complete the education program or alternative education program will be provided by the Trial Court Administrator when the petition is filed. Petitioner, when serving the respondent with the petition, shall also include a copy of the Trial Court Administrator's notice. The petitioner's return of service on the respondent shall indicate service of the notice with the summons and petition.
- (4) Each party shall pay a fee determined by the program provider to cover program costs. The fee may be waived if the party presents a verified affidavit of indigency to the court and the party meets indigency guidelines.
- (5) Each person who successfully completes the court's program or the pre-approved alternative program shall present a certificate of completion to the judge before trial or entry of judgment.
- (6) Upon a showing of good cause, a party may request a waiver of this rule. The request must be made by motion, supported by affidavit, and filed within fifteen (15) days of receipt of the Trial Court Administrator's notice.
- (7) Court action on a petition shall not be delayed by a party's refusal or delay in completing the program unless the non-complying party is the petitioner or the moving party. Upon a party's failure to successfully complete the education program pursuant to this rule, the assigned judge may take appropriate action including, but not limited to, proceedings for contempt.
- (8) Neither party shall move to modify custody or parenting time, or enforce any of the terms of the parenting plan without having first complied with this rule by either:
 - (a) Completing the necessary program and filing the Certificate of Completion with the court; or
 - (b) Securing a written waiver from the court in the manner described above.

If a party moves to modify custody or parenting time, or enforce any of the terms of the parenting plan without first complying with this rule, then the court may dismiss the modification motion made by the non-compliant party without a hearing on the merits of the motion.

SLR 8.016: STATEMENT OF ASSETS AND LIABILITIES

- (1) Prior to filing statements of assets and liabilities pursuant to UTCR 8.010(3), the parties

shall confer in an effort to agree on the following:

- (a) Terminology to be used to describe each asset and liability;
 - (b) Values of each asset and liability;
 - (c) The order in which each asset and liability is to be listed; and
 - (d) Which assets and liabilities are part of the marital property and which are non-marital assets.
- (2) In lieu of filing separate statements of assets and liabilities, the parties may file one joint statement of assets and liabilities which either or both parties claim to be subject to distribution by the court.
 - (3) In the event parties file separate statements, such statements must include all assets and liabilities which either or both parties claim to be subject to distribution by the court. Each party's statement of assets and liabilities shall use the agreed-upon terminology for each asset and liability. If the parties are unable to agree on terminology for any particular asset or liability, each party shall refer to each such asset or liability with their own preferred terminology, followed immediately by the opposing party's terminology for that item in parentheses.
 - (4) Assets and liabilities shall be listed in the same order. If the parties are unable to agree upon the listing order, petitioner's listing order shall prevail and respondent's statement and any other party's statement shall follow petitioner's listing order.
 - (5) Each party's statement of assets and liabilities shall first list all items the parties agree are part of the marital estate. Any assets or liabilities that the parties do not agree are part of the marital estate shall be separately listed at the end of the statement.
 - (6) Statements of assets and liabilities shall be filed with the court at least two (2) judicial business days prior to the date set for trial and a copy faxed, emailed or delivered to the assigned judge as soon after the assignment is made as possible.

SLR 8.017: PARTICIPATION IN APPROPRIATE DISPUTE RESOLUTION

- (1) **Mediation Requirement - Scope.** In any domestic relations case not exempted under Section 2 of this rule, all parties are required to participate in some form of appropriate dispute resolution, such as mediation, arbitration, judicial settlement conference, collaborative legal process, or a neutral-assisted settlement conference, regarding each of the following contested issues:
 - (a) Child custody;
 - (b) Parenting time or visitation issues, other than enforcement;

- (c) Spousal support; and
 - (d) Allocation of assets or debts.
- (2) Exemption from Mediation Requirement. Any party who is exempt, as outlined below in (2)(a) through (2)(c), shall follow the process in subsection (5) below to request a waiver of mediation. The following circumstances exempt a domestic relations case from mediation under this rule:
- (a) Cases in which the parties are also parties to a criminal no-contact order or an active protection order are exempt from mediation requirement. Such orders, include but are not limited to:
 - (i) Family Abuse Prevention Act Orders,
 - (ii) Stalking Orders,
 - (iii) Elderly Persons and Persons with Disabilities Abuse Prevention Act orders,
 - (iv) Sexual Abuse Protection orders, and
 - (v) Stalking Protective orders.
 - (b) Notwithstanding the exemptions listed in paragraph (2)(a), except when a criminal no-contact order is in effect, mediation may occur at the request of the protected person as long as the circumstances of mediation do not violate the terms of the protection order.
 - (c) Any matter involving a minor child or youth named as a party in a pending Juvenile Court case, or in the temporary or permanent custody or wardship of the Department of Human Services or the Oregon Youth Authority.
- (3) Limitations on Issues/Claims Subject to the Mediation Requirement. The following issues and claims are not subject to the mediation requirement under this rule:
- (a) Immediate danger (i.e., emergency) custody or parenting time claims,
 - (b) Claims for Temporary Protective Orders of Restraint, *Status Quo* Orders, or financial restraining orders,
 - (c) Claims involving child support,
 - (d) Claims involving temporary spousal support, and
 - (e) Order of Assistance.

- (4) **Limitations Do Not Over-Ride Mediation Requirement on Allowed Issues/Claims.** Mediation is required for any issue subject to Section (1) of this rule even if accompanying issues under Section (3) of this rule are excluded from mediation requirements.
- (5) **Waiver of Mediation and other Resolution Process.** A party may not waive mediation or other required dispute resolution process without a court order. To request an order allowing waiver, a party must file a motion and supporting declaration with the court. An order to waive mediation or other required resolution process may be granted on a party's or the court's own motion upon good cause, such as a showing of danger or other compelling circumstance.
- (6) **Mediation Orders.**
 - (a) The court, upon receipt of a filed response contesting any issues listed in subsection (1), will send the parties to the case, or the attorneys (if represented), a Notice Regarding Mandatory Mediation and an Order for Mediation. The parties are directed to begin the process of dispute resolution within fourteen (14) days of the receipt of the order. The order will include contact information for Clackamas County Resolution Services, which is a provider of mediation services. The parties must conclude the mediation at least thirty (30) days before trial or hearing on the merits, or such later time as may be allowed by the court on motion and affidavit showing good cause.
 - (b) If private mediation is sought and the parties are unable to agree on a private mediator or payment of fees of the mediator, any party may file a motion and supporting declaration with the court requesting that the court determine the mediator and payment of fees.
 - (c) Notwithstanding the exemptions to mediation in subsection (2), the court on its own motion may order mediation for any domestic relations matter except a matter involving a person protected (A) by a criminal no-contact order issued against another party or (B) by a protective order where the protected person has not requested mediation. Mediation may not be ordered in the protective order case under any circumstances.
- (7) **Good Faith.** The parties must participate in mediation in good faith. Mediation shall not be used by any party for the purposes of harassment or delay.
- (8) **Certificate of Compliance.** See SLR 8.046.

SLR 8.046: COMPLIANCE WITH DISPUTE RESOLUTION REQUIREMENTS

- (1) Clackamas County Resolution Services will file a notice with the court when parties have attended mediation pursuant to ORS 107.765(2).

- (2) In cases in which the parties complete mediation or other dispute resolution process required by SLR 8.017 by a means other than Clackamas County Resolution Services, the parties must file a Certificate of Required Dispute Resolution in substantial conformity with the form that is available on the court's website, located at https://www.courts.oregon.gov/forms/Documents/Certificate_of_Required_Dispute_Resolution.pdf . The certificate must be filed at least seven (7) days in advance of Trial Assignment, or seven (7) days in advance of hearing or trial if the case is retained by an individual judge. If the certificate has not been filed (or the requirement waived) on an issue scheduled for hearing or trial, the parties may be deemed not ready to proceed to hearing. Other penalties for failure to comply with SLR 8.017 may include, but are not limited to delay of trial or hearing date, dismissal of case, or refusal of the court to allow a party to present evidence at the trial or hearing. Even if the parties have failed to participate in mediation, the court in its sole discretion may proceed to trial if it determines it is in the best interest of the parties to proceed.

SLR 8.051: POST JUDGMENT ORDER TO SHOW CAUSE FOR MODIFICATION OF THE JUDGMENT

- (1) The Order to Show Cause shall require the opposing party to file a written response in answer to the Motion and Affidavit, with a responding Uniform Support Declaration if the issue of support is to be contested, within the time prescribed by ORS 107.135(14). The court will schedule a hearing on the motion at the time a written response is filed by the opposing party.
- (2) The Order to Show Cause shall include the Notice about a Written Response to a Petition or Motion to Modify Filed in Clackamas County Circuit Court. This notice is available on the court's website at https://www.courts.oregon.gov/forms/Documents/Notice_of_Filing_Written_Response.pdf .
- (3) If the opposing party fails to file the written response in opposition within the time allowed in ORS 107.135(14), the moving party shall forthwith submit a motion, declaration and order for default with supplemental judgment allowing the relief requested in the order to show cause. The court reserves the right to require the taking of testimony of the moving party in such default matters.

CHAPTER 9 - PROBATE AND ADOPTION PROCEEDINGS

SLR 9.021 PROBATE FILINGS

- (1) All Petitioners in estate proceedings shall state their full legal name in the Petition.

- (2) Petitions to open estate proceedings must clarify the relation of each heir to the deceased following consanguinity and passage by representation as described in ORS 112.045 and ORS 112.065, to enable the court to confirm that distribution of estate assets is just and proper.
- (3) Petitions to open estate proceedings that include requests to waive bonds shall clearly explain the reason waiver is just and proper in light of all known assets and creditors, and shall be supported by contemporaneously filing consents from all known heirs.
- (4) Petitions to open estate proceedings shall disclose whether any devisee's bequest will fail, and the reasons that the failure is inevitable.

SLR 9.035: DELINQUENCIES OR DEFICIENCY IN PROBATE FILINGS

- (1) The court will schedule a citation hearing when there is a delinquency or deficiency in filing a document required by statute or court order. Notice will be given to the attorney if the party is represented by an attorney, or if not represented by an attorney, to the fiduciary.
- (2) The personal representative, conservator or guardian, together with counsel of record, must appear unless the matter has been corrected at least three (3) judicial days prior to the Citation hearing. If the delinquency or defect has not been corrected by the time of the hearing, sanctions may be imposed.

SLR 9.041: SETTLEMENT OF PERSONAL INJURY OR WRONGFUL DEATH CLAIMS: REQUIREMENTS WHEN MINOR CHILD OR INCAPACITATED PERSON APPEARS BY GUARDIAN *AD LITEM*

- (1) A conservatorship on behalf of the minor child or incapacitated person generally will be required for any case where personal injury or wrongful death settlement proceeds are at issue.
 - (a) Bond and standard annual accounting requirements may be waived if the funds are restricted until the minor attains the age of majority. In lieu of such accountings, the court will require Annual Report of Restricted Funds.
 - (b) Restricted accounts on behalf of a minor child or incapacitated person must be confirmed by a signed acknowledgment from the bank or brokerage firm which discloses the account number, type and account balance as required by UTCR 9.050 and 9.080. Exceptions for diminutive amounts may be requested.
 - (c) Approval of damage settlement amounts for the benefit of a minor child or incapacitated person appearing by a guardian *ad litem* in a lawsuit, except those cases assigned for trial to a trial department, are a basic responsibility of the Probate Court. The allocation of funds and the structuring of such funds is likewise the court's responsibility.

- (d) Minors and incapacitated persons should be provided with independent counsel for such issues and most commonly when a minor's funds are proposed to be withheld from them after age eighteen (18).

SLR 9.045: RESIGNATION OF COUNSEL IN PROBATE MATTERS; NOTIFICATION REQUIREMENTS

If a bond has been posted, resigning counsel must notify the insurer or surety of the resignation and substitution of counsel.

SLR 9.055: BONDS IN ESTATES WHERE PERSONAL REPRESENTATIVE OF INTESTATE ESTATE IS SOLE HEIR OR DEVISEE

Consistent with ORS 113.105, the personal representative of an intestate estate may be required to file a bond if the court is not satisfied that the creditors will be paid.

SLR 9.061: ATTORNEY WITHDRAWAL IN GUARDIANSHIP CASE

The court will not recognize withdrawal in a guardianship case until the notice of appointment, required under ORS 125.082, has been filed. If it is believed that an attorney must withdraw, without assisting in the ORS 125.082 requirements, a motion, declaration, and order to withdraw must be submitted.

SLR 9.062: ESTATE PROCEEDING IN ANOTHER STATE

If an estate is filed in Oregon, and an estate proceeding for the same decedent exists in another state, a certified copy of the limited judgment of appointment, will (if testate), and letters of appointment must be included with the petition.

SLR 9.063: DISCHARGE OF PERSONAL REPRESENTATIVE

Any closing documents to address the discharge of the personal representative as provided in ORS 116.213 shall be filed within thirty days of the general judgment of distribution or any amended general judgments of distribution, except for good cause shown.

SLR 9.065: CONFERENCES IN PROBATE PROCEEDINGS

- (1) Settlement conferences are required prior to trial in all trust litigation and will contest cases. The pretrial settlement conference will be held unless the court finds good cause why the settlement conference should not be held.
- (2) Without the consent of both parties, the settlement conference judge shall not be permitted to act as the trial judge if the case does not settle.
- (3) The following must be personally present at the settlement conference, unless excused in

advance by the court for good cause:

- (a) the parties; and
- (b) the attorneys.

SLR 9.075: GUARDIANSHIP

- (1) A Petition for Guardianship shall state, in the caption, whether it is for guardianship of a minor or an adult, whether it is for a temporary or indefinite time (or both), and whether a conservatorship will also be requested. All Petitioners shall state their full legal name in the Petition. If a Petition for Guardianship includes a request for waiver of two (2) day notice, then the caption shall also designate that it is an “Emergency Protective Proceeding.” For adult guardianships, the deposit for the visitor’s investigation fee shall be paid within one (1) business day of filing the Petition unless the party has secured a fee waiver or deferral.
- (2) When an order appointing a court visitor is issued, the petitioner’s attorney shall provide copies of the petition, marked “VISITOR’S COPY” with supporting documentation and copies of proposed notices and the ORS 125.070(4) respondent’s objection (the blue form) to the designated court visitor by e-mail.
- (3) Petitions for Appointment of a Temporary Guardian shall be accompanied by appropriate affidavits and medical reports and filed with the Probate Department.
- (4) If a guardian intends to use a protected person’s funds for room and board that the guardian or guardian’s spouse, parent or child will provide to the protected person, then the Petition for Guardianship must include a monthly budget showing the total cost for all occupants’ room and board, the proportion of the total room and board proposed to be paid by the protected person’s funds, and the amount of the protected person’s funds that will remain for other necessary expenses. A Limited Judgment granting a Petition for Guardianship that includes such a budget satisfies the ORS 125.320(2) requirement for an advance order. The protected person’s contribution to room and board shall not be increased without a new court order that allows it.
- (5) Within thirty (30) days after each anniversary of appointment, a guardian of a minor shall file a written report with the court. Copies of the guardian’s report must be given to those people specified in ORS 125.060 (3). The report shall be in substantially the same form as that described in ORS 125.325.
- (6) If a guardian uses a protected person’s funds for room and board that the guardian or guardian’s spouse, parent or child has provided to the protected person without having had a budget approved with the Petition, then a budget as described in section (4) must be included with the next annual guardian’s report. Approval of the annual guardian’s report with the budget satisfies the ORS 125.320(2) requirement for an advance order. Thereafter, the protected person’s contribution to room and board shall not be increased

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without a new court order that allows it.

- (7) When the protected person in a Clackamas County guardianship case moves to a residence outside of Clackamas County, a motion, declaration and order to transfer the case must be filed to move it to the court where the protected person lives. This is presumed to serve the protected person's best interest under ORS 125.020(4) unless the guardian explains good reasons for the case to remain in Clackamas County in a declaration filed with the Probate Department.

SLR 9.076: NON-PROFESSIONAL FIDUCIARY EDUCATIONAL PROGRAM

- (1) The following court appointed non-professional fiduciaries are subject to this rule:
 - (a) Any guardian or conservator appointed pursuant to ORS Chapter 125 on or after the effective date of this rule.
 - (b) Any personal representative appointed pursuant to ORS Chapter 113 on or after the effective date of the rule.
 - (c) Any trustee appointed pursuant to ORS Chapter 130 on or after the effective date of the rule.
 - (d) Any non-professional fiduciary cited for a deficiency in the handling of fiduciary duties pursuant to the show cause process.
- (2) All non-professional fiduciaries involved in a case described under subsection (1) above, shall:
 - (a) Successfully complete an education class for non-professional fiduciaries with a curriculum as prescribed by the Presiding Judge of Clackamas County within ninety (90) days of appointment as fiduciary by the court; and
 - (b) Register for the program no later than fifteen (15) days from appointment as fiduciary by the court.
- (3) A professional fiduciary, for purposes of this rule, is defined in ORS 125.240(5). Professional fiduciaries and attorneys appointed as fiduciaries are exempt from this rule.
- (4) The court will send notice and instructions of this requirement to the non-professional fiduciary at the time of appointment as guardian, conservator or personal representative. The attorney representing a trustee shall provide notice and instruction to the trustee of this requirement.
- (5) Fees for the court-required class shall be considered a cost of administration of the protective proceeding, estate or trust. The fee for the court-required class may be waived or deferred in the court's discretion, in keeping with the court's policy of fee waiver and deferrals.

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- (6) Upon successful completion of the court-required class, the non-professional fiduciary shall file a certificate of completion with the Probate Department stating the date and time the class was taken as well as the provider of the class.
- (7) Upon a showing of good cause, a non-professional fiduciary may request a waiver of the requirements of this rule. The request must be made by motion, supported by affidavit and filed within fifteen (15) days of receipt of notice.
- (8) The court may, in its discretion, require a non-professional fiduciary to retake the class.
- (9) Failure to timely comply with this rule may result in removal of the non-professional fiduciary by the court.

SLR 9.077: PROFESSIONAL FIDUCIARY REQUIREMENT FOR DISCLOSURES IN COMPLIANCE WITH ORS 125.240(1)(L)

A professional fiduciary who seeks appointment in a corporate name must comply with the provisions of ORS 125.240(1)(L) and all disclosures required by the Clackamas County Probate Court's Policy Regarding Corporate Fiduciaries.

SLR 9.078: INDIGENT PARTIES

- (1) In accordance with ORS 125.170(3), indigent parties may seek deferral or waiver of visitor fees by applying at the time of filing the Petition. Applications are available at the Clackamas County Circuit Court, Collections Unit, 807 Main St., Room 104, Oregon City, Oregon 97045. The fee deferral/waiver application, declaration, and order must be submitted to the Clackamas County Circuit Court, Collections Unit, Room 104 in accordance with SLR 2.025.
- (2) Any party who obtains a deferral or waiver of visitor fees as provided in ORS 125.170(3) must immediately provide the visitor with a supplemental copy of the court order granting the waiver or deferral.
- (3) In the event funds are available under ORS 125.170(3) and a fee deferral or waiver has been granted by the court, the visitor shall be reimbursed after completion of visitor duties and a submission of a request for payment to the Trial Court Administrator for Clackamas County Circuit Court.
- (4) The visitor must submit a copy of the order deferring or waiving fees of the indigent party with the request for payment, which must be in the form of a certificate and include the following:
 - (a) Case identifying information; and

- (b) Total hours of service the visitor provided.

**SLR 9.081: OBJECTION TO PETITION FOR APPOINTMENT OF
GUARDIAN/CONSERVATOR**

- (1) Oral objections, where permitted in probate matters under ORS 125.075, may be made during regular court hours at the Civil Case Unit, 807 Main Street, Room 104, Oregon City, Oregon 97045. The respondent or protected person may also make objections orally to an appointed court visitor. Court visitors shall include any objections by the respondent or protected person in the Visitor Report. The objection should be in bold and underlined so as to call its attention to the court when reviewing the report.
- (2) If the objecting party wishes to file a written objection to a petition or motion, the court clerk will provide the objection form or it may be obtained on the court's website at <http://www.courts.oregon.gov/courts/clackamas> on the Forms page.

SLR 9.083: TRUSTEE ANNUAL STATUS REPORTS

After a trustee appointment is approved by the court, the trustee must file annual status reports on or before each anniversary of the date of the appointment. The status report must include a statement summarizing any developments in the trust, or noting the absence of developments, and must explain the reasons the case should remain open, or request that it be closed, if appropriate.

**SLR 9.085: SELF REPRESENTED PARTIES APPEARANCE IN PROBATE COURT;
APPROVAL**

- (1) If a personal representative or conservator intends to appear without an attorney in any matter assigned to the Probate Court, that person must provide to the court notice of such intent and demonstrate competency in such matters. The court shall take appropriate action if at any time during the administration of the action the demonstration of competency is not sufficient to assure the court that the estate or interest will be protected.
- (2) A person other than a personal representative, conservator or corporation may appear in person without counsel in any matter before the Probate Court as authorized or allowed by law. The person appearing and counsel for the personal representative shall notify the Probate Court if any party to a proceeding is appearing without representation. The judge or designee shall decide whether further hearings shall be required.

**SLR 9.091: ATTORNEY FEES AND FIDUCIARY FEES IN PROBATE MATTERS;
APPROVAL**

- (1) Attorney fee and fiduciary expenses under ORS 116.183 and 125.095 must be approved by the court. All attorney fee and fiduciary expenses under ORS 116.183 and 125.095

which are to be paid out of the decedent's or protected person's estate, must so state and be pre-approved by the court.

- (a) Such requests must be accompanied by an itemized affidavit for attorney fees and fiduciary fees, filed in the form required by UTCR 5.080, showing the number of hours expended, the hourly rate charged and a designation of title for each person performing work.
 - (b) In addition to the information required by UTCR 5.080 for a civil action, under this rule the statement also must include a description of normal attorney tasks with hours expended. For extraordinary activities, the statement must also concisely address the following issues to be resolved and the process and time spent on each:
 - (i) For establishing and funding trusts, a brief narrative must identify complexities involved;
 - (ii) For tax planning, describe objectives and activities required;
 - (iii) For tax returns, indicate the number filed and the nature of the returns;
 - (iv) For tax audits and hearings, describe the issues addressed;
 - (v) For disclaimers, describe the circumstances and complexities;
 - (vi) For real estate management problems, include issues regarding compliance with local, state and federal authorities;
 - (vii) Discuss sales of real property;
 - (viii) Discuss operation or sale of business interests;
 - (ix) Discuss management of family-owned corporation or closely held stock;
 - (x) For contested matters, indicate whether they were of benefit to or in defense of the estate;
 - (xi) Discuss election of spouse/marital share;
 - (xii) Discuss disputed creditor's claims.
 - (c) If tasks performed appear to be the duties of a personal representative, the court will question and possibly reduce attorney fee payments for such activities.
- (2) Consent by the parties to the attorney fee requests shall not waive the requirements of this rule.

- (3) Corporate Fiduciary Fees: Any request for approval of corporate fiduciary fees in addition to the basic percentage fee allowed pursuant to applicable statute, must be accompanied by an affidavit in compliance with 9.095(1)(A), above.
- (4) Private Fiduciary Fees: All requests for fiduciary fees (except those from a Personal Representative) shall be supported by an affidavit which details the services provided, the purpose of the services rendered, the results (if applicable), the hourly rate charged by the fiduciary and the reasons that hourly rate is deemed fair and reasonable.

SLR 9.161: ACCOUNTING DUE DATE

If the limited judgment of appointment or a subsequent motion, declaration, and order do not request a new date, the accounting due date will be calculated from the initial limited judgment of appointment or prior order approving a new deadline.

SLR 9.231: ADOPTION PROCEDURE; NAME CHANGES IN ADULT ADOPTIONS

All ORS 109.329 petitions for adoption of a person who is eighteen (18) years of age or older that include a request for a name change shall be subject to a criminal background check and a credit history check on the person to be adopted. This will enable the court to ascertain whether the adoption could purposely or inadvertently defraud creditors or subvert the collection of restitution payments owed to victims.

This requirement is not satisfied by a declaration disclaiming those circumstances. If no name change is requested as part of the petition, then this procedure does not apply.

CHAPTER 12 – MEDIATION

SLR 12.005: MEDIATION IN SMALL CLAIMS ACTIONS; FAILURE TO COMPLY WITH SETTLEMENT

- (1) All disputed small claims actions shall go to mediation before going to trial, except for good cause acceptable to the court.
- (2) The court may, subsequent to an opportunity for a hearing, enter a judgment against any party not appearing for mediation in the amount of any claim against the non-appearing party, and for the adverse party's costs and disbursements.
- (3) Agreement reached while in mediation shall be signed by the parties and filed as a stipulated order.
- (4) Failure of either party to abide by the stipulated order will be grounds for the opposing party to file an Affidavit/Declaration of Non-Compliance and obtain a judgment on the

original claim.

CHAPTER 13 - ARBITRATION

SLR 13.005: ARBITRATION

Clackamas Circuit Court maintains an arbitration program in accordance with UTCR Chapter 13.

SLR 13.031: ARBITRATION COMMISSION

To ensure continuity, the attorney Arbitration Commission Board Members currently appointed will serve one (1), two (2) and three (3) year terms so that their terms will expire in alternate years. Thereafter, appointments will be staggered so that a new attorney board member is appointed yearly for a three (3) year term. The Presiding Judge will replace the judicial representative(s) as needed and the Trial Court Administrator is a standing *ex officio* member.

SLR 13.051: TRIAL DATE

In all cases subject to mandatory arbitration, a trial date will be set in accordance with the court's regular trial setting procedure and UTCR 7.020(5). All arbitration hearings must occur no later than sixty-two (62) calendar days prior to the judicial settlement conference date set in the case. All requests to reset a trial date must comply with UTCR 6.030 and SLR 6.031.

SLR 13.091: ARBITRATORS

- (1) In addition to the requirements set forth in UTCR 13.090, to qualify as an arbitrator, a person must sign and file an application to be placed on the list of arbitrators. The Arbitration Commission may adopt additional requirements for inclusion or retention on the list of arbitrators, including experience, training and continuing education.
- (2) The parties may stipulate to any arbitrator, including a non-lawyer arbitrator or a lawyer arbitrator who practices outside of Clackamas County. Such alternative arbitrators shall be required to follow all Clackamas County arbitration rules, procedures and deadlines.
- (3) An arbitrator who is no longer willing or able to serve as an arbitrator shall immediately notify the arbitration clerk.
- (4) An arbitrator may refuse to serve on an individual case but must notify the arbitration clerk immediately.
- (5) If such disqualification or refusal occurs, the arbitrator must immediately notify all parties and return all appointment materials in the case to the court.

SLR 13.121: COMPENSATION OF ARBITRATOR¹

- (1) Within fourteen (14) days of the appointment of the arbitrator, each party must tender to the arbitrator the sum of \$700.00 as preliminary payment unless a party has secured a fee waiver or deferral, in which case the party must submit a copy of the order waiving or deferring arbitration fees to the arbitrator.
- (2) If there are three or more parties involved in the arbitration and the cumulative total of preliminary payments exceeds \$1,400.00, then the arbitrator shall refund the excess payment promptly, in equal proportions to each party who tendered a preliminary payment.
- (3) In the event an arbitrator moves the court for a post-arbitration order to allow fees in excess of \$1,400.00 for good cause shown, the request submitted to the court must include a recommendation for apportionment of the excess fees among the parties. If the recommended apportionment of excess fees is unequal, the request must also include an explanation of the circumstances that justify an unequal apportionment.

SLR 13.122: INDIGENT PARTIES

- (1) In the event funds are available under ORS 36.420, indigent parties may seek deferral or waiver of arbitration fees by applying within fourteen (14) days from the date the case is transferred to arbitration. Applications are available at the Clackamas County Circuit Court, Collections Unit, 807 Main St., Room 104, Oregon City, Oregon 97045. The fee deferral/waiver application, declaration and order must be submitted to the Clackamas County Circuit Court, Collections Unit, Room 104 in accordance with SLR 2.025.
- (2) Any party who obtains a deferral or waiver of arbitration fees as provided in ORS 36.420(3) and UTCR 13.120(3), must immediately provide the arbitrator with a supplemental copy of the court order granting the waiver or deferral. This does not relieve the court of its obligation under UTCR 13.120(3) but supplements that obligation to ensure the arbitrator is promptly informed.
- (3) In the event funds are available under ORS 36.420 and a fee deferral or waiver has been granted by the court, the arbitrator shall be reimbursed after completion of the arbitration, filing of the arbitration award, and submission of a request for payment to the Trial Court Administrator for Clackamas County Circuit Court.

¹ NOTE: On May 6, 2013 the Arbitration Commission established the arbitrator's fee at a rate of \$175.00 per hour, not to exceed \$1,400.00 except upon a showing of extraordinary conditions and with either the concurrence of both parties, or the approval of the Presiding Judge of the Clackamas County Circuit Court.

- (4) The arbitrator must submit a copy of the order deferring or waiving fees of the indigent party with the request for payment, which must be in the form of a certificate and include the following:
 - (a) Case identifying information;
 - (b) Total hours of service the arbitrator provided; and
 - (c) The share of those hours chargeable to the indigent party.

SLR 13.141: JUDGMENT DOCUMENT MUST BE FILED IF NO TRIAL *DE NOVO*

If no request for trial *de novo* is filed within the time established by ORS 36.425(3), then the arbitration decision and award must be incorporated into a General Judgment document that complies with ORS 18.035 et. seq., ORS 18.042 et.seq., ORS 36.425(3) and with all other applicable ORS, ORCP and UTCR. The General Judgment must be filed with the court within thirty (30) days after the time to request a trial *de novo* has elapsed. The arbitrator is responsible for filing the General Judgment document with the court but may delegate that filing responsibility to a party.

SLR 13.161: ARBITRATION PROCEEDINGS; LOCATION AND PERSONAL APPEARANCE

Unless otherwise stipulated by all parties, arbitration proceedings shall be scheduled at a location in Clackamas County, Oregon. The arbitrator may schedule telephone conference calls to deal with scheduling and procedural issues. The following people must be personally present at the arbitration, unless excused in advance by the arbitrator in writing for good cause shown:

- (a) The parties; and
- (b) The trial attorneys.

Residency in another state does not create a presumption of good cause.

CHAPTER 16 – VIOLATIONS

SLR 16.005: VIOLATIONS BUREAU

- (1) Pursuant to ORS 153.800 the Fifth Judicial District has established a Violations Bureau.
- (2) The Trial Court Administrator is appointed as Violations Clerk, and duly appointed deputies of the Administrator are further appointed as Deputy Violations Clerks.
- (3) The Violations Bureau may exercise authority over traffic and non-traffic violations as defined in ORS 153.008.

- (4) A person may appear in person or by mail to pay the Violations Bureau fine, costs and assessments.
- (5) The fine(s) and applicable assessment(s) shall be paid immediately and in full unless the court approves a deferred payment plan.

SLR 16.015: DEFENDANT REQUESTING VIOLATION TRIAL, PRESUMPTIVE FINE REQUIRED

Pursuant to ORS 153.061(4) the defendant requesting a trial shall be required to deposit the presumptive fine amount listed on the citation if the defendant has failed to appear in any court on one or more charges in the past. The amount deposited shall be applied against any fine imposed by the court.

SLR 16.021: TRIAL BY AFFIDAVIT/DECLARATION, VIOLATION

Trial by affidavit or declaration, as provided in ORS 153.080 is authorized for all violations. If the defendant chooses to waive the right to have testimony presented orally in court or waive the right to a hearing in court, the defendant must make this request by completing a signed written waiver and filing it with the court. A sample form may be obtained by contacting the court.

SLR 16.025: POSTPONEMENTS, VIOLATION TRIAL

- (1) Each party may request a single postponement of a scheduled court trial with a showing of good cause.
- (2) A party's request for a postponement of a court trial must be made in written form, signed by the party and received by the court not less than five (5) judicial days prior to the scheduled trial date.
- (3) Subsequent requests for a postponement of a court trial must be made in written form signed by the party. The motion will only be granted upon a showing of extraordinary circumstances.
- (4) When the court grants a postponement, the court will notify all parties to the action.

SLR 16.031: SETTING ASIDE DEFAULT JUDGMENTS FOR VIOLATIONS

A defendant against whom a default judgment is entered may file a motion for relief from default judgment, within a reasonable time, not to exceed one (1) year. The court requires a written motion for relief, accompanied by an affidavit setting forth facts which demonstrate that the failure to appear was due to mistake, inadvertence, surprise or excusable neglect. At the time the motion for relief is filed, the defendant must pay to the court the amount of the fine imposed in the judgment. The payment requirement may be waived by the court for good cause. A motion for relief cannot be filed until the payment is made or waived. The court may rule on the motion

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without a hearing or may require the defendant to appear and present oral argument.

CHAPTER 18 – FORCIBLE ENTRY AND DETAINER (FED)/LANDLORD TENANT

SLR 18.015: FORCIBLE ENTRY AND DETAINER (FED)/LANDLORD TENANT TRIAL; APPEARANCE REQUIRED

Parties must appear at trial in all Forcible Entry and Detainer (FED) cases to avoid dismissal of the case. Appearance of all parties at trial is required regardless of whether a Stipulated Agreement has been fully executed.

SLR 18.021: FORCIBLE ENTRY AND DETAINER (FED) LANDLORD TENANT TRIALS; DISCOVERY PROCEDURES

Pursuant to ORS 105.130, the statutory timelines for FED cases are inconsistent with the discovery practices of ORCP 36. Under ORS 1.010(3), courts may provide for the orderly conduct of proceedings generally. Therefore, in all FED cases, both parties must exchange all documents, photographs, videos and other tangible evidence that they intend to use at trial before the trial day, unless a party's attorney secures court approval of a different discovery method for a particular case.

If a party attempts to use evidence at an FED trial that was not exchanged prior to the day of trial as required by this rule, then the court may exclude that evidence in its sole discretion.

SLR 18.024: FORCIBLE ENTRY AND DETAINER (FED) LANDLORD TENANT TRIAL; ENTERING STIPULATED AGREEMENTS

The parties in FED cases are encouraged to consider entering into Stipulated Agreements as provided in the Oregon Revised Statutes. The Clackamas County Court has a Stipulated Agreement form that contains all statutorily required language, which is available to print from our court website. This court approved form includes prompts that remind the parties of options and limitations the law imposes. Therefore:

- (1) Any Stipulated Agreement that is not on Clackamas County's court approved form may be rejected solely because it is not on our court approved form.
- (2) Circumventing meaningful use of the court approved form by stapling another document to it and writing the words "See Attached" on the court approved form without explanation may result in court rejection of an FED Stipulated Agreement.

SLR 18.025: FORCIBLE ENTRY AND DETAINER (FED) LANDLORD TENANT TRIAL; AMENDING STIPULATED AGREEMENTS AFTER ENTRY

If the parties in an FED agree to amend a Stipulated Agreement after it has been entered, the

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Amended Stipulated Agreement shall not contain any due dates for payments that extend more than six (6) months from the date the original Stipulated Agreement was signed for past due rent, or three (3) months from the date the original Agreement was signed for future rent. If due dates extend past these time frames, noncompliance with any disallowed due date shall not be accepted by the court as a basis for entry of a Judgment of Restitution.

**SLR 18.035: FORCIBLE ENTRY AND DETAINER (FED) LANDLORD TENANT TRIAL;
REINSTATING JUDGMENTS**

Any party that moves to vacate a Judgment of Restitution and reinstate the Stipulated Agreement in an FED case must provide a newly drafted Judgment of Restitution document. Reinstated Stipulated Agreements shall not extend any due dates for payment of past due or future rent beyond the statutory maximum deadlines as calculated from the date of signing of the original Stipulated Agreement.

**SLR 18.045: FORCIBLE ENTRY AND DETAINER (FED) LANDLORD TENANT TRIAL;
EXPUNGEMENT OF EVICTION RECORDS**

A person who seeks to expunge an eviction record under ORS 105.163 must file a certificate of service with the court to prove compliance with ORS 105.163(2). The certificate of service filed must follow the same procedural requirements contained in ORCP 7F(2) for proof of service of summons.

CHAPTER 19 – CONTEMPT PROCEEDINGS

SLR 19.021: REQUEST FOR DEMOGRAPHIC INFORMATION FORM REQUIRED

A judgment creditor initiating a bench warrant for the arrest of a defendant must file the court's Request for Demographic Information form ("RDI") not later than the date of the court's order to issue the warrant. This form is available on the court's website. Failure to file the RDI will cause the order to issue the warrant to be vacated.