

# SUPPLEMENTARY LOCAL RULES



Yamhill County Circuit Court  
25<sup>th</sup> Judicial District

Effective February 1, 2024



STATE OF OREGON - COUNTY OF YAMHILL

I certify that this is a true and correct copy of a document in the possession of the court administrator for the 25<sup>th</sup> Judicial District.

Dated: November 20, 2023  
Court Administrator for the 25<sup>th</sup> Judicial District (or designee): *Mandi Montgomery*

*This document has no copyright and may be reproduced.*

Twenty-Fifth Judicial District  
Yamhill Circuit Court  
Supplementary Local Rules

# Table of Contents

	<u>Page</u>
Chapter 1	3
Chapter 2	4
Chapter 3	6
Chapter 4	7
Chapter 5	9
Chapter 6	10
Chapter 7	14
Chapter 8	16
Chapter 9	20
Chapter 11	23
Chapter 12	24
Chapter 13	27
Chapter 14	29
Chapter 15	30
Chapter 16	31

## Forms Appendix

*These supplementary local rules are to be read and applied in conjunction with applicable statutes and the Uniform Trial Court Rules.*

CHAPTER 1  
GENERAL INFORMATION

1.161 HOURS FOR THE CONDUCT OF BUSINESS, WHEN DOCUMENTS MAY  
BE RECEIVED TO BE FILED

- (1) The court is located in the Yamhill County Courthouse, 535 NE 5<sup>th</sup> Street, McMinnville, OR 97128.
- (2) Unless otherwise ordered due to emergency conditions, information regarding business hours for the Twenty Fifth Judicial District can be found at:  
<https://www.courts.oregon.gov/courts/yamhill/Pages/default.aspx>
- (3) During the hours when customer service windows are closed, a secure drop box is available until 5:00 PM for filings and payments. The drop box is located on the first floor of the courthouse, 535 NE 5<sup>th</sup> Street, McMinnville, OR 97128.
- (4) Persons seeking approval of an *ex parte* matter should present the papers to the designated general calendar judge at 1:15 PM daily. Papers will be received at other times in emergency circumstances. Counsel or parties presenting an *ex parte* motion where opposition is expected to appear and contest the motion must make advance arrangements with the court to allow sufficient time.
- (5) Mandatory Electronic Filing is required for members of the Oregon State Bar per UTCR 21.140.

1.171 WEBSITE

The official website for this court is located at:

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

All forms required by SLR can be located at this web address by clicking on “Forms” in the left panel of the homepage.

CHAPTER 2  
STANDARDS FOR PLEADINGS AND DOCUMENTS

2.001 WAIVER OR DEFERRAL OF COURT COSTS AND FEES

Applications for waiver or deferral of fees on grounds of indigence or applications for deferment of payment of fees on grounds of indigence shall be accompanied by an affidavit executed by the party seeking such waiver or deferral. Such affidavit shall state the name, age, address and relationship of each dependent of the applicant; the marital status of the applicant; the name, age and relationship of each person in the household of the applicant, the current income and source of income of the applicant, of each person in the applicant's household, the name of any interested relative with assets to pay such fee; the assets of the applicant including bank accounts, equity in real estate, motor vehicles and all other assets; and the recurring liabilities of the applicant. A declaration may be used as an alternative to an affidavit (ORCP 1E and UTCR 2.120).

Applications for deferral may be reviewed by trial court staff applying standards set by the court. A denial of deferral may be appealed to a judge. All applications for waiver will be reviewed by a court clerk by designated authority of the Presiding Judge.

2.012 ADDRESSES AND TELEPHONE NUMBERS

(1) During the pendency of any case charging an offense, including violations and criminal cases, or while monetary or other obligations imposed by the court in such case remain unsatisfied, defendant must keep the court advised in writing of defendant's current name, mailing address and telephone or message telephone number.

(2) During the pendency of any criminal, civil or domestic relations case, any party who is not represented by an attorney of record must keep the court advised in writing of the party's current name, mailing address and telephone or message telephone number.

2.015 RETURN OF A DOCUMENT TO A 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 or case caption from another jurisdiction unless filed pursuant to an order signed by a judge allowing a change of venue authorizing the filing on some other basis;
- (b) A document which requires a fee but the fee or an order to waive or defer such fee is not provided and the fee requirement has not been satisfied;

- (c) A document without sufficient identifying information to determine in which case it should be filed and 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 order, or other document 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: and
- (g) A document submitted for filing by telephonic facsimile transmission (FAX).

#### 2.017 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.

CHAPTER 3  
DECORUM IN PROCEEDINGS

3.181 PUBLIC ACCESS COVERAGE IN AREAS OUTSIDE OF COURTROOMS

In facilities occupied by the court, electronic recording 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 electronic recording in such areas may be made to the Office of the Presiding Judge at any time during the business day. Electronic recording is not permitted in the court's Jury Assembly Room when jurors are in attendance. Electronic recording is defined in UTCR 3.180.

CHAPTER 4  
PROCEEDINGS IN CRIMINAL CASES

4.005 SETTLEMENT CONFERENCES

(1) *Purpose.* The purposes of a settlement conference in a criminal case shall be to provide a forum to resolve cases before trial through the active participation of counsel, the parties and the court and to ensure that both sides are fully prepared and have resolved discovery, plea offer and trial preparation issues and have explored all options for resolution without trial.

(2) *Scheduling / Participants.* A settlement conference will be held in all criminal cases where one party requests it, unless the opposing party shows good cause why the settlement conference should not be held. Requests for a settlement conference shall be submitted to the court in the form of an Application and Declaration for a Judicial Settlement Conference set forth in Appendix 1 of these rules. A settlement conference may also be held if ordered on the court's own motion. The court is likely to set settlement conferences for cases that appear unlikely to be resolved by plea or trial within the Oregon Standards of Timely Disposition. Settlement conferences are also likely to be set by the court where there have been two or more pretrial hearings and judicial involvement in resolution would appear to be helpful to timely resolution. Settlement conferences are encouraged.

(a) Defendant and defense counsel and the District Attorney or their designee with authority to resolve the case must be present. The court may, for good cause shown, allow appearance by telephone.

(b) The parties are expected to accomplish the following before the settlement conference:

(i) Completion of all discovery and plea negotiation.

(ii) Meaningful contact and discussion between defense counsel and client as outlined by the Oregon State Bar standards for criminal defense services.

(iii) An opportunity for input and full discussion between the District Attorney or their designee and the victim including, but not limited to plea negotiations, evidentiary and strength of case issues, availability for trial, sentencing options and, in the case of ORS 137.700 and 137.707 charges, the victim's position regarding any plea that takes the case out of ORS 137.700 and 137.707.

(iv) Review of the availability and testimony of necessary witnesses for trial.

(v) Identification of legal or other issues in which judicial input could help resolve the case.

(c) Settlement conferences will be scheduled for 30 minutes duration on felonies and 20

minutes duration on misdemeanors, unless the parties notify docketing that less or more time is needed.

#### 4.011 SUBSTITUTION OF COUNSEL

Any new counsel substituting in place of current counsel must file a Notice of Substitution that includes a certification or notice to the current counsel.

#### 4.081 APPEARANCE BY SIMULTANEOUS ELECTRONIC TRANSMISSION

An in-custody defendant may choose to appear by simultaneous electronic transmission pursuant to UTCR 4.080 at the following hearings:

- (1) Arraignment.
- (2) Release.
- (3) Probation violation.
- (4) Plea on a misdemeanor or at arraignment.
- (5) Sentencing.

#### 4.155 GUILTY OR NO CONTEST PLEAS

Unless the court otherwise directs, no plea of guilty or no contest in a criminal case shall be heard by the court without the defendant having first executed and filed a petition requesting the plea being received and defense counsel's filing a form of motion in support of the petition and a certificate of counsel. All forms will be supplied by the court.

#### 4.175 APPROVAL OF JUDGMENT

In all criminal proceedings, unless the court otherwise directs, any proposed form of Judgment or Order must be served on each of the parties at the time the proposed Judgment or Order is submitted to the court.



CHAPTER 5  
PROCEEDINGS IN CIVIL CASES

5.001 PRESENTMENT OF *EX PARTE* MATTERS

*Ex parte* matters in a case assigned to a judge shall be presented to that judge if practicable. If the case is not assigned, *ex parte* matters should be presented at 1:15 PM to the designated general calendar judge. The general calendar judge may at their discretion refer cases back to previously assigned judge.

All required documents must be filed in the Trial Court Office, 535 NE 5<sup>th</sup> Street, Room 128, McMinnville, Oregon 97128 no later than 11:00 AM on the day of the *ex parte* appearance.

CHAPTER 6  
TRIALS

6.012 SETTLEMENT CONFERENCES

(1) *Purpose.* The purpose of a settlement conference in civil or domestic relations cases shall be to provide a forum to resolve disputes before trial through the active participation of counsel, the parties and the court.

(a) The settlement conference judge will not preside at the trial unless all parties agree that the judge may preside.

(b) No information will be revealed to the trial judge or placed in the file by the settlement judge or by any of the parties to the settlement.

(3) *Scheduling / Participants.* A settlement conference will be held subject to the availability of the court, in all civil or domestic relations cases where one party requests it in writing, unless the opposing party shows good cause why the settlement conference should not be held. A settlement conference may also be held if ordered on the court's own motion. Settlement conferences are encouraged and are to be set approximately 3 weeks in advance of trial. Settlement conference fees shall be paid by both parties in advance of scheduling. Settlement conferences shall not delay the trial scheduling. A trial is not required to be set prior to a settlement conference.

(a) Small claims cases and cases pending in arbitration will not be eligible for a settlement conference.

(b) All attorneys and their clients must attend the settlement conference. In the case of corporate clients, a person with settlement authority must be in attendance. The court may, for good cause shown, allow appearance by telephone.

(c) Settlement conferences will be scheduled for 90 minutes duration in civil cases and 60 minutes duration in domestic relations cases, unless the parties notify the court that less or more time is needed. Additional settlement conferences may be scheduled by the judge or by agreement of all attorneys and parties.

(d) Higher scheduling priority for settlement conferences will be given to cases in which both parties request a settlement conference, parties have been diligent in attempting settlement outside of court processes, and/or the case involves disputes involving young children. The request for settlement conference must include this information.

(3) *Pretrial Statement.* To facilitate settlement, the parties must provide the settlement judge with the pretrial statement at least 5 days in advance of the settlement conference. Unless indicated otherwise in the statement or to the court, the court shall keep the pre-trial statement confidential and it need not be served on opposing counsel or party.

The pretrial statement shall contain the following:

(a) A brief summary and analysis of the facts and key issues involved in the litigation; and

(b) The status of any settlement negotiations.

(c) In domestic relations cases, each party shall also submit the following information, if the issue is in dispute:

(i) *Child Support:* A proposed support calculation worksheet with pay stubs or similar documents for income calculations.

(ii) *Spousal Support:* A uniform support declaration and a brief statement of the type, amount and duration of support sought and why the case is appropriate for spousal support under the statute and/or case law.

(iii) *Property Division:* A proposed schedule of value and division of assets (See UTCR 8.010(4)). Where value is in dispute, documentation of value or appraisal, if available, must be provided.

(4) *Reporting of Settlement.* Any settlement reached in a settlement conference shall, at the conclusion thereof, be placed on the record with parties present and participating, unless a different method of reporting the settlement is approved by the settlement judge.

#### 6.016 CRIMINAL SUBPOENA FOR PRETRIAL PRODUCTION OF RECORDS

(1) When a party wishes to issue a subpoena duces tecum pursuant to ORS 136.580 for production of records prior to the trial or prior to the time when the items are to be offered in evidence, the procedure for doing so is governed by this rule. A party may not issue such a subpoena duces tecum without first obtaining an authorizing order from the court.

(2) Prior to issuance of a subpoena duces tecum, the party shall file a motion titled Motion for Court Authorization to Issue Subpoena Duces Tecum for Pretrial Production. A copy of the Motion shall be served on the opposing parties. Unless otherwise stipulated, *ex parte* appearance is not allowed.

(3) The Motion shall include:

(a) A statement in the caption regarding whether either party requests a hearing (e.g., "Hearing Requested" or "No Party Requests a Hearing");

(b) A statement in the first paragraph identifying the type of records sought (e.g., DHS reports, counseling records, medical records, school records, etc.);

(c) A brief summary of how the requested records are relevant to the issues in the case along with an Affidavit in support of the motion providing a basis for any factual assertions;

(d) A statement of the legal authority for the issuance of the proposed subpoena duces tecum;

(e) A copy of the proposed subpoena duces tecum with the date and time of the appearance left blank; and

(f) A proposed Order authorizing the issuance of subpoenas duces tecum (or proposed Protective Order when appropriate).

(4) Records shall be subpoenaed directly to the court.

(5) Upon receipt the court will conduct an in-camera review prior to dissemination to the parties. The court may schedule a second hearing, if necessary, to assist in the in-camera review process.

(6) In the event records are provided in error to a party rather than the court, the party in receipt of such records shall refrain from reviewing the records and immediately provide them to the court in a sealed envelope with a letter of explanation to the court. The letter of explanation shall be copied to all opposing parties.

#### 6.017 GENERAL TRIAL PROCEDURES

(1) *Jury Selection and Other Trial Procedures.* The judges maintain similar jury selection and other procedures. Counsel should, however, obtain a copy of and be familiar with the specific judge's procedures. This may include jury selection procedures, marking and offering of exhibits, making objections, juror questions, etc.

(2) *Witnesses.* Counsel is encouraged to allow witnesses to be seated in the courtroom. If witnesses are excluded, they are automatically excused upon leaving the witness stand, unless counsel requests otherwise. Counsel should also schedule witnesses with as much courtesy to their time as possible, while still maintaining an orderly progression of testimony.

(4) *Proposed Jury Instructions.* Proposed instructions should be presented the day before the trial, but, in no case, later than the morning of trial.

#### 6.025 PAYMENT OF TRIAL FEES AND HEARING FEES

(1) A fee receipt, fee waiver, or fee deferral must be presented to the judicial staff prior to commencement of a trial or hearing where a fee is required to be paid under ORS 21.225 or 105.130.

(2) Fees payable at the conclusion of the trial shall be paid by 4:00 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 shall not be grounds for a postponement.

#### 6.051 TRIAL BRIEFS AND MEMORANDA

The trial judge will endeavor to read trial briefs and memoranda prior to trial or other hearing. All briefs and memoranda are to be submitted to the court at least 24 hours prior to the time set for the trial or hearing.

CHAPTER 7  
CASE MANAGEMENT AND CALENDARING

7.015 PLEAS, TRIALS AND RELATED APPEARANCES

(1) *Entry of Plea.* Pleas of guilty or no contest are scheduled through the master calendaring clerk for the court session designated for pleas. The court will not accept a guilty or nocontest plea unless the defendant has first read and completed a Petition to Enter a Plea of Guilty or No Contest.

(2) *Time of Appearance on Citation.* Persons who are issued a citation to appear on a crime are to be cited to appear on 1:30 PM on Wednesday or Friday that is not otherwise a holiday.

(3) *Case Assignment.* The court maintains a modified individual case assignment system in which judges manage individual cases. At the discretion of the court, any of the four judges may hear any portion of any matter, including matters that may have been designated for other judges. Issues relating to assigned cases, including scheduling and procedural questions, are to be directed to the assigned Judge.

(4) *Continuances.* Absent exceptional good cause, continuance requests or motions brought to the court after 11:00 AM the day before the trial or other appearance will be denied.

All requests for continuance must include whether any parties to the proceeding object to the requested postponement.

(5) *Scheduling.* Scheduling for all matters not assigned to a judge should be directed to the calendaring office staff.

(6) *Affidavit and motion to change judge.* An affidavit and motion for change of judge shall be made at the time and in the manner prescribed by ORS 14.260. In contested cases an affidavit and motion to disqualify any judge of the 25<sup>th</sup> Judicial District must be made within five (5) days after the cause, matter or proceeding is at issue upon a question of fact. Cases are at issue for purposes of this rule when they are set for a contested hearing, motion, demurrer or trial, or they are specifically assigned.

7.035 CIVIL MOTIONS

All pre-trial motions and memoranda, including motions *in limine*, along with an estimate of the duration of any necessary hearings related to pre-trial issues, shall be submitted to the court and the opposing party or counsel not less than twenty-one (21) days before trial. Pre-trial motions will not be heard on the day of trial, unless the court finds good cause to do so.

7.045 DISMISSAL OF INACTIVE CASES

(1) Attorneys who are directed by the court to prepare and submit orders or judgments following a court proceeding shall use reasonable diligence to do so within twenty-eight (28) days.

(2) After the court has rendered a decision in any civil or domestic relations case, if a party does not submit a proposed order or judgment for a period of sixty (60) days or more the trial court administrator may send a notice to the parties notifying them that the case will be dismissed if an order or judgment is not received within thirty (30) days.

(3) If an order or judgment is not received within thirty (30) days of the notice sent pursuant to section (1) of this rule, the case may be dismissed without prejudice unless otherwise ordered by the court.

CHAPTER 8  
DOMESTIC RELATIONS PROCEEDINGS

NOTE: Rules regarding Mediation are in Chapter 12.

8.005 PLEADINGS

A party shall place the notation "YOUNG CHILD INVOLVED" in the title of the first pleading in the case (including a petition and a response) if the parties have a joint child that is three years of age or younger, including an unborn child.

8.045 PREJUDGMENT RELIEF

All requests for prejudgment relief under ORS 107.095, including temporary custody and parenting time orders, shall be made by motion pursuant to UTCR.

8.055 SHOW CAUSE ORDERS

(1) All motions for show cause orders, other than for contempt of court, must separately state each item of relief requested by the moving party. Such orders may not state the requested relief by reference to a supporting affidavit.

(2) All show cause orders, other than contempt of court, and except as provided in subsection (4) herein, shall require the opposing party to respond by filing an answer in writing to the order within fourteen (14) days from the date of the service of the order upon the opposing party. The motion for the show cause order must be served upon the opposing party along with the order, and the order must contain or have attached to it a notice which is in substantial conformity with the specimen notice set forth in Appendix 2 to these rules.

(3) In the event the opposing party fails to file a written appearance in response to a show cause order within fourteen (14) days from the date of service of the order upon the opposing party, then at any time thereafter and while the opposing party remains in default for want of such written appearance, the moving party may present *ex parte* an order granting the relief sought by the moving party, provided the return of service of the show cause order has been filed of record or is presented with the proposed *ex parte* order. Upon presentation of the proposed *ex parte* order, the court, in its discretion, may allow the requested relief *ex parte* or it may direct that a hearing be scheduled for the presentation of a prima facie case in support of the relief sought by the moving party.

(4) Notwithstanding (2) and (3) above, the party served with a show cause order seeking to modify an existing judgment shall be given 30 days to file a written response with the court. In addition, no party shall be required to respond before the time required by law to respond to the summons in the case.



#### 8.061 CHILD SUPPORT WORKSHEETS

The child support computation worksheets appended to OAR 137-050-0320 to 137-050-0490 are required whenever a claim for child support has been raised by the pleadings. Even if the parties have agreed to an award of zero support at the time an order or judgement is signed or the court otherwise orders zero support, the worksheets are required to enable the court to make the legally required findings regarding the presumptive amount of support and the reason(s) to rebut that presumptive amount.

#### 8.071 PERSONAL APPEARANCE REQUIRED FOR SHOW CAUSE ORDER OF CONTEMPT; MOVING PARTY'S FAILURE TO APPEAR FOR HEARING; TIME FOR HEARING; CONTENT OF ORDER

(1) A show cause order for contempt of court shall be contained in a separate document from any show cause order or orders for other relief. Such orders shall require the responding party to personally appear in court at the time established by the court which shall be at least 14 days after the date of service of the order on the responding party. The moving party must also appear and be prepared to proceed at the time and date stated in the Order, unless previous arrangements have been made with the court by the parties or their attorneys to have the matter specially set for hearing.

(2) In the absence of such arrangements, the failure of the moving party to appear at the stated date and time, or to be prepared to proceed at such time, will result in dismissal of the contempt proceeding unless the court finds extenuating circumstances and orders the continuation of the proceedings.

(3) The hearing will be held at the date and time stated in the order unless the court orders the matter to be specifically set for hearing at a later date in order for counsel for the responding party to be retained by the responding party or appointed by the court, or because the hearing will be protracted.

(4) Every show cause order for contempt of court shall contain the following notice:

#### NOTICE

You must personally appear in the above entitled court and case at the date and time specified in this Order. If you fail to appear in court at such date and time, you may be arrested and held in custody for the purpose of being brought before the court to answer the contempt charges which have been made against you.

#### 8.072 PARENTING TIME ENFORCEMENT PROCEDURE.

Reserved for future rule to be developed.

## 8.081 PARENT EDUCATION PROGRAM

(1) *Policy.* The Twenty-fifth Judicial District has established parent education programs as authorized by ORS 3.425. The programs provide information to parents on the impact of family restructuring on children to each person named as a party in the following types of proceedings, when such proceedings involve minor children:

- (a) Annulment or dissolution of marriage;
- (b) Legal separation;
- (c) Petition to establish custody, parenting and/or paternity; and
- (d) Post-judgment litigation involving custody or non-custodial parenting time.

### (2) *Mandatory Participation*

- (a) Each party who files an appearance in a proceeding of the types described above shall complete a program unless exempted by the court. A final judgment shall not be entered in the proceeding until each party not otherwise exempted by the court who has filed an appearance or stipulated on a judgment has completed a program.
- (b) The clerk shall provide a copy of this rule to the initiating party for service upon all parties against whom relief is sought, together with a statement describing the program including contact telephone numbers, addresses and program costs.
- (c) A certificate of program completion must be filed with the court. Certificates of Completion expire in five (5) years.
- (d) The court may exempt one or both parties from the program if, after reviewing the requesting party's motion and supporting affidavit, the court determines that participation is unnecessary or inappropriate. Foreign language speaking parties and parties residing out of the county or state may complete a court approved online course.

### (3) *Sanctions*

The court shall actively promote each party's completion of a program. Failure or refusal to complete a program in a timely manner may be considered by the court in making its ruling on issues of custody and/or parenting time. A party who has completed the programs shall have the right to:

- (a) Request that the pleadings of a party who has appeared be stricken if that party has not completed the program in a timely manner without good reason.

(b) Request entry of an order from the court to compel the non-complying party's completion of the program should the non-complying party not have completed the program in a timely manner without good reason. The court may enter an award of attorney fees in favor of the complying party who utilizes this option to force the non-complying party's compliance with this rule.

(4) *Fees*

(a) Each party shall pay the appropriate fee to the program provider upon registering for the program. The fees are for a court-approved program.

8.085 PARENTING PLANS AND NON-CUSTODIAL PARENTING TIME  
SCHEDULES

Unless otherwise directed by the court, or the parties stipulate to a different schedule of parenting time which is approved by the court, a parent shall have the right to have parenting time with the minor children of the parties according to the schedule and guidelines which are set forth in Appendix 3 of this local rule. Additional suggestions are contained in Appendix 4 of this local rule.

8.091 CUSTODY STUDIES

If the parties are unable, after a good faith effort, to resolve custody and/or visitation issues in mediation, the parties may agree to a custody study. The study must be performed by a duly qualified person but must not be the mediator assigned to the case.

The parties must agree in advance that the report of the custody study will be admissible at trial or other proceedings without appearance of the person who performed the study. The person who performed the study may, however, be subpoenaed at the expense of the person calling the person as a witness.

When the study report had been received by the parties, the parties may, if both parties agree, resume mediation after the report is made available to the mediator.

The expense of the study shall be the responsibility of the parties in such proportion as the parties may agree or as ordered by the court. Persons who seek a custody study under this rule may, prior to proceeding with a custody study, petition the court for partial assistance in the cost of the study, to be paid from funds from the county mediation filing fees. The decision to provide funding shall be based on the abilities of the parties to afford the study. A petition for financial assistance for the custody study shall be accompanied by the name and qualifications of the person to be selected, a recommendation from the mediator as to whether a custody study may be useful and an estimate of cost and affidavits setting forth the financial resources of the parties.

CHAPTER 9  
PROBATE, GUARDIANSHIPS, CONSERVATORSHIPS, ADOPTION PROCEEDINGS

9.005 RESIGNATION OF COUNSEL; NOTIFICATION REQUIREMENTS

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

(2) Resigning counsel must also certify their compliance with the requirements of UTCR 3.140, ORS 9.380, and ORS 9.390.

(3) Withdrawing or resigning attorneys must educate their fiduciary clients on their duties and due dates for reports and accountings.

A statement that this has been done must be included in the motion to withdraw.

9.075 GUARDIANSHIP OF A MINOR

Within thirty (30) days after each anniversary of appointment, a guardian of a minor shall file with the court a written report. Copies of the guardian's report must be given to those persons specified in ORS 125.060(3). The report shall be substantially the same form as that described in ORS 125.325. the form can be located on our website at: [YAM-PRMinorGuardianshipReport.pdf \(oregon.gov\)](#).

9.076: NON-PROFESSIONAL FIDUCIARY EDUCATIONAL PROGRAM

(1) The following court appointed non-professional fiduciaries are subject to this rule:

(a) Any guardian or conservator appointed pursuant to ORS Chapter 125 on or after the effective date of this rule.

(b) Any personal representative appointed pursuant to ORS Chapter 113 on or after the effective date of the rule.

(c) Any trustee appointed pursuant to ORS Chapter 130 on or after the effective date of the rule.

(d) Any non-professional fiduciary cited for a deficiency in the handling of fiduciary duties pursuant to the show cause process.

(2) All non-professional fiduciaries involved in a case described under subsection (1) above, shall:

(a) Successfully complete an education class for non-professional fiduciaries with a curriculum as prescribed by the Presiding Judge of Yamhill County within sixty (60) days of appointment as fiduciary by the court.

(b) Register for the program no later than fifteen (15) days from appointment as fiduciary by the court.

(3) A professional fiduciary, for purposes of this rule, is defined in ORS 125.240(5). Professional fiduciaries are exempt from this rule.

(4) The court will send notice and instructions of this requirement to the non-professional fiduciary at the time of appointment as guardian, conservator or personal representative. The attorney representing a trustee shall provide notice and instruction to the trustee of this requirement.

(5) Fees for the court-required class shall be considered a cost of administration of the protective proceeding, estate or trust. The fee for the court-required class may be waived or deferred in the court's discretion, in keeping with the court's policy of fee waiver and deferrals.

(6) Upon successful completion of the court-required class, the non-professional fiduciary shall file a certificate of completion with the Probate Department stating the date and time the class was taken as well as the provider of the class.

(7) Upon a showing of good cause, a non-professional fiduciary may request a waiver of the requirements of this rule. The request must be made by motion, supported by affidavit and filed within fifteen (15) days of receipt of notice.

(8) The court may, in its discretion, require a non-professional fiduciary to retake the class.

(9) Failure to timely comply with this rule may result in removal of the non-professional fiduciary by the court.

#### 9.081 PRESENTATION OF ORAL OBJECTIONS

Oral objections where permitted in probate matters pursuant to ORS 125.075 shall be made in the Court Operations office, 535 NE 5<sup>th</sup> Street, Room 135, McMinnville, Oregon 97128 during regular office hours. The respondent or protected person may also make objections orally to an appointed Court Visitor. Court Visitors are to include any objections by the respondent or protected person in the Visitor Report. The objection should be in bold and underlined so as to call attention to the court when reviewing the report.

#### 9.082 ALLEGED INCAPACITATED PERSONS - NOTICE REGARDING FREE LEGAL AND OTHER RELEVANT SERVICES

In a proceeding for the appointment of a guardian for an alleged incapacitated person, the notice required under ORS 125.060 shall include the following language or its equivalent.

You are hereby informed of free and low cost legal and other relevant services available in this area, pursuant to ORS 125.070, such as the following:

(a) Free legal services for people at least 60 years of age who are subject to guardianship proceedings may be obtained by calling the Senior Law Program of Oregon Legal Services.

(b) A low-cost, one-time legal consultation may be obtained by calling the Lawyer Referral Service of the Oregon State Bar.

#### 9.165 DELINQUENT FILINGS

In the event of a delinquency in filing any document required by statute, rule or court order, the fiduciary and attorney of record shall be notified. The personal representative, guardian or conservator shall promptly cure the delinquency. If the delinquency is not cured within 30 days after mailing of the notice or other time limitation set by the court, an Order to Show Cause may be issued which requires the personal representative, conservator or guardian and attorney of record to appear before the court.

#### 9.175 FORMS OF ACCOUNTING

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

CHAPTER 11  
JUVENILE COURT PROCEEDINGS

Reserved for future rules related to juvenile court proceedings.

CHAPTER 12  
MEDIATION

NOTE: Rules specifically relating to Temporary Custody Orders during Mediation are found in SLR Chapter 8.

12.005 MEDIATORS REPORT

Report to the court: In all cases which have been referred to a court-appointed mediator, the mediator shall make a final report to the court describing the conclusion of mediation, whether successful, partially successful or unsuccessful.

12.015 MEDIATION, GENERALLY

(1) MATTERS SUBJECT TO MEDIATION

- (a) *Purpose of Mediation.* The purpose of the mediation shall be to assist the parties in reaching a workable settlement of those issues before the court.
- (b) *Mandatory Mediation.* Participation in mediation is mandatory in any dispute involving custody or non-custodial parent parenting time (visitation) arising from any of the following types of cases:
  - (i) Any domestic relations suit, as defined in ORS 107.510 (3).
  - (ii) Any filiation proceeding pursuant to ORS 109.124 to 109.230.
  - (iii) Proceedings to determine the custody or support of a child under ORS 109.103.
  - (iv) Any proceeding to modify custody or visitation or parenting time previously determined in one of the above types of cases.
  - (v) Any other matter involving a dispute over custody, visitation or parenting time upon referral of the court.
- (c) *Other Matters.* The mediator may consider issues of property division or spousal or child support in connection with the mediation of a dispute concerning child custody, visitation or parenting time with the written approval of both parties or their counsel.

(2) AUTHORITY OF CIRCUIT COURT NOT AFFECTED BY MEDIATION

The authority of the Circuit Court over a domestic relations case is not affected by referral to mediation.



Any agreement of the parties reached as a result of mediation for which court enforcement may be sought must be presented to the court and the court shall retain final authority to accept, modify or reject the agreement.

### (3) MEDIATION PROCESS

- (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 and their attorneys may sign and file with the court a stipulated request for mediation. A mediator will be available to the parents in accordance with these rules or the parents may agree and stipulate to an independent mediator in their stipulated request for mediation. If the parties choose an independent mediator the costs for the mediator will be paid by the parties jointly.
- (b) *Commencement of Mediation by Request for Mediation by One Parent.* If there is a disagreement between the parents concerning custody, visitation, or parenting time at any stage of a domestic relations proceeding, either parent seeking to resolve the matter may file with the court and serve upon the other parent or his or her attorney a request for mediation.
- (c) *Commencement of Mediation when Custody or Non-custodial Parent Parenting Time Appears at Issue.* Whenever a respondent generally appears in a domestic relations suit by filing an answer such as "Respondent Appears" or the like, the respondent shall in addition state whether there is any disagreement over child custody or parenting time for the non-custodial parent in the case or, alternatively, whether child custody or non-custodial parenting time is not an issue in the case. In the event no such statement is made, it will be assumed that custody or parenting time is in dispute, and the matter shall be referred to mediation.
- (d) *Mediation Orientation.* Whenever mediation is requested as in paragraphs (a) and (b) above or whenever any pleadings indicate that child custody or non-custodial parent parenting time is at issue, the parties shall be ordered to complete a mediation orientation. Orientation may be done by the mediator at the first mediation session.
- (e) *Content of Mediation.* Mediation shall consist of a brief orientation session and a maximum number of hours of sessions involving the parties and the mediator as set by order of the Presiding Judge. A maximum of one (1) hour of this time may be allocated to administrative time setting appointments and corresponding with parties and attorneys, and one (1) hour may be charged for time spent drafting the parties' agreement. Additional sessions may be provided and paid for at the parties' own expense. Any request for the court to approve additional hours beyond the approved amount shall be submitted to the Presiding Judge. Request from either the Mediator or parties must contain a statement from the Mediator regarding hours used including any no-show appointments and whether Mediator believes additional hours will produce an agreement. *Only the Presiding Judge may approve payment from state provided mediation funds for excess hours.*

- (f) *Unsuccessful Mediation.* The mediator may notify the court at any time following the initial mediation session involving the parties and the mediator that mediation has been unsuccessful, in which case the proceeding will be scheduled for hearing in the same course and with the same priority as if there had been no mediation. The mediator may determine that the mediation has been unsuccessful if the parents are unable to resolve the custody or non-custodial parent parenting time controversy, if one or both parents are unwilling to participate in mediation or if the mediator determines that either parent is using the mediation process in bad faith for the delay of resolution of other issues.
- (g) *Temporary Orders.* At any point during the mediation the court may approve a temporary custody and parenting time plan order reflecting the parents' agreement as to the issues.
- (h) *Child Support.* 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 or parenting time plan, the mediator may assist upon the written request of the parents and the consent of the mediator in resolving the support issue as well.
- (i) *Mediation Completion.* It is the responsibility of the parties and their attorneys to see that mediation is completed within such time as to not delay the trial of the case. Failure to do so may result in dismissal of the case when called for trial or postponement under such conditions as the court may require.

#### (4) CUSTODY STUDIES

When the study report had been received by the parties, the parties are encouraged to return to mediation with the report as a tool for further mediation. The parties may, if both parties agree, resume mediation after the report is made available to the mediator.

CHAPTER 13  
ARBITRATION

13.015 REFERRAL TO ARBITRATION; MOTIONS

(1) *General civil or domestic relations cases*: When a civil case, other than a small claims case, or a domestic relations property division case is referred to arbitration, the arbitration clerk shall send to counsel, or parties *pro se*, a notice of referral to arbitration, the location of the Yamhill Co. approved Arbitrator List, and a copy of the arbitration procedures adopted by the alternative dispute resolution commission and approved by the court pursuant to UTCR 13.080(2).

(2) All motions, except those set forth in (3) below, shall be decided by the arbitrator as provided in UTCR 13.040(3). The original of all motions shall be filed with the arbitrator and not to the court.

(3) *Motions to be decided by the court*. The following motions shall be decided by a judge:

(a) Waiver or deferral of arbitrator's and/or filing fees.

(b) Exemption or removal from arbitration.

(c) Change of Venue.

(d) Resignation of counsel.

(e) Bankruptcy stay.

(4) *Location of Hearing*. Unless approved by the presiding judge, all arbitration hearings shall be held at a location in Yamhill County or a mutually agreed upon location.

13.025 COMPENSATION OF ARBITRATORS; WAIVER OR DEFERRAL

(1) Compensation

Arbitrators shall be paid directly by the parties within 14 days of the selection of the arbitrator. The total amount of fees and expenses shall be equally divided, unless otherwise stipulated by the parties.

(2) Waiver of Fees

The court may waive or defer advance payment of fees and/or expenses, in whole or in part, pursuant to ORS 36.420(3). A party seeking waiver or deferral shall complete and submit to the court the forms provided by the court clerk for waiver or deferral of court filing fees.

Application for waiver or deferral must be made within 14 days of the date of the notification of transfer to arbitration. Unless otherwise allowed by the court fees deferred must be paid within 5 days of the arbitration hearing.

(3) Failure of a party to appear or participate in the arbitration proceeding.

The failure of a party to appear or participate in the arbitration proceeding by reason of failing to pay the arbitrator fee or obtain a waiver or deferral of the fee does not affect the ability of the party to appeal the arbitrator's decision or award.

### 13.055 QUALIFICATIONS OF ARBITRATORS

(1) To qualify as a court-approved arbitrator, a person must:

- (a) Request, complete and submit, to the Presiding Judge, an application for the Arbitration Panel for the Twenty-Fifth Judicial District;
- (b) If not a retired or senior judge or stipulated non-lawyer, be an active member of the Oregon State Bar for at least 5 years.
- (c) Meet the requirements of UTCR 13.090.
- (d) Receive the approval of the Presiding Judge.
- (e) Be willing to travel to Yamhill County to conduct hearings.

(2) The parties may stipulate to an arbitrator not on the 25th Judicial District Arbitration Panel and proceed through court-annexed arbitration. The arbitrator not on the arbitration panel will receive an arbitration packet which will include instructions and forms for the Twenty-Fifth Judicial District, as well as an Arbitrator's Oath which must be executed and returned to the arbitration coordinator before arbitration proceeds.

CHAPTER 14  
REFERENCE JUDGES

14.005 REFERENCE JUDGE PANEL

(1) Subject to the continued approval of the Chief Justice and the Presiding Judge of the district, a panel of reference judges, as authorized by ORS 3.300 *et seq*, is established as an alternative resolution method for civil cases.

(2) The list of persons qualified and approved as reference judges pursuant to ORS 3.300(2) will be available through the Arbitration Coordinator.

14.012 SCHEDULING OF PROCEEDINGS

(1) Hearings on motions, trials and other proceedings shall be set by the reference judge at a time and place agreeable to the parties.

(2) The reference judge shall provide notice of hearings to the Arbitration Coordinator.

14.015 RECORDS

(1) Papers, exhibits and other records of the proceeding, as set forth in ORS 3.315(3) (a) through (d) shall be maintained by the reference judge, subject to handling and disposition as set forth in the Uniform Trial Court Rules.

(2) Said papers, exhibits and other records shall be filed with the clerk of the court within 10 days of the filing of notice of appeal.

14.022 COMPENSATION OF THE REFERENCE JUDGE

(1) The reference judge shall deliver the written statement specified in ORS 3.321(3) to the Presiding Judge within 49 days of the termination of the referral of the action.

(2) Except for good cause, the amount of compensation shall not exceed that deposited with the court by the parties pursuant to ORS 3.321.

CHAPTER 15  
SMALL CLAIMS

15.001 DISMISSAL FOR FAILURE TO PURSUE CLAIM

A judgment of dismissal shall be filed and entered on the court's own motion seventy-five (75) days after the date the claim is filed, unless the claim is set for a hearing or a default judgment is entered.

15.005 MANDATORY MEDIATION

Mediation in small claims cases is mandatory unless waived by the court for good cause.

15.015 SMALL CLAIMS MEDIATION PROCEDURES

(1) The court will assign cases to a mediator. Each party shall come to mediation with full authority to make and accept offers for settlement.

(2) All parties must appear for small claims mediation. If a party fails to appear for small claims mediation, a default judgment may be entered against him or her subsequent to an opportunity for a hearing. An authorized representative may appear on behalf of a business but must be familiar with the facts of the case with full authority to settle. Unless a party to the case, attorneys shall not attend small claims mediation.

(3) If mediation is not successful, the case will be set for trial. If mediation is successful, the agreement will be forwarded to a judge for approval.

CHAPTER 16  
TRAFFIC PROCEEDINGS AND VIOLATIONS

16.001 TRAFFIC PROCEEDINGS AND VIOLATIONS

(1) This section governs any case initiated as a traffic violation under Oregon Vehicle Code, or any other offense or violation issued on a uniform citation, or any misdemeanor treated as a violation pursuant to ORS 161.568, and for which the only penalty is a fine or forfeiture of a presumptive fine, and that does not require a mandatory court appearance.

(2) Prior to any arraignment date or at the date and time of arraignment specified on the summons, the defendant may exercise one of the following options to dispose of the case:

(a) The defendant may plead no contest and pay the fine specified as the presumptive fine amount on the summons, or, if available and requested, the reduced Violations Bureau fine, by entering a plea of no contest and paying the fine to the court.

(b) The defendant may enter a written plea of no contest and submit a written explanation of the incident in mitigation of the penalty. A defendant electing this option must submit the presumptive fine with the written explanation.

(c) The defendant may plead no contest and pay the fine specified as the presumptive fine amount on the summons by going to our website <https://www.courts.oregon.gov/courts/yamhill/Pages/default.aspx> and following the directions on the ePay link.

(d) The defendant may enter a written plea of not guilty and request the matter be set for a court trial. Any defendant electing to proceed under this subsection must verify his or her residence address, current mailing address, and telephone number. A defendant must also provide a list of witnesses he or she plans to call at trial. Defendants may enter the not guilty plea and request a court trial in person or by mail.

16.005 TRIAL BY DECLARATION

If the appropriate statutory section allows for an infraction or violation trial to be conducted by declaration or affidavit, then the following must occur:

(1) Pursuant to option four (4) on the back of the Oregon Uniform Citation and Complaint the alleged violator must contact the court before the day and time the summons requires them to appear to determine if they qualify for a trial by declaration or affidavit. If they qualify, the court will mail the alleged violator and the Officer the Trial by Declaration Packet.

(2) Failure to file the declaration as required herein without good cause shown may result in the declaration not being considered by the court.

#### 16.015 MINOR IN POSSESSION

If you are an individual cited for MIP pursuant to ORS 471.430, and you are eligible for diversion you may enter a plea of no contest and apply for the court diversion program.

#### 16.017 SETTING ASIDE DEFAULT JUDGMENTS

A defendant against whom a default judgment is entered in a violation matter may file a request for relief from default judgment within a reasonable time, not to exceed one (1) year. A request for relief must be in writing and set forth facts which demonstrate that the failure to appear or to exercise one's options described in SLR 16.001, was due to mistake, inadvertence, surprise or excusable neglect.



**APPENDIX 1**

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

STATE OF OREGON	)	Case Number: _____
	)	
	)	
v.	)	<b>APPLICATION &amp; DECLARATION</b>
	)	<b>FOR A JUDICIAL SETTLEMENT</b>
	)	<b>CONFERENCE: CRIMINAL CASE</b>
	)	
Defendant.	)	Requested time: _____

Defendant:  in custody  out-of-custody

The undersigned attorney requests a settlement conference with a settlement judge pursuant to SLR 4.005.

**DECLARATION**

I certify that discovery has been substantially completed and I have made a good faith effort to reach a plea agreement. We have been unable to reach an agreement. The assistance of the court is requested. I have provided a copy of this application to opposing counsel as notice of this request. Both sides will attend the settlement conference with full authority to reach a plea agreement.

---

DA/Deputy DA assigned: \_\_\_\_\_

Defense Counsel: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signature of Attorney Requesting Settlement Conference

***Settlement judge will be assigned by Calendaring based on availability.***

## **APPENDIX 2**

SLR 8.055(2)

### **NOTICE**

You must file an answer in writing to this Order within 14 days of the day you are served with this order, or if you are the Respondent in this matter, within thirty (30) days from the date the Summons and Petition were served upon you, whichever is later, or within 30 days if the Order seeks to modify an existing judgment (such as modification of child custody). If you do not file a written answer within such time, the other side may automatically be given relief against you which the other side is requesting in the attached motion.

In order to file an answer in writing, you must do the following things:

- (1) Your written answer must contain the title and number of this case.
- (2) Your written answer must specify the item or items of relief requested by the other side which you oppose. (You do not need to state the reasons why you oppose the relief; you need only to state that you do oppose the relief.)
- (3) Your written answer must be signed by you and must contain your current mailing address. All future notices and documents in this case will be sent to you at the address listed on your written answer unless and until you file in this case a written notice of a change of such address, and the Court will proceed on the assumption that you have received all communications and documents mailed to you at your most current address on file in this case.
- (4) Your written answer must be mailed or presented to the clerk of the court so as to actually reach the clerk of the court within the time stated above.
- (5) Your written answer must be accompanied by payment of any filing fee required by law for the filing of the answer, or you must obtain a court order waiving or deferring such filing fee (you should contact the clerk of the court if you have any questions concerning the filing fee).
- (6) At or before the time you file your written answer with the clerk of the court, you must mail a copy of the answer to the attorney for the other side, or to the other side personally if the other side is not represented by an attorney, and you must attach to the answer which you file with the clerk a certificate showing that you have mailed a copy of the answer to the attorney for the other side or to the other side personally. If you file a written answer in the manner and within the time stated above, the Court will schedule a hearing to decide whether or not to grant the relief requested by the other side, and you will be notified by mail of the date and time of such hearing. However, you will not be entitled to seek any relief for yourself against the other side. If you wish to seek affirmative relief for yourself against the other side, you must file an appropriate motion or motions for such relief, and you must mail a copy of such motion or motions to the attorney for the other side or to the other side personally if the other side is not represented by an attorney.

If you have any questions, you should see an attorney immediately.

## APPENDIX 3

SLR 8.085 (3)

### PARENTING PLANS AND NON-CUSTODIAL PARENTING TIME GUIDE

#### 1. INTRODUCTION

The Twenty-Fifth Judicial District recognizes that both parents are an important part of their child's growth and development. Therefore, the terms "custodial parent" and "non-custodial parent," in reference to these Local Guidelines, are to be read with the idea and belief that each parent should be afforded the opportunity to play an active role in the child's life and that each child should be assured frequent and consistent contact with parents who have shown their ability to act in the child's best interest.

The purpose of these guidelines is to provide a reference for parents who have not established another schedule. Parents are encouraged to be flexible and to consider their child's best interests in arranging additional parenting time. Pursuant to UTCR 12.015(1)(B), participation in mediation is mandatory in any dispute involving custody and/or non-custodial parenting time.

Parents developing parenting plans for children ages 0 months to 48 months should refer to the *Birth to Three Parenting Guide* for developmentally age specific parenting plan suggestions.

The *Birth to Three Parenting Guide* can be found at:

<http://courts.oregon.gov/OJD/docs/OSCA/cpsd/courtimprovement/familylaw/Birth%20through%20Three%20Guide%2009-2014%20final.pdf>

These guidelines set forth reasonable parenting time for a non-custodial parent or joint custodial parents for cases with children ages 49 months (4 years) through age 18.

These guidelines may be INAPPLICABLE to families experiencing domestic violence, mental health or substance abuse issues. The Safety Focused Parenting Plan Guide for Parents is found at: <http://courts.oregon.gov/OJD/docs/OSCA/cpsd/courtimprovement/familylaw/sfppgentirever04-091003.pdf>

These guidelines do not establish any minimum standard for parenting time and are not intended as mandatory provisions, unless specifically ordered by the court.

#### 2. DEFINITIONS

- (a) "Infant and Young Child" refer to children ages 0 months to 48 months.
- (b) "Child" includes all minor children referred to in the pleadings between the ages of 4 through the age of 18.
- (c) "Early School Age Child" refers to children who are enrolled in full day kindergarten through age 10; school age children can handle longer periods of time away from a parent. It is important that the parenting plan accommodate the children's school and activity schedule. Some parents alternate weeks with the children, while others plan shorter, more frequent time periods.

- (d) "Early Adolescents" are defined as children ages 11 to 13 years old; early adolescents are much more focused on their friends and extracurricular activities. They often want to have a say in their living arrangement and parents should listen carefully and consider their views. However, it is important to be clear that it is the parents who will make the final decision about the living arrangement.
- (e) "Teenagers" are defined as children ages 14 to 18 years old; teenagers become increasingly independent and may want to have their parenting plan revised to meet their needs. A parenting plan should not arbitrarily prevent them from being involved with activities, after school jobs or friends. Many teens want to have a primary home where they know they can be contacted and parents may want to consider this.
- (f) "Custodial Parent" refers to the parent awarded sole custody.
- (g) "Non-custodial Parent" refers to the parent who is not the custodial parent as defined above.
- (h) "Joint Custody" is a form of legal custody providing that the parents have shared authority to make all major decisions concerning the child. Parents who agree on joint custody could, for example, decide that the child will live with one parent for more time than with the other parent. However, if they did so, both parents would still have to agree on significant decisions affecting the child. IF PARENTS DO NOT AGREE ON JOINT CUSTODY AND HOW JOINT CUSTODY ARRANGEMENTS WILL WORK, THE COURT *CANNOT* ORDER JOINT CUSTODY.
- (i) "Local Parenting Time" refers to situations where parents reside within 60 miles of each other's residence.
- (j) "Mid-Distance Parenting Time" refers to situations where parents reside between 60 and 200 miles of each other's residence.
- (k) "Long-Distance Parenting Time" refers to situations where parents reside over 200 miles further distance from each other.
- (l) "Non-School Days" are defined as In-Service, Teacher Workdays, Conference, Grading Days, or Snow Days.

### **3. HOLIDAYS AND NON-SCHOOL DAYS**

The custodial schedule for the child for the holidays, events and vacation days listed below is as follows:

*Thanksgiving Vacation:* Wednesday at 7:00 PM through the following Sunday at 7:00 PM.

Custodial parent - odd years

Non-custodial parent - even years

*Halloween:* October 31st at 5:30 PM through 9:00 PM

Custodial parent - even years

Non-custodial parent - odd years

*Spring Vacation:* Whether or not the child is in school, during the period of school spring vacation (measured from the day after school adjourns through the day before school resumes), commencing at 10:00 AM and ending at 7:00 PM

Custodial parent - even years

Non-custodial parent - odd years

*Mother's Day:* 10:00 AM through 7:00 PM

Always with mother

*Father's Day:* 10:00 AM through at 7:00 PM

Always with father

*Fourth of July:* With the parent whose summer schedule includes July 4th.

*Child's Birthday:* 5:00 PM through 8:00 PM on a school day; 10:00 AM through 7:00 PM on a non-school day.

Custodial parent - even years

Non-custodial parent - odd years

*Mother's Birthday:* 5:00 PM through 8:00 PM on a school day; 10:00 AM through 7:00 PM on a non-school day.

Always with mother, at mother's option.

*Father's Birthday:* 5:00 PM through 8:00 PM on a school day; 10:00 AM through 7:00 PM on a non-school day.

Always with father, at father's option.

#### **4. GENERAL PROVISIONS**

- (a) *Personal Plans.* Personal plans of the custodial parent or child, (for example, school or church activities) will not be reasons for failing to follow the parenting time schedule set forth in the court's order.
- (b) *Addresses and telephone numbers.* Unless otherwise ordered by the court, both parents will provide home addresses and contact telephone numbers to the other party. In the event the non-custodial parent is taking the child overnight out of the town of the non-custodial parent's residence, the non-custodial parent shall notify the custodial parent of the location and telephone number, if any, of where the child will be sleeping.
- (c) *Non-assigned time.* Unless otherwise agreed, in writing, the custodial parent is responsible for the child during all times not awarded to non-custodial parent.
- (d) *Delivery and Pick-up.* All parenting time events shall be exercised in a prompt manner. Unless otherwise agreed, or court ordered, pickup and delivery shall occur no more than 15 minutes before or 15 minutes after the time specified for parenting time events to begin and end. The non-custodial parent shall pick up the child at the beginning of the parenting time event and the custodial parent shall pick up the child at the end of the parenting time event. The custodial parent shall have the child fed and ready on time for the non-custodial parent's parenting time with sufficient clothing packed and ready for the parenting time events. The non-custodial parent shall return all clothing and feed the child a meal before returning the child from the parenting time period.
- (e) *No shows for scheduled Parenting Time and Make-ups.* Only medical reasons documented by a physician's note will be considered sufficient for postponement of parenting time with the non-custodial parent. If a child is ill and unable to be with the non-custodial parent during his/her parenting time, a makeup period shall occur within the next three (3) weekends following the missed time. However, if the non-custodial parent fails to exercise his/her parenting time, there will be no makeup.
- (f) *History of not exercising parenting time.* When there is a history of the non-custodial parent does showing up for a scheduled weekend parenting time (for example: one "no show" per month for 3 months), the custodial parent may take the following action: To write the non-custodial parent indicating that unless the non-

custodial parent gives at least 3 days advance notice that he/she will exercise the scheduled weekend parenting time, the custodial parent will cancel the next following regularly scheduled parenting time.

Canceling the next regularly scheduled parenting time period should not be done lightly and should not be done by the custodial parent when there is no regular history of missed parenting time, or when the missed parenting time was due to an emergency situation such as health or emergency weather conditions.

- (g) *Mutual Respect Toward the Other Parent.* Both parents shall not make bad, derogatory or otherwise unflattering comments about the other party or in any way attempt to diminish the love, respect and affection that the child has for the other parent.
- (h) *Support of Non-Custodial Parent's Parenting Time.* The custodial parent shall encourage parenting time with the child and the child shall not be permitted to determine whether the child wishes to spend parenting time with the non-custodial parent unless agreed to, in writing, by both parents.
- (i) *Access to Records and Events.* In addition to the parenting time schedule, unless otherwise specifically ordered by the court, the non-custodial parent shall have the right to attend sports activities, and have full access to school teachers and administrators for complete information about the child in school. ORS 107.154 also affirms additional rights in the non-custodial parent unless otherwise ordered by the court. Each parent shall be responsible for keeping themselves advised of the child's activities and events.
- (j) *Conflicting Dates.* A child's birthday schedule (see Holidays for elections) takes precedence over the holiday, summer and alternating weekend schedules. The holiday schedule takes precedence over the summer and alternating weekend schedule. Due to the holiday parenting time schedule set out in this Rule, there may be occasions when one or both of the parents will have the child in his or her home for three weekends in a row. This could happen because any holiday defined in this Rule shall replace the normal schedule for a given weekend or time period. In other words, some weekends in a year will be lost due to conflicting vacations and holidays.
- (k) *Daily Care.* The parent with whom the child is staying will be responsible for daily care and will make necessary decisions regarding emergency medical or dental care. The non-custodial parent's rights to make daily care decisions does not include leaving a child unattended in violation of Oregon law, haircuts, permanents, or any substantial changes in the child's appearance (e.g., tattoos, ear piercing, etc.) unless authorized by the custodial parent.
- (l) *Day care.* The non-custodial parent shall be responsible for arranging and paying for day care for the child during his or her parenting time periods.
- (m) *Emergencies.* Each parent will immediately notify the other party of any emergency circumstances or substantial changes in the health or safety of the child.
- (n) *Writing, texting, emailing, and telephoning.* The non-custodial parent shall, in addition to the parenting time in this order, have the right to correspond with the child, and to telephone, text or email the child during reasonable hours without monitoring by custodial parent or anyone else. Unless otherwise agreed to between the parties, telephone calls, texts, or emails between non-custodial parent and the child shall be limited to no more than 3 per week. The custodial parent shall also have similar rights during periods of non-custodial parent's parenting time. A child over the age of 12 shall have the right to initiate calls, texts, or emails to the other parent during reasonable hours. Long distance calls are to be made collect unless other arrangements are made.
- (o) *Decision Making.* The custodial parent is encouraged to consult with the non-custodial parent regarding major decisions affecting the child; however, the custodial parent shall have full decision-making authority. Each parent shall exert his/her best effort to work cooperatively for the best interests of the child.

- (p) *Non-custodial Parenting Time is Independent from Support.* Non-custodial parenting time is not dependent on payment of child support or on whether or not the other parent does or does not do other things not directly related to non-custodial parenting time.

## 5. LOCAL PARENTING TIME

### (a) WEEKEND PARENTING TIME SCHEDULE:

- (1) The non-custodial parent shall have the child every other weekend, beginning on:

- Friday night at 5:00 PM  
 Friday night at 6:00 PM  
 Friday night at 7:00 PM

and ending on:

- Sunday night at 5:00 PM [  
] Sunday night at 6:00 PM [  
] Sunday night at 7:00 PM  
 Monday morning when the child is delivered to the school.

- (2) If the non-custodial parent has the child on his/her alternate weekend, and if the preceding Thursday or Friday or the following Monday is a recognized holiday or non-school day which is not listed below, then the non-custodial parent has the option to commence parenting time at:

- 5:00 PM  
 6:00 PM  
 7:00 PM on that Thursday or Friday

or end parenting time at:

- 5:00 PM  
 6:00 PM  
 7:00 PM on that Monday (the recognized holiday or non-school day).

By written agreement, the non-custodial parent's parenting time may end at such other time as the parties may agree.

- (3) Parents have the option to (choose 1 option):

- (i)  Alternate weekend parenting time schedules annually, with the reset date beginning each January 1. The alternate weekend parenting time schedule shall rotate each year as follows:

In all even-numbered years, the:

custodial parent's  non-custodial parent's  
first weekend parenting time shall begin at:

- 5:00 PM  
 6:00 PM  
 7:00 PM on the first Friday after New Year's Day.

In all odd-numbered years, the:

custodial parent's  non-custodial parent's

first weekend shall begin the second Friday following New Year's Day.

- (ii)  Alternate weekend parenting time schedules annually, with the reset date beginning the first day following Labor Day. The alternate weekend parenting time schedule shall rotate each year as follows:

In all even-numbered years, the:

custodial parent's  non-custodial parent's

first weekend shall begin at:

5:00 PM

6:00 PM

7:00 PM on the first Friday following Labor Day.

In all odd-numbered years, the:

custodial parent's  non-custodial parent's

first weekend shall begin the second Friday following Labor Day.

- (iii)  Not reset the alternate weekend parenting time schedule and continue with the every other weekend rotation.

(b) MID-WEEK PARENTING TIME SCHEDULE:

- (1) The non-custodial parent shall be able to have parenting time with his/her child:

every Wednesday.

every other Wednesday.

none.

If the child is in school, the non-custodial parent shall have time with the child on Wednesday from 5:00 PM until:

7:00 PM

7:30 PM

8:00 PM

If the child is not in school, the time shall begin at 10:00 AM and end at 7:30 PM

- (2) The first alternate Wednesday parenting time period after an annual reset shall follow the non-custodial parent's first weekend parenting time.



(c) WINTER VACATION SCHEDULE:

If the child is not of school age, winter vacation shall be considered to begin on the day school would normally let out for the school district in which the child resides.

(1) In all even-numbered years, the non-custodial parent shall have the child beginning:

- after school adjourns
- after the parent gets off work
- at \_\_\_\_:\_\_\_\_. m. on the day that school adjourns

until December 25 at:

- 10:00 AM
- 10:30 AM
- 11:00 AM
- 11:30 AM
- 12:00 PM

The custodial parent shall have the child for the remainder of the child's winter vacation.

(2) In all odd-numbered years, the custodial parent shall have the child beginning:

- after school adjourns
- after the parent gets off work
- at \_\_\_\_:\_\_\_\_. m. on the day that school adjourns

until December 25 at:

- 10:00 AM
- 10:30 AM
- 11:00 AM
- 11:30 AM
- 12:00 PM

The non-custodial parent shall have the child for the remainder of the child's winter vacation until the day before school resumes at:

- 5:00 PM
- 6:00 PM
- 7:00 PM
- 8:00 PM

(3) The alternate weekend parenting time schedule and alternate Wednesday parenting time shall not apply during the winter vacation period.

(d) SUMMER PARENTING TIME:

Summer parenting time, also referred to here as "summer", begins the Friday after the local school district breaks for summer vacation.

(1) Infants and Young Children: The parent will follow the regular weekly schedule unless otherwise agreed in writing.

(2) Children age 49 months until start of full-time Kindergarten: The parents will follow the regular weekly schedule, with each parent having the ability to have up to one week of uninterrupted time with the child during summer months.

(3) Children from the age at the start of full-time Kindergarten until day of 18th birthday:

(i) When “Summer” Starts:

The summer parenting time schedule starts:

the first Friday following the day school lets out for the summer.

after school adjourns

5:00 PM

6:00 PM

7:00 PM

\_\_\_\_\_.

The summer parenting time schedule ends at:

5:00 PM

6:00 PM

7:00 PM

on the sixth day before school resumes for the children. The regular weekend parenting time schedule will resume the second Friday after the children are returned to the custodial parent.

(ii) Scheduling Deadline(s):

Vacation:

This section applies to parents whose summer parenting plan allows for uninterrupted blocks of summer vacation time. Before May 1 of each year, the non-custodial parent shall select and notify the custodial parent in writing of the inclusive dates of the summer parenting time vacation which the non-custodial parent chooses to have with the child(ren). If the non-custodial parent fails to give written notice to the custodial parent before May 1 of the year of the summer parenting time, the non-custodial parent nevertheless shall have the right to such summer parenting time after giving two week’s written notice to the custodial parent, if and to the extent the time remains for such summer parenting time, and the requested uninterrupted vacation time does not conflict with the custodial parent’s choice for summer vacation time.

Children’s Summer Activities:

By May 1 of each year, the parents need to discuss and agree in writing on summer activities that impact both parents’ summer parenting time. Accommodations may need to be made so the child can participate in enrichment activities by adjusting the balance of available parenting time with both parents. If the parents fail to reach an agreement by May 1, the parent(s) may only sign up the child(ren) in summer activities or enrichment that impact both parents if the parents agree in writing prior to the child being enrolled or accepted into the activity.

Parents with Six Week Block of Summer Parenting Time:

Before May 1 of each year, the non-custodial parent shall select and notify the custodial parent in writing of the inclusive dates of the summer parenting time period which the non-custodial parent chooses to have the child. If the non-custodial parent fails to give written notice to the custodial parent before May 1 of the year of the summer parenting time, the non-custodial parent nevertheless shall have the right to such summer parenting time with the child after giving two weeks’ written notice to the custodial parent, if and to the extent the time remains for such summer parenting time; provided, however, that the custodial parent shall have the right to choose the inclusive dates for such summer parenting time.

(iii) Summer Schedule (pick one):

(A) The summer parenting time shall remain the same as the school year except that each parent shall have the right to take a:

10-day uninterrupted block of vacation time. The 10-day uninterrupted block of vacation time shall include the parent's regular weekend rotation so that the other parent's alternating weekend rotation is not disturbed.

One-week uninterrupted block of vacation time.

A two-week uninterrupted block of vacation time.

The mid-week parenting time shall not occur during the summer parenting time.

(B)  The summer parenting time shall be shared between the parties. The parties acknowledge that due to the timing of the first day of school for the child(ren)'s school district, summer may not be an even number of weeks. The mid-week parenting time shall not occur during the summer parenting time.

Alternating one week on, one week off with the "week" starting on:

Friday night at 5:00 PM

Friday night at 6:00 PM

Friday night at 7:00 PM

Sunday night at 5:00 PM

Sunday night at 6:00 PM

Sunday night at 7:00 PM

The  custodial  non-custodial parent shall have the first week block in even numbered years.

Alternating two weeks on, two weeks off with the "week" starting on:

Friday night at 5:00 PM

Friday night at 6:00 PM

Friday night at 7:00 PM

Sunday night at 5:00 PM

Sunday night at 6:00 PM

Sunday night at 7:00 PM

The  custodial  non-custodial parent shall have the first two-week block in even numbered years.

(C)  The custodial parent shall have the child(ren) from the start of summer in even years until \_\_\_\_\_ of each year, and the non-custodial parent shall have the child(ren) from \_\_\_\_\_ of each year until the end of summer parenting time. In odd numbered years the non-custodial parent shall have the children from the start of summer until \_\_\_\_\_ and the custodial parent shall have the children from \_\_\_\_\_ of each year until the end of summer.

(D)  The non-custodial parent shall have the child(ren) from the start of summer in even years until \_\_\_\_\_ of each year and the custodial parent shall have the child(ren) from \_\_\_\_\_ of each year until the end of summer parenting time; In odd years, the custodial parent shall have the child(ren) from the start of summer until \_\_\_\_\_ of each year, and the non-custodial parent shall have the child(ren) from \_\_\_\_\_ of each year until the end of summer.

(E)  The non-custodial parent shall have six consecutive weeks of summer parenting time. The custodial parent shall have the child(ren) for the balance of the summer subject to the non-custodial parent's "alternate weekends", provided, however that the custodial parent shall have the right to keep the child(ren) for two uninterrupted weeks during the custodial parent's six weeks of summer which will result in the non-custodial parent losing one "alternate weekend."

## 6. MID-DISTANCE PARENTING TIME

(a) Schedule:

Parents need to arrange options that are emotionally healthy and developmentally age appropriate for their child. This is individual to the child and often younger children are less able to manage long separations than other children.

During the school year, Mid-Distance Parenting Time may include one long weekend per month depending on non-school days or federal holidays (e.g. Martin Luther King Day, President's Day, Veterans' Day) not specifically listed under other Holidays, Events and Vacation Days, if the non-custodial parent gives 45 days written notice to the custodial parent.

Summer Parenting time should be structured to allow the non-custodial parent to have significant, meaningful time with the child that is emotionally healthy and developmentally age appropriate for their child that takes into account the reality that every-other weekend parenting time with the child may not be feasible during the child's school year due to the distance in terms of hours of travel or miles to travel and the cost for the transportation.

(b) Transportation:

If the non-custodial parent wants the child to travel by plane, train, or bus, the custodial parent shall deliver and pick-up the child at the nearest "local" airport with connecting flights to an international airport, train station, or bus station. A child younger than age eight should not be traveling alone unless it is a non-stop transportation that provides child supervision services, otherwise, all children under age 11 should be accompanied by a parent or a mutually agreed upon adult known to the child.

## **7. LONG DISTANCE PARENTING TIME**

(a) Schedule:

Parents need to arrange options that are emotionally healthy and developmentally age appropriate for their child. This is individual to the child and often younger children are less able to manage long separations than other children. The parents should take into account the reality that due to the inability for the child to have weekend parenting time with the non-custodial parent during the school year because of the distance in terms of hours of travel or miles to travel and the cost for transportation, the parenting time will occur on extended holidays, long breaks from the academic calendar (e.g. Fall break, Spring break), and during the summer months.

(b) Long Distance Transportation:

If the non-custodial parent wants the child to travel by plane, train, or bus, the custodial parent shall deliver and pick-up the child at the nearest "local" airport with connecting flights to an international airport, train station, or bus station. A child younger than age eight should not be travelling alone unless it is a non-stop transportation that provides child supervision services, otherwise, all children under age 8 should be accompanied by a parent or a mutually agreed upon adult known to the child.

**APPENDIX 4**  
SLR 8.085(4)  
**SUGGESTIONS RELATING TO PARENTING TIME**

The following suggestions are not binding unless adopted by court order.

**1. INVOLVEMENT AND FLEXIBILITY**

The parenting time schedule should be construed and implemented in a manner which fosters the child's best interest by providing liberal, predictable, and wholesome time between the child and the non-custodial parent. While this schedule promotes stability for the child, each parent acknowledges that reasonable adjustments will be needed from time to time and that an element of flexibility will be required in administering this parenting time schedule. Each parent should be flexible in arranging dates and time with the child so important family events and the child's activities are maintained with minimal disruption. Each parent shall act reasonably in registering the child for activities keeping in mind that neither parent is entitled to require activities for the child which will take place during the other parent's time with the child. On the other hand, there are activities which occur (such as school, athletic, music and other programs) that, by their very nature, take place on the other parent's weekend or scheduled parenting time.

- (a) Although neither parent is required to take a child to any activity, each parent is encouraged to use his or her best effort to keep the child involved in athletic events, school functions, lessons, birthday parties of friends, etc., even though those activities may fall during a parenting time period. To do otherwise would deprive the child of valuable growing opportunities.
- (b) Each parent is encouraged to use a child's activity as an opportunity for that parent to participate with the child, meet the child's friends and other families and to have a quality experience with the child.

**2. TOBACCO AND ALCOHOL**

The parents should seek to agree as to whether either parent should smoke or use vapor products in the presence of the child, especially if the child has asthma or other respiratory issues, and whether either parent should drink alcohol to the point where they are affected by the alcohol in the presence of the child.

**3. MARIJUANA**

The parents should not smoke or vape marijuana or use marijuana products in the presence of the child. Parents should not use marijuana products to the point where the parent is affected by the marijuana in the presence of the child. Any marijuana paraphernalia or marijuana products should be stored securely and not accessible to children under 21. Special care must be taken to insure that children do not have access to edible marijuana products because of the danger of overdose.