Supplementary Local Rules

for

The Circuit Court of the State of Oregon for Multnomah County

The Fourth Judicial District

Effective

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CHAPTER 1

GENERAL PROVISIONS

1.015 DEFINITIONS

These definitions are intended to clarify terms used in these rules.

(1) **Abated Cases** are those cases placed under a two-year stay order by the Court on the basis of activity external to the case which would have an effect on the outcome or conduct of the case.

(2) **Call** refers to the trial and show-cause docketing system whereby a case is called and assigned to a judge on the judicial day immediately preceding the date of the actual hearing or trial.

(3) "**Judicial Days**" means calendar days excluding: Saturday and legal holidays, including Sunday, as defined in ORS 187.010 and 187.020, and any day on which a court is closed by order of the Chief Justice.

(4) **Confirmation Cards** are standard-sized, stamped, and addressed US postcards which are to be attached to any filing if signing or filing information is requested. They shall be filled out by the submitting party to allow the Court to provide the information the submitting party desires.

(5) Definitions set out in UTCR 1.110 are incorporated by this reference and apply in these rules.

1.025 APPLICATION TO CIRCUIT COURT AND DEPARTMENTS; APPLICATION TO CRIMINAL CASES

(1) These rules apply to matters within the jurisdiction of the Circuit Court for Multnomah County and all departments of the Circuit Court.

(2) The following Supplementary Local Rules apply to criminal as well as other cases: 2.015, 5.045, 6.015, 6.045, 6.055, 6.145, 7.035, 7.045, 7.055, and 7.065. All other Supplementary Local Rules apply to criminal matters only if specifically referenced within the text of the chapter or rule.

1.035 CREDIT CARDS

Credit cards may be used and fees assessed as provided by ORS 1.005, except that a credit card may not be used under ORS 135.265 for paying a security amount or posting a security deposit for a criminal action.

1.151 HOURS FOR THE CONDUCT OF BUSINESS, WHEN PAPERS MAY BE RECEIVED TO BE FILED

(1) The court is open for the conduct of business each judicial day from 8:00 am to 5 pm, and, in addition, judicial proceedings may be held at other times and on other days when required by the court for the conduct of its business and upon notice to the parties required to appear.

(2) Documents which do not require the payment of a fee prior to filing may be received for filing from 8:00 am to 5:00 pm each judicial day in the appropriate division of the Office of the Trial Court Administrator. Documents which require the payment of a fee prior to filing may be presented to a cashier or left in a drop box, together with payment or an order authorizing the deferral or waiver of the fee, from 8:30 am to 5:00 pm each judicial day in the appropriate division of the Office of the Trial Court Administrator. Upon satisfaction of the fee, the document will be received for filing. No document will be received for filing or filed except as provided in this rule.

1.161 DIVISIONS OF THE OFFICE OF THE TRIAL COURT ADMINISTRATOR WHERE PAPERS ARE RECEIVED FOR FILING

(1) The Office of the Trial Court Administrator receives documents for filing in the following divisions. In the Multnomah County Courthouse, the divisions are Civil, including Small Claims and FED, Domestic Relations, Probate, Traffic, Parking and Criminal. In the Juvenile Justice Complex, all Juvenile matters. In the Gresham Court Facility, Criminal, Traffic and Small Claims matters filed in that court location. Documents should be delivered to the appropriate division for filing.

(2) Documents delivered by mail to the court, or left in the court's mail room for delivery, will be received for filing when delivered in the normal course of distribution of documents from the mail room to the appropriate division of the Office of the Trial Court Administrator. If a fee is required to be paid prior to filing of a document, then filing may occur only if the fee is satisfied. In all other cases, filing will be accomplished on the date the documents are distributed to the appropriate division.

(3) Documents transmitted directly to the clerk's office by facsimile transmission (FAX) will not be received for filing.

(4) The street address for the downtown courthouse is:

Multnomah County Courthouse
1021 SW Fourth Avenue
Portland, OR 97204-1123

Addresses for other court locations are as follows:

Justice Center
Third Floor
1120 SW Third Avenue
Portland, Oregon

Judge Kristena LaMar
Portland Building
1120 SW Fifth Avenue, Suite 1520
Portland, Oregon

Juvenile Justice Center
1401 NE 68th Avenue
Portland, OR 97213

Gresham Justice Center
150 W Powell
Gresham, OR 97030

1.165 NOTICE TO TRIAL COURT ADMINISTRATOR REQUIRED FOR ORDERS TO SEAL A FILE, TRANSFER MONEY TO OR FROM AN INTEREST BEARING ACCOUNT, A JUDICIAL EXTENSION OF A RECORD RETENTION PERIOD, OR DOCUMENTS SUBMITTED UNDER SEAL

(1) If at any time in a civil, domestic relations or probate case, a party requests an order which requires the trial court administrator to seal a file, transfer money into or remove money from an interest bearing account, or for the judicial extension of a record retention period, the party must give notice to the trial court administrator of the order. Notice must be in writing, signed by the attorney or party, and a copy of the submitted form of order must be attached to the notice.

(2) When the court permits documents to be submitted for filing under seal of the court, the documents should be filed in 9 X 12 inch sealed envelope and be labeled on the face (address) side of the envelope with the case caption, case number, and the title of the documents (i.e. Response to Motion to Compel Discovery and Affidavit). The envelope should be marked clearly on both sides "Documents Under Seal of the Court." Larger envelopes may be used for bulky documents.

1.171 WEB ADDRESS

www.ojd.state.or.us/mul/home.nsf

CHAPTER 2

STANDARDS FOR PLEADING AND DOCUMENTS

2.015 RETURN OF A DOCUMENT TO PARTY

(1) In addition to the authority to decline to receive or file a document under ORCP 9 E 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:

(A) 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;

(B) A document which requires a fee but the fee or a request to defer such fee is not attached and the fee requirement has not been satisfied;

(C) A document without sufficient identifying information to determine in which case it should be filed or entered;

(D) A document which requires court action, but the court action cannot be taken without the filing of statutorily-required preceding documents;

(E) A document with a case caption from a jurisdiction not recognized by the Oregon Constitution or established by the Oregon Legislature, or a judgment or decree purportedly issued by a nonexistent court;

(F) A petition submitted for filing under ORS 813.210 more than 30 days after the first appearance on the summons where there is no finding of good cause by the court to permit the late filing.

(2) In small claims and summary dissolution cases, documents which do not comply with ORS, ORCP, UTCR, or SLR may, at the discretion of the Presiding Judge, be returned to the filing party.

(3) A pleading document which begins an action, and which is filed in this court and given a Multnomah County Circuit Court case number, will not be returned to a filing party even though the document may have a caption for another circuit court and was filed in error by the filing party.

2.025 FEE DEFERRALS

Fee deferral requests in civil, small claims and FED cases shall be submitted to the Presiding Judge or designee.

2.035 DESIGNATION OF KNOWN PARTIES BY FICTITIOUS NAME

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 fictitious name other than "Jane Doe" or "John Doe". The name "Jane Doe" or "John Doe" is reserved to be used for a party whose identity is unknown and the party is being designated as provided in ORCP 20 H.

2.045 REQUIREMENTS OF PETITION FOR WAY OF NECESSITY ACTION

The petition for establishing a way of necessity must contain either in the caption under the name of each respondent or in the first paragraph of the Petition, the mailing address of each person named as respondent therein.

2.055 SECURITY DEPOSIT TO BE PAID ON FILING OF PETITION FOR WAY OF NECESSITY ACTION

At the time of filing a petition for a way of necessity action, the petitioner shall post a bond or security deposit with the court of $500 for the purposes of ORS 376.200 (4) and (5).

2.065 APPOINTMENT OF INVESTIGATOR ; FILING AND SERVICE OF REPORT

(1) Upon the filing of a Petition for determination of a way of necessity pursuant to ORS 376.150 et seq., petitioner shall appear before the Presiding Judge at ex parte and present a motion for an Order Appointing Investigator under ORS 376.200(5).

(2) The affidavit in support of the motion shall reflect the amount of the bond or security deposit posted by the petitioner for payment of the investigator, and that the petitioner is prepared to pay the amount of any deficiency as required by ORS 376.200 (5). The court may set a higher amount to be posted by the petitioner. A motion will not be allowed until the full bond or security deposit set by the court is posted.

(3) The submitted form of Order Appointing Investigator shall reflect the name, address and telephone number of the investigator requested to be appointed by the court, specify the date, within 90 days, on which the investigator must file the report with the court, and state that the investigator shall file the original report with the court, and send a copy to the Petitioner.

(4) A copy of the motion, affidavit and submitted form of Order Appointing Investigator shall be served, along with the Petition, upon the respondents.

CHAPTER 3

DECORUM IN PROCEEDINGS

3.171 LOCAL ATTORNEY AS ATTORNEY OF RECORD

The local attorney under UTCR 3.170 (1) (c) will be designated as the attorney of record for the represented party, unless otherwise specifically ordered by the court.

3.181 PUBLIC ACCESS COVERAGE IN AREAS OUTSIDE OF COURTROOMS

In facilities occupied by the court, public access coverage in areas outside of courtrooms, other than the Jury Assembly Room when jurors are in attendance, is permitted only with the prior approval 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. Public access coverage is not permitted in the court's Jury Assembly Room when jurors are in attendance.

CHAPTER 4

OFFENSES

In addition to the rules in this chapter, see SLR 1.025 (2) for other SLR applicable to criminal offenses.

4.005 CRIMINAL PROCEDURE COURT ESTABLISHED

There is established a Criminal Procedure Court for the handling of misdemeanor and certain felony matters under the direction of the Chief Criminal Court Judge and the Presiding Judge. The responsibilities and procedures in such court are indicated herein.

4.015 DISCOVERY

Before any Motion to Compel Discovery is filed, a demand must have been made for the materials. The motion shall include a statement that such a demand was made, but not complied with in whole or in part.

4.025 CRIMINAL CASE POSTPONEMENTS BY PRESIDING JUDGE; CRIMINAL EX PARTE

(1) Postponements of felony cases may be presented to the Presiding Judge at Call or to the Chief Criminal Judge prior to Call by setting a scheduling conference with Chief Criminal Court, at which both the defense attorney and assigned deputy district attorney are present. Requests for postponement will not be allowed by the Chief Criminal Judge if received less than three judicial days before the next Call appearance in Presiding Court. Such requests must be presented at the Call proceeding as required by SLR 7.035.

(2) Motions to Rescind Bench Warrants ordered at a Call proceeding shall be presented only to the Presiding Judge or designee at the morning ex parte session specified under SLR 5.025. All other felony ex parte matters shall be presented at the morning or afternoon ex parte sessions specified in SLR 5.025.

(3) The first request for postponement of a misdemeanor or other case assigned to the Criminal Procedure Court may be presented at the Friday pre-trial conference. A written motion is not required for first set-over requests, except in cases involving domestic violence. The pre-trial Judge may grant a two-week postponement.

(4) Second or subsequent requests for postponement of a misdemeanor assigned to the Criminal Procedure Court, requests for a postponement longer than two weeks, or the first request for postponement of a domestic violence case, will be referred to the Criminal Procedure Court Judge.

Written requests for postponement are required in those circumstances. The motion shall set forth the specific reason for the request and contain a statement that opposing counsel was contacted and indicate counsel's position. Opposing counsel must also be identified by name in the motion. A second or subsequent request for postponement requires a written statement setting forth good cause.

(5) A request for postponement of a misdemeanor case may be scheduled on the Criminal Procedure Court's Further Proceedings docket if presented prior to the week of the pre-trial conference. These are scheduled by contacting the Calendaring Section of the Criminal Division of the Trial Court Administrator's Office. Emergency set-over requests presented during the week of the pre-trial conference may be presented to the Criminal Procedure Court Judge at 9:00 am ex parte, Tuesday through Thursday.

(6) Motions to Rescind Bench Warrants in misdemeanor or other cases assigned to the Criminal Procedure Court shall be scheduled before the Criminal Procedure Court Judge on the Further Proceedings docket for the defendant's appearance, by calling the Calendaring Section of the Criminal Division of the Trial Court Administrator's Office. Motions regarding the defendant's first bench warrant will be heard on this docket. If a defendant receives a second or subsequent bench warrant, the defendant is required to turn himself or herself in at the Justice Center unless the warranted defendant chooses to enter a plea. The plea may be scheduled on the Further Proceedings docket.

4.035 ISSUANCE OF SEARCH WARRANTS

(1) A request for a search warrant may be made to any Circuit Court Judge, subject to any procedures established by the Presiding Judge.

(2) Prior to presenting a request for a search warrant, the applicant shall:

(A) Obtain prior approval from a District Attorney who has personally reviewed the facts underlying the application;

(B) Provide the name of the reviewing District Attorney; and

(C) Verify that the search warrant application has not been presented to any other judge.

4.045 VIEWING EXHIBITS IN CRIMINAL PROCEEDINGS

In recognition of the need to insure the security of criminal exhibits, viewing shall be limited to the attorney of record unless otherwise ordered by the Court.

4.055 CIVIL COMPROMISE

The defendant must appear personally for a civil compromise hearing.

4.065 MOTIONS TO REMIT SECURITY FORFEITURE JUDGMENTS

(1) A defendant or surety may apply to the Court for a remission of a forfeiture of the security amount by:

(A) Filing with the Court, and serving upon the District Attorney, a written Motion for Remission of the Judgment or Order of Forfeiture, accompanied by an affidavit stating good cause for the remission;

(B) If necessary, appearing at a hearing to further inform the Court why the Judgment or Order of Forfeiture should be rescinded.

(2) If a hearing is necessary on the Motion for Remission, the Court will notify the applicant of the date and time of the hearing. In any case, the Court may decide to grant or deny the motion without any appearance by the applicant, and to notify the applicant by mail of its decision.

4.085 DUII DIVERSION

The following procedures shall apply to all driving under the influence of intoxicants (DUII) cases:

(1) On each charge of DUII, the district attorney shall review the incident and the defendant's history to determine if the defendant is eligible for DUII Diversion or if the state will object to the defendants participation in the diversion program. This review shall be completed prior to the date set for the first appearance of the defendant on the charge. The determination of whether the defendant is eligible for participation in DUII Diversion shall be announced at the first appearance proceeding.

(2) If the defendant appears at the time set for first appearance, is unrepresented by counsel and requests time to obtain counsel, the defendant's arraignment will be set over for two weeks only, unless a longer period is permitted by the court.

(3) In all other cases, counsel will be appointed if it is appropriate to do so, the defendant will proceed with retained counsel, or the defendant will be allowed to proceed without counsel.

(4) The court will arraign the defendant at first appearance. If the district attorney has determined that the defendant is eligible to enter DUII Diversion, then the case will be continue for the defendant to file the diversion petition and to appear to enter a plea of guilty. (See Forms 08-27, 08-20, 08-09, and 08-06 Pages 91-98, Appendix of Forms.) If the state is not able to determine if the incident or the defendant are diversion eligible at the time of arraignment or determines that the defendant is not eligible to enter diversion and files objections, then the case will be set for jury trial in the normal course with leave to the defendant to set a hearing for the court to make a final

determination on this issue.

(5) If more than 30 days has elapsed from the date of first appearance set on the uniform citation summons and complaint or set in a release agreement on a release from custody on a law enforcement officer's probable cause arrest and booking of the defendant for DUII, the defendant must first appear for a determination by the court that there is good cause for the late filing of the petition before the defendant may be accepted into the diversion program.

(6) Objections to Diversion

(A) The District Attorney's objections to diversion shall be in writing.

(B) The defendant or the defendant's attorney will be given notice by the Court that an objection has been filed.

(C) If the defendant elects to contest the objection, the defendant may set the objection for a formal hearing.

(D) Contested objection hearings may not be utilized to seek post-conviction relief on a prior conviction. Such relief shall be filed with the Circuit Court.

(E) If an objection is contested and the Court sustains the objection to diversion, or if the defendant elects not to contest the objection, the case shall be set for trial or plea.

(7) No refunds of diversion fees will be made to any individual who for any reason fails to complete the program after diversion has been granted.

(8) If companion violation offenses are filed at the time the diversion charge is filed, such companion citations will remain with that charge until the petition is allowed by the Court. If the petition is allowed, the judge in the diversion court will take a plea of guilty or set the companion charges for trial.

(9) If a misdemeanor is filed with a diversion charge, the cases shall be consolidated, and shall remain consolidated, until the Diversion hearing. If Diversion is granted, the cases shall be severed and the companion case will be set for trial.

(10) If a diversion offense is filed in a single charging instrument with one or more felony charges, unless severed, the diversion petition must be filed timely in the case containing the felony charges.

(11) Diversion cases filed in the Gresham Department shall be processed and screened as indicated in this Rule. The judge will rule on the timeliness of the Diversion request and will determine whether Diversion will be allowed.

(12) Except for SLR 4.085(11), decisions on diversion eligibility or disqualification will be made

by the judge assigned to the diversion court. Decisions on whether to grant or deny an extension of the 12 month diversion period under ORS 813.225 will also be made by the judge assigned to the diversion court. No attorney or defendant shall request that judge's decision to be reconsidered or reviewed by any other judge in the Circuit Court.

4.095 PAYMENT OF SECURITY DEPOSITS; PAYMENTS OF OTHER COURT ORDERED OBLIGATIONS

(1) For cases within the scope of this chapter, the form of payment accepted and the location and method for depositing security are as follows:

(A) If a defendant is in the custody of the Multnomah County Sheriff's Office or any other agency on a warrant issued by the Multnomah County Court, security amounts for the release of the defendant are collected by the Sheriff's Office and processed pursuant to the cooperative agreement between that agency and Multnomah County Courts.

(B) A defendant who is in custody, or a surety for an in-custody defendant, must post cash, money order, cashiers' check, or an Inmate Trust Account check to deposit security pursuant to ORS 135.265(2). Personal checks or credit cards are not accepted as security for release from custody.

(C) If the full amount of security is posted in the form of real or personal property, stocks or bonds, as prescribed in ORS 135.265 (3), the security release must be processed by the Criminal Division of the Trial Court Administrator's Office, and a Judge must review the supporting affidavits prior to the defendant's release from custody.

(D) If a defendant is out of custody and a warrant has been issued, a court appearance is required prior to clearing an outstanding warrant, unless otherwise ordered by the court.

(2) In any case within the scope of this chapter, a defendant's attorney may write a check from the attorney's Client Trust Account to deposit security for the defendant.

(3) Personal checks may be accepted by the Criminal Division of the Office of the Trial Court Administrator for payment of court-ordered obligations other than security.

4.105 REFUND PROCEDURES

All refunds are made by mail.

CHAPTER 5

MOTIONS AND JUDGMENTS IN CIVIL ACTIONS

5.015 CIVIL ACTION MOTION DOCKET; MOTION PRAECIPE RULE; AUTOMATIC CONSENT TO HEARING BY NON-APPEARING PARTY

Method of Setting Motions

(1) In circuit court civil actions, all contested pretrial motions (excluding ex parte) shall be placed on the civil motion docket either by motion praecipe, by an Order to Show Cause, or by order of the Presiding Judge or the Presiding Judge's designee.

(2) If the Presiding Judge places a motion on the civil motion docket, the Court may provide notice by telephone.

Motion Praecipe Rule: General Requirements and Applicability; Exceptions; and Delivery

General Requirements and Applicability

(3) Unless specifically excepted from this requirement by provision of this rule, a motion praecipe form shall be attached to the front of all copies of motions, including motions granted an expedited hearing, sent to the judge hearing the motion and to the parties. It is not required to attach a motion praecipe to the original file copy of the motion to be heard. A motion praecipe shall be attached or delivered when required under this rule, even when the moving party waives appearance.

Exceptions

(4) Motion praecipe are not required on small claims, FED, family law, juvenile or probate cases, nor on civil cases which have either been assigned to arbitration, specially assigned to a judge for all pretrial proceedings, or are placed on a motion docket by an order to show cause or an order of the Presiding Judge.

Delivery Requirements, and Sanctions

(5) The original motion praecipe shall be attached to the assigned judge's copy of the motion, including motions assigned to pro tem judges, and delivered to the assigned judge at the time the motion is filed. A copy of the motion praecipe shall be attached to the service copy of the motion and delivered to all parties. Failure to deliver a praecipe and copy of the motion when required by this rule may result in sanctions as provided by UTCR 1.090, including striking the underlying motion.

Content of the Praecipe

(6) The motion praecipe shall include: the caption of the case, the case number, the name of the moving attorney and the party represented, the type of the motion, the name of the judge hearing the motion, the date of the hearing, the time of the hearing, the room number where the hearing will be

heard, the length of the hearing and whether the party is waiving appearance, whether the hearing date is the first or subsequent date for this motion, whether the services of a court reporter/recorder are requested and whether the motion is to be heard by telecommunication. A form of praecipe is available from Presiding Court and in Room 210 of the courthouse. (See Form 05-06, Page 80, Appendix of Forms.)

Re-delivery Requirement If Motion Set Over

(7) If a motion has been filed and praeciped previously but is set over, a new motion praecipe attached to a copy of the motion must be delivered to the assigned judge and a copy of the new motion praecipe must be delivered to all parties.

If Filing and Service Required by Statute Prior to Assignment of Hearing Date

(8) If a statute mandates the filing and serving of a motion prior to the availability of a hearing date or show cause date, the moving party shall attach a certificate citing the statute or rule requiring the filing of the motion and stating that a hearing date will be secured as soon as such date is available and, if required under this rule, a motion praecipe will be delivered to the judge and parties as required by this rule.

Service Period on Court and Opposing Parties, Copy of Motion, Response and Reply to Assigned Judge

(9) Except as provided in section (5) of this rule, the party responsible to deliver the praecipe as provided by this rule shall deliver the praecipe together with the courtesy copy of the motion to the assigned judge and serve the parties on the date the motion is filed with the court. Any party opposing a motion in which a praecipe is required to be delivered under this rule shall submit a courtesy copy of the responding papers to the assigned judge at the same time the response is filed with the court, but in no event less than one judicial day prior to the date of the hearing unless the praecipe delivery time has been shortened by the rule or the Presiding Judge or designee at civil ex parte. Any party filing a reply to a response to a motion, must deliver a copy of the reply document to the assigned judge on the date the reply is filed with the court, but in no event less than one judicial day prior to the date of the hearing.

Absence at Motion Hearing

(10) A matter set on the civil motion docket may be decided even though some or all of the parties or attorneys are not present. Such a hearing shall be deemed consented to by the parties not appearing.

5.017 SERVICE OF MOTION AT OR BEFORE DELIVERY OF COPY TO JUDGE

In any civil action, the service of a contested motion, response, or reply on opposing parties must occur before or simultaneously with the delivery of a copy of the document to the judge assigned to hear the matter.

5.025 CIVIL EX PARTE MATTERS

(1) Ex parte matters shall be heard each judicial day before the Presiding Judge or designee at 9:30 am, at 1:30 pm, and at other times designated by the Presiding Judge for the consideration of whether a petition for the expedited hearing of a civil motion shall be allowed. (See Form 05-27, Page 81, Appendix of Forms.)

(2) Contested matters, unless otherwise allowed by these rules, shall not be presented at ex parte. Such matters shall be subject to the requirements of SLR 5.015. Only the following contested matters may be presented at ex parte:

(A) Motion to postpone trial;

(B) Request for expedited hearing. (See Form 05-28A, Page 82, Appendix of Forms.)

(C) Application for a temporary restraining order under ORCP 79 (B)(1), when the adverse party appears and is permitted by the court to address the merits of the request.

(3) Except as otherwise allowed by statute or waived or consented to by the opposing party, any party seeking ex parte relief must provide one judicial days' notice to the opposing party of the date, time and court where the ex parte relief will be sought. A party appearing will be required to advise the court if they have had contact with the opposing party prior to the ex parte appearance, and the opposing party's position on the matter presented to the court.

5.035 ORDERS BY PREVAILING PARTY; PRESENTING JUDGMENTS AND ORDERS FOR JUDICIAL SIGNATURE

(1) After a motion ruling, unless otherwise ordered, it is the responsibility of the prevailing party to draft an order incorporating the ruling and to submit it to the proper judge, accompanied by proof of service on opposing counsel in compliance with UTCR 5.100.

(2) Any judgment or order requiring the signature of a pro tem judge, reference judge, or senior judge shall be directed to the private business office of that judge unless that judge directs otherwise. That judicial officer will forward the order to Presiding Court for filing.

(3) All judgments, orders, and other papers requiring the signature of a specific judge shall be sent directly to that judge.

5.045 NO MOTIONS FOR RECONSIDERATION; EXCEPTIONS

(1) No Motion for Reconsideration on any pre-trial, trial, or post-trial civil or criminal matter shall be heard, reviewed, or considered by any judge sitting in the Fourth Judicial District; nor shall

any such judge review a ruling rendered by any other judge except under (2).

(2) This rule shall not apply to any statutory motion to modify, set aside, vacate, suppress, or rescind; nor shall it obstruct the authority of the assigned trial judge to review any previously-filed motions.

5.055 STAMPED, SELF-ADDRESSED CONFIRMATION CARDS REQUIRED

(1) Any party desiring information on any filing, (e.g., date of filing, date of signature, costs and attorney fees awarded, or name of judge), shall attach a stamped, self-addressed confirmation card. On orders or judgments, confirmation cards shall be attached for all parties. Unless required by law or rule, conformed copies of the order or judgment will not be provided by the Trial Court Administrator's Office as further proof of signing. Signed copies of orders and judgments may be obtained from the circuit court's File Room.

(2) An ex parte motion for trial set-over shall have confirmation cards attached by the moving party for all parties.

5.065 JUDGMENT DEBTOR ORDERS

Authorized Without Predetermined Hearing Date

(1) Except in the Gresham Court and small claims actions adjudicated in the Multnomah County Courthouse, appearance dates for judgment debtor/garnishee hearings shall be set at the discretion of the creditor for any judicial day at 11:00 am in Courtroom 208. The creditor must give the debtor/garnishee at least seven days notice of the date of the examination, unless a longer period is required by statute. The Presiding Judge will set an appearance date only if specifically requested to do so by the creditor. Small claims judgment debtor/garnishee hearings in the Gresham Court are scheduled for one Friday each month. The judgment creditor may select a time and date by calling the Gresham Court. Judgment debtor/garnishee hearings arising from small claims actions adjudicated in the Multnomah County Courthouse are scheduled for 8:15 am on Wednesday through Friday each week in Courtroom 120 of the Courthouse. The hearing date shall be set at the discretion of the creditor, but must provide at least seven days notice to the debtor. Forms are available in Room 210 of the Multnomah County Courthouse.

Valid for Six Months

(2) Appearance orders signed by the Presiding Judge without an appearance date shall remain valid for six months from the date of signature.

Location of Appearance Limited to Multnomah County Courthouse and Gresham Court

(3) The debtor/garnishee shall not be compelled to appear at a location other than the Multnomah County Courthouse or Gresham Court without the written consent of the debtor/garnishee.

Warrants for Failure to Obey Judgment Debtor Order

(4) Persons requesting warrants to compel the appearance of the judgment-debtor or garnishee shall include physical identifiers and the date of birth of the debtor/garnishee. Failure to provide such information shall be grounds for the refusal of the Sheriff to enter a warrant. Motions for issuance of a bench warrant supported by an affidavit setting out the judgment debtor's or garnishee's failure to appear as previously ordered and a form of contempt warrant must be presented at civil ex parte.

Security Deposit Not to Be Applied to Judgment

(5) Security on a civil contempt warrant for arrest of a debtor/ garnishee shall be set at $2500, unless otherwise ordered by the Presiding Judge.

(6) Except for a security deposit posted in a family law contempt proceeding, a security deposit, posted by a debtor/garnishee in response to a civil contempt bench warrant, may not be applied to the judgment creditor's award without the written consent of the debtor/garnishee.

5.085 CLAIMS OF EXEMPTION NOT TO CONTEST JUDGMENT

Claims of exemption to Writs of Garnishment which contest the underlying judgment will be denied by the Court.

5.095 INTERSTATE DEPOSITION INSTRUMENTS

Obtaining an Oregon Commission

(1) A commission pursuant to ORCP 38 to permit a deposition to be taken in a foreign jurisdiction for an action pending in this circuit court must be requested by presenting a motion, affidavit and form of order at ex parte. (See Form 22-03, Page 83, Appendix of Forms). If the motion is allowed, the motion, affidavit and signed order must be filed with the clerk of the court in the pending civil action. When the order granting the commission is filed, the clerk of the court will issue the commission.

(2) Unless otherwise requested by the party in its motion and ordered by the court, the commission shall be effective for 28 days from the date of issue.

(3) The commission may also serve to authorize the issuance of Subpoenas Duces Tecum in a foreign jurisdiction.

Registering a Foreign Commission in Oregon

(4) To obtain discovery in the State of Oregon for an action pending in another jurisdiction, a writ, mandate, commission, letter rogatory or order executed by the appropriate authority in the foreign jurisdiction must be registered in the Circuit Court of this state. The original document or certified copy thereof from the foreign jurisdiction shall be presented to the Presiding Judge or designee at ex parte by the moving party in the foreign action in person or by an active member in good standing of the Oregon State Bar, together with a Petition and form of Order to Register such document. (See Form 22-03, Page 84, Appendix of Forms). If approved by the Presiding Judge or designee, upon payment of the appropriate filing fee, the matter will be assigned a circuit court case number, and thereafter appropriate process may be issued by the Oregon attorney.

(5) In the event that a foreign jurisdiction has no procedure to issue a writ, mandate, commission, letter rogatory, or order to authorize a deposition to be taken in Oregon pursuant to ORCP 38C, the moving party shall provide to the Presiding Judge or designee a petition to compel the witnesses to appear and testify. The Petition shall be supported by an affidavit stating the name of the court and of the foreign jurisdiction in which the litigation is pending, the caption or other relevant title of the litigation, the case number assigned by the foreign jurisdiction to the litigation, the date of filing of the litigation in the foreign jurisdiction, a statement that the foreign jurisdiction has no process to issue a writ, mandate, commission, letter rogatory or order to compel a witness to appear and give testimony if the witness is located outside its jurisdictional boundary, a statement that the affiant seeks authorization from the Court to proceed upon notice or agreement to take the testimony of witnesses in this state as provided by ORCP 38C(1), and the identity of witnesses in this state to be compelled upon notice or agreement to appear and testify.

CHAPTER 6

TRIAL PROCEDURES

6.012 PRE-TRIAL SETTLEMENT CONFERENCE PROCEDURES

The following procedures shall apply to pre-trial conferences in all pending civil and domestic relations cases, when ordered by the Court pursuant to UTCR 6.010, 6.200, or requested by a party or the party's attorney:

(1) If one party requests a pre-trial settlement conference, the settlement conference shall be held and shall be conducted according to the procedures set forth in this rule. Except in the case where the Court orders a conference, the pre-trial 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 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) The Presiding Judge shall designate a judge or judges who shall conduct pre-trial settlement conferences. In the event a party requests a specific judge to conduct a conference, that request shall be honored as fully as practical under the circumstances.

(3) 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 pre-trial settlement conference. However, the assigned judge may permit telephone appearances in lieu of personal appearance for good cause.

(4) Each pre-trial settlement conference shall be scheduled to allow adequate time for meaningful settlement discussions. Additional settlement conferences may be scheduled by the assigned judge or by agreement of all attorneys and parties.

(5) The pre-trial settlement conference shall not delay the trial scheduling, but the Presiding Judge may delegate to the assigned judge limited or unlimited authority to continue the trial date by the mutual agreement of the parties and their attorneys.

(6) No judge conducting a pre-trial settlement conference under this rule shall be permitted to act as trial judge if the case does not settle, unless the parties stipulate to such procedure.

(7) Each attorney or party shall submit to the assigned judge, at least one business day prior to the scheduled pre-trial settlement conference, information regarding the case. In domestic relations cases, counsel shall also provide a copy of the proposed distribution of assets and liabilities, and, if support is involved, the proposal for and computation of support, to opposing counsel at least one business day prior to the scheduled pre-trial settlement conference. Except for the information described in the preceding sentence, any documents or information submitted to the judge shall be

presumed confidential, unless a copy is provided to the opposing side(s). The assigned judge shall make available forms for the submission of such information, but an attorney or party may submit such other or further information to the judge to inform the court of the issues in the case.

(8) No submissions under SLR 6.012(7) shall be included in the court file, nor shall any notes prepared by the judge be filed or otherwise disclosed, except by permission of the attorneys and/or parties or by court order.

(9) The assigned pre-trial settlement conference judge shall inform the calendar clerk of the occurrence of the conference, the possibilities of settlement, and the estimated length of trial time, in the event the case does not settle at the conference. No other information regarding the case nor the conference shall be communicated to the trial judge nor the jury.

(10) The presiding judge may require a trial-setting conference prior to, or following, the pre-trial settlement conference, pursuant to UTCR 6.010.

6.014 PRE-TRIAL CASE MANAGEMENT CONFERENCES IN CIVIL ACTIONS

(1) In any civil action, when it appears to the court that an action will be pending for longer than 270 days measured from the date of filing of the first pleading in the action, the court may schedule a case management conference and, upon notice, require the parties to appear. The purpose of the case management conference is to address the readiness of the action for trial. The court will ask the parties to identify remaining tasks to be resolved including discovery issues, expected remaining pretrial motions, and any known scheduling problems for parties and witnesses. In addition, related issues listed in UTCR 6.010 will be covered. Parties are expected to be prepared to discuss these matters at the case management conference.

(2) Parties appearing in the action without attorney representation must appear at the case management conference in person. Parties appearing in the action with representation by an attorney are required to appear through their trial counsel, and need not attend in person.

6.015 SUBMISSION AND COPIES OF MOTIONS, BRIEFS, MEMORANDA, AND POINTS AND AUTHORITIES; COPIES TO BE DESIGNATED TRIAL COURT COPY

(1) A copy of a motion, brief, or memoranda shall be submitted directly to the judge scheduled to hear the matter.

(2) The copy of the motion and all supporting documentation for the use of the judge shall be designated “TRIAL COURT COPY.”

(3) Copies shall identify the name of the judge hearing the motion, the time of the hearing, the date of the hearing or the show cause assignment date, and the room number of the hearing.

(4) Jury Instructions, Verdict Forms, Trial Memorandums, Motions to Suppress, Motions in Limine, and similar materials, shall be submitted to the assigned trial department by noon of the day of trial assignment at daily call by the Presiding Judge. This rule does not apply to trial assignments made after daily call is concluded.

6.025 PAYMENT OF TRIAL FEES AND HEARING FEES

(1) A fee receipt, fee waiver, or fee deferral must be presented to the courtroom clerk prior to commencement of a trial or hearing where a fee is required to be paid under ORS 21.114, 21.270, 21.275, 21.310, 46.570 or 105.130.

(2) Fees payable at the conclusion of the trial shall be paid by 5:00 pm. 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 case until the fees are paid, but failure to pay the fees as stated in SLR 6.025(1) shall not be grounds for a postponement.

6.027 PERSONAL COMMUNICATION DEVICES 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 communicating 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 the judge presiding over the proceeding, personal communication devices (any electronic or other 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.

6.045 MOTIONS TO CORRECT TRANSCRIPTS

(1) If a motion under ORAP 3.40 is filed, a copy shall be delivered to each of the following:

(A) Trial court reporter or audio transcriber;

(B) Trial court judge (or the judge who presided at the matter under appeal).

(2) A form of order to correct, or add to, the transcript shall be submitted to the trial court judge.

(3) The moving party shall deliver a copy of the signed order to the trial court reporter or audio transcriber.

(4) If the signed order permits correction or addition to the transcript, then the trial court reporter or audio transcriber shall give notice and, upon any payment due, serve copies of the corrected or added material in the same manner as provided by ORS 19.370 for the initial uncorrected or un-augmented transcript.

6.055 BUILDING SECURITY

The Multnomah County Courthouse, the Multnomah County Justice Center, Gresham Courthouse, the Juvenile Justice Complex or any other facility or location where the court conducts its proceedings are Court facilities for the use of members of the public to exercise their rights to view proceedings and handle their affairs through the Court. This right of access may, however, be overcome by conduct detrimental to the safety of the Court's Judicial Officers, other Officers of the Court, its employees, and members of the public. This type of conduct may result in the ejection of a person or party from these facilities and possibly their restraint from entering these buildings for a specified period of time. Such detrimental conduct may include, but is not limited to:

(1) Direct physical assault upon any person;

(2) Destruction or theft of Court records or posted public notices;

(3) Vandalism, defacing, burning, or other physical destruction of any device or room within these facilities;

(4) Intimidation, extortion, coercion, or other forcible conduct aimed at interrupting the Court's Judicial Officers, other Officers of the Court, and its employees in the course of their work or at interfering with members of the Bar or of the public in their dealings with the Court;

(5) Any conduct which interferes with or interrupts a Court proceeding;

(6) Any entrance into an area of these buildings designated off-limits or for employees only;

(7) Any introduction of noxious odors designed to deny members of the public the use of any public part of these buildings;

(8) Any attempt, either by fraud or threat, to gain access to confidential Court records or material;

(9) Any attempt, either by fraud or threat, to gain access to the private office of a Judicial Officer, the Court Administrator, or other Court Officer;

(10) Any attempt by a member of the public to deny any other member of the public the use of these buildings.

6.145 HAZARDOUS SUBSTANCES

In addition to the definition found in UTCR 6.140 (2), a hazardous substance is defined as any substance listed in, or hereinafter added to, the Federal Aviation Authority Regulations on Hazardous Substances, any provisions of the United States Code defining hazardous substances, or the Federal Controlled Substances Act; or is any potentially dangerous or contaminated substance capable of inflicting death or serious physical injury either immediately or over the course of time. A hazardous substance shall include any device or implement which carries, contains, or exhibits such characteristics.

CHAPTER 7

CASE MANAGEMENT AND CALENDARING

7.011 SCHEDULING ORDERS

In any civil action, the Presiding Judge may enter a pretrial scheduling order setting dates by which events in the action must be completed.

7.015 UTCR 7.020 CONTINUANCES; STAY OF DEFAULTED PARTIES PENDING TRIAL; STIPULATED TRIAL DATES UNDER UTCR 7.020

(1) Continuances pursuant to UTCR 7.020 shall be on a form prescribed by the Court. (See Form 05-41, Page 79, Appendix of Forms.)

(2) In multiple party cases, when a default order has been taken against a specific party and the other defendants will proceed to trial, an attorney may move the Court to stay the requirement to apply for a judgment by default and avoid dismissal under UTCR 7.020 for the defaulted party, pending the outcome of trial.

(3) The parties may mail to the Presiding Judge an agreed date as a stipulated date under UTCR 7.020. Stipulated dates which are within 10 months of the date of the filing of the complaint will be approved by the Presiding Judge and the initial trial assignment date will be set to the stipulated date. A stipulated date which places the trial beyond 10 months from the date of filing will not be approved if submitted by mail. Such a stipulated setting must be presented at ex parte and may require a postponement conference with the Presiding Judge. The Court will exercise its discretion in granting or denying such a request based on all circumstances made known to the Court.

7.025 POSTPONEMENT CONFERENCES

A conference with the Presiding Judge may be required to postpone a civil case currently 12 months of age or which will exceed 12 months of age if a set over is granted.

7.035 CALL NOTICES; MINIMUM NOTICE FOR POSTPONEMENTS

(1) Attorneys of record in each case taken from the list of cases ready to set for trial will be notified at least 28 days before the date of Call, unless this period is waived or shortened by the Presiding Judge.

(2) Counsel seeking postponements of assigned trial dates shall give opposing counsel(s) not less than one judicial day's notice of the date and time when an application for postponement is to be presented to the Court at ex parte as required by these Rules and SLR 5.025.

(A) Motions for postponement shall be on a form prescribed by the Court and shall be submitted in duplicate (See Form 05-82, Page 78, Appendix of Forms);

(B) Thirty or more days before the Call date, an unopposed motion for postponement may be presented by mail or at ex parte, but such a motion cannot be presented by mail in a criminal case;

(C) Four judicial days to 29 days before the Call date, any motion for postponement must be presented at ex parte;

(D) Three judicial days or less before the Call date, a motion for postponement will not be considered. Appearance at Call is mandatory.

(E) Any opposed motion for postponement shall be presented at ex parte.

(3) In criminal cases assigned to the Criminal Procedure Court:

(A) A motion for postponement on the day of trial must be presented to the Criminal Procedure Court Judge. If granted, a new trial date will be set. The procedure for requesting a postponement at the pre-trial conference is set forth in SLR 4.025.

(B) Other than cases involving a motion for postponement, multiple trials sent out to a trial judge will be handled as follows: the trial judge will retain the misdemeanor cases which can commence during the assigned trial date, including cases that can be set to follow in the afternoon of the assigned trial date. All cases which the trial judge cannot schedule to begin on the assigned trial date will be sent back to the Criminal Procedure Court Judge for reassignment to another judge, or for new pre-trial and trial dates if no other judge becomes available. The prosecuting attorney and defense counsel must not release witnesses prior to a determination by the Criminal Procedure Court Judge regarding whether the case will be reassigned to another judge on the same date or postponed. The presumed order of priority in which cases should be tried is: custody cases, date certain cases, and finally, the oldest case based on the issue date.

7.045 MOTION FOR CHANGE OF JUDGE

(1) If a judge is assigned at Call or at a case scheduling conference before the presiding judge, and a party intends to file a motion for a change of the judge assigned, the intention to file the motion must be announced at the time of assignment. An original and two copies of a motion, order, and supporting affidavit must be delivered to the Presiding Judge. Failure to submit all three documents timely, with the copies, will result in sanctions as provided by UTCR 1.090. The requesting party is responsible for serving a copy of the motion, affidavit and order on the judge being disqualified and each other party to the action who is not in default.

(2) For Judges assigned through the Motion Calendaring Department pursuant to SLR 5.015, the following procedures shall apply:

(A) If a party setting a motion intends to disqualify the assigned judge, the party must announce the intent to the motion clerk at the time of assignment and appear at ex parte by the close of the next judicial day to present duplicate copies of a motion, order, and affidavit to the Presiding Judge. The requesting party is responsible for serving a copy of the motion, affidavit and order on the judge being disqualified and each other party to the action who is not in default.

(B) If the non-setting party intends to disqualify the assigned judge, that party must, by the close of the next judicial day after receiving actual notice the motion is assigned to that judge, notify the motion clerk and appear at ex parte to present duplicate copies of a motion, order, and affidavit. The requesting party is responsible for serving a copy of the motion, affidavit and order on the judge being disqualified and each other party to the action who is not in default.

(C) If a motion for change of judge under this provision is allowed, the moving party on the underlying motion shall contact the calendaring office to reschedule the underlying motion and shall comply with the requirements of SLR 5.015 as to the new assignment.

(3) If a judge is assigned in any other manner, a motion to disqualify that judge, with an order and supporting affidavit, must be presented to the Presiding Judge at ex parte by the close of the judicial day following notice of the assignment. A copy of the motion, affidavit and order must be served on the judge being disqualified by the moving party and each party to the action who is not in default.

(4) In small claims, FEDs, violations and misdemeanor offenses, the Presiding Judge may assign a motion for change of judge to another judge for decision.

(5) For purposes of ORS 14.250 et seq. and this Rule, a judge who handles any arraignment, pre-trial release request at the time of arraignment, pre-trial conference or daily Call pursuant to SLR 7.055, shall not be considered to have ruled on a particular matter within the meaning of ORS 14.260(3). A party shall not waive any right pursuant to ORS 14.250 et seq. as to such judge by failing to move for change of judge at the time of appearance before such judge at any arraignment, pre-trial conference, or daily Call.

7.055 CALL

Call for Civil and Criminal cases; Family Law, Probate, and Juvenile, Small Claims

and FED Dockets Kept Separate

(1) Unless otherwise designated or posted, the Presiding Judge shall announce the cases listed on the Daily Trial Call Calendar each judicial day.

(A) Call for Family Law, Probate, Juvenile, Small Claims and FED matters will be conducted separately, as provided in these Rules.

(B) When a jury trial is requested in an FED action, the case will be placed on the civil Call calendar.

Assignment Times

(2) Unless altered by the Presiding Judge or designee, Call shall be at 9:00 am for all felony offenses and civil matters.

Presiding Judge to assign judge, day and time

(3) Except for cases set to follow, and cases assigned in multiple assignment groups, the Presiding Judge will announce the day and hour that the trial will begin.

Cases set to follow

(4) When a case is assigned to a trial judge to follow another case, the attorney on the case set to follow shall be prepared to commence trial promptly upon the completion of the preceding case.

Standby Cases

(5) A case on the Call calendar may be designated as a standby case at Call proceeding. These cases are assigned later in the day, if judicial time becomes available.

(A) A standby case may be assigned out for the following day prior to 4:00 pm on the day of Call.

(B) If an attorney on a standby case announces to the clerk an inability to go to trial when assignment is made, the case will either be placed on Call the following judicial day or postponed, at the discretion of the Presiding Judge.

Carried Cases

(6) For good cause shown, a case may be carried to the Call docket for the following judicial day.

Abated and Stayed Cases

(7) For good cause shown, the Presiding Judge may abate any case upon motion of counsel or

upon motion of the Court. (See Forms 05-32 and 05-38, Pages 88 and 89, Appendix of Forms.)

(A) 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 years from the date of the 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.

(B) 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 by mutual consent proceed with discovery during the period of abatement or inactive status.

(C) A case will be stayed, rather than abated as provided in this section, by a notice of bankruptcy.

(D) Once a case is reinstated to the active trial docket, the case will be assigned a trial date within 30 days. (See Form 05-33, Page 77, Appendix of Forms.)

Duty of Attorney at Call

(8) The attorney of record on a case shall be present at Call, except that:

(A) The attorney may appear via a substitute counsel; or

(B) The attorney may report unconditionally ready in a civil case by telephone to the Call clerk by 4:45 pm on the judicial day immediately preceding the date of Call. A telephoned report as allowed under this section shall constitute a waiver of the right to file a motion for change of judge as to any judge assigned to hear the matter and of the right to object to another party's request made at the time of Call that the matter be postponed.

(C) If an attorney is not present at Call, does not otherwise report to the Court ready on the case, or the Presiding Judge deems the report inadequate or misleading, the Presiding Judge may direct:

(i) The entry of a Judgment of Dismissal, following notice by the Court of intent to dismiss pursuant to ORCP 54B(3), without prejudice, for want of prosecution, an Order of Default, or such other order as may be appropriate under the circumstances including the imposition of sanctions under UTCR 1.090 and jury expenses under UTCR 6.020; or

(ii) That the attorney appear before the Court in person to explain the cause for the non-appearance. The proceeding shall be made a matter of record, and if the Presiding Judge determines that such conduct is willfully inexcusable, such conduct may be considered an act of contempt.

Multiple Case Assignment

(9) Cases on the Call calendar may be assigned in multiple case groups.

Felony Defendants to Appear at Call

(10) All out-of-custody felony defendants shall appear on all Call dates, unless the Presiding Judge directs otherwise.

Cases Specially Set

(11) The Presiding Judge may specially assign any case.

Advising Presiding Judge

(12) An attorney may advise the Presiding Judge in open court at the time a case is to be assigned that a particular judge has previously ruled upon some aspect of the case, or has tried a companion case, and therefore is familiar with the issues of the case.

Improper Influencing of Case Assignment

(13) Except as provided in 7.055(12), no attorney, party, or other person may directly or indirectly attempt to influence the Presiding Judge or court staff to assign a case to any particular judge, or to avoid assignment of a case to any particular judge.

7.065 DISPOSITION OF CASE AFTER ASSIGNMENT TO TRIAL JUDGE, MOTION TO POSTPONE CASE ASSIGNED AT CALL MUST BE PRESENTED TO PRESIDING JUDGE

Once a case is assigned for trial, including as a case set to follow, all matters affecting the trial, except any request to delay the assignment date for trial, are to be presented to the trial judge. The immediate unavailability of the trial judge is not grounds, absent an emergency, to present a matter to the Presiding Judge or any other judge. Requests for a delay of the trial date assigned by the Presiding Judge at Call must be presented to the Presiding Judge only, and shall not be made to the judge assigned for the trial of the action.

7.075 PARTICIPATION IN APPROPRIATE DISPUTE RESOLUTION

(1) Every civil and family law case shall be subject to subsection (2) of this rule.

(2) All parties and their attorneys, if any, are required to participate in some form of appropriate dispute resolution, beyond negotiation directly or indirectly to reach a joint settlement, including,

but not limited to, arbitration, mediation or judicial settlement conference. The parties must sign and file, within 270 days from the filing of the first complaint or petition in the action, a certificate (See Form 05-31, Page 99, Appendix of Forms) indicating that the parties have participated in such ADR mechanisms. If the action is fully disposed of in the circuit court within 270 days from the filing of the first complaint or petition in the action, no certificate need be filed under this rule.

(3) The requirements of this rule shall not require mediation or arbitration of a case otherwise exempt from arbitration or mediation requirements by statute, but the parties and attorneys, if any, of any case so exempted shall be required to participate in a judicial settlement conference.

(4) The court may impose sanctions pursuant to UTCR 1.090 against any party who fails to comply with subsection (2) of this rule, or who

(A) fails to attend a scheduled mediation session, arbitration hearing or judicial settlement conference;

(B) fails to act in good faith during the mediation, arbitration or judicial settlement conference;

(C) fails to submit on a timely basis paperwork required as a part of the mediation, arbitration or judicial settlement conference; or

(D) fails to have a principal necessary to approve the resolution of the case present or readily available, by telephone or other means, at the time of the mediation, arbitration or judicial settlement conference, unless, in advance, the court grants the party or attorney leave from compliance with this subsection of the rule.

(5) Nothing in this rule restricts or removes the constitutional right of the parties to a trial.

CHAPTER 8

FAMILY LAW, CIVIL COMMITMENT AND NAME CHANGES

8.011 SUBJECT MATTER JURISDICTION

The following cases shall be subject to the rules of this chapter: dissolution and annulment of marriages, separation, child and spousal support, filiation, dissolution of domestic partnerships, family abuse prevention, adoption, name changes, and habeas corpus proceedings involving children, civil commitments and such other cases as shall be assigned to the Chief Family Law Judge for case management purposes by the Presiding Judge.

8.012 DOCKETING

(1) Assignment of trials and motions shall be handled by the Chief Family Law Judge or designee.

(2) Motion hearings may be reset twice through the Calendar Unit of the Family Law Section. Subsequent requests to reset a hearing must be made by motion to the Chief Family Law Judge or designee at ex parte. Motions not settled or reset within 5 months of filing will be automatically dismissed without notice to the parties.

(3) The Family Court Services Division may designate a matter as a priority case if custody is in dispute and the child or children will suffer exposure to substantial harm by the existing custodial arrangement. The Director of the Family Court Services Division shall notify the Chief Family Law Judge of the designation and also advise the parties and/or their attorneys. The Chief Family Law Judge will assign an expedited hearing date and shall give priority to such designated cases on the trial docket.

(4) In Domestic Relations cases consolidated with Juvenile cases, all matters will be docketed and heard at the Juvenile Justice Center located at 1401 NE 68th Avenue in Portland.

8.015 CASE ASSIGNMENT

Case Assignment for Family Law

(1) In all cases set on the Trial Docket, the parties must report to the Family Law Section[*/TCA*], 2 working days prior to the Trial Date, by telephone, and no later than 4:00 p.m. The parties shall report settlement or the time needed for trial of the case.

Failure to report by both parties will result in Dismissal of the pending matter. If one party reports and the other does not, the case may be dismissed if the moving party did not report.

Otherwise, the case will be assigned to a judge for a prima facie for 15 minutes. If the non-reporting party then appears at the time set for a prima facie, the trial judge will determine how and when the matter will be resolved.

(2) If upon reporting by the parties, it is determined that the parties disagree regarding readiness for trial or the time needed for trial, Family Law/TCA will direct the parties to appear before the Family Law Judge presiding at Multnomah County Courthouse at 8:30 a.m. the day before trial for the court to determine what shall occur. Failure to appear at this court appearance will result in dismissal of the matter.

(3) The case assignments for trial will be conveyed to the parties by telephone in the morning of the day prior to trial by staff of Family Law. When that call is received from Family Law, the party must at that time inform Staff if a Motion to Change Judge will be filed.

(4) Once a case is assigned to a Family Law Judge and the matter is of one hour duration or more, that Judge becomes the Judge Of the Case unless the judge expressly states to the contrary.

All future hearings will be specially set with that Judge's staff. Once a Response is filed, the setting of trials in dissolution cases, etc. will be effected by the parties through the Judge of the Case's Judicial Assistant.

(5) Special sets or complex case designations may be sough from the Chief Family Law Judge or designee.

Advising the Chief Family Law Judge

(6) An attorney may advise the Chief Family Law Judge or designee that a particular judge has previously ruled upon some aspect of the case.

Improper Influencing of Case Assignment

(7) Except as provided in 8.015(6), above, no attorney, party, or other person may directly or indirectly attempt to influence the Chief Family Law Judge or designee or court staff to assign a case to any particular judge, or to avoid assignment of a case to any particular judge.

8.017 TRIAL SETTINGS FOR DISSOLUTION, ANNULMENT, AND SEPARATION PETITIONS; CASE AGE LIMITATIONS

(1) Immediately upon the filing of any Petition for Dissolution, Annulment, or Separation, the Court will assign a dismissal date 180 days from the date of filing.

(2) If no appearance is made or a default judgment has not been entered by the 180th day, the case will be dismissed for want of prosecution by the Chief Family Law Judge or designee. This dismissal shall be final unless the Chief Family Law Judge or designee, for good cause shown,

orders otherwise.

(3) If, prior to the 180-day dismissal date, and upon application to the Chief Family Law Judge or designee by motion and in person at ex parte, good cause is shown, the Chief Family Law Judge or designee may extend the dismissal date.

(4) Cases at issue shall be set for trial. Postponements shall be requested pursuant to SLR 7.035, to the Chief Family Law Judge or designee.

(5) Dissolution, annulment, and separation cases shall proceed to trial within eight months of the date of filing, except upon application at ex parte to the Chief Family Law Judge or designee.

8.041 EX PARTE MOTIONS

Time for Hearing Ex Parte Motions

(1) Ex parte motions, except a request to postpone trial, may be heard by any Family Law Judge. Unless otherwise designated, ex parte matters will be heard daily at 8:30 am and 1:30 pm.

Notice Requirement on Ex Parte Motions

(2) Except as otherwise provided by statute, a party seeking ex parte relief must provide two judicial days notice to the opposing party of the date, time, and court where the ex parte relief will be sought.

8.042 TEMPORARY ORDERS; ORDERS REGARDING CUSTODY AND PARENTING TIME

(1) If the Court issues a Temporary Protective Order of Restraint, the parents will be ordered to participate in mediation with a subsequent custody or parenting time study if mediation is unsuccessful.

(2) The parties will be ordered into mediation immediately upon signing of the Temporary Custody and Parenting Time Order, with a subsequent custody or parenting time study if mediation is unsuccessful.

8.044 MOTIONS TO SET ASIDE JUDGMENT OF DISMISSAL

The motion to set aside a judgment of dismissal must be stipulated.

8.045 See SLR 12.015 regarding mediation in family law cases.

8.047 CUSTODY AND PARENTING TIME EVALUATIONS BY FAMILY COURT SERVICES DIVISION

(1) Evaluations are conducted only by Order of the Court.

(2) In order to secure an evaluation, in the absence of a stipulation, a Motion for Custody or Parenting Time Evaluation shall be scheduled on any Friday morning at 8:30 am. The adverse party must be served with such Motion and Order which the moving party may obtain ex parte.

(3) Parenting time and custody evaluations are not permissible in the following cases:

(A) Contempt or parenting time enforcement cases;
(B) Cases in which the current matter has been pending for more than 6 months;
(C) Cases in which the children are all over 15;
(D) Cases in which there has been a professional evaluation within the past two years, except to obtain an update.

(4) At the appearance on Friday morning, the parties shall present to the court a one-page list of reasons why an evaluation is needed.

(5) A stipulated Order for an Evaluation may be presented ex parte in any case not disqualified under (3) above.

8.057 WHEN FAMILY COURT SERVICES DIVISION WILL NOT BE REQUIRED OR AVAILABLE TO CONDUCT AN EVALUATION

Under the following circumstances Family Court Services Division will not conduct an evaluation.

(1) A custody or parenting time evaluation will not be performed without the order of a Family Court Judge if a case involving the parties has recently been filed in the Juvenile Court and the period of time in which the case remained pending in that Court exceeded one month.

(2) An evaluation is not appropriate in cases in which a parent is in prison.

(3) Resources of the Family Court Services Division must not be further allocated to a family. This applies when the family has been the subject of prior evaluations by Family Court Services Division and a conclusion has been reached by Family Court Services Division or the Court that the state of the relationship between the parties is such that the issues require no further consideration by Family Court Services Division. Although not limited to the following circumstances, this applies when:

(A) Closure of the case is in the child's best interest;

(B) A non-custodial parent's actions reflect an unwillingness to accept prior

determinations in the case, to the extent that a pattern of harassment has developed;

(C) Both parents have engaged in ongoing, destructive litigation rather than seeking solutions and Family Court Services Division resources have been utilized to the extent that no further benefit could be achieved by continuing Family Court Services Division involvement.

(4) If the Family Court Services Division (or one or more staff members) becomes the subject of a complaint to a professional licensing body, or in the event that an action is filed against Multnomah County based on activity of an employee of Family Court Services Division, there shall be no further involvement of Family Court Services Division with the parties.

8.075 MULTNOMAH COUNTY STANDARD PARENTING TIME GUIDELINES

The Family Court's has adopted a standard parenting time guideline. It is located at page 76 of the Appendix.

8.077 SUPERVISED PARENTING TIME

For Domestic Relations and Family Abuse Prevention Act cases in which the court imposes the requirement of supervised parenting time, the parties to the case and the supervisor must comply with the following:

(1) The supervisor is required to explain the rules for supervised parenting time to the parent who is supervised, unless the supervisor knows that the parent was previously informed. This must include an explanation of supervised parenting time rules set forth in any court order or judgment in the case, and any other rules that are necessary due to unique conditions at the designated location or other circumstances that may reasonably impact a successful parenting time experience, as identified by the Judge, the supervisor, or the involved agency;

(2) The custodial parent is not allowed to be present or to impose additional rules or to make additional demands concerning supervised parenting time;

(3) Only if accompanied by the supervisor and with the supervisor's express consent, may the supervised parent and children leave the designated location for the supervised parenting time;

(4) The supervised parent shall not engage in conversation that exposes the child to "adult issues" in the case, especially if the case involves an allegation of verbal abuse or an allegation of attempts to alienate the other parent from the child. The supervisor is required to immediately address the problem with the supervised parent if this rule is violated. If the supervised parent makes additional statements in violation of this rule after the supervisor's admonition, or if the nature of the initial comment is a significant violation of this rule, parenting time on that particular

date shall be terminated and the case shall be reviewed by the court to determine whether any further supervised parenting time will be allowed;

(5) Physical discipline of the child during supervised parenting time is prohibited;

(6) The supervisor is required to keep the supervised parent within view and within hearing range for the duration of the supervised parenting time;

(7) The purpose of supervised parenting time is to allow interaction with the child for the benefit of the child. Therefore, the supervised parent is prohibited from initiating or engaging in conversation during supervised parenting time which does not further this objective. The supervisor's role is to prevent the child's exposure to "adult issues" in the case and to discourage any inappropriate communication.

8.085 APPOINTMENT OF COUNSEL FOR CHILDREN

The Court may appoint counsel for children in cases arising under ORS Chapter 107 upon its own motion or upon motion of either party pursuant to ORS 107.425(3), and shall appoint counsel if requested to do so by one or more of the children. A reasonable fee may be imposed by the Court against either or both of the parties or as a cost in the proceedings.

The procedure for appointment of counsel for children in cases arising under ORS Chapters 107-109 shall be as follows:

(1) In its sole discretion, the Court may appoint counsel for the children on its own motion with or without prior notice to the parties.

(2) A person requesting appointment of counsel for a child or children must petition the Court for an order setting forth the reasons for such request. After reasonable notice to all parties, the person seeking such appointment shall appear and request an Order Appointing Counsel.

(3) The Court will appoint counsel where requested to do so by one or more children.

(4) Orders appointing counsel issued by the Court may contain provision for payment of attorney fees and terms for payment. No Order will be issued until counsel has agreed to accept such appointment upon the fee terms set forth.

(5) To the extent possible, appointed counsel will represent their clients' legal interests in obtaining a secure, stable home life and a balanced relationship with both parents and will be answerable only to their client and to the Court. The parents or persons having physical custody of the child shall cooperate in allowing counsel opportunity for private consultation with the child or children, including making or assisting with arrangements for the children's transportation to the attorneys' office or some other reasonable meeting place and reasonable phone communication if needed.

(6) Counsel to be appointed for children shall meet the Court's standards for qualification in family law matters and in the resolution of custody/parenting time issues.

8.125 PARENT EDUCATION PROGRAM

(1) The following cases are subject to this rule:

(A) annulment or dissolution of marriage actions;

(B) legal separation actions;

(C) petitions to establish paternity, custody or parenting time;

(D) post-judgment litigation involving changes in custody or parenting time in which the parties have not previously completed a program as required by this Rule.

(2) All parents of a child under the age of 18 years involved in a case described under subsection (1), above, shall complete successfully the education for divorcing parents program offered by the Division of Family Court Services or a pre-approved alternate education program.

(A) Parties shall register for the program or make application for approval of an alternate program within 15 days of receiving notice of this education requirement.

(B) All parties shall complete the program before trial or entry of judgment or modification unless an earlier time for completion is ordered by the court.

(C) Parties who have completed successfully the parent education program once are not required to repeat this program at a later time in order to seek modification of the judgment.

(3) Notice and instructions to the moving party of this requirement will be provided by the trial court administrator at the time the initial pleadings are filed. The moving party shall serve a copy of such notice on respondent along with the summons and pleadings. The moving party's return of service on the responding party shall indicate service of the notice with the summons and pleadings.

(4) The fee for the court-offered program may be waived or deferred if the party has obtained a waiver or deferral of fees in the case in chief.

(5) Each party who successfully completes the Court's program or a pre-approved alternate program, shall submit a certificate of completion to the judge at trial or with documents resolving the matter.

(6) Upon a showing of good cause, a party may request a waiver of the requirements of this Rule. The request must be made by motion, supported by affidavit, and filed within 15 days of receipt of the Trial Court Administrator's notice.

(A) "Good Cause" includes that the party lives more than 100 miles from Portland or is in poor health.

(B) If good cause is found, the court may require the party excused to view video materials having the same or similar information.

(C) The fact that one party is relieved from the requirements of this Rule, does not form a basis for excusing the other party.

(7) Court action in these cases shall not be delayed by a party's refusal, failure or delay in registering for or completing this program or the failure to comply with the requirements of this Rule, unless the noncomplying party is the moving party. Upon a party's failure to complete the education program successfully or failure to comply with the requirements of this Rule, the court may take appropriate action including but not limited to denial of the relief sought by that party, or proceedings for contempt.

8.135 FAMILY COURT SERVICES

The Multnomah County Board of Commissioners established a Family Court Services Division within the Department of Juvenile and Adult Community Justice. In addition to any other duties assigned by the Board of Commissioners or the Department, the Family Court Services Division attends upon the court to obey its lawful orders and directions. In carrying out its duties to the court, the Family Court Services Division provides the following services to parties within the court's jurisdiction:

(1) **Conciliation**: The Division provides conciliation services for parties in domestic relation matters as provided by ORS 107.510 to 107.610. All Division conciliation records and conciliation communications, oral or written, are confidential, and Division employees and the parties may not be examined about such records or communications and neither may be used in any civil or criminal action.

(2) **Mediation**: The Division will mediate all domestic relations actions that involve controversies over custody, parenting time or visitation of children. This includes requests for joint custody and contempt matters involving parties who are non-parents. The mediation is subject to SLR 12.015. The mediator will report the outcome to the Court and the parties or their counsel in writing. Mediation proceedings are private. All Division mediation records and all mediation communications, oral or written, are confidential, Division employees and the parties may not be examined about such records or communications, and the records may be not used in any civil or criminal action.

(3) **Evaluation**: When directed by court order or these rules, the Division may conduct an investigation and evaluation of the parties whenever mediation does not resolve all custody, parenting time and visitation issues or when mediation is inappropriate or waived. The sole purpose of the investigation and evaluation is to assist the Court. In accordance with ORS 107.425, the

evaluations will include the character of the parties, family relations and past conduct in a report. The investigative findings shall be offered as and subject to all rules of evidence. Evaluation proceedings are private. Evaluation records, all evaluation communications, oral and written, may not be disclosed to parties outside of the proceedings without a court order.

(4) **Parent Education Programs**: The Division provided parent education programs as provided by ORS 3.425.

8.138 CUSTODY OR PARENTING TIME ISSUES IN PATERNITY CASES

(1) Proceedings to establish or modify custody or parenting time where paternity has been established must be brought pursuant to ORS 109.103. If support has been established in a separate proceeding and is an issue, the moving party must file with his/her petition a motion and proposed order to consolidate the cases into the proceeding brought pursuant to ORS 109.103.

(2) Custody or visitation proceedings brought under ORS 109.175 as modifications of administrative orders establishing paternity or support will be dismissed upon application of the opposing party or by the Court on its own motion.

8.145 CIVIL COMMITMENT PROCEEDINGS

The following rules shall apply in all commitment hearings conducted pursuant to ORS Chapter 426.

(1) Counsel for the AMIP may make a brief opening statement for the purpose of informing the Court and the examiners as to the AMIP's position and desires as to the outcome. The District Attorney may make an opening statement only upon leave of the Court.

(2) Unless there is a specific objection, the Court will receive into evidence the following:

(A) The Investigator's Report which shall be identified as exhibit #1. Those portions of the Investigator's Report which are labeled hearsay shall be excluded and will not be considered by the Court, unless the Court specifically states otherwise.

(B) The certified copy of the Mental Health Division's hospitalization history which shall be identified as exhibit #2.

(3) Unless counsel for the AMIP or the District Attorney specifically request otherwise, the order of the trial shall be as follows:

(A) Opening statement by defense counsel;

(B) The examiners shall conduct a mental-status examination;

(C) The State shall present its witnesses and other evidence;

(D) The AMIP may present witnesses and other evidence;

(E) The State may present rebuttal;

(F) The examiners shall submit their reports to be followed by questions from counsel and the Court;

8.155 NAME CHANGES

(1) The petitioner or the petitioner's attorney must be personally present at the change of name hearing or the petition will be dismissed and the petitioner will be required to re-file the petition and pay the required filing fee.

(2) In name changes involving the change of name of a minor, the guardian ad litem, or attorney for the guardian is required to file proof that the Petition for Change of Name was served on the parent(s) of the child.

CHAPTER 9

PROBATE PROCEEDINGS

9.015 SUBJECT MATTER JURISDICTION; TRUST CASES

(1) The Chief Family Law Judge (hereafter "Chief Judge") has jurisdiction over all Decedents' Estates, Conservatorship of Adults and Minors, and Guardianships of Adults and Minors.

(2) Matters arising from the administration of Trusts shall be filed in the Probate Section and heard by the Chief Judge or designee.

9.025 HOW MATTERS FOR PROBATE ARE TO BE PRESENTED; CONFERENCE; HEARING; EMERGENCIES

(1) Probate matters requiring authorization, approval, or signature of the Chief Judge or designee shall first be presented to the Probate Section of the Civil Division for review. If the matter is assigned to a judge other than the Chief Judge, the party presenting it shall so advise the Probate Section's staff.

(2) If the matter cannot be approved without an appearance, the party will be so advised by notice within three judicial days and the matter will be set for conference, or hearing.

(3) Hearings or ex parte appearances may be scheduled by request to the Probate Section. Before requesting a hearing, requesting counsel should confer with other counsel and advise the Probate Section staff of the estimated time required. (Refer to SLR 8.012 and 8.015 for "call/assignment" process.) Requesting counsel is charged with responsibility of notifying all required parties.

(4) Probate ex parte matters are heard at 8:45 am, and must be prearranged with the Probate section.

9.035 DELINQUENT FILINGS

In the event of a delinquency or deficiency in filing any document required by statute or court order, the attorney and the fiduciary will be sent an Order to Show Cause for removal of the fiduciary or a finding of contempt. The personal representative, conservator, or guardian, together with counsel of record, must appear unless the matter has been corrected at least three judicial days prior to the Show Cause hearing. If the delinquency or defect has not been corrected by time of the hearing, sanctions may be imposed.

9.045 RESIGNATION OF COUNSEL; NOTIFICATION REQUIREMENTS

If a bond has been posted, the insurer must be notified of the resignation and substitution of counsel.

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

(1) A petition for approval of a settlement of a personal injury or wrongful death claim on behalf of a minor child shall be accompanied by an affidavit which sets forth the following:

(A) A description of the incident causing the injury or death;

(B) A description of the injuries;

(C) The amount of the prayer and settlement. (If a structured settlement is requested, the present value of the future payments should be indicated);

(D) The amount of the attorney fees and costs;

(E) The proposed disposition of the settlement proceeds;

(F) A concise statement explaining the reasons for the settlement and the efforts to maximize recovery;

(G) A statement explaining that the attorney has independently evaluated the interests of the injured party;

(H) A statement explaining that the attorney has examined every medical record; and

(I) A statement explaining why it is necessary and proper to settle the case at the present time.

(2) 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 copies of the first and last bank statements for each standard accounting period to be filed with the court.

(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. 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 18.

(3) A fiduciary appointed by the Probate Court is required to comply with paragraph (1) of this rule and must file a motion for an order approving a settlement of a personal injury or wrongful death claim on behalf of a protected person. The motion must be supported by an affidavit setting out the required information .

9.065 BONDS IN ESTATES WHERE PERSONAL REPRESENTATIVE OF INTESTATE ESTATE IS SOLE HEIR OR DEVISEE

Notwithstanding ORS 113.105, the personal representative of an intestate estate shall be required to file a bond if the court is not satisfied that the creditors will be paid, even if the personal representative is the sole heir or devisee of the estate.

9.073 VOUCHERS

(1) All court-appointed fiduciaries shall maintain accounts from which the original canceled checks will be returned with each depository statement, excluding the exemptions allowed a bank or trust company per ORS 116.083(2)(d) and ORS 125.475(3).

(2) Vouchers shall be submitted in "shingle" style and in chronological order.

(3) Notwithstanding the provisions of UTCR 9.190, all vouchers and depository statements will be destroyed without notice 90 days after an estate or conservatorship is closed unless the personal representative, conservator, or attorney retrieves the vouchers and depository statements prior thereto, or submits a self-addressed, stamped envelope, with adequate postage for their return.

9.075 GUARDIANSHIPS

(1) A Petition for Guardianship shall designate, in the caption, that it is for guardianship of an adult, whether it is for a temporary or indefinite time (or both), and whether a conservatorship is also being requested.

(2) Copies of the petition, marked "VISITOR'S COPY" with supporting documentation, should

be deposited with the probate clerk. After receipt of the copies, and the deposit for the visitor's investigation fee, the Probate Section staff will prepare an order appointing the Visitor.

(3) Petitions for Appointment of a Temporary Guardian should be accompanied by appropriate affidavits and medical reports. The Petition should be filed with the Probate Section of the Civil Division and presented to the Chief Judge at probate ex parte.

(4) Within 30 days after each anniversary of appointment, a Guardian for a minor shall file with the court a verified written report. Copies of the Guardian's Report must be given to those persons specified in ORS 125.060 (3). The report shall be in the form prescribed by the court. (See Guardian Report Form, Page 100, Appendix of Forms.)

9.081 PRESENTATION OF ORAL OBJECTIONS

Any person may present oral objections to a petition or a motion in a protective proceeding by appearing in Room 224, Multnomah County Courthouse, 1021 SW Fourth Avenue, Portland from 11:00 am to Noon each judicial day.

9.085 PRO PER APPEARANCES 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 proof of competency in such matters. If such proof provided is not sufficient to assure the Court that the estate or interest will be protected, the Court shall take appropriate action.

(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 pro per. The Chief Judge or designee shall decide whether further hearings shall be required.

9.095 ATTORNEY FEES AND CORPORATE FIDUCIARY FEES APPROVAL

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

(A) Such requests must be accompanied by a statement for attorney 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.

Corporate Fiduciary Fees

(3) 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.

Private Fiduciary Fees

(4) 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.

9.161 FORM OF ACCOUNTINGS

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

CHAPTER 10

RESERVED FOR EXPANSION

CHAPTER 11

JUVENILE COURT

11.015 JUVENILE COURT MATTERS

Juvenile Court Hearings

(1) The Chief Family Law Judge or designee shall have responsibility over juvenile matters. Hearings will be scheduled at the Juvenile Justice Complex, 1401 NE 68th Avenue, Portland, Oregon, unless otherwise ordered by the Court.

Ex Parte

(2) Ex parte matters in the Juvenile Department will be heard each day prior to call/assignment at 8:30 am and at additional times as designated.

11.017 PETITION NUMBER AND JIN NUMBER REQUIRED

Documents submitted for filing and entry in the register in an action in the Juvenile Department must contain, in the caption of the document, the petition number and the circuit court case number assigned to the action in which the document is to be entered and the Juvenile Information Network (JIN) number assigned to the child by the Juvenile Community Justice Division or its successor agency.

11.035 REFEREES

(1) Juvenile Court Referees, appointed by the Court, may conduct hearings in any Juvenile Court cases, except that the following hearings shall be conducted only by a judge:

(A) A hearing on remand for adult prosecution, whenever the child will present evidence opposing remand;

(B) Any trial on a petition seeking the termination of parental rights;

(C) Unless otherwise stipulated by the parties, a contested hearing on a petition alleging an act, which if done by an adult would constitute a Class A or Class B felony, or any degree of homicide;

(D) Other matters upon good cause shown.

(2) Even though a party files a request for a rehearing under ORS 419A.150, the Referee's order

is in effect unless a stay is requested and granted by the Court. Requests for rehearing shall be given priority over other matters in the scheduling of cases before a judge in Juvenile Court.

11.037 MOTION FOR A JUDGE

(1) If a case is one that may be assigned to a referee for hearing, a motion, supported by an affidavit, may be filed to request that the case be assigned to a judge for hearing. The affidavit must allege with specificity the special circumstances supporting the request. The motion, with the supporting affidavit, must be submitted to the Chief Family Law Judge or designee prior to the assignment of the case to a referee for hearing.

(2) If a judge is assigned at case assignment or at a case scheduling conference, and a party intends to file a motion for a change of the judge assigned, the intention to file the motion must be announced at the time of assignment, if present, or at the time of notice of the assignment by telephone by the clerk's office, if not present at the assignment proceeding. Failure to timely announce the intent to file the motion may result in sanctions as provided by UTCR 1.090. The requesting party is responsible for serving a copy of the motion, affidavit and order on the judge being disqualified and each other party to the action who is not in default.

11.045 GENERAL PROCEDURES FOR SCHEDULING HEARINGS FOR JUVENILE CASES

(1) All hearings in the Juvenile Court shall be scheduled by the docket clerk of the Juvenile Section of the Office of the Trial Court Administrator.

(2) In a delinquency case, when a petition is filed, a Call date will be entered on the petition by the docket clerk. If the child is in secure custody, the Call date will be set 14 days from the date of filing of the petition. If the child is not in secure custody, the Call date will be set 35 days from the date of filing of the petition. At the Call proceeding, the case will be assigned to a judicial officer for trial the next court day.

(3) In a dependency case, when a petition is filed, a judicial settlement conference will be scheduled 42 days from the date of filing of the petition. The conference date will be entered on the petition by the docket clerk. If a dependency case is not resolved at the conference, the case will be specially set for trial 14 days from the date of the conference. All future reviews in the dependency case will be heard by the Judge or Referee who established the wardship and dispositional order, the "Judge of the case."

(4) A postponement may be granted only by the judge presiding at Juvenile Court.

(5) Permanency Hearings will be scheduled for 45 minutes, except as described in subsections (A) and (B), below. All reports and written materials for the hearing must be filed with the clerk of the court at the Juvenile Department no later than 14 days prior to the hearing date.

(A) A party intending to present testimony or other evidence that will require more than 45 minutes, must complete a Motion, Affidavit and Order for Extended Permanency Hearing. The party must file the completed form with the Clerk of the Court and provide it to all parties no later than 30 days prior to the originally scheduled hearing date.

(B) The Motion and Affidavit described in subsection (A) shall include the names of witnesses and other information and materials for discovery, pursuant to ORS 419B.300. The Motion and Affidavit shall also include the estimated length of the hearing; an estimate which shall be based upon consultation with all parties.

(C) Written reports of witnesses are encouraged for every Permanency Hearing.

(6) Procedures in termination of parental rights cases are as follows:

(A) The initial hearing on a petition to terminate parental rights shall be pursuant to an Order to Show Cause, which shall be set for a maximum of 15 minutes. If the parents appear and contest the petition, the matter shall be set for a Best Interests Hearing, a pre-trial conference and for trial, at the time of the show cause hearing.

(B) Summons for the first appearance in a proceeding to establish permanent guardianship under ORS 419B.365 or to terminate parental rights under ORS 419B.500, 419B502, 419B.504, 419B.506 or 491B.508 shall require the parent to appear personally before the court at the time and place specified in the summons to admit or deny the allegations in the petition. If a parent fails to appear at the Show Cause, the State or counsel for the child will be allowed to present a prima facie case against the absent parent at that time. If the evidence presented satisfies the burden of proof, the absent parent's rights will be terminated without further hearing.

(C) The Best Interests Hearing shall be set before the "Judge of the case" approximately 45 days prior to the scheduled trial, to seek any possible means for resolution of the case without trial.

(D) The pre-trial conference will be heard by the assigned trial judge approximately two weeks before the trial. The pretrial conference is for the primary purpose of eliminating disputes regarding foundation issues for records and arriving at stipulations relating to the facts and to refine time allocation for the trial.

(E) The parties and their attorneys are required to attend both the Best Interests Hearing and the pretrial conference unless they are expressly excused, in writing, by the court. If a parent fails to appear at either of these pre-trial hearings, his or her parental rights may be terminated following presentation of a prima facie case.

11.065 PROCEDURES FOR SPECIAL DOCKET SETTINGS

Special sets will be scheduled only by the judge presiding at the Juvenile Court. The requesting

party must coordinate with all other parties involved in the case in order to select a mutually agreeable date within the times provided by the judge presiding at Juvenile Court. The requesting party is responsible for submitting the motion and for filing the motion and the signed order.

11.075 MOTIONS FOR SUBSTITUTION OF COUNSEL

Motions for substitution of counsel must be presented for signature to a judicial officer. The attorney being substituted off must also obtain the legal file from the clerk to present with the motion. The motion itself must show the date of the next scheduled appearance. The motion must be accompanied by: the most recent name and address and phone number of the client, a copy of the petition, any police reports, and all discovery material received. The Court expects that in all but exceptional circumstances, the motion will be presented at least one week preceding the first Call date.

CHAPTER 12

MEDIATION

12.015 FAMILY-LAW MANDATORY CUSTODY OR PARENTING TIME MEDIATION; VOLUNTARY MEDIATION; GOOD FAITH REQUIRED; WAIVER

Mandatory Mediation

(1) Any formal action filed in Circuit Court involving a controversy over custody of or parenting time for minor children, including contempt disputes involving parties who are non-parents, shall be subject to mediation. (See Form 28-08, Page 87, Appendix of Forms.) However, for parties to a Family Abuse Prevention Act order, mediation will occur only on the request of the petitioner to the FAPA proceeding.

(2) The Court may decline to hear a custody or parenting time dispute until and unless the parties have participated in mediation which has not resolved the issues between them. The Court may order mediation on its own motion.

(3) The provisions of this Chapter shall not apply to those cases specifically exempt from mediation requirements by statute.

Waiver of Mandatory Mediation

(4) A party may seek waiver of mandatory mediation for good cause. Such waivers will be allowed only after a showing of danger or other compelling circumstances. In the absence of an order waiving mediation, all matters including contempt, cases with an out-of-state party or parties where Oregon has jurisdiction over the case, and cases involving allegations of sexual abuse and physical abuse where there is no active Juvenile Court or State Office of Services to Children and Families involvement will be referred to mediation and a custody/ parenting time study.

Request for mediation

(5) Mediation may be requested by stipulation of the parties or upon request of one party.

(A) Commencement of Mediation by Stipulated Request for Mediation. If there is a disagreement between the parents concerning custody or parenting time at any stage of a domestic relations proceeding, both parents, or their attorneys, may sign and file with the Court a Stipulated Request for Mediation and a Custody Parenting Time Study in substantially the same form as provided by the Court. The parents will be referred to the Family Court Services Division for mediation, or the parents may agree and stipulate to an independent mediator in their Stipulated Request for Mediation.

(B) Commencement of Mediation by Request for Mediation by One Parent. If there is a disagreement between the parents concerning custody or parenting time at any stage of a pending proceeding subject to mandatory mediation under this rule, either parent seeking to resolve the matter must file with the Court and serve upon the other parent, or his/her attorney, a Request for Mediation in substantially the form as that prescribed by the Court. The moving party shall obtain the date for appearance for mediation orientation from the Family Law Department or through Family Court Services.

Temporary Support

(6) If the parents cannot agree on the amount of support to be paid by one to the other, and they are also in dispute as to custody and/or parenting time, upon the request of the parents, the mediator may assist in resolving the support issue as well.

Temporary Custody and Parenting Time Orders

(7) At any point during mediation, the Court may approve a Temporary Custody and Parenting Time Order reflecting the parents' agreement as to the issues. If the agreement is reached through mediation by the Family Court Services Division and prepared by one of its counselors, the counselor shall hold the signed agreement for seven calendar days from the date of the last signature and mail notice of the agreement to the parties and their attorneys, if known to the Family Court Services Division. The counselor shall forward the signed agreement to the Court for approval unless, within that time period, the counselor receives written notice of a party's repudiation.

Duration of Mediated Orders

(8) If the parties agree in Mediation through the Department of Family Services (hereinafter Family Services), that agreement shall be reduced to writing and, after the waiting period provided in the SLRs, made an Order of the Court.

If such agreement is reached after a domestic Relations case has been filed but prior to the taking of a Decree, the duration of that Order shall be temporary and, if not reduced to final judgment, will be dismissed if the underlying proceeding is dismissed.

If an agreement is reached after the filing of a Motion to Modify, it will be reduced to an Order which is final and binding on the parties if there are no other issues before the court except those addressed in the Agreement. If there are other issues, the form of Order described above for a temporary duration Order shall be entered.

Good Faith Required

(9) Mediation shall not be used by any parent in bad faith for the purposes of delay or resolution of other issues. If the Court finds at any time that the mediation process is being misused, it may determine that mediation has been unsuccessful.

Unsuccessful Mediation

(10) In the event the parents are not successful in mediating the custody or parenting time controversy, the mediator shall notify the Court. The matter will be scheduled for hearing in the same course and with the same priority on the docket as though there had been no mediation.

Jurisdiction

(11) The Court on its own motion may order parties to mediate their disputes.

(A) The Court may order parties to mediation when the parties have a closed or open case in Multnomah County, as evidenced by a case number, if the parties are not the subject of a Family Abuse Prevention Act order, and:

(i) The custody or parenting time dispute has arisen prior to the entry of a Decree of Dissolution, Separation, Annulment or Paternity; or

(ii) The Decree of Dissolution, Separation, Annulment, or Paternity has been entered, and a parenting time dispute has arisen; or

(iii) The Decree of Dissolution, Separation, Annulment, or Paternity has been entered, and a custody dispute has arisen and a Motion to Modify Custody has been filed with an Affidavit setting forth allegations sufficient to support a claim of change of circumstances; or

(iv) An action alleging a violation of a custody or parenting time order has been filed; or

(v) An action alleging a violation of a custody or parenting time by a parent or a party who is a non-parent has been filed.

(B) As a rule, the Family Court Services Division will decline to mediate or evaluate the parties when:

(i) There is a pending Juvenile Court petition regarding the child or children in question; or

(ii) Temporary or permanent custody or wardship of the child or children in question has been granted to the Department of Human Services; or

(iii) The Juvenile Court has assumed temporary or permanent jurisdiction over the child or children in question.

(C) A domestic relations case filed in the Circuit Court remains under the jurisdiction of that Court in all phases of the proceedings, including mediation. The Court which refers a

case to mediation may set, in its referral order, the limits of the mediator's scope of authority in the case.

12.016 See SLR 8.125 for the mandatory Parent Education Program

12.025 ALTERNATE MEDIATION PROCEDURE IN CIVIL ACTIONS

(1) Mediation, as used in these rules, is a facilitated negotiation process in which a neutral third-party assists the parties in attempting to reach a resolution of their controversy. The mediator has no authority to make a decision or impose a solution.

(2) On the parties' written stipulation, filed with the court at any time prior to the commencement of the arbitration hearing, the parties may elect to mediate (pursuant to ORS 36.180 to 36.210) rather than arbitrate any civil or domestic relations matter subject to mandatory arbitration. Such mediation shall be accomplished within the same time period required for court-annexed arbitration under these rules. If the parties mediate in good faith, they shall be deemed to have met the requirements for mandatory arbitration, whether or not the mediation results in resolution of all claims, and shall not thereafter be required to submit to arbitration. Nothing in this rule, however, precludes the parties from entering into arbitration in the event that mediation is unsuccessful in resolving the controversy. Any such request to arbitrate after mediation shall be governed by SLR 13.025.

(3) If no arbitrator has been selected or assigned at the time of the stipulation to mediate, the parties may:

(A) Select a mediator by stipulation; or

(B) Follow the procedures for assignment of an arbitrator pursuant to UTCR 13.080 and SLR 13.055, except that the mediator shall be chosen from among those on the court-maintained list who have agreed to serve as mediators. The parties shall notify the arbitration clerk of their desire to select the mediator from such a list prior to the issuance of a list of potential arbitrators, if possible.

(4) Mediators whose names are maintained on the court-maintained list shall have the qualifications of arbitrators under UTCR 13.090(1).

(5) If an arbitrator has already been assigned at the time of the stipulation to mediate, the parties may select a mediator in either of the following methods:

(A) Request the arbitrator to serve as a mediator. Execution of the oath of arbitrator shall not preclude the arbitrator from agreeing to act as mediator pursuant to this rule. If the arbitrator agrees so to serve, UTCR 13.130 shall be inapplicable.

(B) Stipulate to another mediator. If another mediator is selected, the arbitrator shall be informed immediately, and shall be compensated, pursuant to UTCR 13.120 and the Supplementary Local Rules, for any time already invested in the case.

(6) The mediator is to be compensated pursuant to UTCR 13.120, the Supplementary Local Rules, and the hourly rate established by the arbitration commission.

(7) If requested by the mediator, the parties shall supply to the mediator a statement of the nature of the case, the status of settlement negotiations, and any other information requested by the mediator or deemed helpful by any party for resolution of the dispute. This must be supplied to the mediator at least one day prior to the scheduled mediation.

(8) The results of a mediation shall be reported by the mediator to the Court on such forms as the court may direct, as either "settled" or "not settled." If settled, the terms of the settlement shall be stated on the report form, unless the parties have agreed that the terms shall be kept confidential and not entered as a judgment. The report form shall be filed and the reported settlement entered as a judgment in the same manner as the filing of an award from arbitration that has not been appealed. If the parties have agreed to keep the statement confidential, a written statement of the terms of the settlement signed by the parties and/or their attorneys shall be retained by the mediator and not made a part of the court file or entered as a judgment. Such a confidential statement held by the mediator or the report to the Court including the terms of the settlement shall be admissible to prove the settlement, but shall not otherwise be admissible.

(9) In the event any party fails to mediate in good faith after signing a stipulation for mediation, pursuant to this rule, the Court may assess as costs any other party's costs necessarily incurred in the mediation, in any subsequent judgment.

(10) The mediation proceedings described by this rule are compromise negotiations for purposes of ORE 408 (ORS 40.190) and are confidential under ORS 36.205.

12.035 MEDIATION IN SMALL CLAIMS ACTIONS; FAILURE TO COMPLY WITH SETTLEMENT

(1) All small claims actions without witnesses shall go to mediation the same day before going to trial.

(2) Agreements reached while in mediation shall be signed by the parties and filed as stipulated orders.

(3) Failure of either party to abide by the stipulated order will be grounds for the opposing party to file an Affidavit of Non-Compliance and obtain a judgment on the original claim, without further hearing.

CHAPTER 13

ARBITRATION

13.005 MATTERS SUBJECT TO ARBITRATION

The Fourth Judicial District has a mandatory arbitration program for matters with amounts in dispute of less than $50,000, pursuant to ORS Chapter 36 and UTCR Chapter 13.

13.025 REQUEST FOR AND OBJECTIONS TO ARBITRATION

(1) Any party may file and serve notice of a request that the Court transfer a case to arbitration.

(2) A party opposing exemption from arbitration pursuant to UTCR 13.070 shall file such opposition, in writing, within three days of the filing of the motion for exemption. A Court decision on such exemption will be rendered within five days following the filing of a motion for exemption from arbitration, regardless of whether opposition was filed. If the motion is allowed, the case will be returned to the active trial docket for future disposition. If the motion is denied, the case will remain in arbitration in accordance with these rules and the UTCR.

13.032 SUBMISSION OF COPIES OF MOTIONS AND OTHER DOCUMENTS TO CHIEF ALTERNATIVE DISPUTE RESOLUTION JUDGE

For cases subject to arbitration, and except for motions requiring decision by the arbitrator, any motion, challenge, response or reply required or allowed by these rules, the Oregon Revised Statutes or the Uniform Trial Court Rules, must include a copy which shall be delivered to the Chief Alternative Dispute Resolution Judge contemporaneous with the filing of such motion, challenge, response or reply. The party preparing the document is responsible for delivery of the copy to the Chief ADR Judge.

13.035 COURT SHALL DETERMINE WHETHER CASE IS SUBJECT TO ARBITRATION

(1) A case assigned to arbitration will not be removed without an affidavit, motion, and order.

(2) Only in extraordinary circumstances will the Court order a case returned from arbitration to the Court docket after a case has been assigned to an arbitrator.

(3) In the event that amended pleadings are allowed by the arbitrator (e.g., amended complaint, third-party complaint, etc.), in which a party or parties will be added to the case, or which causes the case not to be subject to mandatory arbitration, the party filing such an amended pleading must

notify the Arbitration Clerk in the Civil Division of the Office of the Trial Court Administrator and file the amended pleadings, together with the Arbitrator's Order allowing such amended pleadings, with the Court. Such cases, when again appropriate, may be reinstated into arbitration. In the event that the case is not thereafter subject to mandatory arbitration, the party requesting removal from arbitration shall file a motion to exempt the case from arbitration, or to remove it if it was previously referred to arbitration.

13.042 ASSIGNMENT TO ARBITRATION

If the first appearance of a defendant is not an answer, but is a motion directed to the complaint or a dispositive motion, the motion shall be decided before the case is assigned to arbitration. No case shall be assigned to arbitration until all parties have appeared or have had a judgment of default entered against them. If a case has been assigned to arbitration prior to the filing of a motion directed to the complaint or a dispositive motion, the motion shall be heard and decided by the arbitrator pursuant to UTCR 13.100.

13.048 INDIGENT PARTIES

(1) In the event that funds are available under ORS 36.420 for the payment of fees that are waived or deferred, 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. Such request shall be in the form of a certificate stating the identity of the case, the total hours of service the arbitrator provided, and the share of those hours chargeable to the indigent party. If funds are available, reimbursement will be provided for the hours authorized by the court for each indigent party. The certificate must be accompanied by a copy of the order deferring or waiving fees of the indigent party.

(2) In the event funds are not available under ORS 36.420 for the payment of fees that are waived or deferred by court order, a party may request that the clerk provide to the parties a list of arbitrators who have agreed to serve for no compensation, for compensation from one party only, or at a reduced rate.

(3) The clerk shall provide names of available arbitrators, but no arbitrator is required to serve unless he or she has agreed to such alternate fee arrangement.

13.055 ARBITRATORS

(1) To qualify as an arbitrator, a person must sign and file an application to be placed on the list of arbitrators, and, if not a retired or senior judge or stipulated non-lawyer arbitrator, be an active member of the Oregon State Bar at the time of each appointment. During any period of suspension or disbarment from the practice of law by the Oregon State Bar or the Supreme Court an arbitrator will be removed from the court's list of arbitrators and may re-apply when the attorney is reinstated

or readmitted to the Bar. The Chief Alternative Dispute Resolution Judge may remove a person as an arbitrator if such person fails or refuses to comply with the rules governing the performance of arbitrators, as required by the Oregon Revised Statutes, UTCR or these rules. The Arbitration Commission may adopt additional requirements for inclusion or retention on the list of arbitrators, including experience, training and continuing education.

(2) There shall be a panel of arbitrators in such number as the Arbitration Commission may from time to time determine. Persons desiring to serve as an arbitrator shall submit in writing their desire to be placed on the arbitration panel, with the date they were admitted to the Bar, their name, street address, email address, fax, and phone numbers, and if they have any preference against certain types of cases (e.g., no family law). A list showing the names of arbitrators available to hear cases will be available for inspection in the Room 210 of the Multnomah County Courthouse. An arbitrator who is no longer willing or able to serve as an arbitrator shall immediately notify the arbitration clerk.

(3) The appointment of an arbitrator is subject to the right of that person to refuse to serve on an individual case. An arbitrator must notify the clerk immediately if refusing to serve, or if any cause exists for the arbitrator's disqualification from the case upon any of the grounds of interest, relationship, bias, or prejudice governing the disqualification of judges.

(4) If such disqualification or refusal occurs, the arbitrator must notify all parties and immediately return all appointment materials in the case to the clerk.

(5) The parties shall confer, pursuant to UTCR 5.010, to select an arbitrator. The plaintiff or petitioner shall initiate communications for such selection. However, if the plaintiff or petitioner is appearing pro se, an attorney for the defendant(s) shall initiate such communications. If all parties are appearing pro se, or if good faith conference is unsuccessful, each party shall strike 2 names from the list of arbitrators, and return such list to the Chief ADR Judge, with a copy to and proof of service on the other party or parties. The Chief ADR Judge shall then select the arbitrator from the remaining names. In the event no names remain, the Chief ADR Judge may approve the issuance of a second list.

13.065 STIPULATIONS

No agreement or consent between parties or lawyers relating to the conduct of the arbitration proceedings, the purpose of which is disputed, will be regarded by the arbitrator unless the agreement or consent is made at the arbitration hearing or is in writing and signed by the lawyers or parties.

13.075 See 12.025 et seq. for mediation as an alternative to arbitration.

13.085 FILING AWARD

(1) The arbitrator shall not file an arbitration award with the court until the issues of attorney fees and costs have been determined. The arbitrator shall certify on the award that no issues of costs or attorney fees remain undecided upon filing of the award. Unless otherwise ordered by the court, no amended or supplemental arbitration award shall be filed, regardless of whether judgment has been entered on the original award.

(2) At the conclusion of arbitration, if the arbitrator attempts to file the award with the Court without the proof of service of a copy of the decision and award upon each party as required by ORS 36.425(1), the award will not be filed and will be returned to the arbitrator.

CHAPTER 14

REFERENCE JUDGES

14.015 STENOGRAPHIC REPORTER NOTES; MOTIONS TO CORRECT TRANSCRIPTS

(1) The stenographic reporter shall file the transcript notes of the proceeding with the Court.

(2) SLR 6.045 shall apply to Reference cases.

14.025 COMPENSATION OF THE REFERENCE JUDGE

(1) The reference judge shall deliver to the Presiding Judge the written statement specified in ORS 3.321(3) within 49 days of the termination of the referral of the action. The written statement or facsimile shall specify the amount to be released by the Court to the reference judge.

(2) The amount paid to the reference judge from the Court shall not exceed the amount deposited into court.

(3) If a discrepancy exists in the amount of claimed compensation, the Presiding Judge shall, upon notice from the reference judge, order the parties to deposit further funds with the Court.

14.035 RECORDS OF PROCEEDINGS

(1) The reference judge shall maintain written records for the Court of the following:

(A) Witnesses;

(B) Court reporters or cassette tape numbers;

(C) Exhibits.

(2) The reference judge may designate a clerical officer to maintain such records. Such an officer shall be approved by the Trial Court Administrator or designee.

(3) The above records shall be kept on forms approved by the Trial Court Administrator or designee.

CHAPTER 15

SMALL CLAIMS DEPARTMENT

15.015 FILING PROCEDURES

(1) Plaintiffs must either file their claim at the Small Claims Department of the Civil Division at the Multnomah County Courthouse; or

(2) If the plaintiff or the defendant resides, or the claim arose, East of l22nd Avenue extending to the North and South boundaries of Multnomah County, the claim may be filed in the Gresham Court, 150 W. Powell, Gresham. Civil cases filed in Gresham Court are limited to small claims.

15.025 APPOINTMENT OF GUARDIAN AD LITEM

(1) Plaintiffs and Defendants who are "incapacitated," "financially incapable," or who are "respondents" as defined in ORS 125.005, must have a guardian ad litem appointed to pursue or defend the action. If such an individual is also a "protected person," as defined by ORS 125.005, the conservator or guardian shall be appointed, unless otherwise ordered by the court.

(2) Plaintiffs or Defendants who are unemancipated, unmarried, minors, living apart from their parent(s) or legal guardian(s), and who meet the definition of a "minor" under ORS 109.697, and who also meet the definition of "tenant" under ORS 90.100, may appear in a small claims action based on a contract for a residential dwelling unit or for utility services provided to that unit, without appointment of a guardian or guardian ad litem.

(3) Unemancipated minors to whom the statutory definitions listed in subsection (2) of this rule are applicable, but who wish to appear in small claims court on other grounds not listed in subsection (2), must have a guardian ad litem appointed to pursue or defend the action.

(4) All other unemancipated minors, to whom the statutory definitions listed in subsection (2) of this rule are not applicable, must have a guardian ad litem appointed to pursue or defend a small claims action.

15.035 HEARING NOTICE

The Court will give the parties not less than seven days' notice of the small claims hearing unless otherwise directed by the Presiding Judge or designee.

15.045 DISMISSAL FOR FAILURE TO PURSUE CLAIM

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), 90 days after the date a claim is filed, unless the claim is set for a hearing or a default judgment is entered.

15.055 REPRESENTATION BY ATTORNEY ONLY BY COURT ORDER

(1) All requests to employ counsel must be made in writing at least seven days prior to the date of the hearing.

(2) If consent to employ counsel is granted, the requesting party must give written notice to all other parties. Once such permission is granted, any party may retain counsel.

(3) If consent to employ counsel is granted by the Court, the Oregon counsel may associate a foreign counsel under UTCR 3.170.

15.065 TIME EXTENSION

On written request filed with the Small Claims Department at least seven days prior to the hearing date, the Court may extend the time within which to make appearances or file papers. The time extension will not exceed 30 days.

15.075 COMMUNICATION IN WRITING

Any written communication to the Court must be copied to all parties.

15.085 TRANSFER OF CLAIM FROM SMALL CLAIMS DEPARTMENT

SLR Chapter 15 shall cease to govern a claim after the transfer of the claim from the small claims department to a court of appropriate jurisdiction.

15.095 REQUESTS FOR POSTPONEMENT

Requests for postponement of a scheduled hearing must be made in writing at least seven days prior to the hearing.

15.105 See SLR 12.035 for mandatory mediation in small claims action.

15.115 AUTHORIZED AGENTS IN SMALL CLAIMS CASES

An agent shall be designated by any organization filing or defending a Small Claim. The designated agent may be ordered to appear before the Court.

15.125 See SLR 5.065 for Judgment Debtor Exams in Small Claims Actions

15.135 See SLR 5.085 for Claims of Exemption Not to Contest Judgment

15.145 See SLR 6.025 for Payment of Trial Fees and Hearing Fees

15.155 See SLR 7.045 for Motion for Change of Judge

CHAPTER 16A

VIOLATION OFFENSES

16A.025 PRE-ARRAIGNMENT AND ARRAIGNMENT APPEARANCE OPTIONS

(1) Prior to any arraignment date specified on the summons, the defendant may exercise one of the following options to dispose of the case:

(A) The defendant may file a written plea of guilty or no contest and pay the base fine amount on the summons, or, if available, the fine established by the Violation Bureau, by mailing the written plea and a check or money order for the fine to the Court. The plea and payment must reach the Court on or before the arraignment date.

(B) The defendant may enter a written plea of guilty or no-contest and submit a written explanation of the incident in mitigation of the penalty. A check or money order for the amount indicated on the summons must be included. The letter and plea must reach the Court prior to the arraignment date.

(C) Except for violations based on photo radar or photo red light enforcement (ORS 810.434 through ORS 810.439), the defendant may appear, enter a plea of not guilty, and sign a waiver of the defendant's right to have testimony presented orally, as provided in ORS 153.080. (See Form 06-45, Page 90, Appendix of Forms.) The waiver shall be on a form provided by the Criminal Division of the Trial Court Administrator's Office. The waiver shall include an agreement to pay, within 30 days after receiving notification from the court, any fines and fees imposed by the court following review of the case. The waiver of oral testimony will be filed in the case and the matter will be set for trial. At the trial, any witness, including the defendant, may have the witness' testimony presented to the Court by affidavit and need not appear personally.

(D) The defendant may enter a written plea of not guilty and request that the matter be set for court trial. Any defendant electing to proceed under this subsection must verify his or her residence address and current mailing address. Defendants may request a court trial either in writing, mailed to the Court, or in person. The request must be received on, or prior to, the arraignment date. As set forth in SLR 16A.195, below, a default judgment which exceeds the base fine amount set on the citation may be imposed against a defendant who requests a court trial but fails to appear in court for such proceeding.

(2) At the date and time set for arraignment on the summons, the defendant may appear in person, or by counsel, and may enter a plea of guilty, no contest, or not guilty.

(A) If the defendant enters a plea of guilty or no contest, an explanation or statement may be given in mitigation of the offense charged.

(B) If the defendant enters a plea of not guilty, a court trial will be scheduled. The defendant may sign and file a waiver of oral testimony as provided in subsection (1)(C), above. The defendant or counsel must contact the court if a trial notice and court date is not received within two weeks of the arraignment.

16A.065 VIOLATIONS BUREAU

(1) Pursuant to ORS 153.800, The Fourth Judicial District establishes a Violations Bureau.

(2) A person may appear in person to pay the Violations Bureau fine, costs and assessments, or make payment by mail.

(3) If the cited person appears personally, a form which records the person's appearance and contains a waiver of trial and plea of guilty, shall be signed and filed with the Court, pursuant to ORS 153.800(5)(a).

(4) The fine and applicable assessment(s) shall be paid immediately and in full at the Violations Bureau, unless the Court approves a deferred payment.

16A.075 NOTICE OF REPRESENTATION BY ATTORNEY

If a defendant is to be represented by an attorney at trial on a violation, timely notification in writing of such representation together with proof of service on the District Attorney's Office must be filed with the Calendaring Section of the Criminal Division.

16A.085 POSTPONEMENTS

Arraignment

(1) A request for postponement of an arraignment appearance must be made in court or in a written request. If the request is made in writing, the request must be received by the Court at least two court days prior to the original arraignment date. A defendant who contacts the court in advance of the arraignment date is generally allowed to appear within one week of the originally schedule arraignment date. Prior to the arraignment date specified in the summons, the defendant may select one of the options described in SLR 16A.025(1) as an alternative to requesting a postponement.

Court Trials

(2) The first request for a postponement of a court trial must be made to the Calendaring Section of the Criminal Division in writing and must be received more than 14 days prior to the scheduled trial date. The motion must demonstrate good cause for the request in order to be granted. Any subsequent requests for postponement must be presented in person in Courtroom 112 at 8:30 am or

1:30 pm, Monday through Friday, when court is in session.

Notice

(3) When the Court grants a postponement, the Court will notify all parties to the action. If the postponement is granted in open court, parties personally present are deemed notified. Any defense witnesses must be notified by the defendant or counsel of the postponement.

16A.195 SETTING ASIDE DEFAULT JUDGMENTS

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 year. The Court requires a written motion for relief, accompanied by an affidavit setting forth facts which demonstrate that the failure to appear or to exercise one of the options described in SLR 16A.025, 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 without a hearing or may require the defendant to appear and present oral argument.

16A.196 ELECTRONIC FILING OF CITATIONS

(1) Pursuant to ORS 153.770, the Fourth Judicial District establishes this rule to allow electronic filing of complaints for any offenses that are otherwise cited into court by a uniform citation.

(2) Any agency which is authorized by law to issue a uniform citation within the Fourth Judicial District is authorized to file the citation electronically with the circuit court subject to compliance with rules adopted under ORS 1.002 (2) (e).

CHAPTER 17

PARKING VIOLATIONS

17.015 PARKING CITATIONS - DEFENDANT'S APPEARANCE

(1) A person receiving a parking citation has three options to appear:

(A) Plead guilty by paying in full the bail indicated on the citation, either by mailing or personally delivering the payment, together with the citation, to the Multnomah County Courthouse. All payments in full must be received within 30 days of the date of violation.

(B) Mail the full amount of the bail applicable at the time of the request, together with the citation and a letter of explanation to the Multnomah County Courthouse, requesting a judge to make a determination. The court may refund the bail or forfeit all or part of it.

(C) Request a court hearing either by letter or by personally appearing at the Parking Section of the Criminal Division located in the Multnomah County Courthouse. All such requests must be accompanied by a check or money order for the full amount of bail applicable at the time of the request. Bail is forfeited if the person fails to appear at the hearing.

(2) The bail amount set on a parking citation will double after 30 days from the date of issuance of the citation if the defendant has not appeared in a manner indicated by this rule. A partial payment of the bail does not constitute an appearance under this rule.

(3) An Order for impoundment of a vehicle may be issued in the manner set forth in SLR 17.035 if the defendant does not appear in a manner indicated in this Rule.

17.025 DISMISSAL OF A PARKING CITATION BEFORE TRIAL

(1) The Presiding Judge or the Chief Criminal Law Judge may dismiss parking citations without the appearance of the defendant in the following instances:

(A) The parking citation was issued prior to release of title interest and transfer of possession of the vehicle to the new owner, but the new owner is named as the defendant on the notice of delinquency. However, the new owner’s failure to submit an application for title to the Department of Transportation within 30 days of the transferor’s release of interest shall not be grounds for summary dismissal of the citation and an appearance shall be required;

(B) The parking citation was issued subsequent to the release of title interest and transfer of possession to the new owner but the named defendant on the notice of delinquency is the

prior owner. A prior owner who provides documentation described in SLR 17.025(3), below, shall not be subject to liability under this chapter, for the parking of the vehicle by another person;

(C) There was no vehicle license number or other registration number written on the citation;

(D) The vehicle license number written on the citation does not correspond to the vehicle registration information filed with the Motor Vehicles Division;

(E) The meter at which an overtime parking citation was issued was defective, according to the City of Portland's Office of Transportation;

(F) No violation is indicated on the parking citation;

(G) The parking citation was issued to a vehicle that was reported to the police as stolen within 24 hours of the date and time listed on the citation or was issued on a date when the status of the vehicle remained listed as stolen, and a stolen report was on file with the Police Bureau;

(H) A parking citation was issued to a vehicle on government business of such urgency that the driver was prevented from complying with parking regulations. The driver must sign an affidavit describing the urgent circumstances, and the department owning the vehicle must verify that the vehicle was on urgent government business;

(I) The Court received a special written report from the issuing officer or Parking Patrol deputy explaining that there was no basis for the parking citation and requesting that it be dismissed; or

(J) The exemption or privilege in ORS 811.635 for the holder of a disabled person parking permit is applicable to the type of parking offense cited and the registered owner or other recipient of the ticket provides proof to the Clerk of the Court of a valid disabled person parking permit at the time of the violation. This includes:

(i) Overtime tickets, or tickets for parking in a metered space without paying, unless the zone allows parking for only 30 minutes or less; or

(ii) Parking in a disabled zone pursuant to ORS 811.615(1)(a); or

(iii) Disabled zone parking offenses cited under Portland City Code 16.20.250 if a disabled person was being transported; or

(K) A parking citation was issued for unlawful use or misuse of a disabled person parking permit for parking in a manner that would otherwise be a privilege for a permit holder and the registered owner or other recipient of the ticket provides proof to the Clerk of the Court

of renewal of an expired disabled person parking permit

(2) The Presiding Judge or the Chief Criminal Judge may dismiss the parking citations listed in SLR 17.025(1) by signing a list containing the license numbers of the vehicles and the reasons for the dismissals.

(3) When a parking citation is subject to dismissal under SLR 17.025(1)(A) or (B), above, the person receiving the notice of the citation must bring the parking citation(s) and relevant documents relating to the transfer of the vehicle, including title, bill of sale or contract and vehicle registration if available, to the Parking Section of the Criminal Division. Proof that the prior owner notified the Department of Transportation of the transfer of the vehicle as required by Oregon law, together with proof of delivery of possession of the vehicle and assignment of title to a transferee, shall exempt the prior owner from liability for the parking of the vehicle by another person, provided the date of issuance of the parking citation is subsequent to the date of transfer of the vehicle reported by the prior owner.

(4) In all cases, the Presiding Judge or the Chief Criminal Judge may order a hearing to prevent abuse of the summary dismissal proceedings.

17.035 TOWING AND IMPOUNDMENTS

(1) The Court may order a vehicle towed if the registered owner or any other person, has not paid the bail or fine accrued on the parking citation in full, including amounts that have accrued after the first 30-day period, or posted bail in full and requested a hearing. The Court order for towing and impoundment of the vehicle may be issued within 60 days after the date on which the notice of delinquent parking citation is mailed to the owner.

(2) Requests for a court hearing on the validity of a parking citation after receipt of an impoundment notice, or after impoundment, must be made personally at the Multnomah County Courthouse. All requests must include the posting of the amount of bail applicable at the time of the request, unless waived by a judge. The bail is the amount of bail or fines accrued on all the parking citations against the vehicle towed or impounded, including bail amounts that have doubled pursuant to SLR 17.015(2).

17.045 NOTICE OF REPRESENTATION BY AN ATTORNEY

An attorney representing a person in a parking citation case must notify the Court in writing of the representation at least seven days before the date of trial. The notification must certify that a copy has been delivered to the District Attorney's Office.

17.055 POSTPONEMENTS AND OTHER MOTIONS

(1) When requested at least 14 days prior to the scheduled trial date for a parking citation, a

person may obtain a single postponement of the court hearing. Such requests may be made in writing or by appearing personally at the Parking Section of the Criminal Division. The person making the request must state a reason for the postponement.

(2) Additional postponement requests must be decided by the Court and will only be granted if good cause is shown. The request must be in writing and state the reasons relied on for the request. Such requests must be received by the Court at least 14 days prior to the scheduled hearing date. At its discretion, the Court may require an appearance, oral argument, and the presentation of evidence on a motion for postponement.

(3) At any time before the trial date, the person cited, whether or not represented by counsel, may withdraw a not guilty plea or remove the case from the court docket by following the procedure for mail pleas set out in SLR 17.015. The Court will notify the police officers, the parking enforcement deputies and volunteers and the District Attorney, when appropriate.

(4) A person whose car has been ordered impounded by the Court may appear personally at the Parking Section of the Criminal Division and request that the matter be placed on the Traffic Court Calendar. Bail is required unless waived by a judge.

17.065 HEARING PROCEDURE IN PARKING CITATION CASES

(1) In trial, the judge may take an active role in questioning the witnesses to insure substantial justice will be done.

(2) Jury trials are not permitted in parking citation cases.

(3) Parking citations issued against a particular defendant's vehicle may be consolidated for trial only at the discretion of the Court.

17.067 FAILURE TO APPEAR

(1) The registered owner of a vehicle for which a parking citation is issued, is required to appear, as described in SLR 17.015, above, on the cited offense. If the registered owner of a vehicle for which a parking citation has been issued, or any other person, fails to appear to answer the citation within 30 days, the court may, after notice to the named defendant, enter a default judgment against the defendant 60 days from the date of the citation. The notice of citation mailed to the named defendant will indicate the length of time before which the court will make a finding on the citation based on available evidence, without a hearing, and enter judgment thereon. If the determination is one of conviction, the court may impose a sentence of a fine up to the maximum amount allowed by law and may order a warrant for the impoundment of the vehicle listed on the citation to enforce the collection of the fine. Citations may also be assigned to the Department of Revenue for collection. Unless otherwise ordered by the court, a judgment of conviction on the parking citation shall be entered against the registered owner of the vehicle.

(2) A defendant against whom a judgment is entered under subsection (1) of this section, may file a written motion for relief from default judgment within a reasonable time, not to exceed one year. An accompanying affidavit must set forth facts demonstrating that the failure to appear on the citation in a manner set forth herein, was due to mistake, inadvertence, surprise or excusable neglect. At the time the motion for relief is filed with the court, the defendant must post bail in the amount of the fine imposed in the judgment. The bail requirement may be waived by the Court for good cause. A motion for relief cannot be filed until the bail is posted or waived by the Court. The Court may rule on the motion without a hearing or may require the defendant to present oral argument, and may grant or deny relief from the default judgment.

17.095 ELECTRONIC FILING OF CITATIONS

(1) Pursuant to ORS 153.770, the Fourth Judicial District establishes this rule to allow electronic filing of complaints for parking offenses.

(2) Any agency which is authorized by law to issue a parking citation within the Fourth Judicial District is authorized to file the citation electronically with the circuit court subject to compliance with rules adopted under ORS 1.002 (2) (e).

CHAPTER 18

FORCIBLE ENTRY AND DETAINER (FED)

18.015 STAY OF DEFAULT, FED EX PARTE TIME

A party seeking to set aside a default judgment in an FED proceeding must obtain a judicial order to stay the judgment pending disposition on the motion to set aside the default. Motions for stay must be presented at FED ex parte proceedings in courtroom 120 at 8:30 am on each judicial day.

18.025 AUTHORIZED AGENTS

An agent shall be designated by any organization filing an FED. The designated agent may be ordered to appear before the court and answer questions regarding the assets and debts of the organization.

18.035 MANDATORY MEDIATION IN FED FIRST APPEARANCES

(1) Except as allowed in subsection (2) of this rule, if an FED case is not resolved by the parties at first appearance, parties may be required to participate in mediation before the case is set for trial.

(2) Parties in FED first appearances represented by attorneys may opt out of mediation if the attorneys represent to the court that they recommend against mediation for their clients.

18.045 PAYMENT OF ADDITIONAL FILING FEES FOR TRIAL DEMAND

(1) If a defendant makes a demand for a trial under ORS 105.137 (5) at the time of the first appearance, the filing fees required to be paid under ORS 105.130 (3) and (6) shall be paid no later than 5:00 PM of the same judicial day unless otherwise ordered by the court. No trial will be scheduled in the action until the required fees are satisfied.

(2) Failure of the plaintiff to pay the fee required will result in dismissal of the action.

(3) Failure of the defendant to pay the fee required may result in a judgment by default against the defendant.

18.055 See SLR 7.045 for Motion for Change of Judge

18.065 See SLR 7.055 for Call/Assignment

18.075 See SLR 7.055(7) for Abated and Stayed Cases

18.085 See SLR 7.055(8) for Duty of Attorney at Call/Assignment

18.095 See SLR 15.095 for Requests to Postpone Hearings

FORMS APPENDIX
TO SUPPLEMENTARY LOCAL RULES

The following forms are referred to in the Supplementary Local Rules. They can be photocopied or reproduced in your own word processing system. Please follow as closely as possible the format of the form. Where indicated, please be sure to provide the required number of copies for processing.

MULTNOMAH COUNTY STANDARD PARENTING TIME GUIDELINES

(1) The purpose of the parenting time guidelines is as follows:

(A) It is the policy of this court to encourage the parties to work out their own parenting time schedule, either between themselves or through mediation. The court will generally approve any schedule agreed upon by the parties;

(B) However, if the parties are unable to agree on a schedule which best suits their family circumstances, the following parenting time guidelines, when appropriate, will be used by the court as a basis for establishing parenting time. Because the circumstances of each family differ, the parenting time schedule established by the court may provide for more or less parenting time than desired by the parties.

(C) Additionally, the following parenting time guidelines are inapplicable to families experiencing domestic violence, mental health or substance abuse issues. For cases not involving such problems, and in which the parents are managing separation of the family unit with civility, the guidelines set forth reasonable parenting time for a non-custodial parent;

(D) The following parenting time guidelines do not establish a minimum standard for parenting time and are not intended as mandatory provisions, under any circumstance.

(2) The non-custodial parent will have parenting time with a minor child on alternating weekends from 6:00 pm Friday to 6:00 pm Sunday.

(3) In the absence of a showing that such would not permit the maintenance of a significant preexisting parent-child attachment, parenting time with children less than three years of age shall be:

(A) Birth to 18 months - twice per week for two hours per visit;

(B) 18 to 30 months - once per week for six hours;

(C) 30 to 36 months - Friday at 6:00 pm until Saturday at 6:00 pm on alternate weekends.

(4) The non-custodial parent shall also have parenting time for 14 uninterrupted days during the summer with children six and over. The non-custodial parent shall notify the custodial parent in writing prior to April 15th of each year which days the non-custodial parent has selected for parenting time. The custodial parent shall likewise have the right to a two-week vacation each summer during which the non-custodial parent's parenting time need not be honored, if the vacation is out of town. The custodial parent shall advise the non-custodial parent of such vacation plans no later than May 1st of each year. Once designated, changes in the summer parenting time schedule shall not be allowed except by agreement of both parties. Failure of either party to make a timely designation of summer parenting time will not result in forfeiture of parenting time rights but will result in the custodial parent having the right to designate the summer parenting time, or in the case

of the custodial parent failing to give notice, the parenting time lost by the non-custodial parent shall be subject to make-up parenting time.

(5) The child shall be ready for parenting time, and be picked up from the front steps of the custodial parent's residence, no more than 15 minutes early nor 15 minutes late. Return of the children to the front steps of the custodial parent's residence is also subject to the 15-minute rule. The non-custodial parent shall feed the child the evening meal prior to returning the child.

(6) Except as to a child under three years, whenever the weekend or other parenting time provided herein falls adjacent to a school holiday or legal holiday, including Labor Day, such weekend or other parenting time shall include the adjacent holiday, either Friday or Monday.

(7) If a non-custodial parent fails to exercise the scheduled parenting time for any reason other than a substantial medical problem, there will be no postponement or scheduling of a make-up period of parenting time. If there is a substantial medical problem, the non-custodial parent will be allowed a make-up visit on the succeeding available weekend.

(8) Both parties will provide addresses and contact telephone numbers to the other party and will immediately notify the other party of any emergency circumstances or substantial changes in the health of the child. However, both parties shall refrain from releasing the other party's phone number to third parties.

(9) The non-custodial parent shall also have the unlimited right to correspond with the child and may telephone the child no more than once per week for 15 minutes or less during reasonable hours without interference or monitoring by the custodial parent or anyone else in any way. Each parent shall allow the child to telephone the other parent at reasonable hours and with reasonable frequency, if the child wishes.

(10) Both parties are restrained and enjoined from making derogatory comments about the other party or in any other way diminishing the love, respect, and affection that the child has for either party.

(11) In addition to the parenting time specified in the preceding paragraphs, the non-custodial parent shall have parenting time as follows:

(A) Christmas (or significant holidays in other religions)

(i) For children 30 months to six years of age: In even-numbered years, on Christmas Eve from noon until 10:00 am on Christmas Day; in odd-numbered years, from 10:00 am until 8:00 pm on Christmas Day;

(ii) For children six and over: in even numbered years the time from the commencement of the school holiday through 10:00 am Christmas Day; in odd-numbered years, from 10:00 am Christmas Day until January 1st at noon.

(B) Thanksgiving Day in odd-numbered years from 10:00 a.m. until 7:00 pm

(C) Father's/Mother's Day each year from 10:00 a.m. until 7:00 pm

(12) A child is not permitted to determine whether the child wishes to visit with the non-custodial parent. Personal plans of the custodial parents or child, school activities, church activities, and other considerations are not reasons for failing to adhere to the parenting time schedule set forth in this rule.

(13) Parenting time, however, between a teenager and a party shall take into consideration the child's employment and age-appropriate activities.

(See SLR 8.075)

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

_____ Plaintiff	)	No._____
	)	**MOTION AND ORDER FOR REINSTATEMENT**
v.	)	
_____ Defendant	)	

Plaintiff moves the Court to reinstate the above case, which was dismissed on _____, as to defendant(s) (indicate)_____ or ☐ All, by the following order:

☐ UTCR 7.020 Judgment of Dismissal
☐ ORCP 54B(3) Judgment of Dismissal (including cases that were reported settled and cases dismissed for failure to appear at trial assignment pursuant to SLR 7.055(8)(A))
☐ Abated or inactive status due to bankruptcy, independent arbitration, appeal or other
☐ Judgment of Dismissal for failure to comply with rules of arbitration (requests under this provision must be presented to the Dispute Resolution Department)

Signature of Attorney:_____
Print Name and OSB #:_____

****

IT IS HEREBY ORDERED THAT the judgment of dismissal is vacated, the case is reinstated, and:
☐ Continued under UTCR 7.020, subject to the condition that plaintiff obtain service on the defendant(s), secure the necessary appearances to place the case at issue, take default judgment(s), or move for further continuance no later than _____ (specify date)
☐ The trial is set for _____
☐ A trial date will be assigned in the REGULAR COURSE
☐ The final judgment or decree submitted with this motion and order shall be entered forthwith
☐ Other:_____
_____

Dated:_____ _____
Presiding Judge

05-33 (1/00) MOTION AND ORDER FOR REINSTATEMENT (See SLR 7.055 (7)(D))
IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR MULTNOMAH COUNTY

_____ Plaintiff	)	No._____
v.	)	
	)	**MOTION AND ORDER TO POSTPONE CIVIL TRIAL**
_____ Defendant	)	

Pursuant to UTCR 6.030, ☐ Plaintiff ☐ Defendant moves the court to postpone the current trial date of _____for the following reason(s):_____

_____

Case Filing (or Reinstatement) Date:_____

Number of prior postponements:_____

REQUESTED SETOVER:	☐ Regular course;	☐ to_____(specify date)
Opposing Party:	☐ Consents	☐ Objects
Probable Trial Status	☐ Court	☐ Jury
Estimated Total Length of Trial:	_____	

I certify that I have advised my client of this request and served a copy of this motion on all opposing parties. If objected to, at least one judicial day's notice of the date and time of the Ex Parte appearance was give to all opposing counsel.

Dated:_____ Signature of Attorney:_____

Print name and OSB #:_____

Attorney for:_____

Phone number:_____

****

ORDER

The motion to postpone is **GRANTED**: ☐ in the regular course ☐ to_____

Dated:_____ _____

Presiding Judge

SUBMIT THE ORIGINAL AND ONE COPY OF THIS FORM (SLR 7.035(2)). Attach stamped, self addressed confirmation cards for all parties. Any contested request must be presented at Ex Parte. See, UTCR 6.030 and SLR 7.035 for further guidelines.

05-82 (9/99) MOTION AND ORDER TO POSTPONE CIVIL TRIAL (See SLR 7.035 (2)(A))

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR MULTNOMAH COUNTY

_____ Plaintiff, vs. _____ Defendant.	Case No._____ **MOTION AND ORDER FOR CONTINUANCE (UTCR 7.020)**

Plaintiff moves the Court for an order extending the reporting period established by UTCR 7.020, as to ☐ the defendant(s) listed below, or ☐ all defendants, based upon the attached affidavit and/or the reasons stated below:

Defendant(s):_____

☐ Service upon defendant(s) indicated above is not complete
☐ Defendant(s) served, and extension for appearance requested
☐ Defendant(s) defaulted by order, but final judgment not yet entered
☐ Continuance necessary to allow for Prima Facie hearing set for _____ (Specify date)
☐ Other:_____
_____
_____

Signature of Attorney/Party:_____
Print Name and OSB#:_____

****

IT IS HEREBY ORDERED THAT the motion for continuance is hereby:

☐ DENIED

☐ GRANTED, subject to the condition that plaintiff obtain service on the defendant(s), secure the necessary appearances to place the case at issue, take default judgment(s), or move for further continuances no later than_____(specify date).

☐ GRANTED, and this case it **STAYED** as to the defendant(s) listed above pursuant to S.L.R. 7.015(3) pending the outcome of the trial.

Date signed:_____

_____
Presiding Judge

05-41 (10/99) MOTION AND ORDER FOR CONTINUANCE (See SLR 7.015 (1))

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

Supplementary Local Rules
Circuit Court of the State of Oregon for Multnomah County
Effective February 1, 2005

_____)
Plaintiff,)
v.)
)
_____)
Defendant.

Case No. _____

MOTION PRAECIPE

Notice is hereby given that _____, attorney for _____ ☐ Defendant ☐ Plaintiff has set a motion for hearing as follows:

Judge (or Pro Tem): _____

Date _____ Time _____ Room _____

OR

On Call _____ in Room 208 at 9:00 a.m. for assignment for hearing on _____
(Date) (Date)

This is a ☐ first ☐ subsequent setting for this motion.

☐ Moving party waives appearance ☐ Reporting is requested (fee required when motion filed)

☐ Hearing by telephone requested (office more than 25 miles from courthouse)

Length of time requested for this motion hearing _____

TYPE OF MOTION:

☐ ORCP 21 ☐ Prima Facie Default ☐ Set Aside Default

☐ Summary Judgment ☐ Compel Production ☐ Change Venue

☐ Other _____

I certify that I served a copy of this praecipe as required by SLR 5.015 on the _____ day of_____, _____ on the following (indicate name and address):

_____

_____

_____

_____ _____
Date Signed Signature

OSB NO. _____ Telephone Number _____

IMPORTANT: If applicable, the certification required by UTCR 5.010, "conferring on MOTIONS under ORCP 21,23 and 34-46," must be filed separately.

Distribution: *Original Praecipe (Blue)* - to Judge (if assigned) **OR** to Rm. 210, Calendar Clerk (if on call), with courtesy copy of motion; *Copy of Praecipe* - to opposing parties, with courtesy copy of motion. See, SLR 5.015

(DO **NOT** FILE A COPY OF PRAECIPE WITH ORIGINAL MOTION PAPERS)

Motion Praecipe
05-06 (1/98) (See SLR 5.015 (6))

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

_____	)	Case Number_____
Plaintiff	)	
	)	**EX PARTE**
v.	)	
	)	**MOTION FOR SHOW CAUSE HEARING**
_____	)	**and ORDER**
Defendant	)	

_____ comes now before the court and moves the court to set a show cause
(insert the name of the party requesting the show cause hearing)
hearing. The original of the underlying show cause documents are presented to the court herewith to be filed in the office of the clerk of the court.

Nature of the Proceeding For Which A Show Cause Hearing Is Requested:

☐ For Preliminary Injunction. ☐ For Writ of Review. ☐ For Receivership.

☐ Provisional Process. ☐ For Claim and Delivery.

☐ Other Proceeding As Follows:_____
.

Estimated Length of Hearing:_____.

I certify to the court that I have complied with SLR 5.025 (3) regarding one judicial day's notice of an ex parte appearance to opposing parties, that I will appear at Call as required by SLR 7.055 (8)(A), and will comply with UTCR 7.040 and give the court **immediate notice of resolution of this matter**.

_____
Signature

_____
Name Typed or Printed and OSB Number

ORDER

The request for a Show Cause Hearing is:

☐ Denied and the original show cause documents are returned.

☐ Allowed: The Motion for an order to show cause is set for Call on _____, at 9:00 AM, in Courtroom 208, for assignment for hearing on _____ (date). The original show cause documents will be filed by the court with this order.

Date signed:_____, _____.

_____
Signature

_____
Name of Judge Typed or Printed

MOTION FOR SHOW CAUSE HEARING
05-27 (5/00) Distribution: Original--Court Copies--Moving Party (See SLR 5.025 (1))

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

_____	)	Case No. _____
Plaintiff	)	
v.	)	**PETITION FOR EXPEDITED HEARING**
	)	**(Ex Parte)**
_____	)	
Defendant	)	

Comes now _____, by the attorney named below, and petitions for an expedited
(insert the name of the party requesting the expedited setting)
hearing on the motion indicated below. The underlying motion is presented herewith for filing with the clerk.

1. Nature of the underlying motion for which an expedited hearing is requested:

☐ Motion to Compel ☐ Motion to Quash

☐ Other Motion As Follows:_____

2. Nature of the emergency which requires the setting of the motion to be expedited:

_____

_____

_____

3. Trial date: _____; Date certain? ☐ Yes ☐ No

4. The Civil Calendaring Department of the court has been contacted and indicates no hearing time is available prior to _____.

5. Judges who have heard previous motions in this matter are: _____.

6. Judges scheduled to hear pending motions in this matter are: _____.

I certify that I have complied with SLR 5.025 (3) regarding notice of this ex parte appearance to opposing parties.

Date signed: _____

_____
Signature (Attorney)

_____
Name (Typed or Printed) and OSB Number

PETITION FOR EXPEDITED HEARING (EX PARTE) (See SLR 5.025 (2)(B))
05-28A (5/04)

INSTRUCTIONS FOR REGISTERING A FOREIGN DEPOSITION INSTRUMENT

OR PROCEEDING BY AFFIDAVIT UNDER SLR 5.095

1. A combined petition to register the commission or letter rogatory and order form is available in Room 204. The party caption of the petition should be the caption of the parties in the foreign jurisdiction.

2. An Oregon attorney must present the completed petition with the commission attached at ex parte.

3. After the order is signed, take the petition, order, and commission to the cashier in Room 210, pay the circuit court filing fee and get a case number. Once the documents are filed, subpoena may be issued for deposition.

4. If no mandate, writ, commission or letter rogatory is issued by the foreign jurisdiction, the moving party may provide the Presiding Judge with a motion to compel witnesses to appear and testify upon notice or agreement. The motion must be supported by an affidavit stating that litigation is pending in a foreign jurisdiction, that it is required to take the testimony of the witnesses (listed in the affidavit) for the litigation, and that the party is proceeding upon notice or agreement under ORCP 38C(1). SLR 5.095. The motion, affidavit and order should be presented at ex parte. If allowed, these documents must be filed, with payment of the filing fee. Once filed, subpoena may issue for deposition.

INSTRUCTIONS FOR ISSUING A COMMISSION TO TAKE OUT OF STATE DEPOSITIONS

1. An affidavit/motion/order for commission and commission to take an out of state deposition is available in Room 204.

2. Complete all the forms and present them to the Presiding Judge at ex parte.

3. After the order is signed, the clerk will issue the completed commission by signing and sealing it. The clerk will return the commission to the attorney for forwarding to the foreign jurisdiction. Unless otherwise ordered by the court, the commission will be effective for 28 days from the date it is signed by the clerk. SLR 5.095.

22-03 Page 1 of 4 (8/99)
INSTRUCTIONS FOR REGISTERING A FOREIGN DEPOSITION INSTRUMENT (See SLR 5.095 (1))

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

_____ Plaintiff	)	No. _____
v.	)	**PETITION AND ORDER TO REGISTER FOREIGN DEPOSITION INSTRUMENT AND ISSUE SUBPOENAS**
_____ Defendant	)	

Petitioner certifies that:

The attached mandate, writ, commission or letter rogatory was issued by the _____Court of the State or Country of _____ on the _____ day of _____,_____, in case no. _____, requiring testimony of a witness within the State of Oregon and the authority granted by the document is in full effect.

Therefore, petitioner requests that:
The mandate, writ, commission or letter rogatory be approved by the Court for filing so witnesses may be compelled by subpoena to appear and testify in the same manner and by the same process and proceeding as may be employed for the purpose of taking testimony in proceedings pending in this state.

Signed this _____ day of _____, _____.

_____

Signature

_____ _____

Name of Attorney typed or printed OSB No.

****

Petition granted. It is ordered that this petition and the attached mandate, writ, commission or letter rogatory be filed, and upon filing, subpoena may be issued and served.

Signed this _____ day of _____,_____.

_____

Judge's Signature

_____

Judge's Name Typed or Printed

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

_____ Plaintiff	)	No. _____
v.	)	**AFFIDAVIT, MOTION AND ORDER FOR COMMISSION TO TAKE OUT OF STATE DEPOSITION**
_____ Defendant	)	

STATE OF OREGON)
County of Multnomah) ss.

I, _____, attorney for _____, being first duly sworn depose and say that it is necessary in the above entitled case to take the depositions of the following people in the state or country of _____:

_____

_____

_____

_____

Signature

SUBSCRIBED AND SWORN to before me this _____ day of _____, _____.

_____

Notary Public for Oregon

_____

Commission Expires

****

Pursuant to ORCP 38 and based on the above affidavit, _____ moves this court for an order issuing a commission for depositions to be taken in the state or country of _____, and that the commission be effective for _____ day(s) from the date of signing by the clerk.

_____

Signature

_____ _____

Name of Attorney typed or printed OSB No.

****

IT IS ORDERED that the requested commission be issued and that the commission shall be effective for _____ day(s) from the date of signing by the clerk.

Signed this _____ day of _____, _____.

_____

Judge's Signature

_____

Judge's Name Typed or Printed

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

_____ Plaintiff	)	No. _____
v.	)	**COMMISSION TO TAKE FOREIGN DEPOSITION**
_____ Defendant	)	

TO ANY PERSON AUTHORIZED TO ADMINISTER OATHS IN _____:

Pursuant to ORCP 38, by order of the above titled Court made on application of _____ in the above captioned case, you are hereby appointed, commissioned and authorized to take the depositions of the following named people in the State or Country of _____:

_____

_____

_____

You are authorized to administer an oath to the above witnesses and to take their depositions on oral examination. You are further authorized and directed to cause the examinations of these witnesses to be recorded and to certify that the witnesses were duly sworn and that the deposition transcripts are a true record of the witnesses' testimony. This commission expires _____ days from the date of signing.

Signed this _____ day of _____, _____.

Douglas M. Bray
TRIAL COURT ADMINISTRATOR

(Seal) by _____

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

In the matter of:	)	
	)	
_____	)	No._____
	)	
and	)	**ORDER REGARDING CUSTODY**
	)	**AND PARENTING TIME**
	)	
_____	)	(After Mediation)

The parties having participated in mediation for the purposes of resolving issues relating to their child/children, and having reached an agreement, NOW, THEREFORE,

IT IS HEREBY ORDERED that the attached Mediation Agreement is declared the Order of the Court herein, and shall remain in full force and effect unless modified by subsequent Order of the Court.

DATED this _____ day of _____, _____.

_____
CIRCUIT COURT JUDGE

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

_____ Plaintiff(s)	)	Case No. _____
v.	)	**ABATEMENT ORDER**
_____ Defendant(s)	)	

IT APPEARING TO THE COURT that the above case cannot proceed for the following reason:

- ❑ Bankruptcy; a copy of the petition or notice of bankruptcy is attached
- ❑ Independent Binding Arbitration (stipulation of the parties is attached)

IT IS THEREFORE ORDERED that the above case be removed from the active docket of this Court for a period not to go beyond or exceed this date _____. (The date cannot be more than two(2) years from the date of this order.)

IT IS FURTHER ORDERED that this order shall not be rescinded without an order for reinstatement; and

IT IS FURTHER ORDERED that this case shall be dismissed without prejudice at the expiration of the date set and following notice of intent to dismiss pursuant to ORCP 54B(3), unless this case has been reinstated as an active case before the Court, or otherwise continued or resolved.

Signed _____ _____
Presiding Judge

Presented By:

_____
Print Name & OSB#

_____
Attorney for

05-32 (11/00) ABATEMENT ORDER (See SLR 7.055(7))

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

_____) Plaintiff(s)) vs.) _____) Defendant(s))	**Case No.** _____ **ORDER FOR SEVERANCE OF PARTY AND ABATEMENT**

IT APPEARING TO THE COURT that a party in the above matter cannot proceed for the following reason:

- ❑ Bankruptcy. A copy of the petition or notice of bankruptcy is attached.
- ❑ Other: _____

_____

IT IS THEREFORE ORDERED that the above case be removed from the active docket of this Court for a period not to go beyond or exceed this date _____. (The date cannot be more than two (2) years from the date of this order.)

IT IS FURTHER ORDERED that this order shall not be rescinded without an order for reinstatement; and

IT IS FURTHER ORDERED that this case shall be dismissed without prejudice at the expiration of the date set and following notice of intent to dismiss pursuant to ORCP 54B(3), unless this case has been reinstated as an active case before the Court, or otherwise continued or resolved.

Signed_____ _____
Date Presiding Judge

Presented By:

_____
Print Name & OSB#

_____
Attorney for

05-38 (12/00) ORDER FOR SEVERANCE OF PARTY AND ABATEMENT (See SLR 7.055(7))

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

STATE OF OREGON,	)	Citation #_____
	)	
vs.	)	
	)	
_____	)	

NOTICE TO DEFENDANT

You may choose any one of the following ways to take care of the citation issued to you:

☐ 1. Enter a guilty or "no contest" plea in person in Court and make a statement to the judge.

☐ 2. Enter a guilty plea or a no contest plea and submit a written explanation. No personal appearance is necessary, but BAIL MUST BE POSTED. *This option may result in a fine or forfeiture of all or part of the bail posted.*

☐ 3. Enter a not guilty plea and have a trial before the judge with the police officer present. If you do not receive a trial notice and court date within two weeks, you must contact the court immediately.

☐ 4. Enter a not guilty plea but agree to have the police officer's testimony present by affidavit. This means that you will appear in Court, but the officer's testimony will be in writing only, unless more information is needed by the judge.

☐ 5. Enter a not guilty plea and submit the entire trial by affidavits of the officer, defendant and any witnesses. This means that your testimony and that of the officer and any witnesses will be submitted to the judge in writing. You will not have to appear in Court, however, your testimony must be completed and turned in to Room 106 by 5:00 P.M. today . Only if the judge needs more information will testimony other than the written affidavits be considered. The case would be set for a hearing and you would be notified of the date and time of the hearing.

I, the above-named defendant, understand the options available to me and have chosen the option checked above. I agree that if I have chosen option #5, I will pay any fines and fees imposed within 30 days of being so notified by the Court. I understand that if I fail to pay the fines and fees as required, my driver's license and right to apply for a license will be suspended.

Date:_____ _____
Defendant's Signature

_____
Address

_____
City / State / Zip

_____
Telephone Number

06-45 (1/04) Trial by Affidavit (See SLR 16A.025 (C))

UNIFORM DUII DIVERSION PETITION AND AGREEMENT

(The petitioner must cause a copy of this petition to be served on the district attorney or city attorney who filed the charge)

Petitioner is to provide the information required in this box, as follows: (print or type)		
Petitioner's name and residence: First Middle Last Street City State ZIP	**Petitioner's mailing address**: Street City State ZIP Telephone	**Court where the charge was filed and petition is to be submitted**: Circuit Court Court Name Multnomah County Court Location Court Case Number Date of DUII Offense
Petitioner's Date of Birth Month Day Year	**Petitioner's Driver License Number** Number State	

Petitioner's Agreement and Waiver

I, the undersigned petitioner, ask this court to grant a diversion under ORS 813.200 to 813.270 in this case for the charge of driving under the influence of intoxicants (DUII). If this petition is allowed by the court, I plead guilty or no contest to this DUII charge as shown in the attached petition for entry of plea and agree to waive the rights and to carry out the agreements as listed below as explained on the reverse side of this form:

1. I waive the rights listed in the plea petition submitted with this diversion petition.
2. I waive my former jeopardy rights under the federal or state constitutions and ORS 131.505 to 131.525 in any subsequent action on the charge or any other offenses based on the same criminal episode.
3. I will attend a diagnostic assessment to determine the possible existence of an alcohol or drug abuse problem and to pay the cost of the assessment directly to the agency providing the assessment.
4. I will pay to the court a diversion filing fee and a unitary assessment fee, unless the court determines I am indigent and waives all or part of these fees.
5. At my own expense, or as arranged with the Mental Health Division if I qualify as an indigent person, I will complete the program of treatment indicated as necessary by the diagnostic assessment.
6. I will not operate a motor vehicle while using or under the influence of intoxicants and will comply fully with state laws that discourage operating a motor vehicle while using or under the influence of intoxicants.
7. If the court directs that I attend a victim-impact treatment session, I will attend the session. If the court requires, I will pay to the program the fee for my participation in that session.
8. I will keep the court advised of my current mailing address at all times during the diversion period.
9. I will pay court-appointed attorney fees as the court determines.
10. I waive the right to have diversion show cause proceedings in Gresham if the arrest for this offense occurred East of 122nd Avenue.

Petitioner's Signature Date

(**NOTE**: A completed petitioner's sworn statement of eligibility must be filed with this form.)

FOR COURT STAMP ON ORDER

COURT ORDER

After considering the matters listed in ORS 813.220, the court □ allows □ denies the petition for diversion in case number _____. The DUII charge is alleged to have occurred on _____, 20____. **If "allowed,"** this court accepts the petitioner's above plea, withholds entry of a judgment of conviction pending completion or termination of the diversion, and orders that: 1) the diversion period is one year beginning on _____ and ending on _____ ; 2) the petitioner pay fees for the diversion as required by statute unless waived or deferred; and 3) the petitioner □ must □ need not attend a victim-impact treatment session approved by this court and □ must □ need not pay a fee to that program; 4) the petitioner □ must □ need not pay court-appointed attorney fees in an amount of $_____ on a schedule set by the clerk of the court. The defendant is directed to report to □ Multnomah County Courthouse–Room 106 □ Gresham Courthouse, before 5 PM today to begin the diversion process. If the defendant fails to report to by 5:00 PM today a bench warrant shall be issued with security in the amount of $2,500.00.

Name of Judge Signature of Judge Date

EXPLANATION OF RIGHTS AND DUII DIVERSION AGREEMENT

You have been charged with driving under the influence of intoxicants (DUII). This offense is a Class A misdemeanor under Oregon law. A judge may sentence a person found "guilty" of this charge or who pleads guilty or no contest to any or all of the following: jail for up to one year; a fine of up to $6,250 or up to $10,000 if the offense was committed in a motor vehicle and there was a passenger younger than 18 and at least three years younger than you, additional statutory assessments of up to $97 to the state and $59 for the county; an additional fee of $130; other costs and assessments that may be added to the fine; an examination and alcohol or drug treatment or information program for which you would pay; community service work in addition to or instead of a fine; suspension of driving privileges; and attendance at and payment for a victim-impact treatment program.

You have four choices on how you may handle this charge. If you have questions about these choices, ask your attorney, if you have one, or the judge. The following briefly explains these choices and their possible consequences:

1. You may plead "not guilty." This will result in a trial at a later date or you may later change your plea to "guilty." At trial, a jury or judge will listen to the state's evidence against you and to any relevant information or witnesses you with to present to hear. The jury or judge will decide if you are "guilty" or "not guilty."

2. You may plead "guilty," and not apply for diversion. This plea will result in your conviction for the offense. If you wish, you may also give the judge an explanation and information you think will help the judge decide what your sentence should be.

3. You may plead "no contest," and not apply for diversion. This means you do not want to contest the charge by having a trial but do not admit you are guilty. The judge will review the police officer's report to determine if there is enough evidence to find you "guilty." If you plead "no contest," you cannot give evidence to the judge show your innocence.

4. You may apply for the DUII Diversion Program. You must be eligible (explained below) to be allowed in the Diversion Program. If eligible, you may file the petition on the other side of this document with the court. The petition is an agreement between you and the court that you will complete the diversion program. It requires you to plead guilty or no contest, although the court will hold that plea during diversion. If you complete the one-year program, you may file a motion to ask the court to dismiss the charge. If you fail to fulfill the agreement, the court will enter that plea and sentence you without a trial. The rest of this document describes the diversion program. Before you choose this option, read the entire document.

   You may apply for a court-appointed attorney to represent you if you cannot afford to hire one. The court will determine whether you are financially eligible for a court-appointed attorney.

ELIGIBILITY FOR DIVERSION PROGRAM. You are eligible to participate in the "diversion program," if:

a. you meet **all** the requirements described in the attached "Petitioner Sworn Statement of Eligibility"; **and**

b. you have pled "guilty" or "no contest" to the present DUII charge, but no trial on the DUII charge has yet begun; **and**

c. you appeared in court on the date scheduled for your first appearance on the charge or the court finds good reason for your failure to do so;

d. you file this petition with the court within thirty (30) days of your first appearance in court, unless the court finds you have a good reason for the delay.

LEGAL RIGHTS WAIVED. To enter the diversion program, you must waive the following rights:

a. 1) the right to jury trial; 2) the right to see, hear, and cross-examine or question all witnesses who testify against you at trial; 3) the right to remain silent about all facts of the case; 4) the right to subpoena witnesses and evidence in your favor; 5) the right to have a lawyer assist you at trial; 6) the right to testify at trial; 7) the right to have the jury told, if you decided not to testify at trial, that they cannot hold that decision against you; and 8) the right to require to prosecutor to prove your guilt beyond a reasonable doubt.

b. **This paragraph applies to you only if you are charged with other offenses in addition to DUII and the additional changes are from the same alleged episode.** All offenses alleged to have been committed at the same time must be prosecuted at the same time. The diversion agreement between you and the court applies only to the DUII charge. Prosecution of **only** this charge will be delayed during the diversion program period. Other charges will be prosecuted separately from the DUII charge and will not be delayed by the diversion agreement. By requesting to enter into a diversion agreement, you give up the right to have the DUII charge decided at the same time as your other charges (former jeopardy).

AGREEMENT WITH THE COURT. To have the DUII charge dismissed by completing the diversion program, you agree to do the following:

a. Pay the court a filing fee of $237 plus a $71 surcharge and diagnostic assessment fee of $90. You will also be required to pay a Unitary Assessment fee of $97. If you cannot afford to pay these fees, tell the judge. Some or all of these fees may be waived, depending on your financial situation. The court may allow you to make payments over time.

b. The court will give you the name and address of a diagnostic agency. You agree to contact this agency and undergo an evaluation to determine the extent of any alcohol or drug abuse problem you may have. You will be referred to a treatment program if the agency finds treatment to be necessary. The cost of the evaluation is $90. You must pay this amount directly to the agency that performs the diagnostic assessment.

c. The diagnosis of any alcohol or drug abuse problem you may have will be followed by a treatment program. You agree to complete this treatment and to pay for it. If you cannot pay the cost of treatment, be sure to tell the counselor at your first meeting. The treatment facility may find that you are qualified to have some portion or all of the cost of treatment waived and may allow payments over time.

d. If the court requires, you agree to attend a victim-impact treatment session approved by the court and, if the court requires, to pay the cost for that session. The cost for the treatment session will be between $5 and $50.

e. You agree to not use intoxicants in conjunction with your operation of a motor vehicle and to comply fully with the laws of this state designed to discourage the use of intoxicants in conjunction with motor vehicle operation.

f. **You agree to keep the court advised at all times of your current mailing and residential addresses**. This is extremely important, because notices will be mailed to you by the court and by the treatment program to the address you provide.

g. If the court allows you to enter into the diversion program, and if you keep these agreements, the court will dismiss the DUII charge at the end of one year. **It is up to you to ask the court to dismiss the charge at the end of the diversion period by filing a motion to dismiss with the court.**

h. The court will terminate this diversion agreement if the court finds that you have violated the terms of the diversion agreement or that you were not eligible for diversion to begin with. The court will hold a hearing where you can "show cause" why the court should not remove you from the diversion program. If you can show the judge why you should not be removed, the judge will allow you to continue to participate in the program. **Notice of such hearings will be sent to you by regular mail**. If you fail to appear in court as directed by the mailed notice, the court can terminate the diversion agreement, and prosecution of the offense will be resumed.

NOTICE TO DEFENDANT: If the court grants a diversion agreement, the agreement will be considered violated if the court receives notice, at any time during the diversion period, that you committed the offense of DUII or of the open container laws under ORS 811.170. If the court denies the petition, the state cannot use the guilty or no contest plea you made in the petition when it continues the prosecution.

PETITIONER'S SWORN STATEMENT OF ELIGIBILITY

(This sworn statement must be filed with the DUII diversion petition and agreement)

(To be filled in by petitioner, please print or type:)

Circuit Court	Multnomah County	
Court Name	Court Location	Court Case Number

Being duly sworn to tell the truth, I, the undersigned, do hereby swear that I am eligible to participate in a Driving While Under the Influence of Intoxicants (DUII) Diversion Program in the case described above, and that:

1. On the date I file the attached petition for a DUII diversion agreement, there is no other charge for an offense of DUII or its statutory counterpart pending against me in this state or in any other place except the charge for the present DUII offense described in that petition;

2. From the date I file the attached petition for a DUII diversion agreement going back to ten (10) years before the date of the alleged commission of the present offense of DUII, I have not been convicted of and have not forfeited bail or security on a charge for the offense of DUII or its statutory counterpart in this state or in any other place;

3. On the date I file the attached petition for a DUII diversion agreement, I am not participating in a DUII diversion program or in any similar alcohol or drug rehabilitation program in this state or in any other place except a program I may have entered as a result of the charge for the present offense of DUII;

4. From the date I file the attached petition for a DUII diversion agreement going back to ten (10) years before the date of the alleged commission of the present offense of DUII, I have not participated in a DUII diversion program or in any similar alcohol or drug rehabilitation program in this state or in any other place;

5. On the date I file the attached petition for a DUII diversion agreement, there is no charge of an offense pending against me in this state or in any other place for any degree of murder, manslaughter, criminally negligent homicide, or assault that resulted from the operation of a motor vehicle;

6. From the date I file the attached petition for a DUII diversion agreement going back to ten (10) years before the date of the alleged commission of the present offense of DUII, I have not been convicted, in this state or in any other place, on any charge of an offense in any degree for murder, manslaughter, criminally negligent homicide, or assault that resulted from the operation of a motor vehicle; and

7. The DUII offense described in the attached petition for which I am charged did not involve any deaths or any physical injury to any other person ("physical injury" means impairment of physical condition or substantial pain—ORS 161.015).

_____	_____	_____
Petitioner's Signature	Petitioner's Name (typed or printed)	Today's Date

Subscribed and sworn before
me this _____ day of _____, 20_____.

_____
Clerk of the Court/Notary Public for Oregon

My commission expires _____.

08-20 (12/03) Distribution: Original–Court (See SLR 4.085 (4))

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

THE STATE OF OREGON, Plaintiff, vs. _____ Defendant	Case No. _____ **PETITION** FOR ENTRY OF PLEA OF GUILTY OR NO CONTEST ON A CHARGE OF DUII AND WAIVER OF JURY TRIAL, FILED WITH UNIFORM DUII DIVERSION PETITION AND AGREEMENT; **ORDER** ACCEPTING PLEA

1. My true name is _____, but I also am known as _____

_____ .

2. I am _____ years of age. I have read this form or had it read to me in its entirety. I have gone to school through _____. My physical and mental health are satisfactory. I am not under the influence of any drugs or intoxicants, except _____.

3. *I have checked the following that describes me:*

___ I am able to read, write, and understand the English Language;

___ I am unable to read the English language, and this petition has been read aloud to me completely;

___ I am unable to read, write, or understand the English language, and this petition has been read aloud to me in the _____ language by _____, a person qualified to interpret the English language into the _____ language.

4. I ____ am ____ am not represented by an attorney. I understand that I have the right to hire an attorney or have the court appoint an attorney to represent me, if the court finds that I cannot afford to hire an attorney. I choose to give up my right to an attorney. I will represent myself. (_____) [*Defendant: initial if giving up right to an attorney*.]

5. I have told my attorney all the facts I know about the charge against me. My attorney has advised me of the nature of the charge and the defenses, if any, that I have in this case. I am satisfied with the advice and help my attorney has given me.

6. I understand that I have the following rights: a) the right to jury trial; b) the right to see, hear, and cross-examine or question all witnesses who testify against me at trial; c) the right to remain silent about all facts of the case; d) the right to subpoena witnesses and evidence in my favor; e) the right to have my lawyer assist me at trial; f) the right to testify at trial; g) the right to have the jury told, if I decided not to testify at trial, that they cannot hold that decision against me; and h) the right to require to prosecutor to prove my guilt beyond a reasonable doubt.

7. I understand that I give up all of the rights listed in paragraph 6 when I plead guilty or no contest. I understand I give up: a) any defenses I may have to the charge; b) objections to evidence; and c) challenges to the accusatory instrument.

8. By this petition, I am pleading □ guilty □ no contest to the crime of driving under the influence of intoxicants (DUII) which is a Class A misdemeanor under Oregon law and carries maximum penalties that could include any or all of the following: jail for up to one year; a fine of up to $6,250 or up to $10,000 if the offense was committed in a motor vehicle and there was a passenger younger than 18 and at least three years younger than me; additional statutory assessments of up to $97 for the state and $59 for the county; an additional fee of $130; other costs and assessments that may be added to the fine; an examination and alcohol or drug treatment for which I must pay; community service work in addition to or instead of a fine or jail time; mandatory suspension of my driving privileges for _____ year(s); and attendance at and payment for a victim-impact treatment session.

9. I am submitting this plea along with a petition to enter the diversion program under ORS 813.200 to 813.270. I understand that, if the court grants the petition, the court will accept this plea but will withhold entry of judgment of conviction to determine whether I fully comply with the conditions of the diversion agreement within the diversion period.

10. I understand that if I:

    a. Fully comply with the conditions of the diversion agreement within the diversion period requested in the attached petition, the court will dismiss the charge with prejudice under ORS 813.250.

    b. Fail to comply with the diversion agreement within the diversion period, the court will enter a judgment of conviction on the charge and will sentence me.

11. I understand that if the court enters judgment on this plea, it is equivalent to conviction and that on this plea alone, without receiving any evidence, this court can find me guilty of the crime DUII.

12. I know that if I do not complete the diversion requirements within the diversion time, the court may impose the same punishment as if I had pleaded not guilty, stood trial, and been convicted.

13. I understand that, if the court denies the diversion petition submitted with this plea petition, ORS 813.220 prohibits this plea from being used in this action on the charge of driving under the influence of intoxicants.

14. I _____ am _____ am not a citizen of the United States. I understand that if I am not a citizen and the court enters judgment on this plea, it may result in my deportation, exclusion from admission to the United States, or denial of naturalization.

15. This plea is based only on what is written on this petition. No promises have been made to me by my attorney or any officer or agent of any branch of government (federal, state, or local) that I will receive a particular sentence or form of treatment from this or any other court, on these or any other charges, other than is set forth in this petition.

16. I know that if I fail to complete the diversion program and judgment of conviction is entered, the sentence is up to the court to decide. The district attorney may provide reports or other confirmation if the court requests. I understand that the prosecutor will make the following recommendation to the court about my sentence or about other pending charges. This recommendation is __ is not __ made pursuant to ORS 135.432(2):

_____
_

_____
_

_____.

17. □ I plead no contest - **OR** -
□ I plead guilty because in _____ County, Oregon, I did the following:

_____

_____
_

_____
_

18. I _____ am _____ am not currently on probation, parole, or post-prison supervision. I know that if I am and the court enters judgment on this plea in this case, it may cause revocation of my probation, parole, or post-prison supervision and I may be required to serve jail or prison time in that case in addition to any sentence imposed on me in this case.

19. I am signing this plea petition and entering this plea voluntarily, intelligently, knowingly, and of my own accord and with full understanding of all the matters set forth in the charging instrument and in this petition.

20. I understand that if the court enters a judgment of conviction on this, I have the right to appeal the conviction by complying with the rights to appeal explained or provided to me at the time the court enters the judgment of conviction.

_____	_____	_____
Date	Defendant's Signature	Defendant's Name (printed or typed)

CERTIFICATE OF COUNSEL

The undersigned, attorney for the above defendant, hereby certifies:

1. Defendant has read, or I have read to the defendant, the allegations contained in the accusatory instrument(s) and the contents of this plea petition.

2. I have explained the possible consequences of entering this plea to the defendant including when a judgment would be entered on this and the possible minimum and maximum penalties that may be imposed if a judgment is entered on this plea.

3. To the best of my knowledge and belief, I consider the defendant competent to understand the charges and effect of this petition to enter this plea.

4. In my opinion, the defendant offers in this plea voluntarily, intelligently, and knowingly.

5. Having discussed this matter carefully with the defendant, I am satisfied that the defendant is mentally and physically competent and there is no mental or physical condition that would affect the defendant's understanding of these proceedings.

6. The plea offered by the defendant is justified by the facts related to me.

7. To the best of my knowledge and beliefs, the declarations made by defendant in the petition are true and accurate.

Signed by me in the presence of the above-named defendant and after full discussion of the contents of the certificate with the defendant this _____ day of _____, 20____.

Defendant's Attorney's Signature	Attorney Name (typed or printed)	Bar Number

CERTIFICATE OF INTERPRETER for DUII Diversion Form

I, the undersigned interpreter, hereby certify that I have read aloud the petition to enter diversion and the petition for entry of a plea of guilty or no contest to the above defendant in the _____ language.

Signed by me in the presence of the above-named defendant and after full discussion of the contents of the certificate with the defendant this _____ day of _____, 20____.

Interpreter's Signature | Interpreter Name (typed or printed)

ORDER

FOR COURT STAMP ON ORDER

The court finds the defendant's plea of □ no contest □ guilty to be knowingly, intelligently, and voluntarily made. The court accepts this plea for purposes of ORS 813.200 to 813.270.

Date | Judge's Signature | Judge's Name (printed or typed)

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

THE STATE OF OREGON, Plaintiff, vs. _____, Defendant	)))))))	Case No. _____ MOTION/PETITION IN APPLICATION FOR AN ORDER EXTENDING THE DUII DIVERSION PERIOD; AND ORDER GRANTING OR DENYING THE MOTION/PETITION

The above-named defendant makes this motion/petition to the court for an order extending the diversion period of the driving under the influence of intoxicants (DUII) diversion agreement that this court entered in this. In submitting this motion/petition:

1. The defendant submits that the defendant has made a good faith effort to complete the conditions of the diversion agreement.

   a. The defendant has completed the following conditions of the diversion agreement:

   _____

   b. The defendant has not completed the following conditions of the diversion agreement:

   _____

   c. The defendant has not completed the diversion conditions in "b." above because (explain):

   _____

2. The defendant requests that the court extend diversion agreement for _____ **(***insert time, not longer than 180 days***)** and submits that the defendant can complete the conditions of the diversion agreement within that time because (*explain*): _____

   _____

3. The defendant affirms that the court has not granted the defendant any previous extension of the diversion agreement under ORS 813.225.

4. The defendant understands that if the defendant:

   a. Fully complies with the conditions of the diversion agreement within the extended diversion period requested herein, the court may dismiss the charge with prejudice if the defendant files a motion under ORS 813.250.

   b. Fails to comply with the diversion agreement within the extended diversion period, the court will enter a judgment of conviction on the DUII charge and will sentence the defendant.

This Motion/Petition and proposed order are respectfully submitted by:

Defendant's Name (typed or printed)	Signature of Defendant	Date

Address	Telephone Number

ORDER

FOR COURT STAMP ON ORDER

FINDING. The court finds the defendant named in the above motion/petition □ made □ did not make a good faith effort to complete the conditions of the diversion agreement and that the defendant □ can □ cannot complete the conditions of the diversion agreement in the requested extended diversion period.

ORDER. The court □ allows □ denies the above motion/petition for an order extending the diversion period in case number _____. **If "allowed,"** this court orders the diversion period in this case extended for _____ (*not longer than 180 days*) beginning on _____ and ending on _____.

Name of Judge	Signature of Judge	Date

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

_____	)	
Plaintiff(s)	)	**Case No.**_____
	)	
vs.	)	**CERTIFICATE OF ALTERNATIVE**
	)	**DISPUTE RESOLUTION**
_____	)	
Defendant(s)	)	

PURSUANT TO Multnomah County SLR 7.075:

The parties signed below certify that they have complied with the rule by participation in arbitration, mediation, a judicial settlement conference, or some other form of appropriate dispute resolution. The parties participated in the following forms of dispute resolution (check any that apply):

- ❑ Judicial Settlement Conference
- ❑ Arbitration
- ❑ Mediation
- ❑ Other _____ (describe)

Signatures and Date of Signing

_____		_____	
Party	Date	Party's Attorney	Date
_____		_____	
Party	Date	Party's Attorney	Date
_____		_____	
Party	Date	Party's Attorney	Date
_____		_____	
Party	Date	Party's Attorney	Date
_____		_____	
Party	Date	Party's Attorney	Date
_____		_____	
Party	Date	Party's Attorney	Date

05-31 (2002) CERTIFICATE OF ALTERNATIVE DISPUTE RESOLUTION (See SLR 7.075(2))

PROBATE COURT
1021 SW Fourth Avenue, Room 224
Portland, OR 97204-1123
503/988-3016

GUARDIANSHIP REPORT

Minor's Name: _____ Case Number:_____
Minor's Date of Birth: _____ Date of Guardian's Appointment: _____

(Report due on anniversary each year)

(1) The address of the minor is:_____
(2) The telephone number for the minor's residence is:_____
(3) The address of the Guardian is:_____
(4) The telephone number for the Guardian is:_____
(5) How is this household financially supported:_____
_____
(6) Is the minor still residing with you? _____yes _____no
If not, tell us with whom the child is living, the relationship of that person to the child, and why the child is no longer living with you: _____
_____
_____
_____
(7) How long has the minor lived with someone else? _____
(8) Please list the names and occupations or means of financial support of <u>other</u> people living in the same household as the child:_____
_____
_____
_____
(9) Please tell us about the child's school attendance and grades:_____
_____
_____
(10) Please tell us about any special awards or accomplishments made by the child during the past year, or describe any disciplinary action by school personnel:
_____
_____
_____
(11) Please list any medical, dental, learning disability, psychiatric or counseling treatments arranged on behalf of this child:_____
_____
_____
(12) Please list any hobbies or recreational interests enjoyed by this child during the past year:
_____
_____
_____
(13) Were there any contacts with the child's parents this past year? Have they visited or attempted to contact the child? What reaction did the child have to the visits or attempted contacts? Do the parents express a willingness and capability of having this child returned to them?_____

_____
_____
_____
_____

(14) During the past year I have received $_____ from _____ _____to help support this child. I spent $_____ of that income on behalf of this child and I now have $_____ remaining.

(15) I have (___) / have not (___) been convicted of a crime since my last report.

(16) I have (___) / have not (___) filed to receive bankruptcy since my last report.

(17) I have (___) / have not (___) had my driver's license suspended or revoked since my last report because of:_____

(18) Please provide any other information you feel should be provided to the Court regarding this child's adjustment to your care (use the back of this report form if necessary):_____
_____
_____
_____

Guardian's Signature:_____ Today's Date:_____
Printed Name:_____

THIS PERSON'S SIGNATURE WAS SUBSCRIBED AND SWORN BEFORE ME ON THIS _____ DAY OF _____, 20_____.

(SEAL)

_____
Notary Public/Deputy Clerk of the Court

Commission expires:_____

(Annual Guardian's Report/minors-4/2002) (See SLR 9.075(4))