

SUPPLEMENTARY LOCAL COURT RULES

for the

23rd Judicial District

LINN COUNTY CIRCUIT COURT

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APPENDIX A

CHAPTER 1
LOCATION AND HOURS OF COURT OPERATION

1.151 LOCATION AND HOURS OF COURT OPERATION

(1) Court Records

The Court Records office is located in Room 107 of the Linn County Courthouse. Hours open to the public are 8:00 a.m. to 5:00 p.m. unless otherwise ordered by the Chief Justice or the Presiding Judge. The court records and cashiers office is closed from Noon to 1:00 pm on the second Wednesday of each month (as approved by the Chief Justice 3/11/04.) The same hours pertain to incoming telephone calls. In the event hours are changed by Order of the Presiding Judge, the new hours will be posted on the OJD website at: <http://www.ojd.state.or.us/courts/circuit/index.htm>.

(2) Court Operations - Courtroom Facilities

Courtroom facilities are only open to the public when activity is scheduled and courtroom staff are in attendance. Otherwise the courtrooms are to remain locked. Cases are scheduled throughout the day from 8:00 a.m. to 12 noon and from 1:00 p.m. to 5:00 p.m. in all courtrooms at various time intervals.

(3) Administration

Office hours are from 8:00 a.m. to 12 noon and from 1:00 p.m. to 5:00 p.m., subject to available staff.

(4) Location

Linn County Courthouse: 300 Fourth Avenue SW, Albany, Oregon 97321

1.161 FILING OF DOCUMENTS IN COURT

A party requesting conformed copies and/or time stamped copies must submit the copy(ies) of the document(s) to be conformed/time stamped along with a self-addressed stamped envelope. The copy(ies) must be marked "copy" in the top right hand corner of the document(s).

1.171 WEBSITE ADDRESS

www.ojd.state.or.us/linn

CHAPTER 3 MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT EVENTS

3.181 Media coverage

Public access coverage is generally allowed in the common areas located on the third floor of the Linn County Courthouse. The trial judge/presiding judge has the right to restrict such access in cases where the judge makes a finding that the coverage is unduly interrupting the court proceedings.

CHAPTER 6 TRIALS

6.012 SETTLEMENT CONFERENCES

A settlement conference may be set in every Circuit Court civil case. The settlement conference judge will not preside at the trial if any party objects thereto. At the settlement conference:

- (a) No information disclosed will be revealed by the settlement judge or by any of the parties to the settlement to the judge or jury who will thereafter try the case.
- (b) Parties and others with authority to settle the case must appear in person unless they reside out of state and would therefore need to be available by telephone.

CHAPTER 7 CASE MANAGEMENT AND CALENDARING

7.025 CIVIL CASE SCHEDULING

- (1) Hearings on Motions and other pre-trial matters will be specially set. The Court will send a written notice for those matters not set in open court in the presence of the parties.

(2) Hearings on Contempt Motions in Circuit Court

The adverse party should be cited to appear at 1:30 p.m. on any Thursday of the month. When the responding party appears, the Court will set a contempt hearing or early resolution conference at the Court's discretion for a later date.

7.045 JUDGMENT DEBTOR EXAM

The party requesting the debtor's exam may select the time for the examination provided: (1) the examination is set during days when the Court is in session between 9:00 a.m. and 3:00 p.m.; and, (2) the debtor is allowed at least ten (10) days between date of service and the date of examination.

The debtor should be cited to appear as follows:

Linn County Courthouse- Room 107

7.055 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 sixty (60) 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.
- (3) A dismissal pursuant to this rule may be vacated upon a showing of good cause supported by affidavit.

CHAPTER 8
DOMESTIC RELATIONS

8.005 TEMPORARY RELIEF HEARINGS

(1) 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:

- (a) Motions for temporary relief shall be accompanied by an affidavit 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.
- (b) The Motion, Affidavit, and Order to Show Cause shall be filed with the Trial Court Administrator before being submitted to a judge.
- (c) A copy of this Supplementary Local Rule shall be served on the adverse party along with true copies of the Motion, Affidavit and Order to Show Cause.
- (d) If temporary child support or spousal support is sought, each party shall submit a Uniform Support Affidavit.
- (e) The Response shall admit and/or deny the relief sought and shall set forth any additional motions for temporary relief. The Response shall be accompanied by an Affidavit setting forth the justification for the relief opposed or sought by the responding party.
- (f) Within ten (10) days following service of the Response and Responding Affidavit on the moving party or their attorney, either or both parties may submit a Supplemental Affidavit in support of their respective positions. If service of the Response is made by mailing, the date of service shall be considered to be three (3) days after the date of mailing. Except for good cause shown, no further pleadings are required or permitted.

(g) Temporary relief shall be determined without testimony, based upon the affidavits submitted. Failure to submit an affidavit or Uniform Support Affidavit where required, may result in an adverse ruling or denial of relief. There is no requirement, however, to file supplemental affidavits. On matters of custody and parenting time only, upon written motion filed within ten (10) days after the Court's ruling, a hearing will be scheduled to review that ruling.

8.011 DOMESTIC RELATIONS CASE SCHEDULING

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

The adverse party must be cited to appear at 1:30 p.m. on any Thursday of the month. When the responding party appears, the Court will set a contempt hearing or early resolution conference at the Court's discretion for a later date.

(2) Settlement Conferences

A judge conducting the pretrial conference may conduct settlement negotiations in dissolution cases.

8.015 REQUIRED FILINGS IN DOMESTIC RELATIONS CASES

- (1) Parties to all contested domestic relations cases where the parties are seeking a division of assets and/or debt, the parties shall prepare a joint exhibit referred to as the "six column list". This list is to contain:
- a. each item of property
 - b. in columns to the right of the property description there is to be listed:
 - i. each parties' estimated fair market value of the property
 - ii. each parties' proposed distribution of the property
 - iii. any claim as to whether the property is pre-marital or inherited
 - c. at the bottom of each page there is to be a subtotal of the page's fair market valuations;
 - d. the last page shall contain a total of each parties' claims, fair market valuations, debt distributions and offsets, and proposed equalizing judgment if any.
- (2) The six column list shall be submitted to the Court and the Arbitrator not less than one week prior to arbitration. In the event that arbitration is waived it shall be submitted to the Court one week prior to any settlement conference or trial, whichever occurs first.

- (3) Parties to all contested domestic relations cases where spousal or child support is sought shall submit a Uniform Support Affidavit to the Court no later than one week prior to a settlement conference or trial, whichever is scheduled first. Nothing herein shall relieve parties of the obligations to submit a Uniform Support Affidavit pursuant to Linn County Supplemental Rule 8.005.
- (4) If a party fails to comply with any portion of this rule the Court may grant the relief sought by the opposing party in whole or in part, may deny relief sought by the party in violation, in whole or in part, or may postpone trial.

8.021 PARENT EDUCATION PROGRAM

(1) Mandatory Parent Education Program

- (a) Linn County shall establish a parent education program of the type authorized by ORS 3.425. The program shall provide information on the impact of family restructuring on children to each person named in the following types of proceedings, when the proceedings involve minor children.
 - (1) Annulment or dissolution of marriage.
 - (2) Legal separation.
 - (3) Petition to establish custody or visitation (including paternity), and
 - (4) Post-judgment litigation involving custody or visitation.
- (b) Each party who files an appearance in a proceeding of the types described above shall complete the program unless exempted by the Court. A judgment shall not be entered in the proceeding until each party not otherwise exempted by the Court who has filed an appearance has completed the program or appropriate sanctions have been applied.
- (c) Parent Education Classes are automatically waived in domestic cases involving Co-Petitioners, uncontested cases, cases where children are not involved and in cases involving stipulated judgments.

- (d) After a response is filed in a case that involves children, unless otherwise exempted or automatically waived by the Court, a date and time for each party to appear for the parenting class shall be scheduled and the notice shall be sent to each party by the Court.
- (e) The Trial Court Administrator shall provide a copy of this rule to the initiating party for service upon all parties against whom relief is sought, together with a statement describing the program including contact telephone numbers, addresses, and statement of costs.
- (f) The 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.
- (g) The Court may exempt one or more of the parties from the program if, after reviewing the requesting party's motion and supporting affidavit, the Court determines that participation is unnecessary or inappropriate.
- (h) The Court may allow one or more of the parties to participate in a comparable education program.

2) Sanctions

- (a) The Court shall actively promote each party's completion of the program. Failure or refusal to complete the program in a timely manner shall be considered by the Court in making its ruling on issues which are in dispute.
- (b) A party who has completed the program shall have the right to:
 - (1) Request that the pleadings of a party who has appeared be stricken if that party has not completed the program in a timely manner without good cause.
 - (2) Request entry of an order from the Court to compel the non-complying party's completion of the program should the non-complying party not have completed the program in a timely manner without good reason. The Court shall enter an award of attorney fees in favor of the complying party who utilizes this option to force the non-complying party's compliance with this rule.

(3) Effective Date

This rule shall apply to all cases and modifications proceedings filed after February 1, 2005.

CHAPTER 9 PROBATE PROCEEDINGS

9.081 PROTECTIVE PROCEEDINGS OBJECTIONS

Persons wishing to object to a motion in a protective proceeding or to object to a petition in a protective proceeding pursuant to ORS 125.075 shall make such oral objection at Room #107 located on the first floor of the Linn County Courthouse, 300 - Fourth Avenue SW, Albany, Oregon. The clerk will receive oral objections and provide the means for such objections to be reduced to writing. Upon request, the clerk will assist in reducing such objections to writing.

9.082 ALLEGED INCAPACITATED PERSONS -- NOTICE REGARDING FREE OR LOW COST LEGAL AND OTHER RELEVANT SERVICES

In a proceeding for the appointment of a guardian for an alleged incapacitated person, the notice required under ORS 125.070(3), 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 Services's Senior Law Program at 926-8678 or (toll-free) 1-800-817-4605. Free or low cost services may be obtained by calling Senior Services at 967-8630 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 and/or medical care, and stop or prevent physical or financial abuse.

CHAPTER 11 JUVENILE COURT PROCEEDINGS

11.005 APPEARANCE IN JUVENILE COURT DEPENDENCY CASES

- (1) A parent served with a summons in a child dependency case shall appear personally in court at the time and place specified in the summons for a hearing on the allegations of the petition.

- (2) A parent who fails to appear shall be subject to entry of a default order and/or judgment upon a prima facie showing granting the relief sought by the petitioner. "Failing to appear" includes being served with a summons and failing to appear in court at the time designated to appear, and failing to appear subsequent to that date for any court appearance where the parent was previously ordered to appear in open court.
- (3) This rule applies both to petitions filed pursuant to ORS 419B.100 (dependency petitions), ORS 419B.498 (termination of parental rights) and any guardianship proceedings initiated pursuant to any of the provisions of ORS 419B.

11.051 REQUESTS FOR REVIEW HEARINGS

In dependency and/or delinquency cases, a party may file a motion or request for review of disposition, placement or any other pretrial matter. Before such a motion is filed, the moving party or attorney shall certify that they have consulted with the other party or parties and attempted to resolve the matter. The motion shall inform the Court of the other parties' position regarding the relief sought. The Court may decline to set a hearing, unless there is compliance with this rule.

CHAPTER 12 MEDIATION

12.005 MANDATORY MEDIATION PROGRAM

- (1) Except for good cause, mandatory mediation is ordered in all domestic relations, dissolution, annulment, or separation cases involving issues of child custody, parenting time and/or visitation. "Good cause" may include cases where allegations of domestic abuse and/or power imbalance exists. Either party may petition the Domestic Relations Court to exclude them from mandatory mediation based on such circumstances. Requests for exemption shall be in writing and shall be made at any time during the pendency of the case. Mediation fees are set by the Linn County Board of Commissioners. The mediation program policies and guidelines are governed by the Linn County Mediation Commission.

- (2) If the parties reach full agreement in mediation the mediator shall reduce the agreement to writing, shall file the same with the court, and provide copies to the parties and their attorneys not more than ten (10) days after the agreement is reached. The agreement shall become final and binding on the parties if no one objects to it within twenty one (21) days after it is provided to the parties. Objections must be filed with the court and the mediator describing exactly what parts of the mediated agreement do not reflect the parties' agreement. The court may refer the matter back to the mediator at its discretion.

12.011 MEDIATION IN DOMESTIC VIOLENCE CASES

(1) In all cases subject to mandatory mediation pursuant to SLR 12.005 where one or more parties is restrained from contact with the other party pursuant to a Family Abuse Prevention Act restraining order, Elder Abuse restraining order, juvenile dependency restraining order, criminal release agreement or juvenile release agreement, the restraining orders will not prohibit mediation unless the restraining order expressly so provides.

(2) The mediator shall determine the form of mediation best suited to the circumstances where some form of restraining order is in effect, subject to further order of the court.

CHAPTER 13 ARBITRATION

(This chapter supplements ORS 36.400 et seq and UTCR Chapter 13)

An Arbitration Coordinator will be appointed by the Court.

13.005 MANDATORY ARBITRATION PROGRAM- DOMESTIC RELATIONS

(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. An exemption shall be granted only upon the filing of a motion with supporting 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.

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13.055 REFERRING CASES TO ARBITRATION

- (1) Cases which are otherwise subject to arbitration will be referred to arbitration as follows:
 - (a) Within twenty days of the date on which the Answer is filed.
 - (b) Within fourteen days of the termination or completion of mediation where mediation is required in domestic relations cases.
 - (c) At any time as specifically directed by the Presiding Judge.
- (2) Once a case is referred to arbitration all motions against the pleadings, all motions for discovery, 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. If an appeal is filed, those issues may be raised again in Circuit Court. 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, that party may file an appropriate motion with the Presiding Judge of the appropriate Court.

13.095 ARBITRATION PANEL

- (1) The Twenty-third Judicial District may establish two or more Arbitration Panels, a General Civil Panel, a Domestic Relations Panel, and such other panels as the Arbitration Commission deems necessary; each consisting of a panel of attorneys practicing in Linn and/or Benton Counties, selected by the Arbitration Commission and having the following minimum qualifications:
 - (a) Civil Panel: an attorney meeting the requirements set forth in UTCR 13.090 with five years continuous practice including significant experience in civil litigation, with a present emphasis in civil litigation for service on the Civil Panel;

Domestic Relations Panel: five years continuous practice including significant experience in domestic relations litigation, with a present emphasis in domestic relations cases for service on the Domestic Relations Panel; or
 - (b) A retired or senior judge.

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- (2) The panel will be selected by the Arbitration Commission subject to approval of this Judicial District's Presiding Judge.
- (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) The Arbitration Clerk will assign arbitrators to cases in a manner to ensure random selection.
- (5) A person desiring to serve as an arbitrator shall complete an information sheet on the form prescribed by the Court. A list showing the names of the members of the Arbitration Panel will be available for public inspection in the Arbitration Clerk's office. Execution of the form, oath, and agreement to serve must be completed and filed before an applicant is eligible to arbitrate a case.
- (6) Refusal and Disqualification: 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.
- (7) If disqualified, the arbitrator must immediately return all materials in the case to the Arbitration Clerk.
- (8) No arbitrator shall have pending at any given time more than three arbitration cases.

CHAPTER 16
VIOLATIONS

16.005 TESTIMONY BY AFFIDAVIT

Pursuant to ORS 153.080, if a signed waiver (Appendix A) is filed by the alleged violator, testimony in a trial of any violation shall be allowable by affidavit. A copy of the Witness' affidavit shall be provided to the alleged violator before trial.

DATED this _____ day of _____, **2008**.

RICK J. McCORMICK, PRESIDING JUDGE

LINN COUNTY CIRCUIT COURT
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CIRCUIT COURT

This will certify pursuant to UTCR 1.040 that appended hereto is a true and correct copy of proposed Supplemental Local Rules of the Circuit Court for Linn County.

Presiding Judge

STATE OF OREGON, Plaintiff,)
 vs.) CASE NO. _____
 Defendant,)

AFFIDAVIT AND WAIVER
 (For Violation Trials)

I further acknowledge that I have received and read the Linn County “Court Rules for Traffic and Other Violation Trials.”

[illegible]

DATED this _____ day of _____, 200__.

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, 200__.

Notary Public for Oregon, My Commission Expires: _____