

# UNIFORM TRIAL COURT RULES

Including Amendments

**Effective  
August 1, 2013**

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In the Matter of the Adoption of  
Amendments to the Uniform Trial  
Court Rules

) CHIEF JUSTICE ORDER  
) No. 13-029  
)  
) ADOPTION OF AMENDMENTS TO THE  
) UNIFORM TRIAL COURT RULES

I HEREBY ORDER, pursuant to ORS 1.002, UTCR 1.030, and UTCR 1.050, the following:

1. The Uniform Trial Court Rules, as amended below, are adopted and are effective August 1, 2013, pursuant to ORS 1.002.
2. All current local rules inconsistent with the Uniform Trial Court Rules as amended will be deemed ineffective on August 1, 2013, pursuant to UTCR 1.030.
3. Local rules that are consistent with the Uniform Trial Court Rules as amended remain in effect and are subject to review as provided under UTCR 1.050.
4. Those local rules that are not amended or repealed and are not disapproved on review under UTCR 1.050 remain in effect until so amended, repealed, or disapproved.

Dated this 22nd day of May, 2013.



Thomas A. Balmer  
Chief Justice

IN THE SUPREME COURT OF THE STATE OF OREGON

In the Matter of the Adoption of  
Amendments to Uniform Trial Court  
Rules 3.180 and 19.020

)  
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No. 13-030

ADOPTION OF AMENDMENTS TO UNIFORM  
TRIAL COURT RULES 3.180 AND 19.020

The Oregon Supreme Court has approved amendment of Uniform Trial Court Rules 3.180 and 19.020; therefore, I HEREBY ORDER the following:

1. Uniform Trial Court Rules 3.180 and 19.020, as shown below, are amended effective August 1, 2013.
2. All current local rules inconsistent with Uniform Trial Court Rules 3.180 and 19.020 as amended will be deemed ineffective on August 1, 2013, pursuant to UTCR 1.030.
3. Local rules that are consistent with Uniform Trial Court Rules 3.180 and 19.020 as amended remain in effect and are subject to review as provided under UTCR 1.050.

Dated this 22nd day of May, 2013.



Thomas A. Balmer  
Chief Justice

**AMENDED UNIFORM TRIAL COURT RULES  
(Effective August 1, 2013)  
AND SUMMARY OF OTHER UTCR COMMITTEE ACTIONS**

**I. INTRODUCTION**

The amended Uniform Trial Court Rules (UTCR) take effect on August 1, 2013. The amendments are the result of suggestions and comments received from the public, bench, bar, and interested agencies. The proposed amendments were posted on the Oregon Judicial Department website to invite public comment. Additional information on the UTCR can be viewed at: <http://courts.oregon.gov/OJD/programs/utcr/index.page?>.

**II. FUTURE MEETINGS**

The next meeting of the UTCR Committee is scheduled for October 18, 2013, at the Office of the State Court Administrator, Salem, Oregon. The meeting will be carried over to the following day, October 19, 2013, if the business of the committee is not completed on the first day. The committee will review proposed changes to the UTCR and the Supplementary Local Rules (SLR). They will make recommendations to the Chief Justice on those proposals. This is the only meeting in the next UTCR cycle at which the committee intends to accept proposals for UTCR changes that would take effect August 1, 2014. Meeting dates for the following year will be scheduled at this meeting.

**III. BRIEF DESCRIPTIONS OF SPRING 2013 ACTIONS**  
See Section IV for detailed explanations.

**A. APPROVED CHANGES**

These changes have been approved by the Chief Justice and the Supreme Court. They will go into effect on August 1, 2013.

1. 1.080(2) – FORMAT AND LOCATION OF COURT RULES  
Amend to clarify that the rule applies to electronic versions of the SLR.
2. 2.010(9) – FORM OF DOCUMENTS  
Amend to add former UTCR 21.070(4)(a) regarding content of exhibits.
3. 2.010(11) – FORM OF DOCUMENTS  
Amend to clarify the elements of a caption.
4. 2.010(14) – FORM OF DOCUMENTS  
Amend to change “unrepresented” to “self-represented.”
5. 3.040 – ADVICE TO CLIENTS AND WITNESSES OF COURTROOM FORMALITIES  
Amend to change “unrepresented” to “self-represented.”
6. 3.180(2)(c) – MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT EVENTS  
Amend to change “mental commitment” to “civil commitment.”

7. 3.180 – MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT EVENTS  
Amend to make various changes regarding media access.
8. 4.060(2) – MOTION TO SUPPRESS EVIDENCE  
Amend to allow, upon a showing of good cause, a written response more than 7 days after a motion to suppress is filed.
9. 5.100(1)(c) – SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS  
Amend to change “unrepresented” to “self-represented.”
10. 5.160 – SEALED DOCUMENTS  
Adopt a new rule for filing documents under seal.
11. 6.050 – SUBMISSION OF TRIAL MEMORANDA  
Amend to add a requirement regarding trial exhibits.
12. 6.060(2) – PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS  
Amend to eliminate the requirement that a party must submit to the court an extra copy of requested jury instructions and verdict forms.
13. 6.080(6) – MARKING EXHIBITS  
Amend to cite to the applicable ORS, rather than to Oregon Laws.
14. 6.120(1) – DISPOSITION OF EXHIBITS  
Amend to cite to the applicable ORS, rather than to Oregon Laws.
15. 7.020 – SETTING TRIAL DATE IN CIVIL CASES  
Amend to require submission of a proposed order with a motion to continue.
16. 9.030(3) – ADDRESSES AND TELEPHONE NUMBERS REQUIRED  
Amend to change “unrepresented” to “self-represented.”
17. 9.180 – VOUCHERS AND DEPOSITORY STATEMENTS  
Amend to create a requirement that courts statewide accept a form to disclose accounts and other assets held by a depository in situations where periodic account statements are not issued (for example, a certificate of deposit).
18. Form 9.180.3 – DEPOSITORY CERTIFICATION OF FUNDS ON DEPOSIT  
Adopt a new form to disclose accounts and other assets held by a depository in situations where periodic account statements are not issued (for example, a certificate of deposit).
19. Form 9.410.1 – ORDER REGARDING CONFIDENTIAL INFORMATION  
Amend to change “unrepresented” to “self-represented” in paragraphs 7, 8, and 9.
20. 11.050 – TIME REQUIRED FOR HOLDING DISPOSITIONAL HEARING  
Repeal the rule because it is inconsistent with statute.
21. Form 15.010.1a – SMALL CLAIM AND NOTICE OF SMALL CLAIM  
Amend to add a request for an interpreter to the caption.
22. Form 15.010.1e – DEFENDANT’S RESPONSE  
Amend to add a request for an interpreter to the caption.

23. 15.020 – TIME REQUIRED FOR HOLDING DISPOSITIONAL HEARING  
Adopt a new rule establishing timing requirements for dismissals for want of prosecution in small claims actions.
24. 19.020 – INITIATING INSTRUMENT REQUIREMENTS  
Amend for clarity and to require additional information in the caption and in the body of the instrument.
25. 21.010(7) – DEFINITIONS  
Amend to delete section (7).
26. 21.070(4) – SPECIAL FILING REQUIREMENTS  
Amend to clarify requirements regarding trial exhibits.

**B. OUT-OF-CYCLE CHANGES**

These changes to the 2012 UTCR became effective after August 1, 2012, and before August 1, 2013. They will be incorporated into the 2013 UTCR.

1. 5.140 and Form 5.140.1c – INTERSTATE DEPOSITION INSTRUMENTS  
Out-of-cycle amendment of 5.140 and adoption of Form 5.140.1c (effective 9/10/12).
2. 5.150 – EXPEDITED CIVIL JURY CASES  
Out-of-cycle amendment of 5.150 (effective 6/11/13).
3. Chapter 21 – FILING AND SERVICE BY ELECTRONIC MEANS  
Out-of-cycle amendment of 21.040, 21.050, 21.070, 21.080, 21.090, and 21.120 (effective 3/26/13).

**C. COMMITTEE RECOMMENDATIONS OF DISAPPROVAL**

1. 9.160(1)(a) – FORM OF ACCOUNTINGS  
Amend to change “30 days” to “60 days.”

**D. OTHER COMMITTEE ACTIONS**

1. 4.060 – MOTION TO SUPPRESS EVIDENCE  
Amend to create new requirements in instances when the burden of proof shifts to the prosecution.
2. 9.160(1)(b)(ii) – FORM OF ACCOUNTINGS  
Amend to clarify whether estimated income means net or gross income.
3. Forms 15.010.1a and 15.010.1e – SMALL CLAIM  
Amend to include consent for notice by email at the October 18, 2013, meeting.
4. CJO 12-039  
Review of public comment on out-of-cycle changes to 1.050, 2.100, 2.110, 5.060, 5.090, 9.030, and Form 2.100.4b.

5. CJO 12-050  
Review of public comment on out-of-cycle rule changes to 21.010, 21.020, 21.030, 21.040, 21.050, 21.060, 21.070, 21.080, 21.090, 21.100, 21.110, and 21.120.
6. Oregon eCourt Program  
Update on status of proposal to adopt new rules, adopt new forms, and make conforming amendments to current rules regarding remote electronic access to court documents under the Oregon eCourt Program.
7. Committee Membership  
Update on membership status and selection of new chair.
8. Committee Meeting Schedule  
Reminder of fall meeting on October 18 (and 19, if necessary), 2013.

#### IV. DETAILED DESCRIPTIONS OF SPRING 2013 ACTIONS

##### A. APPROVED CHANGES

These changes have been approved by the Chief Justice and the Supreme Court. They will go into effect on August 1, 2013.

Deletions are shown in [*brackets and italics*]. Additions are shown in {**braces, underline, and bold**}. A proposed revision (in lieu of a simpler amendment) consists of a complete rewriting of a rule or form so there is no use of [*brackets and italics*] or {**braces, underline, and bold**}. The same is true of a new rule or form.

##### 1. 1.080(2) – FORMAT AND LOCATION OF COURT RULES

###### PROPOSAL

Amend to clarify that the rule applies to electronic versions of the SLR.

###### ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

###### EXPLANATION

This proposal was submitted by the UTCR Reporter on June 21, 2012. The proposed amendment makes clear that the rule applies to the SLR in all formats printed and electronic.

###### APPROVED AMENDMENT (effective August 1, 2013)

##### 1.080      FORMAT AND LOCATION OF COURT RULES

(1)      \* \* \*

(2)      [*When SLR are printed, e*]{**E**}ach page of the [*rules*] {**SLR**} must include a footer that shows the following: the page number, the revision date

applicable to the set of SLR, the judicial district number, and the name of the court.

## 2. 2.010(9) – FORM OF DOCUMENTS

### PROPOSAL

Amend to add former UTCR 21.070(4)(a) regarding content of exhibits.

### ACTION TAKEN

Motion 3, to add “except where otherwise required by statute” to subsection (c) and to issue a final recommendation of approval, passed by consensus.

### EXPLANATION

This proposal was submitted by Lisa J. Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on July 16, 2012. The proposal moves current UTCR 21.070(4)(a) to UTCR 2.010(9)(c), which is a more appropriate location for this requirement. The committee amended subsection (c) to account for circumstances where statute may require an exhibit that does not fit within the rule.

APPROVED AMENDMENT (effective August 1, 2013)

### 2.010 FORM OF DOCUMENTS

The form of all documents, including pleadings and motions, except where a different procedure is specified by statute or rule, must be:

(1) \* \* \*

\* \* \* \* \*

#### (9) Exhibits

(a) When an exhibit is appended to a filed document, each page of the exhibit must be identified by the word "Exhibit" or "Ex" to appear at the bottom right-hand side of the exhibit, followed by an Arabic numeral identifying the exhibit. Each page number of the exhibit must appear in Arabic numerals immediately below the exhibit number;  
e.g.: "Exhibit 2  
Page 10"

(b) Exhibits appended to a pleading may be incorporated by reference in a later pleading.

**{(c) Except where otherwise required by statute, an exhibit appended to a document must be limited to only material, including an excerpt from another document, that is directly and specifically related to the subject of, and referred to in, the document. A responding party may timely file an additional excerpt or the complete document that the party believes is directly and specifically related. The court may require a party to file an additional excerpt or the complete document.}**



(10) \* \* \*

\* \* \* \* \*

### 3. 2.010(11) – FORM OF DOCUMENTS

#### PROPOSAL

Amend to clarify the elements of a caption.

#### ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

#### EXPLANATION

This proposal was submitted by Lisa J. Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 23, 2012. The proposal more clearly outlines the rule's title and caption requirements. The terms are sometimes used inconsistently and interchangeably under the current rule.

APPROVED AMENDMENT (effective August 1, 2013)

#### 2.010 FORM OF DOCUMENTS

(1) \* \* \*

\* \* \* \* \*

(11) **{Caption}** [Document Title]

- (a) **{Each document submitted to the court for filing must include a caption located near the top of the first page that identifies the following:}** [The title of each document filed with the court must include an identification of the filing party, such as "Plaintiff" or "Defendant." When there are multiple parties on a side, the party submitting the document must be suitably identified, such as "Plaintiff Smith" or "Defendant MegaCorp."]

**{(i) the court to which the document is being submitted for filing;**

**(ii) the names of the parties;**

**(iii) an identification of the parties' roles;**

**(iv) the case number; and**

**(v) a document title that identifies the document being filed, for example, "complaint," "answer," or "motion for stay." Except for the complaint or petition initiating the case, or the initial answer or response, the document title must identify the filing party, for example, "Defendant's Motion for Summary Judgment." When there are multiple parties on a side, the**

**document title must suitably identify the party submitting the document, for example, "Plaintiff Smith's Motion for Stay" or "Defendant MegaCorp.'s Motion to Dismiss."**

- (b) [In] {T}[t]he {document} title of each complaint or petition [and at the beginning of each claim for relief, in the body of the pleading, there] must {indicate} [be indicated] the type of claim, such as "personal injury," "breach of contract," "specific performance{,}" or "reformation of contract." **{If more than one claim for relief is requested, then the body of the pleading also must indicate the type of claim, at the beginning of each claim for relief.}** [The court case number must appear in the caption of every document.]

{(c)} Every motion {directed at a pleading} must show in the {document} title the name of the pleading against which it is directed.

(12) \* \* \*

\* \* \* \* \*

#### 4. 2.010(14) – FORM OF DOCUMENTS

##### PROPOSAL

Amend to change "unrepresented" to "self-represented."

##### ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

##### EXPLANATION

This proposal was submitted by the UTCR Reporter on June 21, 2012. This change adopts accepted terminology for identifying pro se parties.

APPROVED AMENDMENT (effective August 1, 2013)

#### 2.010 FORM OF DOCUMENTS

The form of all documents, including pleadings and motions, except where a different procedure is specified by statute or rule, must be:

(1) \* \* \*

\* \* \* \* \*

#### (14) Notice of Address or Telephone Number Change

An attorney or [unrepresented] {self-represented} party whose address or telephone number changes must immediately mail or deliver notification of such change to the trial court administrator and all other parties.

(15)\* \* \*

5. **3.040 – ADVICE TO CLIENTS AND WITNESSES OF COURTROOM FORMALITIES**

PROPOSAL

Amend to change “unrepresented” to “self-represented.”

ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee’s October 12, 2012, preliminary recommendation of approval becomes the committee’s final recommendation of approval.

EXPLANATION

This proposal was submitted by the UTCR Reporter on June 21, 2012. This change adopts accepted terminology for identifying pro se parties.

APPROVED AMENDMENT (effective August 1, 2013)

3.040 ADVICE TO CLIENTS AND WITNESSES OF COURTROOM FORMALITIES

Attorneys must advise their clients and witnesses of the formalities of the court and must encourage their cooperation. [*Unrepresented*] {**Self-represented**} parties must similarly advise their witnesses and encourage their cooperation.

6. **3.180(2)(c) – MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT EVENTS**

PROPOSAL

Amend to change “mental commitment” to “civil commitment.”

ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee’s October 12, 2012, preliminary recommendation of approval becomes the committee’s final recommendation of approval.

EXPLANATION

This proposal was submitted by Lora Keenan, Court of Appeals Staff Attorney, on February 1, 2012. Current usage favors the term “civil commitment.” In addition, ORS chapter 426 does not use the term “mental commitment.” Similar changes have been proposed for the Oregon Rules of Appellate Procedure. Any changes to this rule must be approved by the Oregon Supreme Court. The court has approved this amendment.

APPROVED AMENDMENT (effective August 1, 2013)

3.180 MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT EVENTS

- (1) Courtrooms. Upon request or on the court’s own motion, after notice to all parties, public access coverage shall be allowed in any courtroom, except as provided under this rule.

- (2) There shall be no public access coverage of the following:
- (a) Proceedings in chambers.
  - (b) Any notes or conversations intended to be private including, but not limited to, counsel and judges at the bench and conferences involving counsel and their clients.
  - (c) Dissolution, juvenile, paternity, adoption, custody, visitation, support, [mental] {civil} commitment, trade secrets, and abuse, restraining and stalking order proceedings.
  - (d) At a victim's request, sex offense proceedings.
  - (e) *Voir dire*.
  - (f) Any juror anywhere during the course of the trial in which he or she sits.
  - (g) Recesses.

(3) \* \* \*

\* \* \* \* \*

NOTE: UTCR 3.180 was adopted by the entire Oregon Supreme Court, and any changes to the rule will be made only with the consent of the Supreme Court.

## 7. **3.180** – MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT EVENTS

### PROPOSAL

Amend to make various changes regarding media access.

### ACTION TAKEN

Motion 1, to make a final recommendation of approval of the proposal except for the proposed amendment of section (2)(d), passed 12-1.

### EXPLANATION

This proposal was submitted by Therese Bottomly, on behalf of the Bar Press Broadcasters Council, on March 5, 2012.

- The changes to section (2)(d) would allow for more expanded coverage of sex offense proceedings. The committee was concerned that the proposal did not offer enough protection for victims. At the meeting on October 12, 2012, the committee modified the proposal to prohibit public access coverage, upon a victim's request, of a victim's in-court statements so that the reading of a victim's impact statement would be protected from public access coverage, in addition to a victim's testimony or likeness.
- The changes to section (3) are meant to clarify the actions that are available to the court in limiting or denying a request for public access coverage.

- The changes to section (7) are meant to give judges the discretion to allow additional equipment in the courtroom.
- The changes to section (8) are meant to make the section consistent with media shield statutes (ORS 44.510 - 44.540) while allowing, in appropriate circumstances, in camera review by the court of materials protected by statute. The current section is in conflict with those statutes because it allows anyone to obtain materials that have been recorded, but not broadcast. At the meeting on October 12, 2012, the committee modified the proposal to add requirements that materials subject to in camera review must be provided to the court promptly and in a format accessible to the court.
- The proposal included a new section (12) stating that nothing in the rule constitutes a waiver of the media shield statutes. At the meeting on October 12, 2012, this proposal became section (11) after the committee deleted current section (11) pertaining to a defunct video trial project as the section is no longer relevant nor needed.

At the meeting on October 12, 2012, two committee members voted against the preliminary recommendation of approval. One was concerned that section (2)(d) does not offer adequate protection for a victim as it does not prohibit public access coverage when a victim's statements are presented through the testimony of other witnesses. One disagreed with the policy of allowing news agencies to have a monopoly on materials recorded, but not broadcast.

The proponents presented this proposal to the Oregon Supreme Court on November 15, 2012.

At the meeting on March 1, 2013, the committee considered written public comment in opposition to expanded coverage of sex offense proceedings as well as testimony on the proposal. The committee concluded that section (2)(d) should not be amended.

The proponents again presented this proposal to the Oregon Supreme Court on April 2, 2013. They withdrew the proposed amendment of section (2)(d) but requested approval for the other amendments to the rule.

Any changes to this rule must be approved by the Oregon Supreme Court. The court accepted the withdrawal of the amendment to section (2)(d) and approved the remaining amendments.

APPROVED AMENDMENT (effective August 1, 2013)

### 3.180 MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT EVENTS

- (1) Courtrooms. Upon request or on the court's own motion, after notice to all parties, public access coverage shall be allowed in any courtroom, except as provided under this rule.
- (2) There shall be no public access coverage of the following:
  - (a) Proceedings in chambers.

- (b) Any notes or conversations intended to be private including, but not limited to, counsel and judges at the bench and conferences involving counsel and their clients.
  - (c) Dissolution, juvenile, paternity, adoption, custody, visitation, support, mental commitment, trade secrets, and abuse, restraining and stalking order proceedings.
  - (d) At a victim's request, sex offense proceedings.
  - (e) *Voir dire*.
  - (f) Any juror anywhere during the course of the trial in which he or she sits.
  - (g) Recesses.
- (3) Limitations on Denial of Public Access Coverage in Courtrooms. A judge may {limit or} deny a request for or terminate public access coverage only if the judge makes findings of fact on the record setting forth substantial reasons for the *[denial]* {ruling}. The judge may prohibit public access coverage if there is a reasonable likelihood of any of the following:
- (a) The public access coverage would interfere with the rights of the parties to a fair trial or would affect the presentation of evidence or outcome of the trial.
  - (b) Any cost or increased burden resulting from the public access coverage would interfere with the efficient administration of justice.
- (4) A judge may summarily prohibit public access coverage of a particular witness only if the judge finds on the record that public access coverage would endanger the welfare of the witness or materially hamper the witness' testimony.
- (5) Areas Outside of Courtrooms. The presiding judge may allow public access coverage in any area outside the courtroom that is on the courthouse premises and under the control and supervision of the court. Courts are encouraged to designate an area or areas outside the courtroom that is on the courthouse premises for public access coverage. For areas subject to this subsection, each judicial district, by SLR, may establish, for any court location, procedures for obtaining permission for public access coverage that differ from this subsection or may designate locations where public access coverage is allowed or prohibited. SLR 3.181 is reserved for SLR adopted under this subsection.
- (6) Public Access Coverage Defined. As used in this rule:
- (a) "Public access coverage" means coverage by means of any public access coverage equipment.
  - (b) "Public access coverage equipment" means any of the following in the possession of persons other than the court or the court's staff:

television equipment; still photography equipment; audio, video, or other electronic recording equipment.

- (7) Equipment and Personnel for Public Access Coverage. The court may limit the location of public access coverage equipment. One pool video camera and one pool still camera and one pool tape recorder shall be permitted. **{The court, at its discretion, may permit additional public access coverage equipment, consistent with the considerations in subsections (3)(a) and (b).}**
- (a) No public access coverage device shall be operated by more than one person.
- (b) No person shall use public access coverage equipment that interferes or distracts from proceedings in the courtroom.
- (c) The video camera must be mounted on a tripod or other device or installed in the courtroom. The tripod or other device must not be moved while the proceedings are in session. Video equipment must be screened where practicable or located and operated as directed by the court.
- (d) No artificial lighting devices of any kind shall be allowed.
- (e) Any pooling arrangement required by limitations on equipment and personnel imposed by the judge or by this rule must be the sole responsibility of the persons seeking public access coverage, without calling upon the judge to mediate any disputes involved therein. In the absence of agreement on such issues by persons seeking public access coverage, the judge may exclude any or all public access coverage.
- (8) Upon request **{by the court for the purpose of determining whether there has been a violation of this rule, or to assure the effective administration of justice}**, any person engaging in public access coverage of a court event or in a courtroom, courthouse, its premises, or environs under the control and supervision of the court must **{promptly}** provide to the court, without expense, **{for the court's in camera review,}** [or to any other person, if the requestor pays actual copying expense,] a copy of any public access coverage the person performed **{in a format accessible to the court}**. **{Said copy may be retained by the court, subject to sealing, if necessary for the further administration of justice.}**
- (9) A judge may impose other restrictions or limitations necessary to preserve the solemnity, decorum, and dignity of the court and to protect the parties, witnesses, and jurors. A judge may terminate any or all public access coverage at any point upon finding, based on substantial reasons in the record, that this UTCR or other rules imposed by the judge have been violated.
- (10) Nothing in this rule is intended to limit the court's contempt powers.
- (11) *[Nothing in this rule shall alter or affect the rules of the Supreme Court promulgated under "Video-Trial Project No. 88-38." Under that project, the*

*audio-video coverage constitutes the entire record. In all other courts, the record shall be preserved with court reporters or audiotape. Restrictions on releasing audio-video coverage in courts participating in the Video-Trial Project shall be set forth in separate rules.] {**Nothing in this rule constitutes a waiver of ORS 44.510 - 44.540 (media shield law).**}*

NOTE: UTCR 3.180 was adopted by the entire Oregon Supreme Court, and any changes to the rule will be made only with the consent of the Supreme Court.

## 8. 4.060(2) – MOTION TO SUPPRESS EVIDENCE

### PROPOSAL

Amend to allow, upon a showing of good cause, a written response more than 7 days after a motion to suppress is filed.

### ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

### EXPLANATION

This proposal was submitted by The Honorable Brian C. Dretke and The Honorable Russell B. West, Tenth Judicial District, on August 9, 2012. The committee concluded that the current 7-day requirement for the state to file a response to a motion to suppress can be an unreasonably short time frame. The proposal would allow the court to extend the time upon a showing of good cause.

APPROVED AMENDMENT (effective August 1, 2013)

### 4.060 MOTION TO SUPPRESS EVIDENCE

#### (1) All motions to suppress evidence:

- (a) must make specific reference to any constitutional provision, statute, rule, case, or other authority upon which it is based; and
- (b) must be accompanied by the moving party's brief which must be adequate reasonably to apprise the court and the adverse party of the arguments and authorities relied upon.

#### (2) Any response to a motion to suppress:

- (a) together with opposing affidavits, if any, upon which it is based must be in writing and must be served and filed{, **absent a showing of good cause,**} not more than 7 days after the motion to suppress has been filed;
- (b) must state the grounds thereof and, if the relief or order requested is not opposed, wholly or in part, a specific statement of the extent to which it is not opposed; and



- (c) must make specific reference to any affidavits relied on and must be accompanied by an opposition brief adequate reasonably to apprise the court and moving party of the arguments and authorities relied upon.
- (3) When averments in an affidavit are made upon information and belief, the affidavit must indicate the basis thereof.
- (4) Failure to file a written response shall not preclude a hearing on the merits.

1991 Commentary:

The Committee proposes these amendments to clarify its intent in originally adopting this rule that a written response not be required.

**9. 5.100(1)(c) – SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS**

PROPOSAL

Amend to change “unrepresented” to “self-represented.”

ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee’s October 12, 2012, preliminary recommendation of approval becomes the committee’s final recommendation of approval.

EXPLANATION

This proposal was submitted by the UTCR Reporter on June 21, 2012. This change adopts accepted terminology for identifying pro se parties.

APPROVED AMENDMENT (effective August 1, 2013)

**5.100 SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS**

- (1) Any proposed judgment or proposed order submitted in response to a ruling of the court must be:
  - (a) served on opposing counsel not less than 3 days prior to submission to the court, or
  - (b) accompanied by a stipulation by opposing counsel that no objection exists as to the form of the judgment or order, or
  - (c) mailed to a[n] [*unrepresented*] {**self-represented**} party at the party’s last known address not less than 7 days prior to submission to the court, or
  - (d) presented in open court with the parties present.

(2) \* \* \*

\* \* \* \* \*

## **10. 5.160 – SEALED DOCUMENTS**

### **PROPOSAL**

Adopt a new rule for filing documents under seal.

### **ACTION TAKEN**

Motion 7, to make a final recommendation of approval of the version of the proposal set forth on page 95 of the agenda materials, passed by consensus.

### **EXPLANATION**

This proposal was submitted by Bert Krages, a Portland attorney, on July 10, 2009. The committee formed a work group to study the issue. Work on the proposal was suspended pending a ruling from the Oregon Supreme Court regarding the open courts doctrine. The work group presented a proposed rule to the committee at the October 12, 2012, meeting. The committee discussed the status of current case law on sealing documents. While it seems clear that documents can be sealed, that authority may be subject to express statutory authority for sealing. There is statutory authority, for example, to seal juvenile court records, search warrants, adoption records, trade secret documents, and Department of Human Services documents. In addition, ORCP 36 C allows the court to place limits on discovery. The proposed rule requires the moving party to identify supporting statutory authority. The committee discussed concerns over whether there is adequate court staff to ensure that documents are properly sealed. They also discussed concerns over the status of documents when a court denies a request to seal. They discussed whether the rule needs to include a mechanism for a party to withdraw those documents if the request is denied. The committee concluded that there may be a need for a rule, but that it requires additional study.

The work group presented another version of the rule at the March 1, 2013, meeting. The committee discussed whether to include a section on access to sealed documents. They decided that such a section was unnecessary. Once a document has been sealed by the court, there can be no access to the document absent an order allowing access.

**APPROVED RULE (effective August 1, 2013)**

### **5.160 SEALED DOCUMENTS**

- (1) A party seeking an order to file documents or materials under seal must file a motion with the court that specifies all of the following:
  - (a) The statutory authority for sealing the documents or materials.
  - (b) The reasons for protecting the documents or materials from public inspection.
  - (c) A description of the documents or materials to be sealed.
- (2) At the direction of the judge hearing the motion, the moving party must submit the documents to the court for in camera review.
- (3) The court's order on the motion may include directions to the clerk's office to do one of the following:

- (a) File the documents or materials, unsealed, in the court file.
  - (b) File the documents or materials under seal in the court file.
  - (c) Return the documents, unfiled, to the moving party.
- (4) When documents or materials are filed under seal, the filing party must present the clerk with a copy of the signed court order and submit the documents or materials in a sealed envelope marked "SEALED DOCUMENTS OR MATERIALS" and with a notation that identifies the case caption and the party making the submission. In addition, all documents ordered to be filed under seal must have the words "FILED UNDER SEAL BY COURT ORDER" located directly below the document title.

#### 11. 6.050 – SUBMISSION OF TRIAL MEMORANDA

##### PROPOSAL

Amend to add a requirement regarding trial exhibits.

##### ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

##### EXPLANATION

This proposal was submitted by Lisa J. Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on July 16, 2012. This change is related to a similar requirement to be deleted from UTCR 21.070(4)(c). Trial exhibits should be presented to the trial judge and should not be electronically filed.

APPROVED AMENDMENT (effective August 1, 2013)

6.050 SUBMISSION OF TRIAL MEMORANDA {**AND TRIAL EXHIBITS**}

{**(1)**} Trial memoranda, if any, must be filed with the trial court administrator, and copies must be delivered concurrently to the court and to opposing parties.

{**(2) Trial exhibits must be delivered or submitted as ordered by the assigned judge and not filed with the clerk of court.**}

#### 12. 6.060(2) – PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS

##### PROPOSAL

Amend to eliminate the requirement that a party must submit to the court an extra copy of requested jury instructions and verdict forms.

#### ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

#### EXPLANATION

This proposal was submitted by Lisa J. Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on March 28, 2012. Courts that implement the Oregon eCourt Program will not need paper copies because parties will submit electronic versions. It does not make sense to require parties to file an original and a copy of an electronic submission. In addition, paper copies of an electronic submission can be made as needed. Even courts that use paper files do not necessarily need an extra copy, but the proposed rule does allow a court to require parties to submit extra paper copies.

APPROVED AMENDMENT (effective August 1, 2013)

#### 6.060 PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS

- (1) All requested jury instructions and verdict forms must be in writing and delivered concurrently to the trial judge and to opposing parties.
- (2) The original [*and one copy*] of the requested jury instructions and verdict forms must be submitted to the court. **{The court also may require that a party submit a copy of the jury instructions and verdict forms, in the manner and time that the court specifies.}**

(3) \* \* \*

\* \* \* \* \*

### 13. 6.080(6) – MARKING EXHIBITS

#### PROPOSAL

Amend to cite to the applicable ORS, rather than to Oregon Laws.

#### ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

#### EXPLANATION

This proposal was submitted by the UTCR Reporter on October 9, 2012. Only the Oregon Laws citation was available when the rule was last amended. The ORS citation has since become available.

APPROVED AMENDMENT (effective August 1, 2013)

#### 6.080 MARKING EXHIBITS

(1) \* \* \*

\* \* \* \* \*

- (5) At the time of trial or hearing involving a covered offense, a party introducing an exhibit that contains biological evidence must provide the court in writing with the name, agency, mailing address, and telephone number for the custodian responsible for each exhibit that contains biological evidence. Counsel also must indicate whether the biological evidence was collected by the defense. For a trial, this information must be submitted with the list of premarked exhibits required under subsection (3) of this rule.
- (6) For purposes of this rule, the following definitions apply:
  - (a) "Biological evidence" has the meaning given in [*Oregon Laws 2011, chapter 275, section 2 (SB 731)*] **{ORS 133.705}**.
  - (b) "Covered offense" has the meaning given in [*Oregon Laws 2011, chapter 275, section 2 (SB 731)*] **{ORS 133.705}**.
  - (c) "Custodian" has the meaning given in [*Oregon Laws 2011, chapter 275, section 2 (SB 731)*] **{ORS 133.705}**.

#### **14. 6.120(1) – DISPOSITION OF EXHIBITS**

##### **PROPOSAL**

Amend to cite to the applicable ORS, rather than to Oregon Laws.

##### **ACTION TAKEN**

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

##### **EXPLANATION**

This proposal was submitted by the UTCR Reporter on October 9, 2012. Only the Oregon Laws citation was available when the rule was last amended. The ORS citation has since become available.

APPROVED AMENDMENT (effective August 1, 2013)

##### **6.120 DISPOSITION OF EXHIBITS**

- (1) Unless otherwise ordered or except as otherwise provided in [*Oregon Laws 2011, chapter 275, section 1 (SB 731)*] **{ORS 133.707}**, all exhibits shall be returned to the custody of counsel for the submitting parties upon conclusion of the trial or hearing. Such counsel must sign an acknowledgment of receipt for the exhibits returned. Counsel to whom any exhibits have been returned must retain custody and control until final disposition of the case unless the exhibits are returned to the trial court pursuant to subsections (2) or (3) of this rule. Both documentary and nondocumentary exhibits submitted by parties not represented by counsel shall be retained by the trial court, subject to subsection (4) of this rule.

(2) \* \* \*

\* \* \* \* \*

## 15. 7.020 – SETTING TRIAL DATE IN CIVIL CASES

### PROPOSAL

Amend to require submission of a proposed order with a motion to continue.

### ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

### EXPLANATION

This proposal was submitted by Linda Hukari, Benton County Trial Court Administrator, on August 29, 2012. The proposal makes clear that a proposed order must be submitted with a motion to continue a case.

APPROVED AMENDMENT (effective August 1, 2013)

### 7.020 SETTING TRIAL DATE IN CIVIL CASES

- (1) After service is made, the serving party must forthwith file the return or acceptance of service with the trial court administrator.
- (2) If no return or acceptance of service has been filed by the 63rd day after the filing of the complaint, written notice shall be given to the plaintiff that the case will be dismissed for want of prosecution 28 days from the date of mailing of the notice unless proof of service is filed within the time period, good cause to continue the case is shown to the court on motion supported by affidavit **{and accompanied by a proposed order,}** or the defendant has appeared.
- (3) If proof of service has been filed and any defendant has not appeared by the 91st day from the filing of the complaint, the case shall be deemed not at issue and written notice shall be given to the plaintiff that the case will be dismissed against each nonappearing defendant for want of prosecution 28 days from the date of mailing of the notice unless one of the following occurs:
  - (a) An order of default has been filed and entry of judgment has been applied for.
  - (b) Good cause to continue the case is shown to the court on motion supported by affidavit **{and accompanied by a proposed order,}**
  - (c) The defendant has appeared.

(4) \* \* \*

\* \* \* \* \*

**16. 9.030(3) – ADDRESSES AND TELEPHONE NUMBERS REQUIRED**

**PROPOSAL**

Amend to change “unrepresented” to “self-represented.”

**ACTION TAKEN**

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee’s October 12, 2012, preliminary recommendation of approval becomes the committee’s final recommendation of approval.

**EXPLANATION**

This proposal was submitted by the UTCR Reporter on June 21, 2012. This change adopts accepted terminology for identifying pro se parties.

APPROVED AMENDMENT (effective August 1, 2013)

**9.030 ADDRESSES AND TELEPHONE NUMBERS REQUIRED**

(1) \* \* \*

\* \* \* \* \*

(3) The trial court administrator must be promptly notified by separate document of any change in address or telephone number of any attorney of record, [unrepresented] {**self-represented**} party, guardian, conservator, or personal representative.

**17. 9.180 – VOUCHERS AND DEPOSITORY STATEMENTS**

**PROPOSAL**

Amend to create a requirement that courts statewide accept a form to disclose accounts and other assets held by a depository in situations where periodic account statements are not issued (for example, a certificate of deposit).

**ACTION TAKEN**

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee’s October 12, 2012, preliminary recommendation of approval becomes the committee’s final recommendation of approval.

**EXPLANATION**

This proposal was submitted by Matt Whitman, UTCR Committee member, on March 21, 2012. The concept was the result of work done by The Honorable Claudia Burton, Marion County Circuit Court, and representatives of bankers’ groups to establish a form for use in situations where periodic account statements are not issued.

9.180 VOUCHERS AND DEPOSITORY STATEMENTS

- (1) Unless otherwise provided by statute, SLR, or order of the court, a voucher for each disbursement reported in the accounting must accompany the accounting as a separate exhibit or shall be attached to a cover page showing the case caption. Vouchers required by statute or order of the court must be documents evidencing each disbursement and showing the name of the payee, date, and amount.
- (2) Unless the fiduciary is excused from the requirement of filing vouchers, the accounting shall include depository statements for each account. An opening depository statement must evidence the account beginning balance, unless one was submitted with a previous accounting. A closing depository statement must evidence the balance in the account within 30 days of the close of the accounting period or on the date of closing of an account closed during the accounting period.

**{(3) In a proceeding involving fiduciary accounts for which the depository does not issue regular statements, the court must accept a Depository Certification of Funds on Deposit that is substantially in the form specified in Form 9.180.3 in the UTCR Appendix of Forms.}**

- [(3)]{4} For purposes of this rule, a "depository" is an entity holding assets of the estate or conservatorship, including a bank, stock and bond broker, mutual fund, or similar entity.
- [(4)]{5} Copies of vouchers and depository statements need not be served on persons entitled to copies of the accountings or on persons who have requested notice in the proceedings.

**18. Form 9.180.3 – DEPOSITORY CERTIFICATION OF FUNDS ON DEPOSIT**

PROPOSAL

Adopt a new form to disclose accounts and other assets held by a depository in situations where periodic account statements are not issued (for example, a certificate of deposit).

ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Matt Whitman, UTCR Committee member, on March 21, 2012. The concept was the result of work done by The Honorable Claudia Burton, Marion County Circuit Court, and representatives of bankers' groups to establish a form for use in situations where periodic account statements are not issued.



APPROVED FORM (effective August 1, 2013)

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR \_\_\_\_\_ COUNTY  
Probate Department

In the matter of the ☐ Guardianship ☐ Estate )  
of: ) Case No \_\_\_\_\_  
)  
) **DEPOSITORY CERTIFICATION OF**  
) **FUNDS ON DEPOSIT**  
)  
☐ A Protected Person ☐ Deceased )

I hereby certify that the following funds were on deposit in the name of this conservatorship/  
estate as of \_\_\_\_\_ (date):

| Account #<br>(last 4 digits) | Type of Account | Balance | Maturity |
|------------------------------|-----------------|---------|----------|
|                              |                 |         |          |
|                              |                 |         |          |
|                              |                 |         |          |
|                              |                 |         |          |

***I hereby declare that the above statement is true to the best of my knowledge and belief,  
and that I understand that it is made for use as evidence in court and subject to penalty  
for perjury.***

DATE SIGNED: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Name of Financial Institution

\_\_\_\_\_  
Address and Telephone Number

***Note: This document must be signed by an officer or person authorized to certify the  
accounts at the institution.***

**19. Form 9.410.1 – ORDER REGARDING CONFIDENTIAL INFORMATION  
DISCLOSED BY DEPARTMENT OF HUMAN RESOURCES OR THE OREGON  
HEALTH AUTHORITY**

**PROPOSAL**

Amend to change “unrepresented” to “self-represented” in paragraphs 7, 8, and 9.

**ACTION TAKEN**

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee’s October 12, 2012, preliminary recommendation of approval becomes the committee’s final recommendation of approval.

**EXPLANATION**

This proposal was submitted by the UTCR Reporter on June 21, 2012. This change adopts accepted terminology for identifying pro se parties.

APPROVED AMENDMENT (effective August 1, 2013) [see next page]

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR \_\_\_\_\_ COUNTY  
Probate Department

In the matter of the Guardianship of: \_\_\_\_\_ ) Case No \_\_\_\_\_  
\_\_\_\_\_, )  
Respondent. ) **ORDER REGARDING CONFIDENTIAL**  
 ) **INFORMATION DISCLOSED BY**  
 ) **DEPARTMENT OF HUMAN SERVICES OR**  
 ) **THE OREGON HEALTH AUTHORITY**

This matter came before the court on the Petition for Appointment of \_\_\_\_\_  
as Fiduciary for \_\_\_\_\_. Confidential information from the Department of  
Human Services or the Oregon Health Authority, hereinafter referred to as "the information", has  
been submitted in accordance with ORS 125.012.

IT IS HEREBY ORDERED

1. \* \* \*

\* \* \* \* \*

7. At the time of hearing, the [*unrepresented*] {**self-represented**} Petitioner, Respondent, Objector, and any nominated or appointed fiduciary may have a copy of the information in the courtroom for purposes of the hearing.
8. The [*unrepresented*] {**self-represented**} party must return the copy of the information to the clerk of the court at the conclusion of the proceeding.
9. The [*unrepresented*] {**self-represented**} party shall not remove any copy of the information from the courtroom without prior permission of the court.

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

\_\_\_\_\_  
Circuit Court Judge

**20. 11.050 – TIME REQUIRED FOR HOLDING DISPOSITIONAL HEARING**

**PROPOSAL**

Repeal the rule because it is inconsistent with statute.

**ACTION TAKEN**

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

**EXPLANATION**

This proposal was submitted by Michael C. Livingston, Oregon Judicial Department Juvenile Law Staff Counsel, on January 6, 2012. This rule addresses timelines to disposition in dependency cases. Pursuant to ORS 419B.305(1) (which was amended sometime after this rule was adopted), adjudication and disposition in dependency cases must occur within 60 days. The rule extends that time beyond 80 days. The rule conflicts with statute and is no longer needed.

APPROVED REPEAL (effective August 1, 2013)

*[11.050 TIME REQUIRED FOR HOLDING DISPOSITIONAL HEARING*

*A dispositional hearing shall be held within 28 days after the court assumes jurisdiction, except as ordered by the court on a showing of good cause.]*

**21. Form 15.010.1a – SMALL CLAIM AND NOTICE OF SMALL CLAIM**

**PROPOSAL**

Amend to add a request for an interpreter to the caption.

**ACTION TAKEN**

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

**EXPLANATION**

This proposal was submitted by Andrea K. Nofziger, Marion County Circuit Court administrative analyst, on August 7, 2012. The proposal adds a section to the caption on each form to allow a party to request an interpreter.

APPROVED AMENDMENT (effective August 1, 2013) [see next page]

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR \_\_\_\_\_ COUNTY

**Small Claims Department**

|                                                     |   |                                                                                                              |
|-----------------------------------------------------|---|--------------------------------------------------------------------------------------------------------------|
| _____                                               | ) |                                                                                                              |
| _____                                               | ) |                                                                                                              |
| _____                                               | ) | <b>Case No:</b> _____                                                                                        |
| Plaintiff                                           | ) |                                                                                                              |
| _____                                               | ) |                                                                                                              |
| (Inmate ID #, if applicable, _____)                 | ) |                                                                                                              |
| v.                                                  | ) | <b>SMALL CLAIM AND</b>                                                                                       |
| _____                                               | ) | <b>NOTICE OF SMALL CLAIM</b>                                                                                 |
| _____                                               | ) |                                                                                                              |
| _____                                               | ) | Filing fee at ORS 46.570                                                                                     |
| Defendant                                           | ) | { <u>Interpreter needed:</u> <input type="checkbox"/> <b>Spanish</b> <input type="checkbox"/> <b>Russian</b> |
| <input type="checkbox"/> Defendant is a public body | ) | <input type="checkbox"/> <u>other:</u> _____}                                                                |

**PLAINTIFF** (☐ Additional on attached page)

**DEFENDANT** (☐ Additional on attached page)

\_\_\_\_\_

Name

\_\_\_\_\_

Name (enter Registered Agent, if necessary, on next page)

\_\_\_\_\_

Street

\_\_\_\_\_

Street (do not use a P.O. Box)

\_\_\_\_\_

City / State / Zip

\_\_\_\_\_

City / State / Zip

\_\_\_\_\_

Phone

\_\_\_\_\_

County

\_\_\_\_\_

Phone

\_\_\_\_\_

County

I, Plaintiff, claim that on or about (date) \_\_\_\_\_, the above-named defendants owed me the sum of \$ \_\_\_\_\_ because \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, and this amount is still due.

I have paid (or will pay):

filing fees of \$ \_\_\_\_\_

and service costs of \$ \_\_\_\_\_

|         |          |
|---------|----------|
| Claim   | \$ _____ |
| + Fees  | \$ _____ |
| + Costs | \$ _____ |
| TOTAL   | \$ _____ |

---

## DECLARATION OF BONA FIDE EFFORT

I, Plaintiff, have made a bona fide effort to collect this claim from the defendants before filing this claim with the court clerk.

---

**I hereby declare that the above statements are true to the best of my knowledge and belief, and that I understand they are made for use in court and I am subject to penalty for perjury.**

---

Date

---

Plaintiff Signature

---

Plaintiff Name (print)

### DEFENDANT'S REGISTERED AGENT:

---

Name

---

Street (do not use a P.O. Box)

---

City / State / Zip

---

Phone

---

County

**NOTICE TO DEFENDANT:**  
**READ THESE PAPERS CAREFULLY!**

Within **14 DAYS\*** after receiving this notice you **MUST** do **ONE** of the following things in writing:

- Pay the claim plus filing fees and service expenses paid by plaintiff (send payment directly to the plaintiff, not to the court) **OR**
- Demand a hearing and pay the fee required (below) **OR**
- Demand a jury trial and pay the fee required (below). This option is available **only** if amount claimed is more than \$750.

If you fail to do one of the above within 14 DAYS\* after you get this notice, the plaintiff may ask the court to enter a judgment against you. The judgment will be for the amount of the claim, plus filing fees and service costs paid by the plaintiff, plus a prevailing party fee. If you are not able to respond in time because you are in active military service of the United States, talk to a legal advisor about the Servicemembers Civil Relief Act.

**COURT NAME / ADDRESS / PHONE #**

>  
>  
>

**Defendant's Filing Fees** (*must be filled in by the PLAINTIFF*):

- |                                                                    |          |
|--------------------------------------------------------------------|----------|
| (1) To demand a hearing if the amount claimed is \$2,500 or less   | \$ _____ |
| (2) To demand a hearing if the amount claimed is more than \$2,500 | \$ _____ |
| (3) To demand a jury trial (only if amount claimed is over \$750)  | \$ _____ |

If you have questions about filing procedures, go to [www.courts.oregon.gov](http://www.courts.oregon.gov) for information and instructions, or you may contact the court clerk. The clerk *cannot* give you legal advice about the claim.

---

---

**\*NOTE:** If the plaintiff is an inmate (ORS 30.642) AND the defendant is a government agency or other public body (ORS 30.260), the defendant must respond within **30 days** after receiving this Notice.

## **22. Form 15.010.1e – DEFENDANT’S RESPONSE**

### **PROPOSAL**

Amend to add a request for an interpreter to the caption.

### **ACTION TAKEN**

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee’s October 12, 2012, preliminary recommendation of approval becomes the committee’s final recommendation of approval.

### **EXPLANATION**

This proposal was submitted by Andrea K. Nofziger, Marion County Circuit Court administrative analyst, on August 7, 2012. The proposal adds a section to the caption on each form to allow a party to request an interpreter.

APPROVED AMENDMENT (effective August 1, 2013) [see next page]



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR \_\_\_\_\_ COUNTY  
**Small Claims Department**

|           |   |                                                                                               |
|-----------|---|-----------------------------------------------------------------------------------------------|
|           | ) |                                                                                               |
|           | ) |                                                                                               |
|           | ) | <b>Case No:</b> _____                                                                         |
| Plaintiff | ) |                                                                                               |
| v.        | ) | <b>DEFENDANT'S RESPONSE</b>                                                                   |
|           | ) |                                                                                               |
|           | ) | <u>{Interpreter needed: <input type="checkbox"/> Spanish <input type="checkbox"/> Russian</u> |
|           | ) | <input type="checkbox"/> <u>other: _____</u>                                                  |
| Defendant | ) |                                                                                               |

***EACH Defendant must file a separate response*** (spouses and Registered Domestic Partners may file a joint response)

☐ **PAYMENT OF CLAIM:**

Proof of payment (including fees and costs) to Plaintiff is attached (or proof that the requested property was returned to Plaintiff).

Total Amount Paid: \$ \_\_\_\_\_ (or) Describe property and method of return:

\_\_\_\_\_  
\_\_\_\_\_

☐ **DENIAL OF CLAIM**

I deny the plaintiff's claim and demand a ☐ hearing (or) ☐ jury trial.\*

\*The claim must be for more than \$750 (without fees and costs) to request a jury trial.

☐ **COUNTERCLAIM:**

I make the following counterclaim\* against the plaintiff for \$\_\_\_\_\_.

\*Counterclaims must arise out of the same transaction or event as the plaintiff's claim.

I, Defendant, claim that on or about (date) \_\_\_\_\_, the above-named plaintiff owed me the amount claimed because \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, and this amount is still due.

If the amount is the value of property that you believe should be given to you, describe the property: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Street

\_\_\_\_\_  
City/State/ZIP

\_\_\_\_\_  
Phone

## **23. 15.020 – TIME REQUIRED FOR HOLDING DISPOSITIONAL HEARING**

### **PROPOSAL**

Adopt a new rule establishing timing requirements for dismissals for want of prosecution in small claims actions.

### **ACTION TAKEN**

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

### **EXPLANATION**

This proposal was submitted by Lisa J. Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on September 2, 2011. The committee discussed a draft rule that was submitted by Liz Rambo, Lane County Trial Court Administrator, on August 22, 2012. The rule is needed to establish statewide uniformity for the Oregon eCourt Program to aid in automating certain court processes. The Oregon Collectors Association expressed concern that a short time limit could not be met in a significant number of small claims actions, especially those with two or more defendants where it is difficult to accomplish service. They felt that this could result in more requests for continuances, which would increase workload for the courts. They requested a time limit of 63 days, the same as in a regular civil action. The committee discussed that a 63-day limit could cause a conflict with the timely disposition standards. They discussed that the general incentive of collectors and finance companies is to resolve these cases as quickly as possible. The collectors also requested wording to specifically allow a request for continuance. The committee felt that addition was unnecessary because a continuance can already be requested. The committee invited the collectors to bring this issue back to the committee if the collectors begin to have trouble getting continuances. The committee adopted the 63-day limit and declined to add wording for continuances.

APPROVED RULE (effective August 1, 2013)

### **15.020 DISMISSAL OF SMALL CLAIMS FOR WANT OF PROSECUTION**

- (1) After service is made, the serving party must forthwith file the return or acceptance of service with the trial court administrator.
- (2) If no return or acceptance of service is filed by the 63rd day after the filing of the complaint, the court may dismiss the case for want of prosecution.
- (3) If proof of service is filed and any defendant does not appear by the 35<sup>th</sup> day after the proof of service is filed, the court may dismiss the complaint against each nonappearing defendant for want of prosecution unless the plaintiff has applied for a default judgment.

## **24. 19.020 – INITIATING INSTRUMENT REQUIREMENTS**

### **PROPOSAL**

Amend for clarity and to require additional information in the caption and in the body of the instrument.

#### ACTION TAKEN

Motion 2, to make a final recommendation of approval of the updated draft of the proposal that appears on pages 62-64 of the agenda materials, passed by consensus.

#### EXPLANATION

This proposal was submitted by Lisa J. Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on March 26, 2012. The proponent explained that it is difficult to tell whether the applicable statutes require opening a new case file or the use of an existing case file in contempt proceedings. The proposal is not meant to correct conflicts in statute regarding the new case versus existing case issue. The proposal does require parties to put more information in the caption regarding the underlying case, if it exists, and whether they are seeking remedial or punitive contempt. It requires parties to list the related court or administrative case number. The proponent anticipates that the Oregon eCourt Program will be able to capture the underlying case to give the judge more information.

At the March 1, 2013, meeting the proponent presented an updated draft of the proposal to include juvenile proceedings from an "agency" (such as Oregon Youth Authority or the Department of Human Services) or from a "department" (such as a juvenile department), as well as from a juvenile court case.

Any changes to this rule must be approved by the Oregon Supreme Court. The court has approved this amendment.

APPROVED AMENDMENT (effective August 1, 2013)

#### 19.020 INITIATING INSTRUMENT REQUIREMENTS **{AND MAXIMUM SANCTIONS}**

(1) In addition to any other requirements for initiating instruments, the initiating instrument in a contempt proceeding under ORS 33.055 (remedial) or ORS 33.065 (punitive), must state:

(a) **{in the caption, the word "remedial" or "punitive," as appropriate, and the words "violation of restraining order," if appropriate.}** *[the maximum sanction(s) that the party seeks;]*

(b) **{in the instrument:}** *[whether the party seeks a sanction of confinement; and]*

**{(i) the maximum sanction(s) that the party seeks;}**

**{(ii) whether the party seeks a sanction of confinement; and}**

*([c]{iii}) as to each sanction sought, whether **{the party seeking the sanction}** [plaintiff] considers the sanction remedial or punitive.*

**{(2) If a party is initiating a contempt proceeding under ORS 33.055 (remedial) and a related circuit court case exists, the party must initiate the contempt proceeding by filing a motion in the related case.}**

{(3) An initiating instrument in a contempt proceeding under ORS 33.055 (remedial) that initiates a new circuit court case must state, in the first paragraph:

(a) if arising from a justice court or municipal court proceeding, the court name, the case name and number, and a description of the nature of that proceeding;

(b) if arising from an agency proceeding other than a child support proceeding, the agency name, the agency case name and number, and a description of the nature of that proceeding; or

(c) if arising from an agency proceeding that is a juvenile proceeding, the information required in paragraph (b) of this section as to any applicable agency or department, and any applicable juvenile department petition number.}

{(4) An accusatory instrument in a contempt proceeding under ORS 33.065 (punitive) must state, as applicable:

(a) in the caption, if arising from an existing circuit court case, the words "Related to [Court Name] Case No. [Case Number]."

(b) in the first paragraph:

(i) if arising from an existing circuit court case, the court name, the case name and number, and the nature of that case;

(ii) if arising from an existing juvenile court case, the court name, the case name and number, the juvenile department petition number, if any, and the nature of that case.

(iii) if arising from a justice court or municipal court proceeding, the court name, the court case name and number, and a description of the nature of that proceeding;

(iv) if arising from an agency proceeding, the agency name, the agency case name and number, and a description of the nature of that proceeding; or

(v) if arising from a juvenile proceeding, the information required in paragraph (b)(iv) of this section as to any applicable agency or department, and any applicable juvenile department petition number.}

[(2){5}] Maximum {Sanction} [Penalty] Imposed

The court shall not impose a sanction greater than the sanction sought. A punitive sanction is presumed greater than a remedial sanction. A punitive sanction of confinement is presumed greater than other punitive sanctions. A remedial sanction of confinement is presumed greater than other remedial sanctions.

## 25. 21.010(7) – DEFINITIONS

### PROPOSAL

Amend to delete section (7).

### ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

### EXPLANATION

This proposal was submitted by the UTCR Reporter on June 21, 2012. Several rules were amended to change "unrepresented" to "self-represented." In light of those changes, UTCR 21.010(7) is deleted as unnecessary.

APPROVED AMENDMENT (effective August 1, 2013)

## 21.010 DEFINITIONS

The following definitions apply to this chapter:

(1) \* \* \*

\* \* \* \* \*

[(7)] *Unrepresented party means a person who appears in an action without a lawyer.*

[(8)]{7} "Service contact" means any party to be served electronically by the electronic filing system, through email notification.

[(9)]{8} "Other service contact" means any person associated with the filer for purposes of an action whom the filer wishes to receive email notification from the electronic filing system of documents electronically served in the action. An "other service contact" includes another lawyer, administrator, or staff from the filer's place of business, or another person who is associated with the filer regarding the action or otherwise has a legitimate connection to the action.

## 26. 21.070(4) – SPECIAL FILING REQUIREMENTS

### PROPOSAL

Amend to clarify requirements regarding trial exhibits.

### ACTION TAKEN

No public comment received. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 12, 2012, preliminary recommendation of approval becomes the committee's final recommendation of approval.

#### EXPLANATION

This proposal was submitted by Lisa J. Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on July 16, 2012. The proposal conforms the rule to similar changes to UTCR 2.010(9) and 6.050(2).

APPROVED AMENDMENT (effective August 1, 2013)

#### 21.070 SPECIAL FILING REQUIREMENTS

(1) \* \* \*

\* \* \* \* \*

(4) Limits on *[Attachments and]* Exhibits

*[(a) A filer who electronically submits for filing a document that includes one or more exhibits or attachments must limit the exhibits or attachments to only material, including an excerpt from another document, that is directly and specifically related to the subject of, and referred to in, the document being submitted for electronic filing. A responding party may timely file an additional excerpt or the complete document that the party believes is directly and specifically related. The court may require a party to file an additional excerpt or the complete document.]*

*([a])[b]) A demonstrative or oversized exhibit must be filed conventionally.*

*([b])[c]) Trial exhibits may not be filed electronically **and must be submitted or delivered as provided in UTCR 6.050(2)** [or conventionally with the court and must be delivered or submitted as ordered by the assigned judge].*

(5) \* \* \*

#### B. OUT-OF-CYCLE CHANGES

These changes to the 2012 UTCR became effective after August 1, 2012, and before August 1, 2013. They will be incorporated into the 2013 UTCR.

##### 1. 5.140 and Form 5.140.1c – INTERSTATE DEPOSITION INSTRUMENTS

#### EXPLANATION

UTCR 5.140 and Form 5.140.1c were amended out-of-cycle by way of Chief Justice Order 12-062, effective September 10, 2012. Chief Justice Order 12-062 can be found [here](#).

##### 2. 5.150 – EXPEDITED CIVIL JURY CASES

UTCR 5.150 was amended out-of-cycle by way of chief Justice Order 13.036; effective June 11, 2013. Chief Justice Order 13.036 can be found [here](#).

### **3. Chapter 21 – FILING AND SERVICE BY ELECTRONIC MEANS**

#### **EXPLANATION**

UTCR 21.040, 21.050, 21.070, 21.080, 21.090, and 21.120 were amended out-of-cycle by way of Chief Justice Order 13-014, effective March 26, 2013. Chief Justice Order 13-014 can be found [here](#).

### **C. COMMITTEE RECOMMENDATIONS OF DISAPPROVAL**

#### **1. 9.160(1)(a) – FORM OF ACCOUNTINGS**

##### **PROPOSAL**

Amend to change “30 days” to “60 days.”

##### **ACTION TAKEN**

No public comment received. No motions were made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee’s October 12, 2012, preliminary recommendation of disapproval becomes the committee’s final recommendation of disapproval.

##### **EXPLANATION**

This proposal was submitted by Cheryl McCord, Oregon State Bar Legal Publications, on July 16, 2012. The proponent was concerned that the rule conflicts with ORS 116.083. The rule establishes the period of time the accounting must cover. The statute establishes when an accounting must be filed and so addresses a different issue. Committee member Miner discussed this with the proponent before the meeting. Both agreed that there is no conflict between the rule and the statute and so there is no reason to change the rule.

### **D. OTHER COMMITTEE ACTIONS**

#### **1. 4.060(2) – MOTION TO SUPPRESS EVIDENCE**

##### **PROPOSAL**

Amend to create new requirements in instances when the burden of proof shifts to the prosecution.

##### **ACTION TAKEN**

Motion 6, to continue the work group and bring an updated proposal to the October 18, 2013, meeting, passed by consensus.

##### **EXPLANATION**

This proposal was submitted by committee member Guy Greco on October 9, 2012. The purpose of the proposal is to require the prosecution to file a written response in cases involving a warrantless search where the burden of proof shifts to the prosecution. The prosecution may be relieved of this requirement upon a showing of good cause. The proposal changes the trigger for the 7-day requirement from the date the motion was filed to the date of the scheduled hearing. Failure to file a response may be grounds for a continuance of the hearing and is within the discretion of the court (the committee changed the wording of section (4) of the proposal to make continuance discretionary). The court may allow further briefing after the hearing. The proponent stated that

defense counsel needs to know the exception, and related evidence, asserted by the prosecution to properly focus on relevant arguments without wasting resources on issues not in dispute. The intent of the proposal is that defense counsel must identify in the motion the evidence to be suppressed, and the prosecution must identify in the response the applicable exception and related evidence. The work group consists of committee members Gerking, Greco, Parosa, and West. The proposal needs additional work to consider objections raised by the Union County District Attorney.

**2. 9.160(1)(b)(ii) – FORM OF ACCOUNTINGS**

**PROPOSAL**

Amend to clarify whether estimated income means net or gross income.

**ACTION TAKEN**

Motion 5, to add this proposal to the agenda for the October 18, 2013, meeting, passed by consensus.

**EXPLANATION**

This proposal was submitted by Harold A. Snow, a lawyer in Astoria, on February 5, 2013, as public comment on a different proposal that was before the committee. The committee decided to place this new proposal on the agenda for the October 18, 2013, meeting so that it could be considered in the normal rule cycle.

**3. Forms 15.010.1a and 15.010.1e – SMALL CLAIM FORMS**

**PROPOSAL**

Amend to include consent for notice by email at the October 18, 2013, meeting.

**ACTION TAKEN**

Motion 4, to add this proposal to the agenda for the October 18, 2013, meeting, passed by consensus.

**EXPLANATION**

This proposal was submitted by The Honorable Russell B. West, Tenth Judicial District, on April 20, 2012. The proposal adds a line to the forms allowing a party to list an email address for receiving notices from the court. The party must notify the court of any change in the address or if the party has withdrawn consent for the court to use the email address. The committee received information that additional work must be done in the Oregon eCourt Program to determine whether this change can be accommodated in the program. In light of that, the committee added this item to the agenda for the meeting on October 18, 2013.

**4. CJO 12-039**

**PROPOSAL**

Review of public comment on out-of-cycle changes to 1.050, 2.100, 2.110, 5.060, 5.090, 9.030, and Form 2.100.4b.



**ACTION TAKEN**

No action needed nor taken.

**EXPLANATION**

These rules were amended out-of-cycle by way of Chief Justice Order 12-039, effective May 15, 2012, in anticipation of implementation of the Oregon eCourt Program in Yamhill County. They were posted for public comment. No public comment was received. Chief Justice Order 12-039 can be found [here](#).

**5. CJO 12-050**

**PROPOSAL**

Review of public comment on out-of-cycle changes to 21.010, 21.020, 21.030, 21.040, 21.050, 21.060, 21.070, 21.080, 21.090, 21.100, 21.110, and 21.120.

**ACTION TAKEN**

No action needed nor taken.

**EXPLANATION**

These rules were amended out-of-cycle by way of Chief Justice Order 12-050, effective July 16, 2012, in anticipation of implementation of the Oregon eCourt Program in Yamhill County. They were posted for public comment. No public comment was received. Chief Justice Order 12-050 can be found [here](#).

**6. Oregon eCourt Program**

**PROPOSAL**

Receive update on status of proposal to adopt new rules, adopt new forms, and make conforming amendments to current rules regarding remote electronic access to court documents under the Oregon eCourt Program.

**ACTION TAKEN**

No action needed nor taken.

**EXPLANATION**

This proposal was submitted by Lisa J. Norris-Lampe, on behalf of the OJD eCourt Law and Policy Work Group, on September 2, 2011. It contemplates adoption of a new UTCR Chapter 22 (remote electronic access) as well as companion amendments to other UTCR. Ms. Norris-Lampe gave an update on the status of this proposal. Work continues on this proposal.

**7. Committee Membership**

**PROPOSAL**

Discussion of selection of a new chair.

**ACTION TAKEN**

This discussion was deferred to the October 18, 2013, meeting.

EXPLANATION

The current committee chair, Guy Greco, will end his tenure with the committee on December 31, 2013. The committee will select his replacement at the October 18, 2013, meeting.

**8. Committee Meeting Schedule**

PROPOSAL

Reminder of the fall meeting on October 18 (and 19, if necessary), 2013.

ACTION TAKEN

No action needed nor taken.

# 2013 UNIFORM TRIAL COURT RULES

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## CHAPTER 1—General Provisions

### 1.010 SCOPE OF THESE RULES

- (1) Effective October 1, 1985, these rules apply uniformly to all proceedings and actions in circuit court except those proceedings and actions specified in UTCR 1.010(3) or proceedings and actions for which a limited application is specifically provided by these rules.
- (2) These rules shall be construed so as to achieve consistency with statutory provisions and to promote the just, speedy and inexpensive determination of every proceeding and action as well as the efficient use of judicial time and resources.
- (3) Chapters 2 to 13 of the UTCR do not apply to small claims or violations or parking violations, except that:
  - (a) UTCR 7.050 applies to all cases that may be subject to a federal bankruptcy stay, including small claims cases.
  - (b) SLR relating to these subjects are placed in chapters as provided by UTCR 1.080(3).
- (4) These rules apply to attorneys and to persons representing themselves.

### 1.020 AMENDMENT OF THESE RULES; EFFECTIVE DATE

- (1) The UTCR may be amended by order of the Chief Justice.
- (2) The effective date of any amendments to the UTCR shall be August 1 of each year, unless otherwise ordered by the Chief Justice.
- (3) Proposed amendments to the UTCR will be posted on the Oregon Judicial Department website (<http://www.courts.oregon.gov/ojd>) and will allow no less than a 49-day period for public comment, unless otherwise ordered by the Chief Justice.
- (4) Once approved by the Chief Justice, the final rules with any amendments which are adopted will be posted on the Oregon Judicial Department website (<http://www.courts.oregon.gov/ojd>) no less than 49 days before their effective date, unless otherwise ordered by the Chief Justice.
- (5) When either of the time limits set forth in subsections (3) and (4) of this rule have been waived by order of the Chief Justice, the amendment shall be posted for public comment as soon after adoption as is practicable, and the amendment shall be placed on the agenda of the next regularly scheduled UTCR Committee meeting.
- (6) The UTCR Reporter may correct typographical errors, grammatical errors, and inaccurate website addresses if the correction does not change the substance of the rule. The UTCR Reporter shall give appropriate notice of corrections to the public.

REPORTER'S NOTE (8-1-04): Proposed amendments and final rules will continue to be published in the Oregon Appellate Courts Advance Sheets, but official notice will be posted on the Oregon Judicial Department website.

#### 1.030 TRANSITION TO THESE RULES

- (1) On their effective date, these rules, and any amendments, shall apply to all actions and proceedings pending on or commenced after that date, except to the extent that, in the opinion of the court, application of the amendments in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event, the former rules or procedures apply.
- (2) Upon the effective date of these rules, and any amendments, all supplementary local rules (SLR) or portions thereof which are inconsistent with these rules or their amendments, are superseded, except that, when justice requires, a judge may order that an action or proceeding pending on that date be governed by the previous SLR or practice of the court.

#### 1.040 LOCAL RULES OF COURT NOT PERMITTED; EXCEPTION

No circuit court may make or enforce any local rule except as provided in UTCR 1.030, 1.050 and 1.060.

#### 1.050 PROMULGATION OF SLR; REVIEW OF SLR; ENFORCEABILITY OF LOCAL PRACTICES

- (1) Promulgation of SLR
  - (a) Pursuant to ORS 3.220, a court may make and enforce local rules consistent with and supplementary to these rules for the purpose of giving full effect to these rules and for the prompt and orderly dispatch of the business of the court.
  - (b) A court must incorporate into its SLR any local practice, procedure, form, or other requirement ("local practice") with which the court expects or requires parties and attorneys to comply. Except as provided in paragraph (e), a court may not adopt SLR that duplicate or conflict with the constitutions, statutes, ORCP, UTCR, Chief Justice Orders, Supreme Court Orders, disciplinary rules for lawyers, judicial canons, or ORAP. A court may not adopt SLR that establish internal operating procedures of the court or trial court administrator that do not create requirements or have potential consequences for parties or attorneys.
  - (c) Every court must promulgate an SLR governing the scheduling and notification of parties for criminal trials, show cause hearings, and motions. A temporary rule may be issued for a specified period of time with Chief Justice approval if the procedures are under revision or study by the affected court.
  - (d) All forms required by SLR must be submitted as part of the SLR. Such forms shall be placed in an appendix and organized by chapter and SLR number. SLR and related forms shall contain cross-references to one another.
  - (e) For the sole purpose of facilitating the Oregon eCourt Program, a court may adopt a Chief Justice-approved, standardized series of SLR to implement the Oregon eCourt Program in that court, even though some of those SLR may conflict with the UTCR in certain respect. Those SLR take precedence over any conflicting UTCR.

(2) Review of SLR

- (a) The presiding judge must give written notice of any new rules and changes to existing rules to the president(s) of the bar association(s) in the affected district and allow the bar association(s) at least 49 days before the date of submission of the rules to the Office of the State Court Administrator (OSCA) to provide the presiding judge with public comment. Subsequent changes made to those SLR in response to recommendations from the UTCR Committee do not need to be submitted to the president(s) of the bar association(s) in the affected district.
- (b) Proposed local rules will be considered by the Chief Justice or designee not more often than once each year. To be considered, the proposed rules and a written explanation of each proposed new rule and change to an existing rule must be received by OSCA on or before September 1.
- (c) The Chief Justice or designee shall issue any disapprovals on or before December 15 of the same year.
- (d) Judicial districts shall file with OSCA a final certified copy and a final electronic copy in PDF which must be received by OSCA no later than January 1 of the next year. Those SLR shall become effective on February 1 of the next year.
- (e) Proposed local rules submitted to the Chief Justice for review under subsection (2)(b) of this rule must show the proposed changes to the local rule as follows: proposed new wording in the SLR and proposed new SLR will be in bold and underlined and have braces placed before and after the new wording (**{...}**), wording proposed to be deleted and SLR proposed to be repealed will be in italics and have brackets placed before and after the deleted wording (*[...]*). When final SLR are submitted to the State Court Administrator after review under subsection (2)(b) of this rule, changes shall not be indicated as required by this subsection.
- (f) The Chief Justice may waive the time limits in this section upon a showing of good cause.
- (g) If a local rule is disapproved, notice of that action shall be given to the presiding judge of the court submitting the rule.

(3) Enforceability of Local Practices Not Contained in SLR

When any local practice is not contained in a court's SLR, the court may not enforce such local practice or impose any sanction therefore, unless the court has first afforded the party or attorney a reasonable opportunity to cure the violation by complying with the local practice.

1987 Commentary:

Subsection (2) renumbered as paragraph (1)(c) as of August 1, 1994: This subsection requires a court to promulgate local rules governing the scheduling and notification of counsel for trials, show cause hearings, and for motions. The purpose of this subsection is to give counsel, everywhere in the state, notice of how critical case events are scheduled by each local court. The purpose of this subsection, therefore, is not to promote any particular calendaring procedure, but rather to eliminate unwritten rules of court.

## 1.060 NUMBERING OF COURT RULES

UTCR shall be numbered as follows:

- (1) Chapters and sections shall be numbered with Arabic numerals. Chapters shall be designated to the left of the decimal point. Sections shall be designated to the right of the decimal point. There shall be three decimal places to the right of the decimal point.
- (2) When a section consists of more than one primary paragraph, each shall be numbered with an Arabic number in parentheses.
- (3) If a section contains only one primary paragraph, which includes secondary paragraphs, the primary paragraph shall not be numbered, but the secondary paragraphs shall be numbered with Arabic numbers in parentheses.
- (4) If a section contains more than one primary paragraph, any one or more of which includes a secondary paragraph, the secondary paragraphs shall be designated by lower case letters in parentheses.
- (5) The use of paragraphs beyond primary and secondary paragraphs should be avoided.
- (6) SLR approved pursuant to UTCR 1.050 must conform to this rule.

## 1.070 CITATION OF COURT RULES

- (1) The Uniform Trial Court Rules (UTCR) shall be cited as UTCR by chapter and section number. Paragraph numbers and letters shall be included in the citation when appropriate.
- (2) Supplementary local rules of the trial courts shall be cited as SLR by chapter and section number. Paragraph numbers and letters shall be included in the citation when appropriate. Identification of the particular court, county or judicial district which issued the rules also shall be included when such identification is necessary.

## 1.080 FORMAT AND LOCATION OF COURT RULES

- (1) All UTCR and SLR must include a table of contents; must be printed on paper measuring 8-1/2 x 11 inches; printing must be on both sides when practical; each sheet must be three-hole punched to fit a standard three-ring binder.
- (2) Each page of the SLR must include a footer that shows the following: the page number, the revision date applicable to the set of SLR, the judicial district number, and the name of the court.
- (3) A court that wishes to have a chapter dedicated to alternative dispute resolution (ADR) must use Chapter 12 for all rules pertaining to the court's ADR program. All other SLR must be numbered as closely as possible to and in the same chapter as related UTCR, without using numbers reserved for UTCR. The following chapter numbers are reserved for the placement of SLR related to the subjects described for the chapter numbers:
  - (a) Chapter 12, SLR relating to mediation.

- (b) Chapter 14, SLR relating to reference judges.
- (c) Chapter 15, SLR relating to small claims.
- (d) Chapter 16, SLR relating to violations.
- (e) Chapter 17, SLR relating to local parking violations.
- (f) Chapter 18, SLR relating to Forcible Entry and Detainer (FED) actions.
- (g) Chapter 20, SLR relating to voluntary arbitration.

1991 Commentary:

For purposes of UTCR 1.080(3) the Committee did not intend that SLR required by UTCR 1.050(1)(c) be placed in Chapter 1 but intended that such SLR be placed in Chapter 7 or other chapters related to the particular subject.

1.090 SANCTIONS

- (1) For failure to file a pleading or other document in the manner, the form or the time required by these rules or SLR, the court may strike the pleading or document.
- (2) For willful and prejudicial resistance or refusal to comply with UTCR or SLR, the court, on its own motion or that of a party after opportunity for a hearing, may do any of the following:
  - (a) Assess against the noncompliant party or attorney or both reasonable costs, expenses and attorneys fees incurred by a party, attorney or the court.
  - (b) Otherwise award reasonable costs, expenses and attorneys fees incurred by a party, attorney or the court.
  - (c) Strike the offending pleading or other document.
  - (d) Treat as established an allegation or claim.

1.100 RELIEF FROM APPLICATION OF COURT RULES

Relief from application of these rules or SLR in an individual case may be given by a judge on good cause shown if necessary to prevent hardship or injustice.

1.110 DEFINITIONS

As used in these rules:

- (1) "Party" means a litigant or the litigant's attorney.
- (2) "Trial Court Administrator" means the court administrator, the administrative officer of the records section of the court, and where appropriate, means trial court clerk.

- (3) "Plaintiff" and "Petitioner" mean any party asserting a claim for relief, whether by way of claim, third-party claim, crossclaim, or counterclaim.
- (4) "Defendant" and "Respondent" mean any party against whom a claim for relief is asserted.
- (5) "Days" mean calendar days, unless otherwise specified in these rules.

#### 1.120 DISBURSING MONIES; MOTION AND ORDER

- (1) The trial court administrator will not disburse monies without order of the court in any instance where the trial court administrator is unable to determine any of the following:
  - (a) The amount to be disbursed including, but not limited to, instances where the trial court administrator is required to calculate interest, past payments, or proceeds remaining from a sale.
  - (b) The specific party or parties to whom the trial court administrator is to disburse monies.
- (2) In any instance described under subsection (1), the trial court administrator must give notice to the presiding judge and to any parties the trial court administrator can reasonably determine might have an interest in the monies. The following apply to notice under this subsection:
  - (a) Notice must be in writing.
  - (b) Notice must include all the following to the extent possible: an indication that it is being given under this section, the amount of the money in question, identification of the source from which the trial court administrator received the money, a copy of any papers received with the money, a description of the circumstances of receiving the money, identification of any case to which the trial court administrator can determine the monies may be related, and a description of the reasons for not disbursing monies.
  - (c) The trial court administrator shall enter in the register the fact of giving the notice, the time of giving notice, the manner of giving notice, and the persons to whom notice was given.
- (3) At any time the trial court administrator does not disburse monies for reasons described under subsection (1) of this section or for any other reason, the court or any person with an interest in the money may submit a motion for an order to disburse the monies. The following apply to a motion under this subsection:
  - (a) Notice of the motion must be given to persons which the submitting party reasonably determines might have an interest in the money.
  - (b) The motion must indicate that it is being submitted under this section.
  - (c) The motion must include all the following: an explanation of the party's interest in the money, supporting mathematical calculations showing the amount of money that should be disbursed, any supporting documentation or affidavits that might assist the



court in its determination, the name and address of the person to whom the monies should be disbursed, a proposed order to disburse.

- (d) The motion is not a new filing or appearance but a continuation of an existing proceeding and no fee is required for filing the motion.
- (4) If the court determines money is to be disbursed, the court must enter an order to disburse directing specific amounts of money held by the trial court administrator to be disbursed and specific persons to whom the trial court administrator is to disburse the monies.
- (5) A trial court administrator must hold any monies subject to this section in the court trust account and follow the established accounting procedures until the trial court administrator receives the order to disburse.

1990 Commentary:

Situations to which this section applies include, but are not limited to, a trial court administrator receiving and being unable to disburse monies under ORS 23.300(3), 23.410(1), 23.490(5), 87.475(3), or 88.100.

1.130 TIME COMPUTATION

ORCP 10 shall be followed in computing any time period prescribed by these rules.

1.140 REQUESTS FOR EXTENDED RETENTION OF COURT RECORDS

- (1) Notwithstanding the retention period established in the schedule adopted by the State Court Administrator under ORS 8.125, the following procedures allow persons to extend records retention as described:
  - (a) AUTOMATIC EXTENSION. Any party to a case may request an automatic extension of retention for records described in this paragraph that are related to the person's case. A trial court administrator will automatically grant a request under this paragraph. The court will not discard records subject to the request before one year from the date of entry of the request for automatic extension in the register of actions. A party may submit a new request under this paragraph prior to the expiration of a previous request. An automatic extension of records retention under this paragraph can apply only to the following records for the requestor's case:
    - (i) Records shown by the register maintained under ORS 7.020 as having been received by the court in the case, other documents maintained in the court file specifically established for the case, and the register of actions and judgment docket for that specific case.
    - (ii) The audio or video recordings and logs, court reporter notes or transcripts for that case which the court has and which are identified with the case number.
  - (b) JUDICIAL EXTENSION. Any person may request a judicial extension of the retention period for any records maintained by a court as described by this paragraph. Granting a request under this paragraph is at the court's discretion. The court will not discard records for which an extension is granted under this paragraph

before the date certain set in the extension order. Where an extension order under this paragraph does not establish a specific date for extended retention, the extension runs for one year from the date an order granting the extension is entered in the register of actions. A request for a judicial extension under this paragraph can be made:

- (i) For records not covered by paragraph (a) of this subsection.
- (ii) By a person seeking an extension for records subject to paragraph (a) of this subsection for a period longer than provided under paragraph (a).
- (iii) By any person not allowed to request an automatic extension under paragraph (a) of this subsection.

(2) EVERY REQUEST under this rule must:

- (a) Be in writing, or where available, on the form specified by the court.
- (b) Be submitted to the trial court administrator for the court where the records are maintained.
- (c) Where the records subject to a request relate to a specific case, specify the case number and case title for the applicable case.
- (d) Indicate that the request is being made under this rule.

(3) In addition to the requirements under subsection (2) of this rule, every request for an AUTOMATIC EXTENSION under this rule must:

- (a) Be notarized.
- (b) Specify the records described under paragraph (1)(a) of this rule to which the request applies.
- (c) Be a separate request for each case.

(4) In addition to the requirements under subsection (2) of this rule, every request for a JUDICIAL EXTENSION under this rule must:

- (a) Be accompanied by a supporting affidavit giving the reason for the request.
- (b) Include a proposed order which provides a specific date to which the extended retention will run.
- (c) If the request relates to records not described under paragraph (1)(a) of this rule, specify the records with sufficient detail for the court clerk to be able to identify the records to be retained. A request does not meet the requirement to specify records with sufficient detail for purposes of this paragraph if a request requires a clerk to perform substantial research to either identify the records or determine whether the records exist.
- (d) If the request relates to records described under paragraph (1)(a) of this rule, specify the records described under paragraph (1)(a) of this rule to which the request applies.

- (5) No fee will be charged for a request under this rule.
- (6) Where the schedule adopted under ORS 8.125 specifies that a retention period runs from last document entry in the register of actions, entry in the register of a request or order granting or denying a request under this rule changes that retention period only to the extent granted under, according to the provisions of, and for the times established by this rule.

#### 1.150 HOURS OF COURT OPERATION

Each judicial district must adopt an SLR to announce where the following information can be found: when each court location in the judicial district is open to conduct business; the hours when papers will be received and may be filed at each location, if different from when the court location is open to conduct business; and special arrangements, if any exist or may be made, for filing of documents at times when the court location is not open to conduct business. SLR 1.151 is reserved for SLR adopted under this section.

#### 1.160 FILING OF DOCUMENTS IN COURTS; LOCAL SLR

- (1) Except as provided in subsection (2) of this rule, a document to be filed with the court or the clerk of court or the trial court administrator must be filed with the office of the local trial court administrator or designee. No document delivered to a judge, judge's staff, judge's mailbox, courtroom, or chambers is filed until it is received by the office of the trial court administrator or designee. For every document to be filed, other than an order or judgment submitted to a judge for signature, the original is to be delivered to the trial court administrator's office.
- (2) Notwithstanding subsection (1) of this rule, local courts may adopt SLRs to allow filing of documents in places other than required by subsection (1). Such SLRs may allow such filing generally or in specific circumstances as convenient to the court adopting the SLR. SLR number 1.161 is reserved for the purposes of such SLRs.

#### 1.170 COURT WEBSITES

SLR 1.171 is reserved for judicial districts to announce the website addresses of their courts. Links to these websites may also be found at the Oregon Judicial Department website: <http://www.courts.oregon.gov/ojd>.

#### 1.200 INFORMATION ON FREE OR LOW-COST LOCAL LEGAL SERVICES

Each judicial district must post in a conspicuous location information, including the telephone numbers, of any free or low-cost legal services and other relevant services available in the district and the nature of those services.

## CHAPTER 2—Standards for Pleadings and Documents

### 2.010 FORM OF DOCUMENTS

The form of all documents, including pleadings and motions, except where a different procedure is specified by statute or rule, must be:

(1) Definitions

- (a) “Document,” as used in this rule, means every paper filed in any type of proceeding.
- (b) “Printed document” means documents wholly or partially printed.

(2) Size of Documents

All documents, except exhibits and wills, must be prepared on letter-size (8-1/2 x 11 inches) paper, except that smaller size paper may be used for bench warrants, commitments, uniform citations and complaints and other documents otherwise designated by the court.

(3) Documents Must be Printed or Typed

All documents must be printed or typed, except that blanks in preprinted forms may be completed in handwriting and notations by the trial court administrator or judge may be made in handwriting.

(4) Spacing, Paging and Numbered Lines

- (a) All pleadings, motions and requested instructions must be double-spaced and prepared on paper with numbered lines.
- (b) All other documents may be single-spaced and the lines need not be numbered.
- (c) On the first page of each pleading or similar document, not less than two inches or more than four inches at the top of the page shall be left blank.
- (d) All documents, except exhibits and wills, shall be prepared with at least a one-inch binding margin. The binding margin shall be at the edge of each sheet of paper in the document corresponding to the top of the first page printed on the sheet of paper, unless a different location is specified by SLR. All documents containing printing on the back side of a sheet shall be printed in such a manner so that when the page is turned on the binding edge, print on the back side is oriented in the same direction as the print on the front side of the following sheet.

(5) Backing Sheets

The use of backing sheets is discouraged. If used, they must be 8-1/2 x 11 inches, no heavier than 16-pound weight and not folded over at the top.

(6) Signature

The name of the party or attorney signing any pleading or motion must be typed or printed immediately below the signature. All signatures must be dated.

(7) Attorney or Litigant Information

All documents must include the author's name, address, telephone number, fax number, if any, and, if prepared by an attorney, the name, email address, and the Bar number of the author and the trial attorney assigned to try the case. Any document not bearing the name and Bar number of an attorney as the author or preparer of the document must bear or be accompanied by a certificate in substantially the form as set out in Form 2.010.7 in the UTCR Appendix of Forms.

(8) Distinct Paragraphs

All paragraphs in a pleading or motion must be numbered consecutively in the center of the page with Arabic numerals, beginning with the first paragraph of the document and continuing through the last. Subdivisions within a paragraph must be designated by lower case letters, enclosed in parentheses, placed at the left margin of each subdivision.

(9) Exhibits

- (a) When an exhibit is appended to a filed document, each page of the exhibit must be identified by the word "Exhibit" or "Ex" to appear at the bottom right-hand side of the exhibit, followed by an Arabic numeral identifying the exhibit. Each page number of the exhibit must appear in Arabic numerals immediately below the exhibit number; e.g.: "Exhibit 2  
Page 10"
- (b) Exhibits appended to a pleading may be incorporated by reference in a later pleading.
- (c) Except where otherwise required by statute, an exhibit appended to a document must be limited to only material, including an excerpt from another document, that is directly and specifically related to the subject of, and referred to in, the document. A responding party may timely file an additional excerpt or the complete document that the party believes is directly and specifically related. The court may require a party to file an additional excerpt or the complete document.

(10) Information at Bottom of Each Page

The name of the document, and the page number expressed in Arabic numerals, must appear at the bottom left-hand side of each page of each document.

(11) Caption

- (a) Each document submitted to the court for filing must include a caption located near the top of the first page that identifies the following:
  - (i) the court to which the document is being submitted for filing;
  - (ii) the names of the parties;
  - (iii) an identification of the parties' roles;
  - (iv) the case number; and

- (v) a document title that identifies the document being filed, for example, "complaint," "answer," or "motion for stay." Except for the complaint or petition initiating the case, or the initial answer or response, the document title must identify the filing party, for example, "Defendant's Motion for Summary Judgment." When there are multiple parties on a side, the document title must suitably identify the party submitting the document, for example, "Plaintiff Smith's Motion for Stay" or "Defendant MegaCorp.'s Motion to Dismiss."
- (b) The document title of each complaint or petition must indicate the type of claim, such as "personal injury," "breach of contract," "specific performance," or "reformation of contract." If more than one claim for relief is requested, then the body of the pleading also must indicate the type of claim, at the beginning of each claim for relief.
- (c) Every motion directed at a pleading must show in the document title the name of the pleading against which it is directed.

#### (12) Orders, Judgments or Writs

- (a) The judge's signature portion of any order, judgment or writ prepared for the court must appear on a page containing at least two lines of the text. Orders, judgments or writs embodying the ruling of a particular judge must have the name of the judge typed, stamped or printed under the signature line.
- (b) If the order, judgment or writ is prepared by a party, the name and identity of the party submitting the order must appear therein, preceded by the words "submitted by." See the commentary to this subsection, located at the end of this rule.
- (c) Motions and orders may be submitted as a single document only if the motion is stipulated, subject to *ex parte* ruling, not contested or otherwise specifically allowed by SLR. Any other motion must be submitted as a separate document from any proposed form of order deciding the motion. A motion submitted as a single document with an order may not be filed unless the order has been ruled upon and signed by a judge.
- (d) When allowed to be submitted as a single document under paragraph (c) of this subsection, motions and orders submitted as a single document must contain a double solid line across the page separating the motion portion of the document from the order portion. The caption of the document must be labeled "Motion xxxxxxx and Order" in the upper right-hand corner of the document. The full description of the motion must be included in the title. The order portion must be clearly labeled "Order" in the upper left-hand corner of the order portion of the document. A 2-inch by 2-inch space must be provided below the double solid line in the upper right-hand corner of the order portion for the file/date stamp of the order. The order portions must be written as clearly and simply as possible. Where appropriate, the order must consist of only two check boxes as follows: one for allowed, the other for denied. Where such check boxes are used in the order portion, they must be placed above the standard date and signature lines.

#### (13) Citation of Oregon Cases

In all matters submitted to the circuit courts, Oregon cases must be cited by reference to the Oregon Reports as: Blank v. Blank, \_\_\_ Or \_\_\_ (year) or as State v. Blank, \_\_\_ Or App \_\_\_ (year). Parallel citations may be added.

(14) Notice of Address or Telephone Number Change

An attorney or self-represented party whose address or telephone number changes must immediately mail or deliver notification of such change to the trial court administrator and all other parties.

(15) Application to Court Forms

Forms created by the Oregon Judicial Department are not required to comply with the provisions of UTCR 2.010(4) or (8) where the Oregon Judicial Department determines variation from those provisions will promote administrative convenience for courts or parties. Such forms and exact copies of such forms may be used and submitted to courts without challenge under UTCR 2.010(4) or (8).

1993 Commentary to section (12)(b):

Subsection (b) of Section (12) requires that the information include the author's name (signature not required), followed by an identification of party being represented, plaintiff or defendant.

Example: Submitted by:

A. B. Smith

Attorney for Plaintiff (or Defendant)

An exception to this style would be in cases where there is more than one plaintiff or one defendant. In those situations, the author representing one defendant or plaintiff, but not all, should include the last name (full name when necessary for proper identification) after the designation of plaintiff or defendant.

Example: Submitted by:

A. B. Smith

Attorney for Plaintiff Clarke

1996 Commentary:

The UTCR Committee strongly encourages the use of recycled paper and strongly recommends that all original pleadings, motions, requested instructions, copies, and service copies be on recycled paper having the highest available content of postconsumer waste.

2.020 CERTIFICATE OF SERVICE

When a summons or other civil process is served by one other than a sheriff or deputy sheriff, the certificate of service must include the name, telephone number and address of the person who served the summons or process.

2.030 MATTERS UNDER ADVISEMENT MORE THAN 60 DAYS

- (1) If any judge shall have any matter under advisement for a period of more than 60 days, it shall be the duty of all parties to call the matter to the court's attention forthwith, in writing.
- (2) If the matter remains under advisement for 90 days, all parties are required again to call the matter to the judge's attention forthwith, in writing, with copies to the presiding judge, if any, and the Chief Justice.

## 2.050 ATTORNEY FEES ON WRITTEN INSTRUMENTS

When attorney fees are based on a written instrument, the original or a true copy of the instrument must be submitted to the court with the requested judgment, unless a true copy is attached to or set out in the pleadings. This rule also applies to reciprocal fees claimed under ORS 20.096. If an original or copy is not available, the court may require proof by affidavit or testimony.

## 2.060 ENTERING JUDGMENT ON FACE OF NEGOTIABLE INSTRUMENT

- (1) In all cases when a judgment is to be based on a negotiable instrument, the party with custody of the original instrument must tender such instrument to the court before the entry of judgment, and the court must enter a notation of the judgment on the face of the instrument.
- (2) The trial court administrator shall return the original instrument only after filing a certified copy of the instrument.

### 1987 Commentary:

The rule is silent on the time when the judgment notation is to be entered on the face of the instrument. The rule permits the holding of documents submitted at the time the judgment is entered while delaying endorsement until after the court receives confirmation of the sheriff's sale.

## 2.070 NOTICE OF ARBITRATION IN PLEADINGS

The title of a pleading, including a claim, counterclaim, cross claim, or third-party claim, must comply with UTCR 13.060.

## 2.080 COMMUNICATION WITH COURT

- (1) Except as exempted by statute, UTCR 2.100, or UTCR 2.110, when written communication is made to the court, copies must simultaneously be mailed or delivered to all other parties and indication made on the original of such mailing or delivery.
- (2) All written communication to the court shall refer to the title of the cause and the case number.

## 2.090 FILINGS FOR CONSOLIDATED CASES

Cases that are consolidated are consolidated for purposes of hearing or trial only. All pleadings, memoranda, and other documents applicable to more than one file will be filed in each case under existing captions and case numbers unless otherwise ordered by the court. Unless otherwise ordered by the court, any document applicable to only a single file will be singly filed. It is the duty of counsel to provide the trial court administrator with sufficient documents to allow filings consistent with this rule or a court order pursuant to this rule.



2.100 PROTECTED PERSONAL INFORMATION, NOT CONTACT INFORMATION,  
REQUIREMENTS AND PROCEDURES TO SEGREGATE WHEN SUBMITTING

(1) Purpose

- (a) This rule establishes procedures for a person to identify and segregate protected personal information when submitting a document to a court in a case and to request the information be kept from inspection by the general public.
- (b) This rule establishes a process for a court, when it grants a request under this rule, to protect the segregated, protected personal information from nonprotected information in a uniform way with an appropriate record.
- (c) UTCR 2.130 establishes separate procedures and processes for protecting personal information in proceedings brought under ORS chapters 25, 106, 107, 108, 109, 110, and 416.

(2) Information Covered. As used in this rule:

- (a) “Protected personal information” means specific individual facts that, unless segregated, would otherwise be in a submitted document to identify a person submitting the document or another person beyond that person’s name or to identify the financial activities of either and which the court is allowed or required by law to keep confidential.
- (b) “Protected personal information” includes, but is not limited to:
  - (i) Social Security numbers, credit card numbers, bank or other financial account numbers, bank or other financial account locations, driver license numbers, financial account access numbers, or similar information that is used for financial transactions and can be kept confidential under ORS 192.502(2).
  - (ii) Maiden names, birth dates, and places of birth that can be kept confidential under ORS 192.502(2).
  - (iii) Facts about a person’s identity or the identity of the person’s financial activities that is other than contact information and that can be exempt from public inspection under the Oregon Public Records Law (OPRL, ORS 192.410 to 192.505).
  - (iv) Facts other than contact information that can otherwise be protected under specific law, including, but not limited to, information protected by existing court orders.
- (c) “Protected personal information” does not include entire documents, contact information, or, except as ordered by a court, information that is not both personal and related to a person’s identity beyond their name or their financial activities.
- (d) “Contact information” means: the name of a person submitting a document or of a person on whose behalf a document is being submitted; telephone numbers; personal or business addresses; email addresses; employer identification and address; or similar facts that make it possible for another to contact a person who is named in a document.

- (3) Relationship to Other Law. The following all apply to this rule:
- (a) Parties to proceedings under ORS 107.085 or 107.485 must segregate all Social Security numbers from all documents they submit related to the proceedings in the manner provided by UTCR 2.130. These Social Security numbers are confidential in the custody of the court as ORS 107.840 provides. Other than as this paragraph, UTCR 2.130, or SLR 2.101 of a court provides, this rule is not the exclusive means for a court to protect personal information from public inspection.
  - (b) All judicial districts must allow requests to segregate protected personal information under this rule as a way to keep it separate from information subject to public inspection. However, courts may use SLR to establish other procedures related to identifying and protecting information courts are allowed or required to keep confidential. But, SLR 2.101 is preserved for purposes of a court to:
    - (i) require use of forms or procedures under this rule as the exclusive way to identify specific protected personal information so a court can segregate the information and protect it from public inspection; and
    - (ii) establish requirements supplemental to this rule as necessary to help administer this rule.
  - (c) Nothing in this rule precludes a court from protecting information by appropriate court order.
  - (d) Nothing in this rule affects or applies to procedures for identifying and protecting contact information:
    - (i) Of crime victims that is submitted to courts for processing restitution payments when restitution is sought and the information about a crime victim is kept confidential under ORS 18.048(2)(b).
    - (ii) That can be made confidential under ORS 25.020(8)(d), 109.767(5), 110.375, or 192.445.
- (4) Procedure to Follow. A person may only request protected personal information be segregated and protected under this rule when submitting it to a court in a case. The procedures under this rule may be used to identify and separately present protected personal information from any submitted document or form that is used to give information to a court. To do so, a person must do the following:
- (a) Place in the document from which the protected personal information is being segregated a written notation to the effect that the information is being separately submitted under UTCR 2.100.
  - (b) Complete an affidavit in substantially the form provided in UTCR Form 2.100.4a. The affidavit:
    - (i) Need not be notarized but must be signed by the requestor and contain language that the person knowingly gives the information under an oath or affirmation attesting to the truth of what is stated and subject to sanction by law if the person provides false information to the court.

- (ii) Must describe generally the protected personal information and set out the legal authority for protecting the information.
  - (c) Complete an information sheet in substantially the form provided in UTCR Form 2.100.4b to duplicate the protected personal information sought to be segregated. The information sheet must be submitted as a separate document, not as an attachment to the affidavit prepared under UTCR 2.100(4)(b).
  - (d) File the completed forms and attachments with the court along with, but not attached to, the document from which the protected personal information is segregated.
  - (e) For purposes of UTCR 2.080, mail or deliver to parties a copy of the affidavit only, and not the information sheet or any attachments to the information sheet.
- (5) More Than Once in a Case. If a court segregates specific protected personal information from a specific document under this rule:
- (a) The court is under no obligation to look for or segregate the same protected personal information from other documents in the file for that case or other cases that were not specifically addressed by a request under this rule or from any documents subsequently submitted to the court except when procedures under this rule to segregate from the specific document are again used.
  - (b) As long as the specific protected personal information remains current, a person need not submit an affidavit and information sheet under this rule each subsequent time the already segregated information would be submitted in that case. The person may simply add a written notation to any document subsequently submitted to the effect that the information has already been submitted in that case under UTCR 2.100.
- (6) Court Response. When a completed request is filed under this rule and the court grants the request to segregate, the court will do the following:
- (a) Separate the UTCR Form 2.100.4b from the affidavit and maintain that form and any attachments to it as not subject to public inspection unless there is a question about the court's legal authority to keep the specific information from public inspection. The requestor need not obtain the signature of a judge. As official custodian of the case file under the OPRL, the trial court administrator will resolve any question about whether, or the extent to which, information may be kept from disclosure under this rule unless statute or court order expressly provides otherwise. A request under this rule to keep information confidential, segregated, or exempt from public inspection is not subject to challenge and hearing except as specifically required by law.
  - (b) Keep the affidavit in the case file.
  - (c) Send notice confirming that a request is granted or denied only if the person includes a self-addressed, postage prepaid postcard that the court can use for that task. The postcard must also include the following text, to be filled in as indicated for the court to mail:
 

"Dear \_\_\_\_\_ (*person requesting print your name here*), Your request of \_\_\_\_\_ (*insert date of request*) to segregate specific protected personal information from information the general public can inspect in the case file for case number \_\_\_\_\_ (*insert case number*) in the Circuit Court

for \_\_\_\_\_ (insert county) County (the court will check and complete the appropriate following response before mailing):

☐ Was granted on \_\_\_\_\_ (court will insert date) and the segregated information sheet you submitted will be maintained separately from information available for public inspection. \_\_\_\_\_ (initial of appropriate court employee)

☐ Was denied in part or entirely because (court will explain and provide contact information for further action): \_\_\_\_\_.”

- (7) Limits on Protection. When the court grants a request under this rule, the court will protect the submitted Form 2.100.4b from being placed where the general public can inspect it. However, the following limits apply to this confidentiality:
- (a) A person may inspect the information sheet or attachments that person submitted.
  - (b) A person other than the person who submitted the information sheet or attachments may inspect the information sheet or attachments with a currently effective release by the person whose information is protected. The release must be signed by the person giving the release, dated, and establish a period during which the release will be effective.
  - (c) Any person who has a right by law to inspect the information sheet or attachments may do so. This includes Oregon Judicial Department personnel who require the information for their work.
  - (d) Courts will share the information sheets and attachments with other government agencies as required or allowed by law, without court order or application under subsection (8) of this rule, for purposes of the business of those agencies. Those agencies are required to maintain the information as confidential as provided under ORS 192.502(10).
  - (e) Courts will share the information sheets and attachments with the entity primarily responsible for providing support enforcement services under ORS 25.080 and under the requirements of 42 USC 666 without application under subsection (8) of this rule in any case in which spouse or child support is ordered.
- (8) Inspecting or Copying Protected Personal Information. Except as specifically provided in subsection (7) of this rule, any person who seeks to inspect or copy information segregated and kept from public inspection under this rule must make the request by using a form substantially like UTCR Form 2.100.8 and copy the requestor shown on the affidavit and parties to the case as required by UTCR 2.080. A court will only grant a request if the person requesting has a right by law, including this rule, to see the information. The court will indicate on the form its response to the request and maintain a copy of all the request forms, with its response, in the case file as a public record.
- (9) Denied Requests. If a court denies a request under this rule:
- (a) For every piece of personal information on a UTCR Form 2.100.4b, the court will attach the affidavit and form to the document from which the information was segregated and place all in the case file.

- (b) For only some of the personal information on a UTCR Form 2.100.4b, the court will:
  - (i) create a copy of the form where the information to be protected is redacted,
  - (ii) protect the original form as otherwise provided in this rule, and
  - (iii) attach the affidavit and the redacted copy of the form to the document from which the information was segregated and place the affidavit and redacted copy of the form in the case file.

2.110 PROTECTED PERSONAL INFORMATION, NOT CONTACT INFORMATION,  
PROCEDURES TO SEGREGATE WHEN INFORMATION ALREADY EXISTS IN A  
CASE FILE

- (1) Purpose. This rule establishes:
  - (a) Procedures for a person to identify and segregate protected personal information when that information already exists in a document in a court case file and to request the information be kept from inspection by the general public.
  - (b) A process for a court, when it grants a request under this rule, to segregate and protect personal information from nonprotected information in the case file in a uniform way with an appropriate record.
- (2) Information Covered. This rule may be followed to segregate and protect the same information already existing in a case file that could be segregated and protected at the time of submission under UTCR 2.100 and UTCR 2.130. The definitions in UTCR 2.100 apply to this rule.
- (3) Relationship to Other Law. The following all apply to this rule:
  - (a) This rule is not the exclusive means for a court to protect personal information in case files from public inspection.
  - (b) Courts may use SLR to establish other procedures related to identifying and protecting information courts are allowed or required to keep confidential. But, SLR 2.111 is preserved for purposes of a court to:
    - (i) require use of forms or procedures under this rule to identify specific protected personal information so that a court can segregate the information and protect it from public inspection; and
    - (ii) establish requirements supplemental to this rule as necessary to help administer this rule.
  - (c) Nothing in this rule affects or applies to procedures for identifying and protecting contact information:
    - (i) Of crime victims that is submitted to courts for processing restitution payments when restitution is sought and the information about a crime victim is kept confidential under ORS 18.048(2)(b).

- (ii) That can be made confidential under ORS 25.020(8)(d), 109.767(5), 110.375, or 192.445.
- (4) Procedure to Follow. A person may only request protected personal information be segregated under this rule when the information is already in a document that has become part of a court case file. To do so, a person must do all the following:
  - (a) Complete an affidavit in substantially the form provided in UTCR Form 2.110.4a. The affidavit:
    - (i) Need not be notarized but must be signed by the requestor and contain language that the person knowingly gives the information under an oath or affirmation attesting to the truth of what is stated and subject to sanction by law if the person provides false information to the court.
    - (ii) Must describe generally the protected personal information and set out the legal authority for protecting the information.
    - (iii) Must specifically identify the case file, document in the case file, and the page number of the page that is sought to be redacted.
    - (iv) Must be accompanied by a copy of that page sought to be redacted showing specifically the protected personal information to be redacted.
  - (b) Complete an information sheet in substantially the form provided in UTCR Form 2.100.4b to duplicate the protected personal information sought to be segregated. The information sheet must be submitted as a separate document, not as an attachment to the affidavit prepared under UTCR 2.110(4)(a).
  - (c) File the completed forms and attachments with the court.
  - (d) Pay the required fee set by Chief Justice Order.
  - (e) For purposes of UTCR 2.080, mail or deliver to parties a copy of the affidavit only and not the information sheet or any attachments to the information sheet.
- (5) Court Response. When a completed request is filed under this rule and granted by the court, the court will do the following:
  - (a) Segregate and protect the specifically identified protected personal information from the specific location in the specific document that is the object of the request unless there is a question about the court's legal authority to keep the specific information from public inspection. The requestor need not obtain the signature of a judge. As official custodian of the case file under the OPRL, the trial court administrator will resolve any question about whether, or the extent to which, information may be kept from disclosure under this rule unless statute or court order expressly provides otherwise. A request under this rule to keep information confidential, segregated, or exempt from public inspection is not subject to challenge and hearing except as specifically provided by law.
  - (b) Separate and maintain the information sheet and any attachments as not subject to public inspection. Once the information sheet is separated, place the affidavit in the case file.

- (c) Replace any page from which the specific information is removed with a redacted copy of the page and keep the original, unmodified page with the information sheet and its attachments. Any substitute page from which the specific information is removed will include a notation of the date and responsible individual and that the redacting was done under this rule. Courts will separate information and redact documents under this rule according to the State Court Administrator's direction, or as otherwise specifically provided by law.
- (d) Send a notice confirming completion of work, that work cannot be completed for some reason, or that a request is denied only if the person includes a self-addressed, postage prepaid postcard that the court can use for that task. The postcard must also include the following text to be filled in as indicated for the court to mail:

"Dear \_\_\_\_\_ (person requesting print your name here), Your request of \_\_\_\_\_ (insert date of request) to segregate specific personal information from information the general public can inspect in the case file for case number \_\_\_\_\_ (insert case number) in the Circuit Court for \_\_\_\_\_ (insert county) County (court will check and complete the appropriate following response):

☐ Was completed on \_\_\_\_\_ (insert date). \_\_\_\_\_ (initials of appropriate court employee)

☐ Could not be completed because (explain and provide contact information for further action): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_.

☐ Was denied because (explain and provide contact information for further action): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_."

- (6) Time Limits, Court Authority to Refuse Request Based on Resources. This rule sets no time limit for courts to segregate information from existing court records when requested under this rule. Courts have a reasonable time given their ordinary workload and resources available. And, notwithstanding other parts of this rule, a court is not required to segregate information from existing court records based on a request under this rule if the workload created would adversely affect the resources available for a court to perform its ordinary duties.
- (7) Parts of UTCR 2.100 and UTCR 2.130 that apply to this rule. The following subsections of UTCR 2.100 are applicable to this rule: (2), (5), (7), (8), and (9). The following subsections of UTCR 2.130 are applicable to this rule: (1), (6), (9), and (10).

## 2.120 AFFIDAVITS

Unless otherwise mandated by statute, an affidavit required by the UTCR need not be notarized, but it must be signed by the affiant and must include a sentence, in prominent letters immediately above the signature of the affiant, that is in substantially the same form as the sentence for a declaration under penalty of perjury as specified in ORCP 1 E.

## 2.130 FAMILY LAW CONFIDENTIAL PERSONAL INFORMATION

### (1) Definitions. As used in this rule:

- (a) “Confidential personal information” means a party’s or a party’s child’s Social Security number; date of birth; driver license number; former legal names; and employer’s name, address, and telephone number.
- (b) “Confidential Information Form” (CIF) means a document substantially in the form provided in UTCR Form 2.130.1.
- (c) “Inspect” means the ability to review and copy a CIF to the same extent as any other document contained in a court file.
- (d) “Document” has the same meaning as used in UTCR 21.010(2).

### (2) Mandatory Use of the CIF

- (a) When confidential personal information is required by statute or rule to be included in any document filed in a proceeding initiated under ORS chapters 25, 106, 107, 108, 109, 110, or 416, the party providing the information:
    - (i) must file the information in a CIF,
    - (ii) must not include the information in any document filed with the court, and
    - (iii) must redact the information from any exhibit or attachment to a document filed with the court, but must not redact the information from a court-certified document required to be filed by statute or rule.
  - (b) This rule does not apply to the information required in a money award under ORS 18.042.
  - (c) Documents filed in a contempt action filed in a proceeding under ORS chapters 25, 106, 107, 108, 109, 110, or 416 are also subject to this rule.
  - (d) A party must file a separate CIF for each person about whom the party is required to provide confidential personal information.
  - (e) The confidential personal information of a minor child must be included in the CIF of the party providing the information.
- (3) Amending the CIF. A party must file an amended CIF when filing a document requiring confidential personal information about any party that has changed or is not contained in a previous CIF.
- (4) Form. A CIF or an amended CIF must be substantially in the form provided in UTCR Form 2.130.1.
- (5) Segregation. The court must segregate the CIF from documents that are subject to public inspection. Public inspection of a CIF is prohibited except as authorized by this rule or other provision of law.



- (6) Access and Confidentiality
- (a) A party may inspect a CIF that was filed by that party.
  - (b) A party to a proceeding may inspect a CIF filed by another party:
    - (i) upon filing a written, notarized consent signed and dated by the party whose information is to be inspected that states the dates during which the consent is effective; or
    - (ii) upon entry of an order allowing inspection under UTCR 2.130(10)(a); or
    - (iii) if the CIF sought to be inspected contains only the inspecting party's confidential personal information.
  - (c) A person other than a party to the proceeding may inspect a CIF upon filing a written, notarized consent signed and dated by the party whose information is to be inspected. The consent must state the dates during which the consent is effective.
  - (d) This rule does not limit a person's legal right to inspect a CIF as otherwise allowed by statute or rule.
  - (e) Oregon Judicial Department personnel may have access to a CIF when required for court business.
  - (f) Courts will share a CIF with the entity primarily responsible for providing support enforcement services under ORS 25.080 or 42 USC 666. A person receiving information under this section must maintain its confidentiality as required by ORS 25.260(2) and 192.502(10).
  - (g) Courts will share a CIF with other government agencies as required or allowed by law for agency business. Those agencies must maintain the confidentiality of the information as required by ORS 192.502(10).
  - (h) Unless otherwise ordered or authorized by law, any person inspecting a CIF must not further disclose the confidential personal information. Violation of this provision may subject a person to contempt of court under ORS 33.015 to 33.155.
- (7) Notation on Documents. When a statute or rule requires a party to provide confidential personal information in a document filed with the court, the party must not provide the information in the document and must note on the document that the information has been separately filed under UTCR 2.130.
- (8) Mail or Delivery to Other Parties. A party filing an original or amended CIF must mail or deliver notice to all parties to the proceeding that a CIF or amended CIF has been filed and must file a certificate of mailing or delivery. The notice must be substantially in the form provided in UTCR Form 2.130.2.
- (9) Court Under No Obligation to Review File for Protected Information. Subject to UTCR 2.110, the court is not required to redact confidential personal information from any document, regardless of when filed.

(10) Motion or Request to Inspect a CIF

- (a) A party may file a motion and supporting affidavit for an order allowing inspection of a CIF containing the confidential personal information of another party. The court may grant the motion only after service on all parties and an opportunity for objection and hearing.
- (b) Any person not a party to the proceeding may file a request and supporting affidavit requesting inspection of a CIF. The person must serve the request and supporting affidavit on all parties to the proceeding in the manner prescribed for service of summons in a civil action or by certified mail, return receipt requested. The court must allow the requesting person to inspect the CIF if the court finds, after notice and an opportunity for a hearing, that the requesting person is legally entitled to inspect the CIF, subject to subsection (c) below.
- (c) The court must deny a motion or request to inspect a CIF if the court finds any of the following:
  - (i) A Finding of Risk and Order for Nondisclosure of Information has been entered by the Administrator of the Oregon Child Support Program under OAR 137-055-1160 for the party whose CIF is sought to be inspected.
  - (ii) A restraining order or other protective order is in effect that protects the party or the party's children from the person requesting inspection of the CIF.
  - (iii) The health, safety, or liberty of the party or the party's children whose CIF is sought to be inspected would be jeopardized or unreasonably put at risk by disclosure of the CIF to another person.
- (d) If the court grants a motion or request for an order allowing inspection of a CIF,
  - (i) the court may limit the extent of disclosure and may enter such protective orders as are necessary to balance the personal, privacy, and safety interests of the parties or children with the legal interest of the person seeking access; and
  - (ii) the requesting party must mail or deliver a copy of the order to all other parties and must file a certificate of mailing or delivery.

(11) Other Court Orders

- (a) This rule is not the exclusive means for a court to protect personal information from public inspection.
- (b) Nothing in this rule:
  - (i) Precludes a court from protecting information by appropriate court order.
  - (ii) Limits procedures for identifying and protecting contact information of crime victims that is submitted to courts for processing restitution payments when restitution is sought and the information about a crime victim is kept confidential under ORS 18.048(2)(b).

- (iii) Limits the availability of procedures for protecting information, other than confidential personal information protected by this rule, under ORS 25.020(8)(d), 109.767(5), 110.375, 192.445, or any other rule or law.

## CHAPTER 3—Decorum In Proceedings

### 3.010 PROPER APPAREL

- (1) All persons attending the court must be dressed so as not to detract from the dignity of court. Members of the public not dressed in accordance with this rule may be removed from the courtroom.
- (2) When appearing in court, all attorneys and court officials must wear appropriate attire.

### 3.020 PROPER APPAREL FOR INCARCERATED WITNESSES AND DEFENDANTS APPEARING IN CRIMINAL PROCEEDINGS

Incarcerated witnesses and defendants appearing for trial must be dressed in neat, clean civilian clothing, unless otherwise ordered by the court.

### 3.030 MANNER OF ADDRESS

During trial, the litigants and litigants' attorneys must not address adult witnesses, jurors or opposing parties by their first names, and, except in voir dire, must not address jurors individually.

### 3.040 ADVICE TO CLIENTS AND WITNESSES OF COURTROOM FORMALITIES

Attorneys must advise their clients and witnesses of the formalities of the court and must encourage their cooperation. Self-represented parties must similarly advise their witnesses and encourage their cooperation.

### 3.050 PROPER POSITION OF PARTIES BEFORE COURT

Parties must:

- (1) rise from their positions at counsel table and remain standing while addressing the court or the jury, except during voir dire;
- (2) not approach the bench except by permission; and
- (3) be allowed to move freely about the courtroom during trial unless otherwise instructed by the court.

#### 1991 Commentary:

This 1991 change is not intended by the Committee to transfer control of the conduct of the trial process from the trial judge to the litigants. The change is intended to facilitate the identification of exhibits by witnesses; the use of diagrams, photographs, and other exhibits by the examining attorney and witnesses; and to encourage the effective use of demonstrative evidence and exhibits in a manner facilitating the fact finder's understanding of the evidence. The Committee recognizes that there is the potential for abuse of this rule change, which may be distracting or

disruptive of the proceedings, and thus the court retains the ability to maintain appropriate decorum and order.

The Committee recognizes that there are a number of factors which may affect the extent to which free movement is appropriate in a particular case. Without attempting to be all inclusive, these factors may include such things as: the physical layout of the courtroom; the age of the witness; the emotional/physical condition of the witness; the size, number, and nature of exhibits; etc. The Committee therefore encourages communication between the litigants and the trial judge at the commencement of trial covering these considerations and resolving any uncertainty.

#### 3.060 DEFENDANT IN CRIMINAL TRIAL

During arraignment, plea and sentence, the defendant must stand unless otherwise permitted by the court.

#### 3.070 PERSONS PERMITTED WITHIN BAR OF COURT

Except as otherwise permitted by the court, during the trial of any case or the presentation of any matter to the court, no persons, including members of litigants' families, shall be permitted within the bar of the courtroom, other than clients, attorneys, court personnel and witnesses when called to the stand.

#### 3.080 PROCEDURE FOR SWEARING WITNESSES

The swearing of witnesses shall be conducted as a serious ceremony and not as a mere formality.

#### 3.090 UNDUE RECOGNITION OR FAMILIARITY BY JUDGE

Judges shall refrain from showing undue recognition of or familiarity with any person in the courtroom.

#### 3.100 PROPER USE OF COURT CHAMBERS

Except when court business is being conducted, parties must not congregate in the court's chambers or use the facilities or the court's entryway between the chambers and the bench without the permission of the court.

#### 3.110 CONFERENCES IN CHAMBERS

Conferences may be conducted in chambers and shall be conducted without litigants present unless required by the court, requested by a party or otherwise required.

### 3.120 COMMUNICATION WITH JURORS

- (1) Except as necessary during trial, and except as provided in subsection (2), parties, witnesses or court employees must not initiate contact with any juror concerning any case which that juror was sworn to try.
- (2) After a sufficient showing to the court and on order of the court, a party may have contact with a juror in the presence of the court and opposing parties when:
  - (a) there is a reasonable ground to believe that there has been a mistake in the announcing or recording of a verdict; or
  - (b) there is a reasonable ground to believe that a juror or the jury has been guilty of fraud or misconduct sufficient to justify setting aside or modifying the verdict or judgment.

### 3.130 DISCLOSURE OF RELATED MATTERS WHEN SEEKING COURT ORDER

When a party seeks to obtain an order from a judge, the party must inform that judge of any ruling, hearing or application for a ruling or hearing before any other judge that concerns the subject of the order requested.

### 3.140 RESIGNATION OF ATTORNEYS

- (1) An application to resign, a notice of termination, or a notice of substitution made pursuant to ORS 9.380 must contain the name, address and telephone number of the party and of the new attorney, if one is being substituted, and the date of any scheduled trial or hearing. The attorney's fax number and email address, if any, must also be included. It must be served on that party and the opposing party's attorney. If no attorney has appeared for the opposing party, the application must be served on the opposing party. A notice of withdrawal, termination, or substitution of attorney must be promptly filed.
- (2) The attorney who files the initial appearance for a party, or who personally appears for a party at arraignment on an offense, is deemed to be that party's attorney-of-record, unless at that time the attorney otherwise notifies the court and opposing party(ies) in open court or complies with subsection (1).
- (3) When an attorney is employed or appointed to appear in an already pending case, the attorney must immediately notify the court and the opposing party in writing or in open court. That attorney shall be deemed to be the attorney-of-record unless that attorney otherwise notifies the court.

#### 1987 Commentary:

In subsection (3), a change of attorneys in a pending case requires notification to the opposing party and to the court. This rule makes no changes to ORCP procedures for taking a default judgment. It only addresses who will be considered the attorney of record in a case.

1991 Commentary:

UTCRC 3.140 is intended neither to establish new standards of professional responsibility nor to provide a method of discharging existing standards of professional responsibility. See DR 2-110.

3.150 NO REACTION TO JURY VERDICT

After the jury returns a verdict, all persons present in the courtroom must remain seated until the jury has left the room and must refrain from visibly or audibly reacting to the verdict in a manner which disrupts the dignity of the courtroom.

3.160 EXPLANATION OF PROCEEDINGS TO JURORS

In jury cases, after sustaining a dismissal of the case before verdict, the judge, in dismissing the jury, should, without discussion of the facts, briefly explain the procedure and why a verdict was unnecessary.

3.170 ASSOCIATION OF OUT-OF-STATE COUNSEL (*PRO HAC VICE*)

- (1) An attorney authorized to practice law before the highest court of record in any state or country ("out-of-state attorney") may appear on behalf of a party in any action, suit, or proceeding pending in this state before a court or administrative body even though that attorney is not licensed to practice law in this state, if the attorney satisfies all of the following requirements:
  - (a) Shows that the attorney is an attorney in good standing in another state or country.
  - (b) Certifies that the attorney is not subject to pending disciplinary proceedings in any other jurisdiction or provides a description of the nature and status of any pending disciplinary proceedings.
  - (c) Associates with an active member in good standing of the Oregon State Bar ("local attorney") who must participate meaningfully in the matter.
  - (d) Certifies that the attorney will: comply with applicable statutes, law, and procedural rules of the state of Oregon; be familiar with and comply with the disciplinary rules of the Oregon State Bar; and submit to the jurisdiction of the Oregon courts and the Oregon State Bar with respect to acts and omissions occurring during the out-of-state attorney's admission under this rule.
  - (e) If the attorney will engage in the private practice of law in this state, provides a certificate of insurance covering the attorney's activities in this state and providing professional liability insurance substantially equivalent to the Oregon State Bar Professional Liability Fund plan.
  - (f) Agrees, as a continuing obligation under this rule, to notify the trial court or administrative body promptly of any changes in the out-of-state attorney's insurance or status.

- (g) If application will be for an appearance before a court, pays any fees required by subsection (6) below for appearance under this rule. No fee is required if application will be for an appearance before an administrative body.
- (2) The information required by subsection (1) of this rule must be presented as follows:
- (a) If application will be for an appearance before a court, to the Oregon State Bar (Bar) in a form established by the Bar. The Bar may accomplish the submission of information by requiring a certificate with attachments or other means administratively convenient to the Bar. Upon receipt of all information necessary under subsection (1) of this section and receipt of the fee required by subsection (6) below, the Bar will acknowledge receipt in a form determined by the Bar. In making the acknowledgment, the Bar may attach copies or comment on any submitted material the Bar finds may be appropriate for a court to consider with an application under this section. The local attorney must then submit the Bar's acknowledgment with any information the Bar includes to the court by motion signed by the local attorney requesting the court to grant application under this section. The court may rely on the acknowledgment of the Bar as a basis to conclude that all information required to be submitted and fees required to be paid for granting an application under this section have been submitted and paid. Bar records on materials it receives under this section will be available to a court on request for two years or such longer period as the Bar considers administratively convenient.
  - (b) If the application is for an appearance before an administrative body, to the administrator of the agency before which the proceeding will occur or that person's designee or to any other appropriate officer, employee or designee of that agency as set forth by procedures or rules established by that agency. Application may be accomplished by an application certificate with attachments or other means administratively convenient to and established by the agency. Agency records on materials the agency or designee receives under this section will be available to the Bar on request for two years or such longer period as the agency considers administratively convenient.
- (3) The court or administrative body shall grant the application by order if the application satisfies the requirements of this rule, unless the court or administrative body determines for good cause shown that granting the application would not be in the best interest of the court or administrative body or the parties. At any time and upon good cause shown, the court or administrative body may revoke the out-of-state attorney's permission to appear in the matter.
- (4) Each time a court or administrative body grants an application under this rule or revokes an out-of-state attorney's permission to appear in a matter, the local attorney must provide a notice to the Bar of such occurrence in a manner and within the time determined by the Bar.
- (5) This rule applies to all judicial and administrative proceedings in this state. When a court or administrative body grants an application for approval to appear under this rule, the authorization allows that individual attorney to appear in all proceedings for a single case that occur within a year after the application is granted. Applications will not be granted for firms. There must be separate application and approval for any of the following: appearance by another out-of-state attorney representing the same or any other party; representation by the same out-of-state attorney in this state on another matter; any appearance that occurs later than that one-year period. The Bar or an administrative body may establish such abbreviated procedures and requirements as Bar or body finds



administratively convenient to limit unnecessary submission of duplicate information by an attorney who has already had application granted to appear in one proceeding and is seeking to appear in other proceedings or to renew an application at the end of a current one-year grant for a case.

- (6) Except as otherwise provided in this rule, for each application under this rule to appear before a court, the applicant must pay to the Bar a fee of \$250 at the time of submission of information under subsection (2) of this section, including when application is sought to renew an application at the end of a current one-year grant for a case. The fee will not be refundable.
- (7) Subject to the following, the Bar or any administrative agency acting under this section, may use electronic means to accomplish acts required or authorized under this section:
  - (a) The Bar shall provide acknowledgment under paragraph (2)(a) of this rule for court purposes by electronic means only upon approval of the State Court Administrator.
  - (b) No administrative agency may provide electronic means of notifying the Bar of a grant of application or revocation under this section without prior approval of the Bar.
- (8) An applicant is not required to pay the fee established by subsection (6) of this section if the applicant establishes to the satisfaction of the Bar that the applicant is employed by a government body and will be representing that government body in an official capacity in the proceeding that will be the subject of the application.

NOTE: UTCR 3.170 is adopted by the Oregon Supreme Court under ORS 9.241 and may be modified only by order of that Court.

NOTE: As modified by Supreme Court Order #99-081 dated July 15, 1999.

### 3.180 MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT EVENTS

- (1) Courtrooms. Upon request or on the court's own motion, after notice to all parties, public access coverage shall be allowed in any courtroom, except as provided under this rule.
- (2) There shall be no public access coverage of the following:
  - (a) Proceedings in chambers.
  - (b) Any notes or conversations intended to be private including, but not limited to, counsel and judges at the bench and conferences involving counsel and their clients.
  - (c) Dissolution, juvenile, paternity, adoption, custody, visitation, support, civil commitment, trade secrets, and abuse, restraining and stalking order proceedings.
  - (d) At a victim's request, sex offense proceedings.
  - (e) *Voir dire*.
  - (f) Any juror anywhere during the course of the trial in which he or she sits.
  - (g) Recesses.

- (3) Limitations on Denial of Public Access Coverage in Courtrooms. A judge may limit or deny a request for or terminate public access coverage only if the judge makes findings of fact on the record setting forth substantial reasons for the ruling. The judge may prohibit public access coverage if there is a reasonable likelihood of any of the following:
  - (a) The public access coverage would interfere with the rights of the parties to a fair trial or would affect the presentation of evidence or outcome of the trial.
  - (b) Any cost or increased burden resulting from the public access coverage would interfere with the efficient administration of justice.
- (4) A judge may summarily prohibit public access coverage of a particular witness only if the judge finds on the record that public access coverage would endanger the welfare of the witness or materially hamper the witness' testimony.
- (5) Areas Outside of Courtrooms. The presiding judge may allow public access coverage in any area outside the courtroom that is on the courthouse premises and under the control and supervision of the court. Courts are encouraged to designate an area or areas outside the courtroom that is on the courthouse premises for public access coverage. For areas subject to this subsection, each judicial district, by SLR, may establish, for any court location, procedures for obtaining permission for public access coverage that differ from this subsection or may designate locations where public access coverage is allowed or prohibited. SLR 3.181 is reserved for SLR adopted under this subsection.
- (6) Public Access Coverage Defined. As used in this rule:
  - (a) "Public access coverage" means coverage by means of any public access coverage equipment.
  - (b) "Public access coverage equipment" means any of the following in the possession of persons other than the court or the court's staff: television equipment; still photography equipment; audio, video, or other electronic recording equipment.
- (7) Equipment and Personnel for Public Access Coverage. The court may limit the location of public access coverage equipment. One pool video camera and one pool still camera and one pool tape recorder shall be permitted. The court, at its discretion, may permit additional public access coverage equipment, consistent with the considerations in subsections (3)(a) and (b).
  - (a) No public access coverage device shall be operated by more than one person.
  - (b) No person shall use public access coverage equipment that interferes or distracts from proceedings in the courtroom.
  - (c) The video camera must be mounted on a tripod or other device or installed in the courtroom. The tripod or other device must not be moved while the proceedings are in session. Video equipment must be screened where practicable or located and operated as directed by the court.
  - (d) No artificial lighting devices of any kind shall be allowed.
  - (e) Any pooling arrangement required by limitations on equipment and personnel imposed by the judge or by this rule must be the sole responsibility of the persons

seeking public access coverage, without calling upon the judge to mediate any disputes involved therein.

In the absence of agreement on such issues by persons seeking public access coverage, the judge may exclude any or all public access coverage.

- (8) Upon request by the court for the purpose of determining whether there has been a violation of this rule, or to assure the effective administration of justice, any person engaging in public access coverage of a court event or in a courtroom, courthouse, its premises, or environs under the control and supervision of the court must promptly provide to the court, without expense, for the court's *in camera* review, a copy of any public access coverage the person performed in a format accessible to the court. Said copy may be retained by the court, subject to sealing, if necessary for the further administration of justice.
- (9) A judge may impose other restrictions or limitations necessary to preserve the solemnity, decorum, and dignity of the court and to protect the parties, witnesses, and jurors. A judge may terminate any or all public access coverage at any point upon finding, based on substantial reasons in the record, that this UTCR or other rules imposed by the judge have been violated.
- (10) Nothing in this rule is intended to limit the court's contempt powers.
- (11) Nothing in this rule constitutes a waiver of ORS 44.510 – 44.540 (media shield law).

NOTE: UTCR 3.180 was adopted by the entire Oregon Supreme Court, and any changes to the rule will be made only with the consent of the Supreme Court.

## CHAPTER 4—Proceedings in Criminal Cases

NOTE: Rules specifically relating to contempt proceedings are located in UTCR Chapter 19.

### 4.010 TIME FOR FILING PRETRIAL MOTIONS IN CRIMINAL CASES

Motions for pretrial rulings on matters subject to ORS 135.037 and ORS 135.805 to 135.873 must be filed in writing not less than 21 days before trial or within 7 days after the arraignment, whichever is later, unless a different time is permitted by the court for good cause shown.

### 4.030 PROCEDURE FOR ORDER OF TRANSPORTATION

- (1) Any motion that a person held in custody be transported from the place of confinement to a designated place must be accompanied by a separate proposed court order directing the sheriff to transport the person to and from the designated place at the appointed time.
- (2) All proposed orders of transportation must contain the dates and times on which the person in custody is to appear at the designated place and is to be returned to the place of confinement, the exact location of the designated place and, if the person in custody is to appear as a witness in a court proceeding, the caption and number of the case. A person in custody appearing as a witness must be returned to the place of confinement only after execution of an order of release signed by the judge presiding over the court proceeding.

### 4.050 ORAL ARGUMENT ON MOTIONS IN CRIMINAL CASES

- (1) There must be oral argument if requested by the moving party in the caption of the motion or by a responding party in the caption of a response, except that the court is not required to grant oral argument on a motion to postpone trial. The first paragraph of the motion or response must include an estimate of the time required for argument and a statement whether official court reporting services are requested.
- (2) Counsel for either the state or the defense may request that a motion not requiring testimony be heard by telecommunication. The following apply to a request for oral argument by telecommunication:
  - (a) A request must be in the caption of the motion or response. If oral argument by telecommunication is requested, the first paragraph of the motion or response must include the names and telephone numbers of all parties served with the request, the position of opposing counsel, and whether the defendant has waived in writing the right to appear at the hearing.
  - (b) A request by counsel for defense must be granted if counsel for defense represents that the defendant agrees to the procedure and provides a signed waiver of personal appearance.
  - (c) A request by the state must be granted if both parties agree and counsel for the defense provides a written waiver from the defendant.
  - (d) The party requesting telecommunication must initiate the conference call at its expense unless the court directs otherwise.

- (3) "Telecommunication" must be by telephone or other electronic device that permits all participants to hear and speak with each other.

#### 4.060 MOTION TO SUPPRESS EVIDENCE

- (1) All motions to suppress evidence:
  - (a) must make specific reference to any constitutional provision, statute, rule, case, or other authority upon which it is based; and
  - (b) must be accompanied by the moving party's brief which must be adequate reasonably to apprise the court and the adverse party of the arguments and authorities relied upon.
- (2) Any response to a motion to suppress:
  - (a) together with opposing affidavits, if any, upon which it is based must be in writing and must be served and filed, absent a showing of good cause, not more than 7 days after the motion to suppress has been filed;
  - (b) must state the grounds thereof and, if the relief or order requested is not opposed, wholly or in part, a specific statement of the extent to which it is not opposed; and
  - (c) must make specific reference to any affidavits relied on and must be accompanied by an opposition brief adequate reasonably to apprise the court and moving party of the arguments and authorities relied upon.
- (3) When averments in an affidavit are made upon information and belief, the affidavit must indicate the basis thereof.
- (4) Failure to file a written response shall not preclude a hearing on the merits.

#### 1991 Commentary:

The Committee proposes these amendments to clarify its intent in originally adopting this rule that a written response not be required.

#### 4.070 DISMISSAL OF CHARGES FOLLOWING SUCCESSFUL COMPLETION OF DIVERSION

For any charge dismissed based upon successful completion of diversion for driving under the influence of intoxicants, marijuana diversion, or other diversion program, the dismissing instrument must state the basis for the dismissal.

#### 4.080 APPEARANCE AT CRIMINAL PROCEEDINGS BY MEANS OF SIMULTANEOUS ELECTRONIC TRANSMISSION

- (1) A court may conduct an appearance in a criminal proceeding at any circuit court location by the following types of simultaneous electronic transmission, as defined in ORS

131.045, if the transmission complies with the requirements of ORS 131.045, 135.030, 135.360, 135.767, 137.040, and 137.545:

- (a) telephone;
  - (b) television;
  - (c) video conference; and
  - (d) Internet.
- (2) SLR 4.081 is reserved for judicial districts to adopt a local rule regarding appearance at criminal proceedings by means of simultaneous electronic transmission.

#### 4.090 ELECTRONIC CITATIONS

- (1) As used in this rule:
- (a) “Electronic citation” means a violation complaint or a criminal citation electronically filed in circuit court by a filing agency pursuant to ORS 153.770 or ORS 133.073.
  - (b) “Filing agency” means a law enforcement agency or a parking enforcement agency filing an electronic citation.
  - (c) “Trial court administrator” means the trial court administrator for the circuit court in which the electronic citation is filed.
- (2) A circuit court, upon approval of the State Court Administrator, may authorize the filing of electronic citations. A circuit court’s request to the State Court Administrator for approval of the use of electronic citations must:
- (a) Describe the understanding reached with the filing agency, and
  - (b) Describe the manner in which the electronic citations will be accommodated by Oregon Judicial Department systems and computer technology.
- (3) The State Court Administrator may establish appropriate conditions and procedures to be followed by a court and its partners in an electronic citation program to assure that the process for electronic citations can be accommodated by Oregon Judicial Department systems and computer technology.
- (4) The transmission of information and images as provided in this rule must be tested and meet completely the system requirements for electronically uploading information and images into the Oregon Judicial Department’s automated information systems. Testing shall be administered by Oregon Judicial Department staff.
- (5) A filing agency must satisfy all of the following requirements when filing an electronic citation in circuit court:
- (a) The filing agency must obtain from the trial court administrator written approval before filing electronic citations.

- (b) For a violation complaint, the electronic citation information must include all of the information required by ORS 153.770(2)(a).
  - (c) For a criminal citation, the electronic citation information must include all of the information required by ORS 133.073(2)(a).
  - (d) The electronic citation must contain a unique identification number for the law enforcement or parking enforcement officer issuing the citation, the officer's name, the officer's eSignature, and the identity of the agency employing the officer.
  - (e) The filing agency must number the electronic citation using a number series approved by the trial court administrator.
  - (f) The filing agency must assign to the citation a unique number that does not duplicate the number on any electronic citation previously filed by the filing agency.
  - (g) A criminal citation with a form of complaint must not be filed until after the district attorney has conducted the review required by ORS 133.069(2).
  - (h) The filing agency must transmit to the circuit court an image of the electronic citation for public inspection under ORS 153.770(2)(c) and ORS 133.073(2)(c).
  - (i) If the circuit court in which the electronic citation is to be filed has a Supplementary Local Rule (SLR) on electronic citations, the filing agency must comply with all procedures and requirements in the SLR.
- (6) Subject to the restrictions under ORS 133.066(4) and (5) regarding the types of offenses that can be included in a citation, an electronic citation may contain up to ten offenses on a single citation.
  - (7) An electronic citation is deemed filed at the time the information for the citation is entered in the register of the court.
  - (8) A circuit court may scan uniform traffic citations filed in paper format, along with any supporting documentation and correspondence, and reformat them to an electronic record.
  - (9) A circuit court may issue judicial decisions and signatures electronically and may affix a judge's signature by electronic means.
    - (a) The trial court administrator must maintain the security and control of the methods for affixing electronic judicial signatures.
    - (b) Those methods must be accessible by only the signer and the trial court administrator or the trial court administrator's designee.
  - (10) Citations that are electronically filed or manually scanned, including those to which additional information, judicial orders, judgments, and judicial signatures have been added, are the original and legal court record.
  - (11) SLR 4.091 is reserved for judicial districts to adopt a local rule regarding electronic citations.

- (12) A member of the public may obtain from the circuit court a printed image of an electronic citation in the same manner as for a paper record of the circuit court. Fees applicable to court records apply to requests for images of electronically filed citations.

4.100 CRIME VICTIMS' RIGHTS – PROSECUTOR'S NOTIFICATION AND CRIME VICTIMS' RIGHTS VIOLATION CLAIM

- (1) The prosecuting attorney must file a notification of compliance as provided in ORS 147.510, in substantially the form set out in Form 4.100.1a or 4.100.1b in the UTCR Appendix of Forms.
- (2) To allege a violation of a right granted by Article I, section 42 or 43, of the Oregon Constitution, a victim may file a claim in substantially the form set out in Form 4.100.2a or 4.100.2b in the UTCR Appendix of Forms. The claim must be filed with the court clerk's office in the court in which the criminal case is pending.



## CHAPTER 5—Proceedings in Civil Cases

NOTE: Rules specifically relating to contempt proceedings are located in UTCR Chapter 19.

### 5.010 CONFERRING ON MOTIONS UNDER ORCP 21, 23 and 36-46

- (1) The court will deny any motion made pursuant to ORCP 21 and 23, except a motion to dismiss: (a) for failure to state a claim; or, (b) for lack of jurisdiction, unless the moving party, before filing the motion, makes a good faith effort to confer with the other party(ies) concerning the issues in dispute.
- (2) The court will deny any motion made pursuant to ORCP 36 through 46, unless the moving party, before filing the motion, makes a good faith effort to confer with the other parties concerning the issues in dispute.
- (3) The moving party must file a certificate of compliance with the rule at the same time the motion is filed. The certificate will be sufficient if it states either that the parties conferred or contains facts showing good cause for not conferring.
- (4) Upon certification that a motion is unopposed, it may be submitted *ex parte*.

### 5.020 POINTS AND AUTHORITIES TO ACCOMPANY MOTION AND OTHER REQUIREMENTS

- (1) Every motion must be accompanied by or include a memorandum of law or a statement of points and authorities, explaining how any relevant authorities support the contentions of the moving party.
- (2) If a pleading is moved against in more than two particulars under ORCP 21 D or E, there must be attached to the motion a copy of the pages of the pleading moved against with the parts of the pleading to be stricken shown in parentheses and the parts to be made more definite and certain underlined.

### 5.030 OPPOSING PARTY'S RESPONSE; TIME FOR FILING RESPONSE AND REPLY

In matters other than motions for summary judgment:

- (1) An opposing party may file a written memorandum of authorities in response to the matters raised in any motion not later than 14 days from the date of service of the motion.
- (2) A reply memorandum, if any, must be filed within 7 days of the service of the responding memorandum.

### 5.040 MOTIONS TO BE DETERMINED BY THE PRESIDING JUDGE OR DESIGNEE

The presiding judge or designee shall hear and determine all motions.

5.050 ORAL ARGUMENT ON MOTIONS IN CIVIL CASES; APPEARANCE AT  
NONEVIDENTIARY HEARINGS AND MOTIONS BY TELECOMMUNICATION

- (1) There must be oral argument if requested by the moving party in the caption of the motion or by a responding party in the caption of a response. The first paragraph of the motion or response must include an estimate of the time required for argument and a statement whether official court reporting services are requested.
- (2) A party may request that a nonevidentiary hearing or a motion not requiring testimony be heard by telecommunication.
  - (a) A request for a nonevidentiary hearing or oral argument by telecommunication must be in the caption of the pleading, motion, response, or other initiating document.
  - (b) If appearance or argument by telecommunication is requested, the first paragraph of the pleading, motion, response, or other initiating document must include the names and telephone numbers of all parties served with the request. The request must be granted.
  - (c) The first party requesting telecommunication must initiate the conference call at its expense unless the court directs otherwise.
- (3) "Telecommunication" must be by telephone or other electronic device that permits all participants to hear and speak with each other and permits official court reporting when requested. When recording is requested, telecommunications hearings must be recorded by the court if suitable equipment is available; otherwise, it will be provided at the expense of the party requesting recording.

5.060 STIPULATED AND *EX PARTE* MATTERS

- (1) Any stipulated or *ex parte* matter may be delivered by mail or messenger to the trial court administrator for distribution to a judge for signature. An *ex parte* default, a stipulated order, or a stipulated judgment also may be personally presented to a judge by the attorney or the attorney's agent. Other types of *ex parte* matters personally presented to a judge must be presented by the attorney.
- (2) A motion for an *ex parte* order must contain the term "*ex parte*" in the caption and must be accompanied by a proposed order.
- (3) *Ex parte* matters shall be presented anytime during court hours, except as modified by SLR promulgated pursuant to UTCR 1.050 and except as provided in UTCR 21.080. Until such local rules are adopted, stipulated and *ex parte* matters may be personally presented anytime during court hours.

5.070 MOTION FOR LEAVE TO AMEND PLEADING

- (1) Except as provided in section (2) of this rule, whenever a motion for leave to amend a pleading, including a motion to amend to assert a claim for punitive damages, is submitted to the court, it must include, as an exhibit attached to the motion, the entire text of the proposed amended pleading. The text of the pleading must be formatted in the following manner:

- (a) Any material to be added to the pleading must be underlined and in bold with braces at each end.
  - (b) Any material to be deleted from the pleading must be italicized with brackets at each end.
- (2) If the motion to amend is for a pleading that was composed using preprinted forms that have been completed by filling in the blanks, the moving party may comply with this rule by making a copy of the filed pleading and formatting the text of the pleading in the following manner:
- (a) Any material to be added to the pleading must be interlineated and underlined with braces at each end.
  - (b) Any material to be deleted from the pleading must have brackets at each end.

#### 5.080 STATEMENT FOR ATTORNEY FEES, COSTS, AND DISBURSEMENTS

In civil cases, the statement for attorney fees, costs, and disbursements must be filed in substantially the form set forth in Form 5.080 in the UTCR Appendix of Forms.

#### 5.090 NOTICE TO COURT IN WATER RIGHTS CASES

If at any time during a case a party asserts a disputed water right, the party must give notice to the court that the case involves water rights. If not stated in the caption of the original complaint that begins the court case, the notice shall be in the following form:

- (1) Be filed as a separate document.
- (2) Include the caption of the case and the case number.
- (3) Include a statement that the case involves water rights.
- (4) Be signed by the attorney or party.

#### 5.100 SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS

- (1) Any proposed judgment or proposed order submitted in response to a ruling of the court must be:
  - (a) served on opposing counsel not less than 3 days prior to submission to the court, or
  - (b) accompanied by a stipulation by opposing counsel that no objection exists as to the form of the judgment or order, or
  - (c) mailed to a self-represented party at the party's last known address not less than 7 days prior to submission to the court, or
  - (d) presented in open court with the parties present.

- (2) A certificate describing the manner of compliance with subsection (1)(a) or (1)(c) of this rule must be attached to a proposed judgment or order submitted to the court.
- (3) The requirements of subsection (1) of this rule do not apply to:
  - (a) proposed judgments subject to UTCR 10.090, and
  - (b) uncontested probate and protective proceedings.
- (4) Any proposed judgment containing an award of punitive damages shall be served on the Director of the Crime Victims' Assistance Section, Oregon Department of Justice, 1162 Court Street NE, Salem, OR 97301, not less than 3 days prior to submission to the court.

#### 5.110 CLASS ACTIONS

Rules relating to class actions may be found at Oregon Rule of Civil Procedure 32 and Oregon Rule of Appellate Procedure 12.15.

#### 5.120 NOTICE TO THE DEPARTMENT OF JUSTICE, CRIME VICTIMS' ASSISTANCE SECTION, OF PUNITIVE DAMAGES

- (1) The notices required by ORS 31.735(3), concerning verdicts and judgments that include punitive damages, shall substantially be in the form specified in Form 5.120.1 in the UTCR Appendix of Forms.
- (2) The prevailing party shall promptly file with the court a copy of each notice and the proof of service.

#### 5.130 INTERSTATE DEPOSITION INSTRUMENTS—OBTAINING AN OREGON COMMISSION

- (1) A party shall request a commission pursuant to ORCP 38 to permit a deposition to be taken in a foreign jurisdiction for an action pending in an Oregon circuit court by presenting a motion, affidavit, and form of order at *ex parte*. (See Form 5.130.1a in the UTCR Appendix of Forms.) If the motion is allowed, the party shall file the motion, affidavit, and signed order with the trial court administrator in the pending civil action. When the order granting the commission is filed, the trial court administrator or the trial court administrator's designee shall issue the commission (see Form 5.130.1b in the UTCR Appendix of Forms).
- (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.

## 5.140 OREGON DISCOVERY IN FOREIGN PROCEEDINGS

- (1) To obtain discovery in the State of Oregon for a proceeding pending in another state pursuant to Oregon Rule of Civil Procedure (ORCP) 38 C, a party must submit to the court all of the following:
  - (a) The foreign subpoena.
  - (b) An original and two copies of a fully completed subpoena that
    - (i) complies with the requirements of the ORCP, including ORCP 55; and
    - (ii) contains the names, addresses, email addresses, and telephone numbers of all attorneys of record and self-represented parties in the foreign proceeding.
  - (c) A declaration and request for issuance of a subpoena pursuant to ORCP 38 C, substantially in the form specified in Form 5.140.1c in the UTCR Appendix of Forms, stating that
    - (i) the foreign subpoena was issued by a court of record of a state as “state” is defined in ORCP 38 C(1)(b);
    - (ii) the fully completed subpoena complies with the requirements of the ORCP, including ORCP 55; and
    - (iii) the fully completed subpoena contains the names, addresses, email addresses, and telephone numbers of all attorneys of record and self-represented parties in the foreign proceeding.}
- (2) To obtain discovery in the State of Oregon for a proceeding pending in a foreign jurisdiction not subject to ORCP 38 C, a party must file a writ, mandate, commission, letter rogatory, or order executed by the appropriate authority in the foreign jurisdiction with a circuit court of this state. The party in the foreign proceeding or an active member in good standing of the Oregon State Bar must present in person at *ex parte* the original document or a certified copy from the foreign jurisdiction, a petition, and an order to register the document. (See Form 5.140.2 in the UTCR Appendix of Forms.) If approved by the court, the matter will be assigned a circuit court case number and appropriate process may be issued by the Oregon attorney.
- (3) In the event that a foreign jurisdiction not subject to ORCP 38 C has no procedure to issue a writ, mandate, commission, letter rogatory, or order to authorize a deposition to be taken in Oregon, at *ex parte* the party must present a petition to compel the witnesses to appear and testify. The petition must be supported by an affidavit that contains all of the following:
  - (a) The name of the foreign jurisdiction in which the proceeding is pending.
  - (b) The name of the court in which the proceeding is pending.
  - (c) The caption or other relevant title of the proceeding.
  - (d) The case number assigned by the foreign jurisdiction to the proceeding.
  - (e) The date of filing of the proceeding in the foreign jurisdiction.

- (f) 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.
- (g) 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.
- (h) The identity of witnesses in this state to be compelled upon notice or agreement to appear and testify.

#### 5.150 EXPEDITED CIVIL JURY CASES

- (1) A civil case eligible for jury trial may be designated as an expedited case. The availability of the designation may vary by judicial district and is dependent on the availability of staff, judges, and courtrooms. A party seeking the designation must confer with the court to determine whether the designation is available. If it is available, a party seeking the designation must do all of the following:
  - (a) Obtain the agreement of all other parties to designate the case as an expedited civil jury case.
  - (b) Submit a joint motion and an order to the presiding judge in substantially the form of UTCR Forms 5.150.1a and 5.150.1b.
- (2) The decision to accept or reject a case for designation as an expedited case is within the sole discretion of the presiding judge or designee. The judge will consider the request on an expedited basis, when possible, and enter an order granting or denying the motion. If the judge grants the motion and designates the case as an expedited case, the judge will:
  - (a) Exempt or remove the case from mandatory arbitration, pursuant to ORS 36.405(2)(a) and (b), and from all court rules requiring mediation, arbitration, and other forms of alternative dispute resolution.
  - (b) Set a trial date certain no later than four months from the date of the order with a pretrial conference to be set no later than 14 days before trial.
- (3) The parties in an expedited case may file a written agreement with the court, in substantially the form of UTCR Form 5.150.1a, section 4, stating all of the following:
  - (a) The scope, nature, and timing of discovery.
  - (b) The date by which discovery will be complete, which must be not later than 21 days before trial.
  - (c) Stipulations regarding the conduct of the trial, which may include stipulations for the admission of exhibits and the manner of submission of expert testimony.
- (4) If the parties in an expedited case do not file a discovery agreement pursuant to subsection (3) of this rule, then each party must do all of the following:

- (a) Provide to all other parties within four weeks of the expedited case designation:
  - (i) The names and, if known, addresses and telephone numbers of all persons, other than expert witnesses, likely to have knowledge that the party may use to support its claims or defenses, unless the use would be solely for impeachment.
  - (ii) A copy of all unprivileged ORCP 43 A(1) documents and tangible things that the party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.
  - (iii) A copy of all insurance agreements and policies discoverable pursuant to ORCP 36 B(2).
- (b) Take no more than two depositions after a party has requested an expedited case designation.
- (c) Serve no more than one set of requests for production after a party has requested an expedited case designation.
- (d) Serve no more than one set of requests for admission after a party has requested an expedited case designation.
- (e) Serve all discovery requests no later than 60 days before the trial date.
- (f) Complete all discovery no later than 21 days before trial.
- (5) After an order designating the case as an expedited case, a party shall not file a pretrial motion without prior leave of the court.
- (6) A party's failure to request or respond to discovery is not a basis for that party to seek postponement of the expedited case trial date.

#### 5.160 SEALED DOCUMENTS

- (1) A party seeking an order to file documents or materials under seal must file a motion with the court that specifies all of the following:
  - (a) The statutory authority for sealing the documents or materials.
  - (b) The reasons for protecting the documents or materials from public inspection.
  - (c) A description of the documents or materials to be sealed.
- (2) At the direction of the judge hearing the motion, the moving party must submit the documents to the court for in camera review.
- (3) The court's order on the motion may include directions to the clerk's office to do one of the following:
  - (a) File the documents or materials, unsealed, in the court file.
  - (b) File the documents or materials under seal in the court file.

- (c) Return the documents, unfiled, to the moving party.
- (4) When documents or materials are filed under seal, the filing party must present the clerk with a copy of the signed court order and submit the documents or materials in a sealed envelope marked "SEALED DOCUMENTS OR MATERIALS" and with a notation that identifies the case caption and the party making the submission. In addition, all documents ordered to be filed under seal must have the words "FILED UNDER SEAL BY COURT ORDER" located directly below the document title.



## CHAPTER 6—Trials

### 6.010 CONFERENCES IN CIVIL PROCEEDINGS

- (1) In any civil proceeding the court may, in its discretion, direct the parties to appear before the court for a conference to consider:
  - (a) the simplification of the issues;
  - (b) the necessity or desirability of amendments to the pleadings;
  - (c) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof or delay;
  - (d) the limitation of the number of expert witnesses;
  - (e) the advisability of a preliminary reference of issues to a master for findings to be used as evidence when the trial is to be by jury;
  - (f) a reference in whole or in part;
  - (g) the possible settlement of the case; and
  - (h) such other matters as may aid in the disposition of the action.
- (2) All conferences may be by personal appearance except that any party may apply, or the court may arrange for, a conference by telecommunication.

#### 1991 Commentary:

Settlement conferences are required as provided by each court by its SLR 6.012 and under UTCR 6.200.

### 6.020 COURT NOTIFICATION ON SETTLEMENT OR CHANGE OF PLEA

- (1) In criminal cases, the parties must notify the court immediately of any decision that a case will be dismissed or a change of plea entered.
- (2) In all other cases, the parties must immediately notify the court of a decision to settle, dismiss, or otherwise resolve a case. After receipt of the notice, a court may require the parties to put the decision on the record, give written notice to the parties that the case will be dismissed unless an appropriate judgment is tendered to the court within 28 days, or both.
- (3) If parties to a civil action fail to notify the court of a settlement before 12:00 p.m. (noon) of the last judicial day preceding a jury trial, or if the case settles after 12:00 p.m. (noon) of such day, the court may assess on one or both parties the per diem fees and mileage costs of bringing in the jury panel for that particular trial.

## 6.030 POSTPONEMENT OF TRIAL

- (1) A request to postpone a trial must be by motion.
- (2) A motion to postpone a trial must be signed by the attorney of record and contain a certificate stating that counsel has advised the client of the request and must set forth:
  - (a) the date scheduled for trial,
  - (b) the reason for the requested postponement,
  - (c) the dates previously set for trial,
  - (d) the date of each previous postponement, and
  - (e) whether any parties to the proceeding object to the requested postponement.
- (3) If the motion to postpone is based upon a conflicting proceeding in another court, it must set forth, in addition to the information required by subsection (2) of this section:
  - (a) the name of the court in which the conflict exists,
  - (b) the date of the conflict,
  - (c) the date on which the other proceeding is to begin,
  - (d) the case number and the date of filing of the conflicting case,
  - (e) the date on which the conflicting case was set for trial, and
  - (f) the information required by UTCR 6.040(2).
- (4) If a motion to postpone a civil trial is based upon stipulation of the parties:
  - (a) the new trial date must be within the time periods set forth in UTCR 7.020(5),
  - (b) the motion must be filed at least 28 days before the date then set for trial,
  - (c) the motion must be signed by the attorneys of record,
  - (d) the motion must contain a certificate stating that the attorneys have advised their clients of the stipulation and the clients agree to the postponement, and
  - (e) the motion must set forth the date scheduled for trial, the new trial date requested, and that the new date is available on the court's trial docket.
- (5) The motion may be decided by a summary determination without a hearing.
- (6) Motions to postpone are not subject to UTCR Chapter 5, except UTCR 5.040 and 5.060.

### 1993 Commentary:

The court has discretion to allow or deny any motion for postponement under ORCP 52 and this rule, but the Committee recommends that the court generally allow a motion under subsection (4) of this rule if the new trial date requested can be reasonably accommodated on the court's docket.

#### 6.040 RESOLVING SCHEDULING CONFLICTS

- (1) When a party is scheduled to appear in more than one court at the same time, and has been unable to obtain a postponement in one of the courts, the scheduling conflict will be resolved by the presiding judges of the affected courts on motion of the affected party in both courts.
- (2) In resolving scheduling conflicts, the following must be considered:
  - (a) statutory preference;
  - (b) the custodial status of a criminal defendant;
  - (c) the filing date of the case;
  - (d) the dates on which the courts sent notices of the trial date;
  - (e) the relative complexity of the cases;
  - (f) the availability of competent, prepared substitute counsel; and
  - (g) the inconvenience to the parties, the witnesses or the court.
- (3) If the scheduling conflict cannot be resolved by the affected presiding judges after consultation with each other, the conflict must be referred by them to the Chief Justice for summary resolution.

#### 6.050 SUBMISSION OF TRIAL MEMORANDA AND TRIAL EXHIBITS

- (1) Trial memoranda, if any, must be filed with the trial court administrator, and copies must be delivered concurrently to the court and to opposing parties.
- (2) Trial exhibits must be delivered or submitted as ordered by the assigned judge and not filed with the clerk of court.

#### 6.060 PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS

- (1) All requested jury instructions and verdict forms must be in writing and delivered concurrently to the trial judge and to opposing parties.
- (2) The original of the requested jury instructions and verdict forms must be submitted to the court. The court also may require that a party submit a copy of the jury instructions and verdict forms, in the manner and time that the court specifies.

- (3) Requested instructions may include any Uniform Oregon Jury Instruction by reference only to its instruction number and title: such as "Instruction No. 70.04 - Lookout." If the uniform instruction contains blanks or alternative choices, the appropriate material to complete the instruction must be supplied in the request.
- (4) Requested jury instructions, including references to Uniform Oregon Jury Instructions, must be prepared as follows:
  - (a) Requested uniform instructions must be identified in accordance with UTCR 6.060(3).
  - (b) Instructions, including uniform instructions, must be numbered consecutively, beginning with the number "1" for the first requested instruction.
  - (c) Except for requested uniform instructions, not more than one proposed instruction must appear on each sheet of paper.
  - (d) If any requested jury instruction requires more than one page to be set out, each of the pages must be numbered at the lower left-hand corner; the number must contain the consecutively assigned requested jury instruction number provided pursuant to subparagraph (b) of this paragraph, followed by a hyphen, followed by the consecutive number for each page.
  - (e) The designation of the party requesting the instruction must be typed on each page.
  - (f) Below each requested instruction must be a statement citing the statute, decision or other legal authority which supports the requested instruction.
- (5) The court must inform the parties before argument of the instructions that it proposes to give.
- (6) Proposed verdict forms and written interrogatories, if any, must be prepared without the name of the attorney or the name of the firm and must be submitted at commencement of trial and as otherwise allowed by the court.

#### 6.070 JURY INSTRUCTIONS

No identifying information relating to the parties or any other extraneous material, including authorities, shall appear on submitted jury instructions.

#### 6.080 MARKING EXHIBITS

- (1) Before the commencement of the trial, parties must mark all exhibits in the following manner:
  - (a) Plaintiff's exhibits must be marked consecutively from 1 through 99.
  - (b) Defendant's exhibits must be marked consecutively from 101 through 199.
  - (c) On request, the court must assign additional blocks of numbers.

- (d) In cases involving multiple parties or large numbers of exhibits, the parties shall agree on the assignment of the numbers. If the parties cannot reach agreement, or if for any reason the numbering system cannot accommodate the parties, then the court may direct the parties to use any other numbering system not inconsistent with the intent of this section.
- (2) Upon request, the trial court administrator shall provide a party with appropriate stamps, labels or tags for exhibit marking.
- (3) The parties must submit to the court at the time of trial a list of premarked exhibits.
- (4) Exhibits not available at the commencement of trial, exhibits not reasonably anticipated to be used and exhibits intended for impeachment purposes need not be premarked.
- (5) At the time of trial or hearing involving a covered offense, a party introducing an exhibit that contains biological evidence must provide the court in writing with the name, agency, mailing address, and telephone number for the custodian responsible for each exhibit that contains biological evidence. Counsel also must indicate whether the biological evidence was collected by the defense. For a trial, this information must be submitted with the list of premarked exhibits required under subsection (3) of this rule.
- (6) For purposes of this rule, the following definitions apply:
  - (a) "Biological evidence" has the meaning given in ORS 133.705.
  - (b) "Covered offense" has the meaning given in ORS 133.705.
  - (c) "Custodian" has the meaning given in ORS 133.705.

1988 Commentary:

Subsection (4) cannot and does not change discovery rules as established for criminal cases by statute.

6.090 PEREMPTORY CHALLENGES IN CIVIL CASES

In civil trials, peremptory challenges must be taken in writing by secret ballot unless the parties stipulate to taking the challenges orally and the court agrees.

6.100 EXAMINATION OF WITNESSES

Except for good cause shown, no more than one attorney for each party shall examine a witness or present argument on an issue.

6.110 SPECIAL AND GENERAL FINDINGS IN SEPARATE DOCUMENT

Special or general findings or conclusions must be included in a document separate from the judgment.

#### 6.120 DISPOSITION OF EXHIBITS

- (1) Unless otherwise ordered or except as otherwise provided in ORS 133.707, all exhibits shall be returned to the custody of counsel for the submitting parties upon conclusion of the trial or hearing. Such counsel must sign an acknowledgment of receipt for the exhibits returned. Counsel to whom any exhibits have been returned must retain custody and control until final disposition of the case unless the exhibits are returned to the trial court pursuant to subsections (2) or (3) of this rule. Both documentary and nondocumentary exhibits submitted by parties not represented by counsel shall be retained by the trial court, subject to subsection (4) of this rule.
- (2) Upon the filing of a notice of appeal by any party, the trial court administrator promptly shall notify all counsel that they are required to return all documentary exhibits in their custody to the trial court within 21 days of receipt of the trial court's request. All counsel are required to comply with the notice. The trial court promptly will transmit the documentary exhibits to the appellate court, when requested to do so by the appellate court, under ORAP 3.25.
- (3) Upon request by an appellate court for transmission of nondocumentary exhibits, under ORAP 3.25, the trial court shall notify the party in whose custody the nondocumentary exhibits have been placed. The party must resubmit the designated exhibits to the custody of the trial court for transmittal to the appellate court.
- (4) Exhibits not returned to the parties shall be processed as follows:
  - (a) Such exhibits shall be retained by the trial court until the appeal period has elapsed and there is a final disposition of the case.
  - (b) After final disposition of the case, a notice shall be sent to the parties of record that, unless they withdraw their respective exhibits within 30 days, the exhibits will be disposed of by the court.
- (5) Nothing contained in this rule shall prevent parties to any matter before the court from seeking the release or return of exhibits before the times specified in this rule.
- (6) Exhibits in the court's custody shall not be removed from the trial court administrator's control except by stipulation or by order of the court.
- (7) For purposes of this rule, "documentary exhibits" include text documents, photos and maps, if not oversized, and audio and video tapes. An oversized document is one larger than standard letter size or legal size.

#### 6.130 WAIVER OF JURY TRIAL IN CIVIL CASES

No waiver of trial by jury in civil cases in circuit court shall be deemed to have occurred unless the parties notify the court of such a waiver before 5:00 p.m. of the last judicial day before trial. Thereafter, a jury trial may not be waived without the consent of the court. Failure to timely notify the court of a waiver before the day of trial may result in an assessment by the judge on one or both of the parties for the per diem fee and mileage costs of bringing in the jury panel for that trial.

#### 6.140 PROCEDURES FOR USE OF HAZARDOUS SUBSTANCE

- (1) If a party intends to offer into evidence any hazardous substance at an evidentiary hearing or trial, the party must file a motion no later than 28 days prior to the hearing or trial seeking an order from the court regulating the handling, use and disposition of the hazardous substance.
- (2) "Hazardous substance" in this rule is defined as any substance listed or hereafter added to the Department of Transportation Hazardous Substances List and the Oregon State Police List of Chemicals and Precursors for Methamphetamine Production and any other hazardous substance designated by SLR.
- (3) The court, in its discretion, may issue an order concerning any of the following matters:
  - (a) a jury view and/or photograph in lieu of transportation of the hazardous substance to the courthouse;
  - (b) appointment of a custodian;
  - (c) appointment of a disposition expert;
  - (d) appointment of a medical expert;
  - (e) the amount to be transported or viewed;
  - (f) the container in which the hazardous substance is to be stored;
  - (g) the location and duration of handling and storage of the hazardous substance;
  - (h) the disposition of the hazardous substance; and
  - (i) other matters intended by the court to safeguard the public and the evidentiary record.
- (4) Failure to file a timely motion under subsection (1) of this rule may be grounds for excluding any hazardous substance from the courthouse.

#### 1989 Commentary:

To prevent hardship or injustice, relief from application of this rule in an individual case may be sought under UTCR 1.100.

#### 6.150 WEAPONS AND DANGEROUS INSTRUMENTS IN THE COURTROOM

If a party intends to offer into evidence any weapons or other hazardous materials at an evidentiary hearing or trial, before bringing the items into the courtroom, the party must:

- (1) For weapons:
  - (a) All firearms, BB guns, and pellet guns intended to be offered in evidence must be unloaded and either rendered inoperable or have a trigger guard installed.

- (b) Guns and ammunition must be kept separate at all times.
  - (c) Knives, scissors, and any other sharp objects that could penetrate the skin must be sealed in puncture-proof containers, provided with secure and protective sheaths, or otherwise rendered harmless.
- (2) For other hazardous materials:
- (a) Hypodermic needles must be provided with covers over needle points and sealed in a transparent puncture-proof bag.
  - (b) An unbreakable, transparent tube that locks on one end must be provided for safe handling and viewing of chemicals, pharmaceuticals, and biological substances.

1990 Commentary:

The court should be mindful that the court may grant exception to the above for good cause shown under UTCR 1.100 and that the Committee intended that there be exceptions granted if any part of the rule would affect the mechanical operation when mechanical operation was an evidentiary issue.

#### 6.160 CONTROLLED SUBSTANCES IN THE COURTROOM

- (1) Unless otherwise ordered by the court, only a representative sample of controlled substances shall be brought into the courtroom to be presented as evidence. Such sample must have been placed in a see-through, heat-sealed container prior to coming into the custody of the court and must not be opened except by order of the court. The remainder may be presented by photograph, videotape, or may be available for viewing by the jury in some secure setting.
- (2) At all times between the receipt of the controlled substances and the return of controlled substances to the submitting party under UTCR 6.120 or destruction or transmittal of the controlled substances to the appellate courts, the controlled substances shall be in the court's evidence locker in the custody and possession of a member of the court staff or in the custody of such appropriate law enforcement agency as the court orders.

#### 6.170 JUROR HANDLING OF CONTROLLED, HAZARDOUS, OR INFECTIOUS SUBSTANCES AND CHEMICALS

Jurors must be advised if any controlled, hazardous, or infectious substances or chemicals to be handled in the jury room present a danger and must be provided instructions on safe handling, including providing protective devices, if necessary.

#### 6.180 WEAPONS AND HAZARDOUS SUBSTANCES IN THE COURT FACILITIES

Unless otherwise ordered by the court, no person except a law enforcement officer shall possess in a court facility a firearm, knife, device, or hazardous substance capable of inflicting death or physical injury.



#### 6.190 EVIDENCE SUBMITTED IN AN ELECTRONIC FORMAT

- (1) Any exhibit or testimony to be presented to the court in an electronic format shall be compatible with the court's electronic equipment.
- (2) Prior to trial or hearing, a party intending to offer electronic evidence must make sure it is in a format compatible with the court's equipment. A party is responsible for the cost, if any, incurred by the court as a result of the party's use of the court's electronic equipment or in repairing the court's electronic equipment as a result of a party's use of it.
- (3) Parties may use their own equipment to present electronic evidence. However, parties using their own equipment may need to make their equipment available to the court, opposing parties, and the jury.
- (4) It is a party's responsibility to provide any technical support needed in presenting the party's evidence and in making its evidence compatible with the court's electronic equipment or in using the party's own equipment.

#### 6.200 PRETRIAL SETTLEMENT CONFERENCES

- (1) Each judicial district may adopt an SLR 6.012, or an SLR in Chapter 12 if that chapter is dedicated to alternative dispute resolution, providing for a uniform pretrial settlement conference procedure for use in all circuit court civil cases, including dissolution of marriage and postjudgment modification proceedings. The SLR shall be designed to most effectively meet the needs of the judges, lawyers, and litigants in each district and to promote early pretrial settlements.
- (2) Each SLR under this section, if adopted, should include the following provisions:
  - (a) If one party requests a pretrial settlement conference, the settlement conference must be held and must be conducted according to the procedure set forth in the SLR. However, the pretrial settlement conference will not be required if the opposing party demonstrates good cause why the settlement conference should not be held.
  - (b) Each party or representative of a corporation or insurance company who has full authority to settle and compromise the litigation must personally appear at the pretrial settlement conference; however, the judge may permit telephone appearances for good cause.
  - (c) Each settlement conference shall be scheduled to allow adequate time for meaningful settlement discussions. Additional settlement conferences may be scheduled by the judge or by agreement of all attorneys and parties.
  - (d) The pretrial settlement conferences shall not delay the trial scheduling.
- (3) Each SLR under this UTCR section, if adopted, should specify:
  - (a) Whether the settlement conference judge shall be permitted to act as trial judge if the case does not settle.
  - (b) Whether a pretrial statement or other document must be submitted to the judge prior to the pretrial settlement conference, when it should be submitted, and whether it should be confidential or nonconfidential.

- (c) Whether and under what circumstances materials or notes prepared by the pretrial settlement judge may be placed in the trial court file in the event that the case does not settle.
  - (d) The methods for reporting settlement and removing the case from the active trial docket.
  - (e) Whether a trial-setting conference shall be held prior to the pretrial settlement conference.
- (4) SLR 6.012 is reserved for SLR adopted under this UTCR section.

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

### **7.010 PLEAS, NEGOTIATIONS, DISCOVERY AND TRIAL DATES IN CRIMINAL CASES**

- (1) At the time of arraignment, the court may either accept a not guilty plea and set a trial date or set a date for entry of a plea in accordance with subsection (2) of this section.
- (2) Plea agreements, negotiations, discovery, and investigations must be concluded by a date as set by the court which is:
  - (a) for defendants in custody, not less than 21 days after arraignment but, in any event, not later than 21 days prior to the trial date; and
  - (b) for defendants who are not in custody, not less than 35 days after arraignment, but not later than the 35th day prior to the trial date.
- (3) Not later than the date set pursuant to subsection (2), trial counsel must report the following:
  - (a) whether a jury trial is requested;
  - (b) the probable length of trial;
  - (c) the need for a pretrial hearing; and
  - (d) any other matter affecting the case.
- (4) Relief from the dates set pursuant to subsection (2) of this rule shall be granted for good cause shown.

#### 1988 Commentary:

Relief from application of the deadlines set by this rule is subject to UTCR 1.100, as are all UTCR provisions.

#### 1990 Commentary:

As used in this section, arraignment means the initial appearance of the defendant in the court having jurisdiction to dispose of the case.

Relief from time set in this section is subject to UTCR 1.100, as are all UTCR provisions. The purpose of this rule, among others, is to give certainty in trial dockets. Therefore, the last date for entry of a plea will change with changes in trial dates.

Section 4.010 of UTCR should be read in conjunction with this section. In this regard, the parties may request that the court decide any legal issue, including motions to suppress, before plea negotiations are concluded. Nothing requires the court to allow that request.

### **7.020 SETTING TRIAL DATE IN CIVIL CASES**

- (1) After service is made, the serving party must forthwith file the return or acceptance of service with the trial court administrator.

- (2) If no return or acceptance of service has been filed by the 63rd day after the filing of the complaint, written notice shall be given to the plaintiff that the case will be dismissed for want of prosecution 28 days from the date of mailing of the notice unless proof of service is filed within the time period, good cause to continue the case is shown to the court on motion supported by affidavit and accompanied by a proposed order, or the defendant has appeared.
- (3) If proof of service has been filed and any defendant has not appeared by the 91st day from the filing of the complaint, the case shall be deemed not at issue and written notice shall be given to the plaintiff that the case will be dismissed against each nonappearing defendant for want of prosecution 28 days from the date of mailing of the notice unless one of the following occurs:
  - (a) An order of default has been filed and entry of judgment has been applied for.
  - (b) Good cause to continue the case is shown to the court on motion supported by affidavit and accompanied by a proposed order.
  - (c) The defendant has appeared.
- (4) If all defendants have made an appearance, the case will be deemed at issue 91 days after the filing of the complaint or when the pleadings are complete, whichever is earlier.
- (5) The trial date must be no later than one year from date of filing for civil cases or six months from the date of the filing of a third-party complaint under ORCP 22 C, whichever is later, unless good cause is shown to the presiding judge or designee.
- (6) Parties have 14 days after the case is at issue or deemed at issue to:
  - (a) Agree among themselves and with the presiding judge or designee on a trial date within the time limit set forth above.
  - (b) Have a conference with the presiding judge or designee and set a trial date.
- (7) If the parties do neither (a) nor (b) of (6) above, the calendar clerk will set the case for trial on a date that is convenient to the court.

1987 Commentary:

Nothing in this rule precludes a court from issuing its trial notices prior to 91 days after filing of the complaint.

1988 Commentary:

It is recognized that some cases may not be appropriate for trial setting "in the ordinary course" of the court's business. Special settings of trial dates in complex or other appropriate cases is permissible and may be initiated by any party or the court.

#### 7.030 COMPLEX CASES

- (1) Any party in a case may apply to the presiding judge to have the matter designated as a "complex case."
- (2) The criteria used for designation as a "complex case" may include, but shall not be limited to, the following: the number of parties involved, the complexity of the legal issues, the expected extent and difficulty of discovery, and the anticipated length of trial.
- (3) A presiding judge shall assign any matter designated as a "complex case" to a specific judge who shall thereafter have full or partial responsibility for the case as determined by the presiding judge.
- (4) A "complex case" shall not be subject to the time limitation or trial setting procedures set forth in UTCR 7.020(5), (6) and (7); however, any such case will be set for trial as soon as practical, but in any event, within two years from the date of filing unless, for good cause shown, the trial date is extended by the assigned judge.

#### 7.040 NOTIFY COURT OF SETTLEMENTS AND OTHER MATTERS

The parties shall report immediately to the court any resolution of any matter scheduled on the court's docket.

#### 7.050 EFFECT OF BANKRUPTCY PETITION

- (1) Upon notice that proceedings in an action are subject to a federal bankruptcy stay, the court must stay the action until it is shown to the court's satisfaction that the federal bankruptcy stay has been terminated or is not applicable to the action.
- (2) Upon motion of any party, the court may sever a claim that continues to be subject to the federal bankruptcy stay or a claim as it applies to the bankruptcy debtor and proceed with the remainder of the action if:
  - (a) the action includes multiple claims or multiple parties; and
  - (b) it is shown to the court's satisfaction that, as to one or more claims, the federal bankruptcy stay has been terminated or is not applicable.
- (3) A court must not dismiss the action stayed under this rule solely because of the bankruptcy filing. Nothing in this rule limits a court's ability to initiate the process to dismiss an action stayed under this rule for want of prosecution under ORCP 54 B(3) or as provided by statute. However, if a party to the action responds to the court notice concerning dismissal for want of prosecution by timely application to continue the action because bankruptcy proceedings are ongoing:
  - (a) the ongoing bankruptcy proceedings constitute good cause to continue the action for purposes of ORCP or statute; and
  - (b) the court must continue the action as a pending case.
- (4) Time periods established by UTCR 7.020 or by SLR for proceeding with an action are not applicable during the stay to that action or part of an action stayed under this rule. For all

or part of the action stayed under this rule, time periods held in abeyance under this subsection continue when the court proceeds and only as to that part of the action with which the court proceeds.

- (5) Nothing in this section limits a court's ability to grant dismissal of an action stayed under this rule as provided under ORCP 54 A.
- (6) References in this rule to federal bankruptcy stays are to a stay under provisions of 11 USC Sections 105, 362, 1201, or 1301. As provided under UTCR 1.010(3), this rule is applicable to all cases that may be subject to a federal bankruptcy stay, including small claims cases.

#### 7.060 AMERICANS WITH DISABILITIES ACT (ADA) ACCOMMODATION

- (1) If special accommodation under the ADA is needed for an individual in a court proceeding, the party needing accommodation for the individual must notify the court in the manner required by the court as soon as possible, but no later than four judicial days in advance of the proceeding. For good cause shown, the court may waive the four-day advance notice.
- (2) Notification to the court must provide:
  - (a) the name of the person needing accommodation;
  - (b) the case number;
  - (c) charges (if applicable);
  - (d) the nature of the proceeding;
  - (e) the person's status in the proceeding;
  - (f) the time, date, and estimated length of the proceeding;
  - (g) the type of disability needing accommodation; and
  - (h) the type of accommodation, interpreter, or auxiliary aid needed or preferred.

#### 7.070 FOREIGN LANGUAGE INTERPRETERS

- (1) If a foreign language interpreter is needed for a court proceeding, the party in need of an interpreter must notify the court in the manner required by the court as soon as possible, but no later than four judicial days in advance of the proceeding. For good cause shown, the court may waive the four-day advance notice.
- (2) Notification to the court must include:
  - (a) the name of the person needing an interpreter;
  - (b) the case number;
  - (c) charges (if applicable);

- (d) the nature of the proceeding;
- (e) the person's status in the proceeding;
- (f) the time, date, and estimated length of the proceeding; and
- (g) the language to be interpreted.

#### 7.080 INTERPRETERS' REQUESTS FOR INFORMATION

If requested by a neutral court interpreter, parties in civil and criminal cases shall provide a list of specialized terminology expected to be used in the proceeding in which the interpreter will be providing services. The list shall be provided prior to the commencement of the proceeding. The list shall be kept confidential by the interpreter and is not discoverable.

## CHAPTER 8—Domestic Relations Proceedings

### 8.010 ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT

- (1) Petitioners, when serving respondents, must attach to the petition a copy of the Notice to Parties of A Marriage Dissolution as required by ORS 107.092. Copies of the notice may be obtained from the trial court administrator's office.
- (2) Unless otherwise ordered by the court, general judgments in all uncontested actions for annulment or dissolution of marriage or for separation shall be entered on the basis of the affidavit set forth in ORS 107.095(4) in lieu of a hearing on the merits.
- (3) In all contested dissolution of marriage, separate maintenance or annulment actions, each party must file with the trial court administrator and serve on the other party a statement listing all marital and other assets and liabilities, the claimed value for each asset and liability and the proposed distribution of the assets and liabilities. In the alternative, the parties may elect to file with the trial court administrator a joint statement containing this information.
- (4) In all proceedings under ORS chapter 107, 108, or 109 wherein child support or spousal support is contested, each party must file with the trial court administrator and serve on the other party a Uniform Support Declaration in the form specified in Form 8.010.5 in the UTCR Appendix of Forms. A Uniform Support Declaration required by this subsection must be completed as follows:
  - (a) If no party seeks spousal support or deviation from the uniform child support guidelines, the parties must complete the affidavit and attachments required for the affidavit, but the parties need not complete the schedules or attachments to the schedules.
  - (b) If any party seeks spousal support or any deviation from the uniform child support guidelines, all parties must complete the affidavit and all schedules and the attachments for all of them.
- (5) If the Division of Child Support (DCS) of the Department of Justice or a district attorney child support office (DA) either initiates or responds to a proceeding falling under section (4) of this rule, the DCS or DA must be allowed to file and serve, in lieu of the Uniform Support Declaration, an affidavit which sets out the following information:
  - (a) The name of the legal or physical custodian of the child(ren).
  - (b) The name and date of birth of each child for whom support services is being sought.
  - (c) A statement of the amount of public assistance being provided.
  - (d) A statement of the value of food stamp benefits being provided.
  - (e) A statement of whether medical insurance (Medicaid) is being provided.
  - (f) A statement of any other known income of the physical custodian.
  - (g) A statement concerning any special circumstances which might affect the determination of support.



- (6) Except as required in UTCR 8.040(3), the documents required to be filed under subsections (3), (4), and (5) above must be filed and served:
  - (a) at the time designated in the relevant SLR;
  - (b) in the absence of an SLR to the contrary, not less than 14 days before the hearing on the merits unless both parties stipulate otherwise, but in any event before the beginning of trial.
- (7) No judgment under this chapter shall be signed, filed or entered without the filing with the trial court administrator of all relevant documents, including all of the following:
  - (a) An affidavit of completed service.
  - (b) An affidavit of nonmilitary service and the proposed order of default, if the respondent is in default.
  - (c) The affidavit described in ORS 107.095(4) if the matter is uncontested.
  - (d) A completed Oregon State Health Division Record of Dissolution of Marriage form.
  - (e) If child support or spousal support is an issue, a Uniform Support Declaration for each party, except where that issue is resolved by stipulation or default. A Uniform Support Declaration required by this paragraph must be completed in the form specified in Form 8.010.5 in the UTCR Appendix of Forms and as provided under subsection (4) of this rule.
  - (f) If child support is an issue, the Division of Child Support (DCS) work sheets described under UTCR 8.060.
  - (g) A proposed judgment.
- (8) Parties who have been requested to submit a proposed judgment must submit to the trial court administrator the following so the court may comply with its obligation to forward copies of these documents to the DCS.
  - (a) The original and one copy of the proposed judgment; and
  - (b) If personal information has been segregated pursuant to UTCR 2.130, one copy each of the most current confidential information form(s) required by UTCR 2.130(2) and (3).
- (9) Parties to proceedings under ORS 107.085 or 107.485 must follow UTCR 2.130 to segregate all Social Security numbers from documents the parties submit in the proceedings so the numbers will be protected as required by ORS 107.840.

## 8.020 SUPPORT ORDERS

Every proposed order or judgment providing for the support of any person under ORS chapters 107, 108, 109, 110, 416 or 419A, 419B, or 419C, or modifying any order or judgment for support of any person under those chapters, must set forth the due date of the first support payment to be made thereunder, the means of payment and the person to whom payment must be made.

## 8.040 PREJUDGMENT RELIEF UNDER ORS 107.095(1)

- (1) An order for relief authorized by ORS 107.095(1) may be granted on motion supported by affidavit setting forth sufficient facts to establish a right to the requested relief.
- (2) Any motion regarding temporary custody of a minor child must be supported by an affidavit which must state the present location of the minor child, the person with whom the child presently resides, the persons with whom and the places where the child has resided for the last 6 months, including the length of time with each person and at each residence, and the reasons why a temporary custody order is sought.
- (3) Any motion regarding temporary support must be accompanied by a Uniform Support Declaration in the form specified in Form 8.010.5 in the UTCR Appendix of Forms. A Uniform Support Declaration required by this subsection must be completed as provided under subsection (4) of UTCR 8.010.
- (4) At least 7 days before the hearing, the opposing party also must serve and file a Uniform Support Declaration on the moving party, when support is to be an issue. A Uniform Support Declaration required by this subsection must be completed in the form specified in Form 8.010.5 in the UTCR Appendix of Forms and as provided for completion of the declaration under subsection (4) of UTCR 8.010.

## 8.050 JUDGMENT MODIFICATION PROCEEDINGS

- (1) Modification proceedings must be initiated by an order to show cause based on a motion supported by an affidavit setting forth the factual basis for the motion or by other procedure established by SLR. When support is to be an issue, a Uniform Support Declaration, as set out in Form 8.010.5 in the UTCR Appendix of Forms, must also be filed with the motion and completed as provided under subsection (4) of UTCR 8.010.
- (2) The order to show cause must be served by delivering a certified copy thereof, together with a certified copy of the motion, affidavit and Uniform Support Declaration, if applicable, in the manner necessary to obtain jurisdiction.
- (3) At least 7 days before the hearing, the opposing party also must serve and file a Uniform Support Declaration on the moving party, when support is to be an issue. The Uniform Support Declaration must be completed in the form specified in Form 8.010.5 in the UTCR Appendix of Forms and as provided under subsection (4) of UTCR 8.010.
- (4) If the Division of Child Support (DCS) of the Department of Justice or a district attorney child support office (DA) either initiates or responds to a support modification proceeding, the DCS or DA must be allowed to file and serve, in lieu of the Uniform Support Declaration, an affidavit which sets out the following information:
  - (a) The name of the legal or physical custodian of the child(ren).

- (b) The name and date of birth of each child for whom support modification is being sought.
  - (c) A statement of the amount of public assistance being provided.
  - (d) A statement of the value of food stamp benefits being provided.
  - (e) A statement of whether medical insurance (Medicaid) is being provided.
  - (f) A statement of any other known income of the physical custodian.
  - (g) A statement concerning any special circumstances which might affect the determination of support.
- (5) A party who files an *ex parte* temporary custody or parenting time order pursuant to ORS 107.139 must file a motion for permanent modification of custody or have one pending at the time this application is made.

#### 8.060 FILING DCS WORK SHEETS REQUIRED IN CHILD SUPPORT CASES

Parties must submit the completed Division of Child Support (DCS) child support computation work sheets that are appended to OAR 137-050-0320 to 137-050-0490 as required by the following:

- (1) If child support is an issue at the time of trial, the UTCR 8.010 statement of each party must include the work sheets.
- (2) If child support is awarded, the judgment must incorporate the work sheet as an exhibit evidencing the basis for the court's award.
- (3) In cases involving temporary child support, the moving party must serve the adverse party with the work sheets, and financial affidavits filed by parties with the court must include the work sheets.
- (4) If child support is an issue at the time of hearing, each party must submit the work sheets to the court.
- (5) If an award of child support is modified, the amending judgment must incorporate the work sheet as an exhibit evidencing the basis for the court's award.

#### 8.070 STANDARDIZED PARENTING PLANS

- (1) SLR 8.075 is reserved for judicial districts to announce that they have adopted a standardized parenting plan.
- (2) The standardized parenting plan shall be placed in an appendix to the SLR or on the court's website or both.

8.080      STATUTORY RESTRAINING ORDER TO PREVENT DISSIPATION OF ASSETS IN CERTAIN DOMESTIC RELATIONS ACTIONS  
(Adopted out-of-cycle on December 5, 2003, pursuant to CJO 03-072; effective January 1, 2004.)

- (1) The form of notice specified in Form 8.080.1 in the UTCR Appendix of Forms shall be used for the statutory restraining order established by ORS 107.093. The petitioner shall be responsible for assuring that a copy of the notice is attached to the summons as required by ORS 107.093(5). The notice shall not be signed by a judge.
- (2) The request for hearing required by ORS 107.093(3) shall be in substantially the same form as specified in Form 8.080.2 in the UTCR Appendix of Forms.

8.090      CERTIFICATE REGARDING PENDING CHILD SUPPORT PROCEEDINGS AND/OR EXISTING CHILD SUPPORT ORDERS AND/OR JUDGMENTS  
(Adopted out-of-cycle on December 5, 2003, pursuant to CJO 03-071; effective January 1, 2004.)

A certificate regarding pending child support proceedings and/or existing child support orders and/or judgments, in substantially the same form as specified in Form 8.090 in the UTCR Appendix of Forms, shall be included with motions and petitions filed pursuant to ORS 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, and 125.025, as required by ORS 107.085(3), 107.135(2)(b), 107.431(2)(b), 108.110(4), 109.100(3), 109.103(3), 109.165(3), and 125.025(4)(b).

8.100      PROCEDURE FOR WAIVER OF MARRIAGE FEE UNDER ORS 106.120

- (1) To obtain a waiver of the fee required to be paid under ORS 106.120 before a circuit, appellate, or tax court judge can perform weddings in certain circumstances, both persons wishing to be married must do all the following:
  - (a) Complete a UTCR Form 8.100.1a in the attached UTCR Appendix of Forms.
  - (b) Submit the completed form to a circuit court judge serving the county where the wedding will be performed for review and appropriate action.
  - (c) If the request is granted by the judge under (b) of this subsection, give the copy of the signed waiver to the judge who will solemnize the ceremony.
- (2) If the request is denied by the judge, there is no waiver. Those persons who made application must either reapply under this rule or pay the fee. However, neither person may again make a request of any judge to waive the fee for 30 days from the date a judge signs an order denying a waiver under this rule.
- (3) If a person is requested to pay the fee under ORS 106.120 while applying for a marriage license or by a court clerk, the person may show a valid waiver of fee granted to that person under this rule and will not have to pay the fee. A waiver granted under this rule is valid for only 30 days from the date the judge signs the order allowing the waiver and does not waive any other fees which may legally be charged related to the marriage or wedding.

- (4) Upon receipt of a request for waiver under this rule, a judge will do all the following:
  - (a) Review the request to determine whether the judge can make a determination on the request. Only circuit court judges serving in the county where the wedding will be performed can grant a waiver under this rule. A judge will deny a request for a waiver under this rule if the request has been made to any other judge within 30 days.
  - (b) Determine whether exigent circumstances exist allowing the judge to waive the fee. The determination of exigent circumstances is at the sole discretion of the judge, but can, by statute, specifically include indigency of the parties to the marriage.
  - (c) Sign the waiver form indicating the judge's decision; give a copy of the completed, signed form to the parties to the impending marriage; and file a copy with the trial court administrator for that circuit court.
- (5) When solemnizing a marriage a judge, under ORS 106.120(9), will accept a copy of a valid waiver granted under this rule in lieu of proof of payment of the fee required under ORS 106.120(9). The judge will maintain the copy of the waiver with other records of the marriage for as long as the judge is required to maintain the other records.

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

### **9.010 MAILING PROBATE MATERIALS TO THE COURT**

Petitions, motions, orders and judgments not requiring a court appearance may be mailed to the trial court administrator, with self-addressed stamped envelopes or postcards for responses.

### **9.020 APPROVAL OF BONDS**

A supporting affidavit, signed by the guardian, conservator, personal representative or attorney of record, must be filed if there is a request for approval of a surety bond in an amount less than the aggregate value of the property in the estate as disclosed by the petition. The requirement of this section may be satisfied by a statement in the petition for appointment.

### **9.030 ADDRESSES AND TELEPHONE NUMBERS REQUIRED**

- (1) The name, address, telephone number, fax number, email address, and bar number of the attorney of record must be typed or printed on the last page of every petition, motion, and order.
- (2) The name, address, and telephone number of the guardian, conservator, or personal representative must be typed or printed on the last page of every order.
- (3) The trial court administrator must be promptly notified by separate document of any change in address or telephone number of any attorney of record, self-represented party, guardian, conservator, or personal representative.

### **9.040 SETTLEMENT OF PERSONAL INJURY CLAIMS IN PROBATE CASES**

A petition for approval of a settlement of a personal injury claim must be accompanied by an affidavit setting forth all relevant information concerning the settlement, including medical reports covering the nature and extent of the injuries sustained and the prognosis. The court may require further information.

### **9.050 RESTRICTED ACCOUNTS**

When assets of an estate or conservatorship are placed with a depository subject to withdrawal only on order of the court, a writing signed by the depository showing the assets held and that they are subject to withdrawal only on further order must be filed with the court within 30 days of entry of the order unless the order allows a longer period of time. Prompt procurement of the writing is the responsibility of the attorney for the fiduciary. Any asset restricted by court order shall be identified in the inventory or annual accountings as restricted with reference to the date and title of the order imposing the restriction.

### **9.060 FEES IN ESTATES, GUARDIANSHIPS AND CONSERVATORSHIPS**

- (1) Attorney fees requested in protective proceedings under ORS chapter 125 must be supported by affidavit setting out the justification for the amount requested.

- (2) Attorney fees requested for a decedent's estate must be supported by affidavit in compliance with ORS 116.183.
- (3) Personal representative fees requested in excess of the statutory amounts provided in ORS 116.173(1) must be supported by affidavit setting out justification for the additional claimed amount.
- (4) All fiduciary and attorney fee applications and accountings in decedents' estates, guardianships and conservatorships must be served in the manner and on the persons described in ORS 116.093, 125.475, and acts amendatory thereof.

#### 9.070 SUMMARY DETERMINATION OF CLAIM UNDER ORS 115.145(1)(a) AND 115.165

A party requesting a summary determination of a claim under ORS 115.145(1)(a) and 115.165 must:

- (1) indicate in the caption of the request that a summary determination is being requested, and
- (2) tender the appropriate fee with the request.

#### 9.080 ORAL OBJECTIONS IN PROTECTIVE PROCEEDINGS AND NOTICE OF FREE AND LOW-COST LEGAL SERVICES

- (1) Every court exercising probate jurisdiction must adopt an SLR designating a place where oral objections may be made under ORS 125.075 to petitions in protective proceedings. SLR number 9.081 is reserved for this purpose.
- (2) Every court exercising probate jurisdiction shall post, at the place where oral objections may be made pursuant to subsection (1) of this rule, information regarding any free or low-cost legal services available in the area sufficient to satisfy the requirements of ORS 125.070.

#### 9.160 FORM OF ACCOUNTINGS

Accountings substantially in the form specified in Form 9.160 in the UTCR Appendix of Forms, as further explained in this rule, must be accepted by all judicial districts. Accountings in this format may be made mandatory by SLR. SLR 9.161 is reserved for purposes of making such format mandatory in the judicial district:

- (1) Preliminary Information. The beginning of the accounting shall state:
  - (a) The first and last date of the accounting period. For annual accountings, the last day of the accounting period shall be within 30 days of the anniversary of appointment.
  - (b) If no bond is required, the date of the court order waiving the bond or a reference to the statute exempting the fiduciary from filing a bond. If a bond is required, the accounting shall state the current amount of the total bond. If a bond is required, an accounting shall also provide the following information.

- (i) The total value of the assets as of the last date of the current accounting period;
  - (ii) The income estimated to be received during the next accounting period;
  - (iii) Total assets and income (the sum of items (i) and (ii));
  - (iv) The value of the total assets and income which have been restricted by court order and a reference to the dates of all orders restricting assets;
  - (v) Unrestricted assets and income (the difference between (iii) and (iv), generally the amount which should be bonded);
  - (vi) The fiduciary's request for any change in the amount of the existing bond or in restrictions on assets or income.
  - (vii) If appropriate, an explanation for any difference between the amount of the requested bond and the amount that should be bonded.
- (2) Asset Schedule. There shall be a separate asset schedule with a summary of all property of the estate or conservatorship. All assets listed in the Inventory, any Amended or Supplemental Inventory, or the previous accounting and all assets subsequently acquired shall be listed in this schedule if they are owned at any time during the accounting period.
- (a) This schedule shall have at least five columns.
    - (i) Description of Asset. The first column shall describe each asset owned by the estate or conservatorship at any time during the accounting period. The description of any asset that has been restricted pursuant to court order shall include the date and title of the order. The description of any asset acquired or disposed of during the accounting period shall include the date of acquisition or disposal. If an asset consists of a depository account into which funds are received or from which funds are disbursed, the description shall include a reference to any separate paragraph or exhibit containing the statement of receipts and disbursements for the depository account.
    - (ii) Beginning Value. If the asset was owned by the estate or conservatorship at the beginning of the accounting period, the second column shall state the value of the asset at the beginning of the accounting period.
    - (iii) Value of Later-Acquired Asset. If the asset was acquired after the beginning of the accounting period, the third column shall state the value at acquisition.
    - (iv) Value at Disposition. If the asset was disposed of before the end of the accounting period, the fourth column shall state the value at disposition.
    - (v) Current Value. If the asset is in existence at the end of the accounting period, the fifth column shall state the current value.
  - (b) The sums of the second through fifth columns shall be provided at the bottoms of those columns.



- (c) The schedule may have additional information such as original cost, increase or decrease in value, the source of an acquisition or the reason for disposition of assets, and any other information which would aid in accounting for assets.
  - (d) For the purpose of this schedule, total value of household goods and personal belongings may be listed on one line.
  - (e) For the purpose of this schedule, the side margins may be one-half inch and font size may be no smaller than 10 point type.
  - (f) A trust company acting as a fiduciary is exempt from the requirement to file an asset schedule as provided above. Instead, a trust company acting as a fiduciary may provide a schedule of assets in existence at the beginning of the accounting period and a schedule of assets in existence at the end of the accounting period.
- (3) Receipts and Disbursements. The accounting of receipts and disbursements shall meet the following requirements for each depository account:
- (a) For each account, receipts and disbursements shall be separately listed in chronological order, with the date and value of each transaction. For each account, the total of each list of receipts and disbursements shall be provided at the end of each list.
  - (b) Each receipt into the account shall show the source and shall have a brief explanation of the source or purpose of the entry. The first entry in the list of receipts shall be the beginning balance for the account.
  - (c) Each disbursement from the account shall show the payee or recipient and shall have a brief explanation of its purpose. If the disbursement is by check or similar instrument, the name on the disbursement shall match the payee on the instrument. The sum of the total disbursements plus the ending balance in the account shall be shown.
  - (d) A sale of real property shall be evidenced by a copy of the seller's closing statement from escrow or, if none is available, third-party documentation of the details of the transaction.
  - (e) Any transfers between depository accounts shall be so labeled with reference to the source or destination of the deposit or withdrawal.
  - (f) Any difference between the closing balance shown for the account in the accounting and the closing balance shown for the account in a depository statement filed in accordance with these rules shall be reconciled.
  - (g) For the purpose of this schedule, the side margins may be one-half inch and font size may be no smaller than 10 point type.
  - (h) A trust company acting as a fiduciary is exempt from the requirements of UTCR 9.160(3)(a). Instead, a trust company acting as a fiduciary may provide a chronological list of receipts and disbursements, with a total for the amount of receipts and a total for the amount of disbursements.
- (4) Narrative. The accounting shall include a description of any changes in the assets of the estate or conservatorship or the financial life of the protected person not clearly shown in

the Asset Schedule including, but not limited to, corrections to previously declared values, omitted assets, the closing of an account, the sale or purchase of an asset, a significant change in living expenses, or a stock split.

- (5) Other forms of accounting. In its discretion, the court may allow other forms of accounting.

#### 9.170 FIDUCIARY DISCLOSURE IN ACCOUNTINGS

The narrative of an accounting shall specifically disclose and explain all of the following transactions during the accounting period unless previously approved by the court:

- (1) All gifts.
- (2) Transactions with a person or entity with whom the fiduciary has a relationship which could compromise or otherwise affect decisions made by the fiduciary. The disclosure shall include, but is not limited to, payment for goods, services, rent, reimbursement of expenses, and any other like transactions.
- (3) Any payment for goods or services provided either:
  - (a) by a person who is not engaged in an established business of providing similar goods or services to the general public; or
  - (b) at a rate higher than that ordinarily charged to the general public.

#### 9.180 VOUCHERS AND DEPOSITORY STATEMENTS

- (1) Unless otherwise provided by statute, SLR, or order of the court, a voucher for each disbursement reported in the accounting must accompany the accounting as a separate exhibit or shall be attached to a cover page showing the case caption. Vouchers required by statute or order of the court must be documents evidencing each disbursement and showing the name of the payee, date, and amount.
- (2) Unless the fiduciary is excused from the requirement of filing vouchers, the accounting shall include depository statements for each account. An opening depository statement must evidence the account beginning balance, unless one was submitted with a previous accounting. A closing depository statement must evidence the balance in the account within 30 days of the close of the accounting period or on the date of closing of an account closed during the accounting period.
- (3) In a proceeding involving fiduciary accounts for which the depository does not issue regular statements, the court must accept a Depository Certification of Funds on Deposit that is substantially in the form specified in Form 9.180.3 in the UTCR Appendix of Forms.
- (4) For purposes of this rule, a "depository" is an entity holding assets of the estate or conservatorship, including a bank, stock and bond broker, mutual fund, or similar entity.
- (5) Copies of vouchers and depository statements need not be served on persons entitled to copies of the accountings or on persons who have requested notice in the proceedings.

#### 9.190 RETURN OF VOUCHERS AND DEPOSITORY STATEMENTS

Vouchers and depository statements submitted under UTCR 9.180 may, in the court's discretion, be returned to a personal representative, conservator, guardian or attorney of record at any time after expiration of the time for appeal or, if an appeal is taken, after final determination of the case. A person requesting return of vouchers or depository statements shall submit a self-addressed envelope with adequate postage with the documents filed.

#### 9.300 APPOINTMENT OF GUARDIANS IN ADOPTIONS

Except in cases when one or more of the petitioners, or a state or private agency, is the legal or natural guardian of the minor child, when a petition is filed for leave to adopt a minor child and the required consent thereto has been filed, the attorney for the petitioner must prepare and submit to the court an order providing for the appointment of the petitioner, or other suitable person, as guardian of the person of the minor child pending further order of the court or entry of a judgment.

#### 9.310 PRESENTATION OF ADOPTION JUDGMENTS

Proposed adoption judgments may be presented to the court without the necessity of a personal appearance by the attorney or the adoptive parents.

#### 9.320 CHANGE OF NAME AND CHANGE OF SEX PROCEEDINGS

The public notice required by ORS 33.420 or ORS 33.460 may be given either by posting in a public place or publication in a newspaper of general circulation. The notice must give 14 days from the date of posting or publication for all persons to appear and show cause. If no appearance is made, the judgment may be entered 15 days after posting or publication. After entry of the judgment, public notice of the change must be given by posting in a public place or publication in a newspaper of general circulation. A certificate of posting or publication must be submitted to the trial court administrator.

#### 9.400 COURT VISITOR'S REPORT

A court visitor must file the court visitor's report in an adult guardianship in substantially the form of UTCR 9.400.1 unless the judicial district in which the report will be filed has adopted another form by SLR or by Presiding Judge Order pursuant to ORS 125.165(1)(b) and the form adopted by that judicial district includes all of the information required by UTCR Form 9.400.1.

#### 9.410 PROTECTIVE PROCEEDING – CONFIDENTIAL INFORMATION ORDER

A person who submits to the court confidential and protected information from the Department of Human Services or the Oregon Health Authority pursuant to ORS 125.012 must at the same time submit a proposed order in substantially the form of UTCR Form 9.410.1. The person must serve a copy of the order signed by the court on all parties to the proceeding.

## **CHAPTER 10—Proceedings Relating to Vehicle Laws and Driving Privilege Suspensions**

### **10.010 PETITION FOR REVIEW OF ORDER OF SUSPENSION UNDER ORS 813.410**

A petition for review of a final order of the Driver and Motor Vehicle Services Branch of the Oregon Department of Transportation (DMV) must be filed with the trial court administrator. Copies of the petition must be served on the DMV and the Attorney General. The petition filed with the trial court administrator must contain a certificate of service of the above copies. The petition as filed and served must be accompanied by a copy of the final order of the DMV from which the appeal is taken. The petition for review and the certificate of service must be substantially in the form specified in Form 10.010.a and Form 10.010.b in the UTCR Appendix of Forms.

### **10.020 PREPARATION AND DELIVERY OF THE RECORD ON REVIEW**

- (1) When a petition is served on the DMV, the DMV must prepare the record of the proceeding, including a transcription of the oral proceedings, or the agreed portion thereof if the parties have stipulated to shorten the record, and all exhibits introduced and made a part of the record at the hearing. The DMV must serve certified true copies of the record on the petitioner and the Attorney General. The DMV must file the original record with the trial court administrator within 30 days of service of the petition for review. The record must be accompanied by proof of service. On good cause shown, the court may extend the time for filing of the record.
- (2) The record, preceded by an index of its contents, must be securely fastened in a suitable cover or folder showing on the outside the title and agency number of the case, the name of the administrative law judge, and the date and location of the hearing. The pages of the record must be consecutively numbered at the bottom center of each page.
- (3) When the court has entered its judgment and the period for appeal has elapsed without an appeal being taken, the record will be returned to the agency, unless the court otherwise directs.

### **10.030 FORM OF TRANSCRIPT OF ORAL PROCEEDINGS**

A written transcript of the oral proceedings must meet the following specifications:

- (1) It must be typewritten, double-spaced, on paper with numbered lines and prepared on one side only. Typewriting must be first impression; clear and legible; and on good quality white, opaque, unglazed paper 8-1/2 x 11 inches in size.
- (2) Each page must be consecutively numbered at the top right corner, and to the left thereof must be given the name of the witness followed by a notation indicating whether the testimony is on direct, cross, redirect or recross examination, indicated by "D," "X," "ReD" or "ReX." Appropriate notation must similarly be made of other proceedings.
- (3) Pages must contain no more than 25 lines, with margins of 1-1/2 inches on the left and 1/2 inch on the right.
- (4) Type must be standard pica or equivalent size.

#### 10.040 SETTLEMENT OF THE RECORD

A motion to correct the record may be filed within 7 days of the filing of the record. Unless a motion to correct is filed, the record is deemed settled. Upon filing with the trial court administrator of a motion to correct the record, the court shall direct the making of such corrections as may be appropriate, and shall fix the time within which such corrections will be made. Upon filing with the trial court administrator of the record so corrected, the record shall be deemed settled.

#### 10.050 PETITIONER'S MEMORANDUM OF POINTS AND AUTHORITIES

- (1) The petitioner must file a memorandum of points and authorities in support of the challenge to the validity of the final order of the DMV. Points must be concise statements of the arguments supporting the petitioner's challenge to the validity of the final order. Each point must be accompanied by a reference to the page number of the record where the matter is found. Each point must be followed by a citation of authorities for that point. Points not accompanied by a reference to the record or a statement of authorities need not be considered by the court.
- (2) The petitioner's memorandum of points and authorities, including proof of service on the Attorney General at the address shown in the Certificate of Service required under UTCR 10.010, must be filed with the trial court administrator no later than 14 days after the date of settlement of the record.

#### 10.060 OPPOSING PARTY'S RESPONSE

The respondent may file a written memorandum of points and authorities in response to the matters raised in the petitioner's memorandum, including proof of service on the petitioner, not fewer than three days before the date set for hearing. The respondent's memorandum must refer to each point in the petitioner's memorandum being addressed, and each point must be followed by a statement of authorities in support of the respondent's position.

#### 10.070 SETTING HEARING DATE

- (1) Unless waived in writing by both parties, the court shall schedule the hearing within 35 days of the filing of the petitioner's memorandum of points and authorities or the settlement of the record, whichever occurs later. The court shall notify the parties of the date at least ten days before the scheduled hearing.
- (2) A party may request that the hearing be conducted by a conference call between the court and the opposing parties. The request must be granted if the office making the request is located more than 25 miles from the courthouse. UTCR 10.090 and all applicable rules of decorum in proceedings must be observed by the parties and enforced by the court during the conduct of a conference call hearing.

#### 10.080 ORAL ARGUMENT AT HEARING

- (1) At oral argument, the petitioner shall be entitled to open and close. Unless the court otherwise orders, the petitioner shall be limited to ten minutes oral argument and the respondent shall be limited to ten minutes; but, the petitioner may reserve up to five minutes for rebuttal.
- (2) No point raised by a party's memorandum of points and authorities shall be deemed waived by the party's failure to present the point in oral argument.
- (3) If a party fails to appear at the hearing, the court shall deem the cause as to that party submitted without oral argument. A party's failure to appear shall not preclude oral argument by the other party.

#### 10.090 ENTRY OF JUDGMENT

The court shall enter its judgment within 7 days of the hearing or, if no hearing is held, within 7 days of the time provided for hearing in UTCR 10.070(1).

## **CHAPTER 11—Juvenile Court Proceedings**

### **11.010 APPLICATION FOR COURT APPOINTED COUNSEL**

- (1) An application for a court appointed counsel and a sworn statement of financial condition shall be provided for each affected adult and child on intake or at the earliest practicable other time.
- (2) Counsel may be appointed for a child in any case, but counsel will not be appointed for any adult person unless that person files a verified financial statement and any other information in writing and under oath that the court may require or that the applicant desires to submit relating to the applicant's financial ability to retain counsel.
- (3) On receipt of an application, the court shall promptly rule in the matter. If the application is granted, the court shall promptly appoint counsel and notify counsel of the appointment.

### **11.020 COMPENSATION AND APPOINTMENT OF COURT APPOINTED COUNSEL**

- (1) Allowance of attorney fees in juvenile proceedings shall be governed by ORS 135.055.
- (2) Unless otherwise specified by written court order, an order for appointment of counsel shall expire when the time for taking an appeal has expired.

### **11.040 ADMISSION OR STIPULATION TO JURISDICTION; DISMISSAL**

In juvenile cases, after having knowledge thereof, the parties must immediately notify the court of an admission or stipulation of jurisdiction or of a dismissal before the jurisdictional or dispositional hearing.

### **11.050 TIME REQUIRED FOR HOLDING DISPOSITIONAL HEARING**

This rule was repealed effective August 1, 2013.

### **11.060 PREDISPOSITION INVESTIGATION**

- (1) If an investigation report is prepared under ORS 419A.012, 419B.265, and 419C.300, it shall be made available to the parties at least 7 days before the dispositional hearing, unless the parties stipulate to a shorter time.
- (2) If jurisdiction is contested, the court shall not read the report until after jurisdiction has been established.
- (3) If the investigation produces information which the Juvenile Department or other agency preparing the report concludes should not be divulged to the child, parents or counsel, that information must, on notice to the parties, be separated from the predisposition reports and must be divulged only pursuant to court order. If the court does not issue an order to divulge such information, the court shall set forth the reasons for its action.

11.070      TEMPORARY SUSPENSION OF VISITATION RIGHTS WHEN TERMINATION  
                 PETITION FILED

Parental visitation rights with respect to children who are wards of the court shall not be suspended while a petition to terminate parental rights is pending, unless ordered by the court on good cause shown.



## **CHAPTER 12—Mediation**

REPORTER'S NOTE: UTCR 12.500 - 12.760, Form 12.540.1a, and Form 12.540.2 were repealed effective August 1, 2005. Replacement rules will be adopted by Chief Justice Order as stand-alone mediation rules. These replacement rules will not be part of the UTCR nor will they be subject to the UTCR process. They will be posted at:

<http://www.ojd.state.or.us/Web/OJDPublications.nsf/Mediation?OpenView&count=1000>

## CHAPTER 13—Arbitration

### 13.010 APPLICATION OF CHAPTER

- (1) This UTCR chapter applies to arbitration under ORS 36.400 to 36.425 and Acts amendatory thereof but, except as therein provided, does not apply to any of the following:
  - (a) Arbitration by private agreement.
  - (b) Arbitration under any other statute.
  - (c) Matters exempt by ORS 36.400.
  - (d) Any civil action exempt from arbitration by action of a presiding judge under ORS 36.405.
- (2) This UTCR chapter on arbitration is not designed to address every question that may arise during the arbitration hearing. These rules give considerable discretion to the arbitrator. The arbitrator should not hesitate to exercise that discretion.

### 13.030 ARBITRATION COMMISSION

- (1) Each court must establish an arbitration commission.
- (2) The function of the arbitration commission is to supervise the arbitration program and to give advisory opinions relating to arbitration.
- (3) The arbitration commission must include both judge and attorney members and, as an ex officio member, the court administrator.

### 13.040 RELATIONSHIP TO COURT JURISDICTION AND APPLICABLE RULES

- (1) A case filed in the circuit court remains under the jurisdiction of that court in all phases of the proceedings, including arbitration. Except for the authority expressly given to the arbitrator by these rules, all issues shall be determined by the court of jurisdiction.
- (2) Until a case is assigned to the arbitrator, Oregon Rules of Civil Procedure apply. After a case is assigned to an arbitrator, these arbitration rules apply except where an arbitration rule states that a Rule of Civil Procedure applies.
- (3) Once a case is assigned to arbitration, all motions against the pleadings, all motions for discovery, and all similar pretrial motions not then resolved will be submitted to the arbitrator only and determined by the arbitrator. The arbitrator's determination, however, will apply only during the arbitration proceeding. If a request for trial *de novo* is filed, such matters may be raised again. If the arbitrator's decision on a pretrial motion will prejudice a party on trial *de novo*, that party may file an appropriate motion with the court.

### 13.050 ARBITRATION WHEN CASE ALREADY SET FOR TRIAL

- (1) Cases will not be assigned to arbitration within 63 days of the set trial date, except by order of the court.

- (2) A court order is not necessary if by stipulation the parties agree upon an arbitrator and agree upon a hearing date at least 28 days before the scheduled trial date.

#### 13.060 PLEADINGS IN CASES SUBJECT OR NOT SUBJECT TO ARBITRATION

- (1) All civil actions (including domestic relations cases described under ORS 36.405(1)(b)) will be assigned to arbitration unless one of the following occurs:
  - (a) The title of a pleading contains the words "CLAIM NOT SUBJECT TO MANDATORY ARBITRATION" in compliance with subsection (3) of this rule.
  - (b) Any party files a notice, prior to the assignment to arbitration, that the case is not subject to mandatory arbitration. The notice must state grounds sufficient to exempt the case from mandatory arbitration.
  - (c) The court orders the case removed from mandatory arbitration under ORS 36.405(2).
- (2) Notice under part (1)(a) or (1)(b) of this rule does not prevent any party from asserting by appropriate motion, that the case is subject to mandatory arbitration.
- (3) A party must place one or the other of the following in the title of a pleading in the case (including a claim, counterclaim, cross claim, third-party claim, petition, and response): "SUBJECT TO MANDATORY ARBITRATION" or "CLAIM NOT SUBJECT TO MANDATORY ARBITRATION." When a party places the "NOT SUBJECT" language in the title of the pleading, the party gives notice to the court and other parties that the case is exempted from mandatory arbitration either clearly by statute or under these rules. This language must not be in the title of a pleading for any other purpose. A party's signature on pleadings containing such language constitutes the party's certificate of such notice under ORCP 17. In all other instances, the party will place the language in the title indicating the case is subject to mandatory arbitration.

#### 13.070 EXEMPTION FROM ARBITRATION

Within 14 days after notification by the court that the case is assigned to arbitration, any party seeking exemption from arbitration must file and serve a "Motion for Exemption from Arbitration."

#### 13.080 ASSIGNMENT TO ARBITRATOR

- (1) The parties may select an arbitrator by stipulation.
- (2) At the time of giving notice of the assignment to arbitration, the trial court administrator shall furnish a list of proposed arbitrators as well as a copy of the procedures for the selection of arbitrators and for setting an arbitration hearing. The procedures for selection of arbitrators shall be established by the arbitration commission.
- (3) An arbitrator shall be assigned under (1) or (2) of this rule within 21 days after the assignment to arbitration.

### 13.090 ARBITRATORS

- (1) Unless otherwise ordered or stipulated, an arbitrator must be an active member in good standing of the Oregon State Bar, who has been admitted to any Bar for a minimum of five years, or a retired or senior judge. The parties may stipulate to a nonlawyer arbitrator.
- (2) An arbitrator who is not a retired or senior judge or stipulated nonlawyer arbitrator must be an active member in good standing of the Oregon State Bar at the time of each appointment. During any period of suspension from the practice of law or in the event of disbarment, an arbitrator will be removed from the court's list of arbitrators and may reapply when the attorney is reinstated or readmitted to the bar.
- (3) Arbitrators will conduct themselves in the manner prescribed by the Code of Judicial Conduct.

### 13.100 AUTHORITY OF ARBITRATORS

An arbitrator has the authority to do all of the following, but may exercise the authority conferred only after the case is assigned to a specific arbitrator and any disputes over the assignment have been settled:

- (1) Decide procedural issues arising before or during the arbitration hearing, except issues relating to arbitrability or the qualification of an arbitrator. The court may entertain a challenge to the qualification of an arbitrator on grounds that could not be discovered prior to assignment of the arbitrator to the case.
- (2) Invite, with reasonable notice, the parties to submit trial briefs.
- (3) After notice to the parties, examine any site or object relevant to the case.
- (4) Issue a subpoena, enforceable in the manner described in ORS 36.340.
- (5) Administer oath or affirmations to witnesses.
- (6) Rule on the admissibility of evidence in accordance with these rules.
- (7) Determine the facts, apply the law and make an award; perform other acts as authorized by these rules.
- (8) Determine the place, time and procedure to present a motion before the arbitrator, including motions for Summary Award (known as Summary Judgment under ORCP).
- (9) Require a party, an attorney advising each party, or both, to pay the reasonable expenses, including attorney fees, caused by the failure of such party or attorney or both, to obey an order of the arbitrator.
- (10) Award attorney fees as authorized by these rules, by contract or by law.

### 13.110 ARBITRATOR'S OATH

Arbitrators will be required to execute the following oath in writing on a form provided by the trial court administrator at the time of appointment:

I solemnly affirm that I will faithfully and fairly hear and examine the matters in controversy and that I will make a just award to the best of my understanding.

### 13.120 COMPENSATION OF ARBITRATOR

- (1) The arbitration commission shall establish a compensation schedule for arbitrators. If the arbitrator suggests that extraordinary conditions justify a different fee, and the parties concur, the fee may be adjusted accordingly. If the parties, or any of them, do not concur, the arbitrator shall direct an inquiry to the court for determination of the appropriate fee.
- (2) Within 14 days of the appointment of the arbitrator, each party must tender to the arbitrator a pro rata share of the preliminary payment for the arbitrator. Any deposit in excess of the arbitrator's actual fee will be refunded to the parties. Regardless of whether the arbitration hearing is conducted, the parties must pay a proportionate share of the arbitrator's fee. The arbitrator must submit to each party an itemized statement.
- (3) Relief from the payment of arbitration fees, in whole or in part, as provided for in ORS 36.420(3) must be applied for immediately upon a case or a small claim becoming eligible for arbitration. The court will provide the arbitrator with a copy of any order waiving or deferring all or any part of the fees.
- (4) Any dispute as to the amount of the arbitrator's fee must be submitted to the court.
- (5) The arbitrator's fee may be considered a recoverable item of costs.
- (6) At the conclusion of the arbitration process, the court may enter a judgment in the arbitrator's favor and against any party who has not paid the arbitrator's fee in accordance with the schedule established under paragraph (1).

### 13.130 RESTRICTIONS ON COMMUNICATION BETWEEN ARBITRATOR, PARTIES AND ATTORNEYS

Unless all parties otherwise agree, no disclosure of any offers or settlement made by any party shall be made to the arbitrator prior to the announcement of the award. Neither counsel nor a party may communicate with the arbitrator, regarding the merits of the case, except in the presence of, or on reasonable notice to, all other parties.

Except for Judicial Rules 3, 4, and 5 of the Code of Judicial Conduct, all rules of professional conduct concerning Bench and Bar apply in the arbitration process.

### 13.140 DISCOVERY

Discovery shall be conducted in accordance with Oregon Rules of Civil Procedure, and all motions shall be determined by the arbitrator. The arbitrator shall balance the benefits of discovery against the burdens and expenses. The arbitrator shall consider the nature and

complexity of the case, the amount of controversy, and the possibility of unfair surprise that may result if discovery is restricted.

#### 13.150 SUBPOENA

In accordance with the Oregon Rules of Civil Procedure, a lawyer of record or the arbitrator may issue a subpoena for the attendance of a witness at the arbitration hearing or for the production of documentary evidence at the hearing.

#### 13.160 SCHEDULING OF THE HEARING

- (1) The arbitrator shall set the time, date and place of hearing and shall give reasonable notice of the hearing date to the parties and comply with ORS 36.420. The arbitrator shall also give notice of the hearing date and any continuance to the trial court administrator.
- (2) A court may adopt a supplementary local rule establishing a deadline for the arbitration hearing and a process for obtaining a postponement or continuance. A supplementary local rule may not allow the arbitration process to extend more than six months from the date the case is assigned to an arbitrator. In the absence of a supplementary local rule adopted pursuant to this section, the requirements set forth below in sections (3) and (4) shall apply.
- (3) Except for good cause shown, the hearing must be scheduled to take place not sooner than 14 days, or later than 49 days, from the date of assignment of the case to the arbitrator. The parties may stipulate to a postponement or continuance only with the permission of the arbitrator. Such postponements or continuances must also be within the 49-day period. Any continuances or postponements beyond such period require the arbitrator to obtain approval of the presiding judge. The arbitrator must give notice of any continuance to the trial court administrator.
- (4) Continuances and postponements shall not be granted except in the more unusual circumstances. Approximately two months are allocated for the arbitration process. The arbitrator is given the power to enforce the rules and will be required to maintain the schedule.

#### 13.170 PREHEARING STATEMENT OF PROOF

- (1) At least 14 days prior to the date of the arbitration hearing, each party must submit to the arbitrator and serve upon all other parties all the following:
  - (a) A list of all exhibits to be offered showing or accompanied by a description of the document and the name, address and telephone number of its author or maker and complying with UTCR 13.190(2)(c). Each party, upon request, must make any exhibits available for inspection and copying by other parties.
  - (b) A list of witnesses the party intends to call at the arbitration hearing with their addresses and telephone numbers and a statement of the matters about which each witness will be called to testify.
  - (c) An estimate as to the expected length of the hearing.

- (2) A party failing to comply with this rule, or failing to comply with a discovery order, may not present at the hearing any witness or exhibit required to be disclosed or made available, except with the permission of the arbitrator.
- (3) Each party must also furnish the arbitrator, at least 14 days prior to the arbitration hearing, with copies of pleadings and other documents contained in the court file which that party deems relevant.

#### 13.180 CONDUCT OF HEARING

- (1) Arbitration hearings shall be informal and expeditious. The arbitrator shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to do the following:
  - (a) Make the interrogation and presentation effective for the ascertainment of the facts.
  - (b) Avoid needless consumption of time.
  - (c) Protect witnesses from harassment or undue embarrassment.
- (2) A witness shall be placed under oath or affirmation prior to presenting testimony, a violation of which oath shall be deemed contempt of court, in addition to other penalties that may be provided by law. The arbitrator may question the witness. The extent to which the rules of evidence will be applied shall be determined in the discretion of the arbitrator.
- (3) The hearing may be recorded electronically or otherwise by any party or the arbitrator. The cost of such recording is not a recoverable item of cost.

#### 13.190 CERTAIN DOCUMENTS ADMISSIBLE

- (1) The documents listed in subsection (2) of this rule, if relevant, are admissible at an arbitration hearing, but only if:
  - (a) The party offering the document has included in the prehearing statement of proof a description of the document and the name, address and telephone number of its author or maker, at least 14 days prior to the hearing; and
  - (b) The party offering the document promptly has made available, after request, to all other parties, all other documents from the same author or maker.
- (2) The following documents are subject to this rule:
  - (a) A bill, report, chart or record of a hospital, doctor, dentist, registered nurse, licensed practical nurse, physical therapist, psychologist or other health care provider on a letterhead or a printed bill.
  - (b) A bill for drugs, medical appliances or other related expenses on a letterhead or a printed bill.
  - (c) A bill for, or an estimate of, property damage on a letterhead or a printed bill. In the case of an estimate, the party intending to offer the estimate must forward with the

prehearing statement of proof under UTCR 13.170 a statement indicating whether or not the property was repaired, and if it was, whether the estimated repairs were made in full or in part, attaching a copy to the receipted bill showing the items of repair and the amount paid.

- (d) A police, weather, wage loss or traffic signal report or standard life expectancy table.
  - (e) A photograph, x-ray, drawing, map, blueprint or similar documentary evidence.
  - (f) The written statement of any witnesses, including the written report of an expert witness which may include a statement of the expert's qualifications, and including a statement of opinion which the witness would express if testifying in person, if it is made by affidavit or by declaration under penalty of perjury.
  - (g) A document not specifically covered by any of the foregoing provisions, but having equivalent circumstantial guarantees of trustworthiness, the admission of which would serve the policies, purposes and interests of justice.
- (3) Any other party may subpoena the author or maker of a document admissible under this rule, at that party's expense, and examine the author or maker as if under cross-examination.

#### 13.200 ABSENCE OF PARTY AT HEARING

- (1) The arbitration hearing may proceed and an award may be made in the absence of any party who, after due notice, fails to participate or to obtain a continuance or postponement.
- (2) If a defendant is absent, the arbitrator shall require the plaintiff to submit evidence sufficient to support an award.
- (3) In a case involving more than one defendant, the absence of a defendant does not preclude the arbitrator from assessing as part of the award damages against the defendant or defendants who are absent.
- (4) The arbitrator, for good cause shown, may allow an absent party an opportunity to appear at a subsequent hearing before making an award.

#### 13.210 FORM AND CONTENT OF AWARD

- (1) The award must be in writing and prepared on a form prescribed by the court and signed by the arbitrator.
- (2) The arbitrator shall determine all issues raised by the pleadings, including a determination of any damages, costs and attorney fees where allowed under applicable law.
- (3) Findings of fact, conclusions of law and written opinions are not required.
- (4) The award must contain the caption of the case and all the following information:
  - (a) The date of the hearing, if any.
  - (b) The prevailing party and the amount of relief awarded.



- (c) Whether any part of the award was based on the failure of any party to appear and the identity of that party.
  - (d) The name and office address of the arbitrator.
  - (e) Provision for costs and for attorney fees where allowed under applicable law.
  - (f) Interest in accordance with applicable law specifying the rate of interest and the date from which it accrues.
- (5) Within 7 days after the conclusion of the arbitration hearing, the arbitrator shall send the award to the parties without filing with the court and shall establish procedures for determining attorney fees and costs.
- (6) In dissolution cases, the arbitrator shall send the award to the parties within 7 days after the conclusion of the arbitration hearing and shall direct a party to prepare and submit a form of judgment. The arbitrator, upon request of any party, shall give the parties an opportunity to be heard on the form of judgment. The arbitrator shall then approve a form of judgment and file the award, along with the approved form of judgment, per UTCR 13.220.

1988 Commentary:

It is the intent of the Committee that 13.210(2) applies in dissolution cases.

1994 Commentary:

The Committee intends that the arbitrator determine all costs to which the prevailing party may be entitled, including the prevailing fee and share of the arbitrator's fee.

13.220 FILING OF AN AWARD

- (1) The arbitrator shall file the award with the trial court administrator, together with proof of service of a copy of the award, upon each party within the following times after the completion of the arbitration hearing:
- (a) In dissolution cases within 21 days.
  - (b) In all other cases within 14 days.
- (2) An arbitrator may request an extension of time for filing of the award by presenting a written *ex parte* request to the trial court administrator. The trial court administrator may grant or deny the request, subject to review of the presiding judge. The arbitrator shall give the parties notice of any extension granted.
- (3) The arbitrator may file with the trial court administrator and serve upon the parties an amended award to correct an obvious error made in stating the award if done within the time for filing an award or upon application to the court to amend.

- (4) After the award is filed, the arbitrator must return all documents and exhibits to the parties who originally offered them. All other documents and materials relating to the case must be delivered to the trial court administrator. The parties must retain all exhibits returned by the arbitrator until a final judgment is entered in the case.

#### 13.240 JUDGMENT ON AWARD

If no request for trial *de novo* is filed within the time established by ORS 36.425(3), the arbitration decision and award will be entered and have the effect provided in that statute.

#### 13.250 REQUEST FOR TRIAL *DE NOVO*

- (1) A party who qualifies under ORS 36.425(2) may obtain a trial *de novo* on the case determined by completing the service, filing, payment of trial or jury fee and deposit as required under ORS 36.425(2).
- (2) In addition to the provisions under ORS 36.425 relating to a trial *de novo*, the following provisions apply:
  - (a) In addition to filing a written notice of appeal and request for trial *de novo* with the trial court administrator, the party must serve on the parties a copy of the written notice of appeal and request for a trial *de novo* filed with the trial court administrator, and proof of such service must be filed with the trial court administrator.
  - (b) When cases are consolidated for arbitration and a party has filed an appeal from the arbitration award in one or more of the consolidated cases, any other party who otherwise qualifies under ORS 36.425(2) may serve and file with the trial court administrator a request for trial *de novo*, with proof of service on all other parties, within 20 days from the filing of the arbitration award or within two judicial days after the service of the initial written request for trial *de novo*, notwithstanding the lapse of 20 days from the filing of the arbitration award.
  - (c) If the trial *de novo* request is withdrawn, or abandoned, such appealing party must obtain permission of the court or there must be a stipulation of all parties to the abandonment of the appeal and the terms thereof.
  - (d) Cross appeal is not necessary to preserve issues raised in a counterclaim, because the trial *de novo* encompasses all claims raised by any party in the particular case appealed.
  - (e) The court may assess statutory costs against a party who withdraws a request for trial *de novo*.

#### 13.260 PROCEDURE AT TRIAL *DE NOVO*

The trial court administrator must seal any award if a trial *de novo* is requested. Neither judge nor jury will be informed of the arbitration result. The sealed arbitration award will not be opened until after the verdict is received and filed in a jury trial or until after the judge has rendered a decision in a court trial.

### 13.280 TRIAL DOCKET

Every case assigned to arbitration shall maintain its approximate position on the civil trial docket as if the case had not been assigned to arbitration, unless, at the discretion of the court, the docket position should be modified.

### 13.300 PRETRIAL SETTLEMENT CONFERENCES AND ARBITRATION

Cases assigned to arbitration or the pendency of an arbitration hearing does not exclude a case from participating in a court pretrial settlement conference.

## **CHAPTER 14—Reference Judges**

This chapter reserved for future use.

## CHAPTER 15—Small Claims

### 15.010 SMALL CLAIMS FORMS

- (1) The following small claims documents shall be accepted, when the proper fee is tendered, by all judicial districts that accept small claims filings:
  - (a) Small Claim and Notice of Small Claim substantially in the form specified in Form 15.010.1a in the UTCR Appendix of Forms, to commence a small claims action pursuant to ORS 46.425 and 46.445 or 30.642 – 30.650. In an action by an inmate, the inmate must include the inmate's identification number in the caption.
  - (b) Motion for Default Judgment and Defendant Status Declaration substantially in the form specified in Form 15.010.1b in the UTCR Appendix of Forms, to request a default judgment pursuant to ORS 46.475(2).
  - (c) Declaration of Noncompliance and Request for Judgment substantially in the form specified in Form 15.010.1c in the UTCR Appendix of Forms, to request a judgment for failure to comply with a Small Claims Agreement.
  - (d) Small Claims Judgment and Money Award substantially in the form specified in Form 15.010.1d in the UTCR Appendix of Forms as a form for use to enter judgment in a small claims action under ORS 46.475(2), 46.485, and 46.488.
  - (e) Defendant's Response substantially in the form specified in Form 15.010.1e in the UTCR Appendix of Forms as a form for use to respond to a claim and notice of claim in a small claims action pursuant to ORS 46.455.
  - (f) Small Claims Agreement substantially in the form specified in Form 15.010.1f in the UTCR Appendix of Forms as a form for use when the parties agree to resolve a small claims action.
- (2) Forms in these formats may be made mandatory by SLR. SLR 15.011 is reserved for making such formats mandatory in the judicial district.

### 15.020 DISMISSAL OF SMALL CLAIMS FOR WANT OF PROSECUTION

- (1) After service is made, the serving party must forthwith file the return or acceptance of service with the trial court administrator.
- (2) If no return or acceptance of service is filed by the 63rd day after the filing of the complaint, the court may dismiss the case for want of prosecution.
- (3) If proof of service is filed and any defendant does not appear by the 35th day after the proof of service is filed, the court may dismiss the complaint against each nonappearing defendant for want of prosecution unless the plaintiff has applied for a default judgment.

## **CHAPTER 16—Violations**

This chapter reserved for future use.

## **CHAPTER 17—Local Parking Violations**

**Reporter's Note:** UTCR 17.010 was repealed out-of-cycle by Chief Justice Order No. 05-032, dated July 29, 2005, effective immediately.

## **CHAPTER 18—Forcible Entry and Detainer (FED) Actions**

This chapter reserved for future use.



## CHAPTER 19—Contempt Proceedings

NOTE: The rules in UTCR Chapter 19 were adopted pursuant to ORS 33.145 by the Oregon Supreme Court. They were originally adopted as Temporary Oregon Contempt Rules (TOCR) by the Supreme Court on the 27th of September, 1991, by Supreme Court Order No. 91-078. Although not originally adopted as UTCR, these rules were amended by the Supreme Court and added to the UTCR effective August 1, 1993, by Supreme Court Order No. 93-035. Even though added to the UTCR for purposes of citation, comment, and proposed changes, the rules in this UTCR chapter will continue to be changed only by action of the Supreme Court as provided under ORS 33.145.

### 19.010 SCOPE, CONSTRUCTION, APPLICATION

- (1) The rules in this UTCR chapter govern contempt proceedings under ORS 33.015 to 33.155 and are intended to promote efficient and fair resolution of contempt proceedings. The rules in this chapter will be changed only by action of the entire Supreme Court.
- (2) The rules in this chapter do not preclude courts from exercising their inherent authority in contempt proceedings over matters not covered by rule or statute, so long as that exercise fosters efficient and fair resolution of the matter.

### 19.020 INITIATING INSTRUMENT REQUIREMENTS AND MAXIMUM SANCTIONS

- (1) In addition to any other requirements for initiating instruments, the initiating instrument in a contempt proceeding under ORS 33.055 (remedial) or ORS 33.065 (punitive), must state:
  - (a) in the caption, the word “remedial” or “punitive,” as appropriate, and the words “violation of restraining order,” if appropriate.
  - (b) in the instrument:
    - (i) the maximum sanction(s) that the party seeks;
    - (ii) whether the party seeks a sanction of confinement; and
    - (iii) as to each sanction sought, whether the party seeking the sanction considers the sanction remedial or punitive.
- (2) If a party is initiating a contempt proceeding under ORS 33.055 (remedial) and a related circuit court case exists, the party must initiate the contempt proceeding by filing a motion in the related case.
- (3) An initiating instrument in a contempt proceeding under ORS 33.055 (remedial) that initiates a new circuit court case must state, in the first paragraph:
  - (a) if arising from a justice court or municipal court proceeding, the court name, the case name and number, and a description of the nature of that proceeding;
  - (b) if arising from an agency proceeding other than a child support proceeding, the agency name, the agency case name and number, and a description of the nature of that proceeding; or

- (c) if arising from an agency proceeding that is a juvenile proceeding, the information required in paragraph (b) of this section as to any applicable agency or department, and any applicable juvenile department petition number.
- (4) An accusatory instrument in a contempt proceeding under ORS 33.065 (punitive) must state, as applicable:
  - (a) in the caption, if arising from an existing circuit court case, the words “Related to [Court Name] Case No. [Case Number].”
  - (b) in the first paragraph:
    - (i) if arising from an existing circuit court case, the court name, the case name and number, and the nature of that case;
    - (ii) if arising from an existing juvenile court case, the court name, the case name and number, the juvenile department petition number, if any, and the nature of that case.
    - (iii) if arising from a justice court or municipal court proceeding, the court name, the court case name and number, and a description of the nature of that proceeding;
    - (iv) if arising from an agency proceeding, the agency name, the agency case name and number, and a description of the nature of that proceeding; or
    - (v) if arising from a juvenile proceeding, the information required in paragraph (b)(iv) of this section as to any applicable agency or department, and any applicable juvenile department petition number.
- (5) Maximum Sanction Imposed

The court shall not impose a sanction greater than the sanction sought. A punitive sanction is presumed greater than a remedial sanction. A punitive sanction of confinement is presumed greater than other punitive sanctions. A remedial sanction of confinement is presumed greater than other remedial sanctions.

#### 19.030 ALLOWING REMEDIAL SANCTIONS

Rules that apply to allowing remedial sanctions in a proceeding for only remedial sanctions under ORS 33.055 also apply to allowing remedial sanctions in a proceeding for punitive sanctions under ORS 33.065.

#### 19.040 APPLICABILITY OF ORCP AND OTHER UTCR

- (1) To the extent rules in this chapter are inconsistent with other applicable rules, the rules in this chapter govern contempt proceedings under ORS 33.015 to 33.155. Except as otherwise provided in this chapter:
  - (a) Oregon Rules of Civil Procedure (ORCP) and Oregon Rules of Appellate Procedure (ORAP) apply respectively to original and appellate contempt proceedings for remedial sanctions under ORS 33.055;

- (b) UTCR that govern civil proceedings apply to original proceedings for remedial sanctions under ORS 33.055;
  - (c) UTCR and ORAP that govern criminal proceedings apply respectively to original and appellate contempt proceedings for punitive sanctions under ORS 33.065.
- (2) On its own motion or that of a party in a contempt proceeding for remedial sanctions, a court may determine that a specific rule of procedure would not foster the fair and efficient resolution of the contempt proceeding.
- (a) When a court makes that determination, it may modify the specific rule or adopt a different rule for all or part of the proceeding, so long as the modified or new rule fosters the fair and efficient resolution of the proceeding. Under this rule, the court may increase or decrease time limits or may limit or exclude responsive pleadings, or both, and may also modify other rule provisions.
  - (b) The court must give all parties to the proceeding notice that describes the modified or new rule. The notice must be in writing or on the record or both.

#### 19.050 EXCEPTIONS TO AND LIMITATIONS ON APPLICABLE ORCP IN REMEDIAL PROCEEDINGS

Notwithstanding UTCR 19.040, in contempt proceedings for remedial sanctions:

- (1) Unless the court determines that other claims should be joined for fair resolution of the contempt matter, only the following claims may be joined with a contempt claim:
  - (a) claims that arise out of the order or judgment that the contemnor allegedly violated;
  - (b) claims that involve facts and issues that would necessarily be determined in the contempt proceeding; and
  - (c) other claims for contempt arising out of a related matter.
- (2) ORCP references to "complaint" include the initiating instrument in a contempt proceeding.
- (3) ORCP applicable to juries and jury trials apply only when a statute or constitution provides a specific right to jury trial in a contempt proceeding and a party claims that right.
- (4) A party may amend a pleading only on motion and with the court's approval.
- (5) The following ORCP do not apply: 3, 5, 21 C, 21 D, 21 E, 23 A, 24 A, 24 B, 25 A, 32, 54 A(1), 54 E, 66, 73, 81 A, 81 C, 82 A(3), 84, and 85.

## **CHAPTER 20—Voluntary Arbitration**

This chapter reserved for future use.

## CHAPTER 21—Filing and Service by Electronic Means

### 21.010 DEFINITIONS

The following definitions apply to this chapter:

- (1) “Conventional filing” means a process whereby a filer files a paper document with the court.
- (2) “Document” means a pleading, a paper, a motion, a declaration, an application, a request, a brief, a memorandum of law, an exhibit, or other instrument submitted by a filer, including any exhibit or attachment referred to in the instrument. Depending on the context, as used in this chapter, “document” may refer to an instrument in either paper or electronic form.
- (3) “Electronic filing” means the process whereby a filer electronically transmits to a court a document in an electronic form to initiate an action or to be included in the court file for an action.
- (4) “Electronic filing system” means the system provided by the Oregon Judicial Department for the electronic filing and the electronic service of a document via the Internet, excluding the electronic filing of a criminal citation under ORS 133.073. A filer may access the system through the Oregon Judicial Department’s website (<http://www.courts.oregon.gov/OJD>).
- (5) “Electronic service” means the electronic transmission of a notice of filing by the electronic filing system to the electronic mail (email) address of a party who has consented to electronic service under UTCR 21.100(1). The notice will contain a hyperlink to access a document that was filed electronically for the purpose of accomplishing service.
- (6) “Filer” means a person registered with the electronic filing system who submits a document for filing with the court.
- (7) “Service contact” means any party to be served electronically by the electronic filing system, through email notification.
- (8) “Other service contact” means any person associated with the filer for purposes of an action whom the filer wishes to receive email notification from the electronic filing system of documents electronically served in the action. An “other service contact” includes another lawyer, administrator, or staff from the filer’s place of business, or another person who is associated with the filer regarding the action or otherwise has a legitimate connection to the action.

### 21.020 APPLICABILITY; LOCAL RULES OF COURT NOT PERMITTED

- (1) As authorized by ORS 1.002, this chapter applies to those circuit courts that have approval from the State Court Administrator to accept filings electronically for designated case types and filers. The Oregon Judicial Department’s website lists the circuit courts approved to accept filing electronically for designated case types and filers (<http://www.courts.oregon.gov/OJD>).
- (2) No circuit court may make or enforce any local rule, other than those local rules authorized by UTCR 4.090, governing the electronic filing and electronic service of documents.

## 21.030 FILERS

### (1) Authorized Filers

- (a) Any person who completes an online registration form and obtains a login under subsection (b) of this section is an authorized filer in the electronic filing system.
- (b) A filer must complete an online registration form to request a login for access to the electronic filing system and must execute a user agreement. The filer must provide information sufficient to establish the filer's technical capacity to send and receive electronic filings and court notices. On receipt of the required information, the electronic filing system will send an email to the filer with an activation link and login information.

### (2) Conditions of Electronic Filing

To have access to the electronic filing system, each filer agrees to, and must:

- (a) register for access to the electronic filing system;
- (b) comply with the registration conditions when using the electronic filing system;
- (c) maintain one or more operative email addresses at which the filer agrees to accept email notifications from the electronic filing system and electronic service of documents, provided that the filer has consented to electronic service in an action as provided in UTCR 21.100(2); and
- (d) furnish required information for case processing.

## 21.040 FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY

- (1) A document submitted electronically to the court must be in the form of a text-searchable Portable Document Format (PDF) or a text-searchable Portable Document Format/A (PDF/A) file that does not exceed 25 megabytes. A document that exceeds the size limit must be broken down and submitted as separate files that do not exceed 25 megabytes each.
- (2) Except as provided in subsections (a) and (b) of this section, when a document to be electronically filed includes one or more attachments, including but not limited to a memorandum of law, a statement of points and authorities, a documentary exhibit, an affidavit, or a declaration, each attachment must be submitted through the electronic filing system as a separate electronically filed document.
  - (a) An attachment to a motion to strike filed under UTCR 5.020(2) must be submitted together with the motion as a single, unified PDF or PDF/A file.
  - (b) An attachment to a motion for leave to amend a pleading filed under UTCR 5.070 must be submitted together with the motion as a single, unified PDF or PDF/A file.}
- (3) When viewed in an electronic format and when printed, a submitted document must comply with the requirements of ORCP 9 E and UTCR 2.010 except as to any requirement that a document bear a physical signature when filed.

- (4) The court may reject submitted documents that do not comply with these provisions as provided in UTCR 21.080(5).

#### 21.050 PAYMENT OF FEES

##### (1) Payment Due on Filing

A filer must pay the filing fees for filing a document electronically at the time of electronic filing. As provided in UTCR 21.070(3)(h), a filer may not electronically file an amended civil complaint that, as a result of the amendment, requires payment of an additional filing fee.

##### (2) Fee Waivers and Deferrals

- (a) Except as provided in subsection (b) of this rule, a filer may apply for a waiver or deferral of court fees and costs, as provided in ORS 21.682 and ORS 21.685, when submitting for electronic filing a document that constitutes an appearance, motion, or pleading for which a fee is required, with an accompanying application for a waiver or deferral of a required fee. The document will not be accepted for filing unless the court grants the fee waiver or deferral.
- (b) A filer may not electronically apply for a waiver or deferral of court fees when submitting a document that initiates an action, as provided in UTCR 21.070(3)(b).

#### 21.060 FILES OF THE COURT

##### (1) Electronic Filing

- (a) The electronic filing of a document is accomplished when a filer submits a document electronically to the court, the electronic filing system receives the document, and the court accepts the document for filing.
- (b) When the court accepts the electronic document for filing, the electronic document constitutes the court's record of the document.

##### (2) Converting a Conventional Filing into an Electronic Format

The court may digitize, microfilm, record, scan, or otherwise reproduce a document that is filed conventionally into an electronic record, document, or image. The court subsequently may destroy a document that is filed conventionally in accordance with the protocols established by the State Court Administrator under ORS 8.125(11) and ORS 7.124.

#### 21.070 SPECIAL FILING REQUIREMENTS

##### (1) Courtesy Copies

The court may require that a filer submit, in the manner and time specified by the court, a copy of the document that was filed electronically and a copy of the submission or acceptance email from the electronic filing system.

(2) Court Order Requiring Electronic Filing and Electronic Service

Except for any document that requires service under ORCP 7 or that requires personal service, the court may, on the motion of any party or on its own motion, order all parties to file and serve all documents electronically, after finding that such an order would not cause undue hardship or significant prejudice to any party.

(3) Documents that Must be Filed Conventionally

The following documents must be filed conventionally:

- (a) An accusatory instrument that initiates a criminal action, except as otherwise provided by ORS 133.073.
- (b) A petition that initiates a juvenile delinquency proceeding under ORS 419C.250.
- (c) A document that initiates an extradition proceeding under ORS 133.743 to 133.857.
- (d) A citation that initiates a parking violation proceeding.
- (e) An initiating instrument in a contempt proceeding, other than a motion, under ORS 33.055 (remedial) or an accusatory instrument that initiates a contempt proceeding under ORS 33.065 (punitive).
- (f) A notice of appeal from a justice court or municipal court judgment under ORS 138.057 or ORS 157.020(1), a justice court order under ORS 157.020(2), or a municipal court conviction under ORS 221.359.
- (g) A document that initiates an action that is accompanied by an application for a waiver or deferral of a required fee.
- (h) An amended civil complaint that, as a result of the amendment, requires payment of an additional filing fee.
- (i) A document filed under seal or subject to in camera inspection, including a motion requesting that a simultaneously filed document be filed under seal or subject to in camera inspection.
- (j) Except as provided in UTCR 21.090(4), a document that is required by law to be filed in original form, such as, but not limited to, an original will, a certified document, or a document under official seal.
  - (i) If applicable law requires an original document to be filed simultaneously with another document that is electronically filed, the filer must electronically file an image of the original document with the other electronically filed document and then conventionally file the original document within 7 business days after submitting the electronic filing. An original document conventionally filed under this paragraph is deemed filed on the date of filing of the electronically filed image of the same document.
  - (ii) If the filer elects to electronically file an image of an original document as set out in paragraph (j)(i) of this subsection, the filer must include in the eFiling Comment field a statement that the electronic filing submission includes an



image of an original document and that the filer will conventionally file the original document within 7 business days.

- (k) A document delivered to the court under ORCP 55 (H)(2)(c).
  - (l) A Driver and Motor Vehicle Services Branch of the Oregon Department of Transportation (DMV) record, as defined in UTCR 10.020(1).
- (4) Limits on Exhibits
- (a) A demonstrative or oversized exhibit must be filed conventionally.
  - (b) Trial exhibits may not be filed electronically and must be submitted or delivered as provided in UTCR 6.050(2).
- (5) Expedited Filings

A filer must include the words “EXPEDITED CONSIDERATION REQUESTED” in the Filing Comments field when preparing an expedited filing for submission through the electronic filing system.

## 21.080 ELECTRONIC FILING DEADLINES

- (1) A filer may use the electronic filing system at any time, except when the electronic filing system is temporarily unavailable.
- (2) The filing deadline for any document filed electronically is 11:59:59 p.m. in the time zone where the court is located on the day the document must be filed.
- (3) The court considers a document submitted for an electronic filing when the electronic filing system receives the document. The electronic filing system will send an email to the filer that includes the date and time of receipt, unless the filer has elected through system settings not to receive the email.
- (4) If the court accepts the document for filing, the date and time of filing entered in the register relate back to the date and time the electronic filing system received the document. When the court accepts the document, the electronic filing system will affix the date and time of submission on the document, thereby indicating the date and time of filing of the document. When the court accepts a document for filing, the electronic filing system sends an email to the filer, unless the filer has elected through system settings not to receive the email.
  - (a) The provisions of this subsection do not apply to a proposed order or judgment that is electronically filed.
  - (b) When the court accepts a proposed order or judgment through the electronic filing system, the document is deemed submitted for judge review.
- (5) If the court rejects a document submitted electronically for filing, the electronic filing system will send an email to the filer that explains why the court rejected the document, unless the filer has elected through system settings not to receive the email. The email will include a hyperlink to the document.

- (a) A filer who resubmits a document within 3 days of the date of rejection under this section may request, as part of the resubmission, that the date of filing of the resubmitted document relate back to the date of submission of the original document to meet filing requirements. If the third day following rejection is not a judicial day, then the filer may resubmit the filing with a request under this subsection on the next judicial day. For purposes of this subsection, resubmission means submission of the document through the electronic filing system under section (3) of this rule or physical delivery of the document to the court. A filer who resubmits a document under this subsection must include:
  - (i) a cover letter that sets out the date of the original submission and the date of rejection and that explains the reason for requesting that the date of filing relate back to the original submission, with the words "RESUBMISSION OF REJECTED FILING, RELATION-BACK DATE OF FILING REQUESTED" in the subject line of the cover letter; and
  - (ii) if an electronic resubmission, the words "RESUBMISSION OF REJECTED FILING, RELATION-BACK DATE OF FILING REQUESTED" in the Filing Comments Field.
- (b) A responding party may object to a request under subsection (a) of this section within the time limits as provided by law for the type of document being filed. For the purpose of calculating the time for objection provided by law under this subsection, if applicable, the date of filing is the date that the document was resubmitted to the court under subsection (a) of this section.

#### 21.090 ELECTRONIC SIGNATURES

- (1) The use of a filer's login constitutes the signature of the filer for purposes of these rules and for any other purpose for which a signature is required.
- (2) In addition to information that law or rule requires to be in the document, a document filed electronically must include an electronic symbol intended to substitute for a signature, such as a scan of the filer's handwritten signature or a signature block that includes the typed name of the filer preceded by an "s/" in the space where the signature would otherwise appear.

Example of a signature block with "s/":

s/ John Q. Attorney  
JOHN Q. ATTORNEY  
OSB #  
Email address  
Attorney for Plaintiff Smith Corporation, Inc.

- (3) When more than one party joins in filing a document, the filer must show all of the parties who join by one of the following:
  - (a) submitting an imaged document containing the signatures of all parties joining in the document;
  - (b) a recitation in the document that all such parties consent or stipulate to the document; or

- (c) identifying in the document the signatures that are required and submitting each such party's written confirmation no later than 3 days after the filing.
- (4) Except as provided in subsection (5) of this section, when a document to be electronically filed requires a signature under penalty of perjury, or the signature of a notary public, the declarant or notary public shall sign a printed form of the document. The printed document bearing the original signatures must be imaged and electronically filed in a format that accurately reproduces the original signatures and contents of the document. The original document containing the original signatures and content must be retained as required in UTCR 21.120.
- (5) When the filer is the same person as the declarant named in an electronically filed document for purposes of ORCP 1 E, the filer must include in the declaration an electronic symbol intended to substitute for a signature, such as a scan of the filer's handwritten signature or a signature block that includes the typed name of the filer preceded by an "s/" in the space where the signature would otherwise appear.

Example of a signature block with "s/":

s/ John Q. Attorney  
JOHN Q. ATTORNEY}

#### 2011 Commentary:

The Committee does not intend the requirement to include an email address in a signature block to constitute consent to receipt of service of documents by email. Electronic service of documents may only be accomplished as specified in UTCR 21.100.

### 21.100 ELECTRONIC SERVICE

- (1) Consent to Electronic Service and Withdrawal of Consent
  - (a) A filer who electronically appears in the action by filing a document through the electronic filing system that the court has accepted is deemed to consent to accept electronic service of any document filed by any other registered filer in an action, except for any document that requires service under ORCP 7 or that requires personal service.
  - (b) A filer who is dismissed as a party from the action or withdraws as a lawyer of record in the action may withdraw consent to electronic service by removing the filer's contact information as provided in subsection (2)(a) of this rule.
  - (c) Except as provided in subsection (b) of this section, a filer may withdraw consent to electronic service only upon court approval based on good cause shown.
- (2) Contact Information
  - (a) At the time of preparing the filer's first electronic filing in the action, a filer described in subsection (1) of this rule must enter in the electronic filing system the name and service email address of the filer, designated as a service contact on behalf of an identified party in the action. If the filer withdraws consent to electronic service under subsection (1)(b) or (1)(c) of this rule, then the filer must remove the filer's name and service email address as a designated service contact for a party.

- (b) A filer described in subsection (1)(a) of this rule may enter in the electronic filing system, as an other service contact in the action:
  - (i) an alternative email address for the filer; and
  - (ii) the name and email address of any additional person whom the filer wishes to receive electronic notification of documents electronically served in the action, as defined in UTCR 21.010(9). If a lawyer enters a client's name and contact information as an other service contact under this subsection, then the lawyer is deemed to have consented for purposes of Rule of Professional Conduct 4.2 to delivery to the client of documents electronically served by other filers in the action.
- (c) A filer is responsible for updating any contact information for any person whom the filer has entered in the electronic filing system as either a service contact for a party or as an other service contact in an action.
- (d) A filer may seek court approval to remove a person entered by another filer as an other service contact in an action if the person does not qualify as an other service contact under UTCR 21.010(9).

(3) Selecting Service Contacts and Other Service Contacts

When preparing an electronic filing submission with electronic service, a filer is responsible for selecting:

- (a) the appropriate service contacts in the action, for the purpose of accomplishing electronic service as required by law of any document being electronically filed; and
  - (b) the appropriate other service contacts in the action, if any, for the purpose of delivering an electronic copy of any document being electronically filed.}
- (4) When the court accepts an electronic document for filing under UTCR 21.060(1)(a), the electronic filing system sends an email to the email address of each person whom the filer selected as a service contact or other service contact under subsection (3) of this rule. The email contains a hyperlink to access the document or documents that have been filed electronically. Transmission of the email by the electronic filing system to the selected service contacts in the action constitutes service.

(5) Completion and Time of Electronic Service

Electronic service is complete when the electronic filing system sends the email to the selected service contacts in the action.

- (6) Electronic service performed in accordance with this chapter is equivalent to service by mail as provided in ORCP 10 C.

(7) Proof of Electronic Service

A filer must attach at the end of any document submitted electronically a list of names and addresses of all parties requiring conventional paper service, followed by a clearly identified list of the names of all parties requiring service that will be served electronically by the electronic filing system.

(8) Service Other than by Electronic Means

The filing party is responsible for accomplishing service in any manner permitted by the Oregon Rules of Civil Procedure and for filing a proof of service with the court for the following documents:

- (a) a document required to be filed conventionally under this chapter;
- (b) a document that cannot be served electronically on a party who appeared in the action; and
- (c) a document subject to a protective order.

21.110 HYPERLINKS

- (1) A document that is filed electronically may contain hyperlinks to other parts of the same document or hyperlinks to a location on the Internet that contains a source document for a citation or both.
- (2) A hyperlink to cited authority does not replace standard citation format. A filer must include the complete citation within the text of the document. Neither a hyperlink, nor any site to which it refers, is part of the record. A hyperlink is simply a convenient mechanism for accessing material cited in a document filed electronically.
- (3) The Oregon Judicial Department neither endorses nor accepts responsibility for any product, organization, or content at any hyperlinked site, or to any site to which that site refers.

21.120 RETENTION OF DOCUMENTS BY FILERS

- (1) Unless the court orders otherwise, if a filer electronically files an image of a document that contains the original signature of a person other than the filer, the filer must retain the document in its original paper form for 10 years.
- (2) On reasonable notice, the filer must provide a paper copy for inspection by another party, the clerk, or the court.

21.130 PROTECTED INFORMATION

The use of information contained in a document filed electronically or information accessed through the electronic filing system must be consistent with state and federal law.

## **CHAPTER 22 – Enterprise Content Management System**

This chapter reserved for future use.

## **CHAPTER 23 – Oregon Complex Litigation Court**

### **23.010 OREGON COMPLEX LITIGATION COURT**

- (1) The criteria used for assignment of a case to the Oregon Complex Litigation Court (OCLC), pursuant to UTCR 23.020, may include, but are not limited to, the number of parties, the complexity of the legal issues, the complexity of the factual issues, the complexity of discovery, and the anticipated length of trial.
- (2) The UTCR apply to cases in the OCLC except where the rules in this chapter specifically provide otherwise.
- (3) Absent a motion and order for a change of venue pursuant to ORS 14.110, assignment of a case to the OCLC does not change the venue of a case.
- (4) The OCLC will be managed by a panel of three circuit court presiding judges appointed by the Chief Justice of the Oregon Supreme Court.

### **23.020 ASSIGNMENT OF CASES TO THE OCLC**

- (1) Assignment of a case to the OCLC requires agreement of the parties, the presiding judge or designee of the court with venue, and the managing panel of the OCLC.
- (2) The following must occur for a case to be considered for assignment to the OCLC:
  - (a) The parties and the presiding judge or designee of the court with venue must confer to determine whether there is agreement to assign the case to the OCLC and to determine the special needs, facts, and issues of the case.
  - (b) The presiding judge or designee of the court with venue and the managing panel of the OCLC must confer to discuss whether the case is appropriate for assignment to the OCLC and to discuss the special needs, facts, and issues of the case.
- (3) If the agreement required by UTCR 23.020(1) is reached and the managing panel accepts a case into the OCLC, the parties must submit a stipulated order for assignment of the case to the OCLC to the presiding judge or designee of the court with venue over the case and to the managing panel of the OCLC.
- (4) Once a case is accepted into the OCLC, the managing panel of the OCLC will assign the case to a single OCLC judge.
- (5) The parties must:
  - (a) Share equally, unless otherwise agreed, the cost of copying and providing the entire court file to the OCLC judge assigned to the case.
  - (b) Make all necessary arrangements to have a copy of the entire court file delivered to the OCLC judge within 14 days of assignment of the case to the OCLC judge.
  - (c) Continue, after assignment of the case to the OCLC judge, to file all documents in the court with venue and provide copies of all filed documents to the OCLC judge.

### 23.030 REMOVAL OF CASES FROM THE OCLC

- (1) When an OCLC judge finds good cause to remove a case from the OCLC, the judge must confer with the managing panel of the OCLC. If the managing panel agrees that the case should be removed, the managing panel will discuss the removal and return of the case with the presiding judge or designee of the court with venue before any action is taken.
- (2) If venue has not been changed, the case may then be returned to the originating circuit court.
- (3) If venue has been changed, the case may then be returned to the circuit court with current venue absent a motion and order for change of venue pursuant to ORS 14.110 and 14.120.

### 23.040 CASE MANAGEMENT

- (1) Cases assigned to the OCLC are under the direct supervision of a single OCLC judge for all purposes including referral to mediation, assignment to a settlement judge, and trial.
- (2) Before the date set by the court for a case management conference, all parties must do all of the following:
  - (a) Explore early resolution of the case and prepare a discovery plan.
  - (b) Confer concerning the matters to be raised at the conference.
  - (c) Attempt to reach agreement on as many of the issues as possible.
  - (d) Report the results of their conference to the court at the case management conference.
- (3) No later than 10 days prior to trial, unless the OCLC judge has ordered otherwise, the parties must do all of the following:
  - (a) Confer and disclose to each other all exhibits, except impeachment exhibits.
  - (b) Number all exhibits.
  - (c) Reach, to the extent possible, agreement on the admissibility of exhibits.
  - (d) File with the court and provide to the OCLC judge a list of exhibits indicating the status of each exhibit.
  - (e) Reach, to the extent possible, agreement on foundation for other exhibits to which they might have substantive objections. Any agreement must be noted on the exhibit list filed with the court.
- (4) Upon compliance with UTCR 23.040(3)(a)–(e), the OCLC judge will confer with the parties to resolve any disputes on exhibits or other matters upon which a stipulation might be reached to make the trial more efficient.



## 23.050 CASE MANAGEMENT CONFERENCE; CASE MANAGEMENT ORDER

- (1) A case management conference will be held within 30 days of assignment of a case to an OCLC judge or at such other time as the court may order. The purpose of the case management conference is to identify the essential issues in the litigation and to avoid unnecessary, burdensome, or duplicative discovery and other pretrial procedures to ensure the prompt resolution of the dispute. The case management conference may include discussion of the following:
  - (a) The trial date.
  - (b) The need for additional parties.
  - (c) Time limits for filing of third-party complaints or bringing in additional parties.
  - (d) Severance, consolidation, or coordination with other actions.
  - (e) A discovery plan, including a schedule for the exchange of documents, conducting discovery from third parties, use of common number systems for documents production and exhibits identification, a schedule for conducting depositions, the need for protective orders or other limitations allowed by ORCP 36 C, and a date for the close of discovery.
  - (f) A time schedule for motion practice and date for submission of dispositive motions.
  - (g) Mediation or settlement, and the identity of the assigned neutral facilitator. If the case has not settled within 45 days of the trial date, the case may be assigned for settlement conference to a judge other than the OCLC judge.
  - (h) Use of technology in discovery and at trial, such as electronic or physical document depositories, videotaping of depositions, videoconferencing, and teleconferencing,
  - (i) A master list of contact information.
  - (j) The method of jury selection and resolution of disputes relating to forms for juror questionnaires, if any.
  - (k) Scheduling of a Rule 104 hearing on scientific issues, if necessary.
  - (l) Scheduling of further conferences.
  - (m) Other matters the court or the parties deem appropriate to manage or expedite the case such as whether the parties will mutually employ a court reporter to serve for the creation of the official record, use of a trial plan having timelines for the submission and resolution of pretrial motions, motions in limine, deposition designations, submission of trial memoranda and jury instructions, and timelines for the examination of witnesses and evidentiary presentations by the parties.
- (2) Following the case management conference, the OCLC judge will issue a case management order. The case management order will encompass the matters addressed at the case management conference and any other matters the judge considers appropriate for the order.

- (3) The case management order may be modified or revised, as the OCLC judge deems necessary, to meet the purpose of the OCLC rules. The parties must not deviate from deadlines and requirements established in the case management order unless authorized by the OCLC judge.

#### 23.060 SETTLEMENTS AND DISCONTINUANCES

If a case in the OCLC is settled or dismissed, the parties must immediately inform the OCLC judge assigned to the case by telephone or email.

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## **APPENDIX OF FORMS**