UNIFORM TRIAL COURT RULES

Effective
August 1, 2023

In the Matter of the Adoption of Amendments to the Uniform Trial Court Rules	))))))	CHIEF JUSTICE ORDER No. 23-020 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 (UTCR), as set out in Appendix A, are adopted and are effective August 1, 2023, pursuant to ORS 1.002, except that the amendment to UTCR 1.050 is adopted and effective February 1, 2024.

2. All current local rules inconsistent with the Uniform Trial Court Rules as amended will be deemed ineffective on August 1, 2023, 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 Those local rules that are not amended or repealed and are not disapproved on review under UTCR 1.050 remain in effect until so amended, repealed, or disapproved.

5. The UTCR Reporter shall take the steps necessary to post the amendments of UTCR 3.180, 4.010, and 7.010 for public comment as soon as practicable and shall place them on the agenda for the October 19, 2023, UTCR Committee meeting for review of public comment.

Dated this 12th day of June, 2023.

/s/Meagan A. Flynn
Meagan A. Flynn
Chief Justice

2023 UNIFORM TRIAL COURT RULES

CONTENTS

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 (www.courts.oregon.gov/programs/utcr/Pages/currentrules.aspx) 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 (www.courts.oregon.gov/programs/utcr/Pages/currentrules.aspx) 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, inaccurate citations, 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.

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. 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.

(2) Review of SLR

(a) The presiding judge must give written notice of proposed new rules and proposed changes to existing rules to the president(s) of the bar association(s) in the affected judicial district and allow the bar association(s) to provide public comment to the presiding judge. The presiding judge must give the written notice at least 49 days

before the date of submission of the SLR to the Office of the State Court Administrator (OSCA) pursuant to subsection (b).

(b) On or before September 1 of each year, the presiding judge or designee must submit to OSCA a complete set of SLR, including proposed new rules and proposed changes to existing rules, if any. The submission must include a written explanation of each proposed new rule and each proposed change of an existing rule. Absent a showing of good cause, proposed new rules and proposed changes to existing rules will be considered by the UTCR Committee and the Chief Justice or designee not more often than once each year.

(c) SLR submitted to OSCA must show proposed changes as follows: new wording and new rules must be in bold and underlined and have braces placed before and after the new wording ({…}), wording to be deleted and rules to be repealed must be in italics and have brackets placed before and after the deleted wording ([...]). When final SLR are submitted to OSCA pursuant to subsection (g), changes shall not be indicated in the manner required by this subsection.

(d) The UTCR Committee will conduct an annual review of existing rules, proposed new rules, and proposed changes to existing rules. The UTCR Committee may suggest rule changes to a presiding judge, and recommend disapprovals to the Chief Justice, regarding existing rules, proposed new rules, and proposed changes to existing rules.

(e) The Chief Justice or designee shall issue any disapprovals on or before December 15 of the same year. If a local rule is disapproved, notice of that action shall be given to the presiding judge of the judicial district submitting the rule.

(f) A presiding judge may include in the final SLR, submitted pursuant to subsection (g), changes suggested by the UTCR Committee. A presiding judge must address in the final SLR any disapprovals made by the Chief Justice. Subsection (a) does not apply to these changes or disapprovals.

(g) Judicial districts must file with OSCA a final certified electronic copy of their SLR in PDF and send a copy to the president(s) of the bar association(s) in the affected judicial district. The final certified electronic copy must be received by OSCA no later than January 1 of the next year. Those SLR become effective on February 1 of the next year. SLR filed after January 1 become effective 30 days after the date received by OSCA.

(h) The Chief Justice may waive the time limits established in this section upon a showing of good cause.

(i) The UTCR Reporter may authorize correction of typographical errors, grammatical errors, inaccurate citations, and inaccurate website addresses if the correction does not change the substance of the rule. The judicial district must follow the filing requirements of ORS 3.220(2)(b) for authorized corrections and give appropriate notice of authorized corrections to the public.

(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 (SLR) 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.

(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 attorney fees incurred by a party, attorney, or the court.

(b) Otherwise award reasonable costs, expenses and attorney 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) "Authenticated Signature" means a specific type of electronic signature created using software that includes a security procedure designed to verify that a signature is that of a specific person. A security procedure is sufficient if it complies with the definition of "security procedure" in ORS chapter 84.

(2) "Court Contact Information" means the following information about a person submitting a document: the person's name, a mailing address, a telephone number, and an email address and a facsimile transmission number, if any, sufficient to enable the court to communicate with the person and to enable any other party to the case to serve the person under UTCR 2.080(1). Court contact information can be other than the person's actual address or telephone or fax number, such as a post office box or message number, provided that the court and adverse parties can contact the person with that information.

(3) "Days" means calendar days, unless otherwise specified in these rules.

(4) "Defendant" or "Respondent" means any party against whom a claim for relief is asserted.

(5) "Document" means any instrument filed or submitted in any type of proceeding, including any exhibit or attachment referred to in the instrument. Depending on the context, "document" may refer to an instrument in either paper or electronic form.

(6) "Electronic Signature" means an electronic symbol intended to substitute for a signature, such as a scan of a handwritten signature or a signature block that includes the typed name 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.

(7) "Original Signature" means a handwritten signature on a printed document.

(8) "Party" means a litigant or the litigant's attorney.

(9) "Plaintiff" or "Petitioner" means any party asserting a claim for relief, whether by way of claim, third-party claim, crossclaim, or counterclaim.

(10) "Remote Means" or "Remote Proceeding" means the use of telephone, telecommunication, video, other two-way electronic communication device, or simultaneous electronic transmission, in a manner that permits all participants to hear and speak with each other.

(11) “Trial Court Administrator” means the court administrator, the administrative officer of the records section of the court, and where appropriate, the trial court clerk.

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 document 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) If the person filing the motion has previously appeared in the proceeding, no fee is required for filing the motion. If the person filing the motion has not previously

appeared in the proceeding, the person must pay the first appearance fee required by statute.

(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 (statutory citations updated August 1, 2014):

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 18.422(3), 18.872(2), 18.950, 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 accompanied by an affidavit.

(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.

1.160 SUBMITTING DOCUMENTS FOR FILING WITH COURTS; LOCAL SLR

(1) A document submitted for filing with the court, including any document submitted to a judge or judicial staff, is not considered filed until it is accepted by court staff designated by the trial court administrator to accept court filings.

(2) A local court may adopt an SLR to designate where a document may be submitted for filing. SLR 1.161 is reserved for that purpose.

(3) Proposed orders and judgments submitted for judicial signature may be delivered to a judge or judicial staff as otherwise permitted or required under these rules.

(4) A court must accept a document submitted for filing that is substantially in the form of the corresponding document made available to the public on www.courts.oregon.gov/forms, if the proper fee is tendered when required and the document is submitted for filing in compliance with all applicable statutes and rules.

1.170 COURT WEBSITES; HOURS OF COURT OPERATION

(1) SLR 1.171 is reserved for each judicial district to identify the website addresses of its court. Links to these websites may also be found at the Oregon Judicial Department website: www.courts.oregon.gov.

(2) Each judicial district must announce on its website the following information: when each court location in the judicial district is open to conduct business; the hours when documents will be received for filing 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 delivery of documents for filing at times when the court location is not open to conduct business, other than by electronic filing.

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

Except where a different form is specified by statute or rule, the form of any document, including pleadings and motions, filed in any type of proceeding must be as prescribed in this rule.

(1) "Printed Document," as used in this rule, means any document wholly or partially printed.

(2) Size of Documents

All documents, except exhibits and wills, must be prepared in a manner that, if printed, would be letter-size (8-1/2 x 11 inches), except that smaller sizes 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; Binding Documents; Use of Staples Generally Prohibited

(a) 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.

(b) Pleadings and other documents submitted to the court for filing that are not electronically filed must be bound by paperclip or binder clip and must not contain staples. If the document includes an attachment, including a documentary exhibit, an affidavit, or a declaration, then the attachment must be bound in one packet to the document being filed by paperclip or binder clip.

(c) A document or document with attachments submitted to chambers must be stapled as one packet or otherwise bound as practical, depending on the size of the document and attachments.

(4) Spacing, Paging, and Numbered Lines

(a) All pleadings, motions and requested instructions must be double-spaced and prepared 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, two inches at the top of the page shall be left blank.

(d) All documents, except exhibits and wills, shall be prepared with a one-inch margin on each side.

(5) Party Signatures and Electronic Court Signatures

(a) 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.

(b) When a document to be conventionally filed contains the signature of the filer, the filer may sign the document using either an original signature, an electronic signature, or an authenticated signature, as those terms are defined in UTCR 1.110.

(c) When a document to be conventionally filed contains the signature of someone other than the filer, the document may be signed using either an original signature, or an authenticated signature as defined in UTCR 1.110. If the document contains an authenticated signature:

(i) The party certifies by filing that, to the best of the party's knowledge after appropriate inquiry, the signature purporting to be that of the signer is in fact that of the signer.

(ii) Unless the court orders otherwise, the filer must retain the electronic document until entry of a general judgment or other judgment or order that conclusively disposes of the action.

(d) The court may issue judicial decisions electronically and may affix a signature by electronic means.

(i) The trial court administrator must maintain the security and control of the means for affixing electronic court signatures.

(ii) Only the judge and the trial court administrator, or the judge's or trial court administrator's designee, may access the means for affixing electronic court signatures.

(6) Attorney or Litigant Information

All documents must include the author's court contact information under UTCR 1.110 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. Law firm and attorney logos, watermarks, or other such images must not appear on any pleading, motion, order, judgment, or writ.

(7) 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.

(8) 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.

(d) A party shall not file a non-documentary exhibit without prior leave of the court. A non-documentary exhibit consisting of an electronic recording may be transcribed and filed in documentary format consistent with this rule. If the court grants leave to file a non-documentary exhibit, the exhibit must be conventionally filed on a medium, including appropriate software where necessary, that allows the exhibit to be played or viewed on existing court equipment. Non-documentary exhibits may be returned to the custody of counsel for the submitting party pursuant to UTCR 6.120. The court may charge a reasonable fee to restore or clean, pursuant to Judicial Department policy and standards, court equipment used to play or view a non-documentary electronic exhibit. This rule does not apply to evidence submitted in electronic format pursuant to UTCR 6.190.

(9) 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.

(10) 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.

(11) Orders, Judgments or Writs

(a) The body of a proposed order, judgment, or writ must clearly state the substance of the court's ruling.

(b) 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. A proposed order or judgment, or any other document that requires court signature, must include, for the purpose of affixing a signature and signature date, a blank space of not less than 1.5 inches and a blank line following the last line of text.

Example:

Petitioner's motion for a stay is granted. The proceedings in this action are held in abeyance pending further notification from petitioner of completion of the conditions set out in this order.

(at least 1.5 inches of blank space following last line of text)

_____

(c) 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.

(d) A 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.

(12) Citation of Oregon Cases

(a) 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.

(b) A nonprecedential memorandum opinion issued by the Oregon Court of Appeals under ORAP 10.30(1) may not be cited unless the opinion is relevant under the law of the case doctrine, the rules of claim preclusion or issue preclusion, or if no precedent addresses the issue before the court. A citation to a nonprecedential memorandum must include a parenthetical indicating that the case is a "nonprecedential memorandum opinion" and explaining the reason for citing the opinion and how it is relevant to the issues presented.

(13) Notice of Address or Telephone Number Change

An attorney or self-represented party whose court contact information changes must immediately provide notice of that change to the trial court administrator and all other parties.

(14) Application to Court Forms

Forms created by the Oregon Judicial Department are not required to comply with the provisions of UTCR 2.010(4), (7), (10)(a)(v), or (10)(c) 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), (7), (10)(a)(v), or (10)(c).

1993 Commentary to section (11)(c) (updated 08/01/2023):

Self-represented parties:
Subsection (c) of section (11) requires that the author include their name (signature not required), followed by an identification of the author's role in the proceeding (petitioner, respondent, plaintiff, or defendant).

Example: Submitted by:
C. D. Jones
Plaintiff

Attorneys:
Subsection (c) of section (11) requires that the information include the author's name (signature not required), followed by an identification of the 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

(1) A certificate of service must include:

(a) If the opposing party was served electronically by the court's eFiling system pursuant to UTCR 21.100, a statement that service was accomplished at the party's email address as recorded on the date of service in the eFiling system.

(b) If the opposing party was served by facsimile pursuant to ORCP 9 F, the telephone number at which the party was served.

(c) If the opposing party was served by email pursuant to ORCP 9 G, the email address at which the party was served.

(d) If the opposing party was served by any other means, the physical address or postal address at which the party was served, as applicable.

(2) 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, as defined in ORS 73.0104, the party obtaining judgment must tender the original instrument to the court before the entry of judgment, unless the court has found that such party is entitled to enforce the instrument under ORS 73.0309, 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 IN PLEADINGS

The title of a pleading, including a claim, counterclaim, cross claim, or third-party claim, must comply with UTCR 13.060 regarding Arbitration; UTCR 5.090 (1) regarding Water Rights Cases; and, UTCR 5.090 (2) regarding claims subject to sections 7, 13, 21 and 23, chapter 5 Oregon Laws 2013 – actions against a health care practitioner or health care facility.

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

(1) Cases that are consolidated are consolidated for purposes of hearing or trial only. A party filing any pleading, memorandum, or other document applicable to more than one case must file the document in each case using existing case numbers and captions unless otherwise ordered by the court or provided by SLR. If such a document is not electronically filed, the filing party must provide the trial court administrator with sufficient copies.

(2) A court order or SLR under this rule may permit designation of a lead case and require that parties file documents using only the case number and caption of the lead case.

(3) Unless otherwise ordered by the court, a party filing a document applicable to only one case must file only in that case.

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, and 110 or initiated under ORS 24.190, ORS 30.866, ORS 124.010, or ORS 163.763.

(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 192.355(2)(a).

(ii) Maiden names, birth dates, and places of birth that can be kept confidential under ORS 192.355(2)(a).

(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 192.311 to 192.431).

(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), 110.575, or 192.368.

(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 a request in substantially the form provided at www.courts.oregon.gov/forms. The request must describe generally the protected personal information and set out the legal authority for protecting the information. The request must include a declaration under penalty of perjury, in substantially the same form as specified in ORCP 1E.

(c) Complete an information sheet in substantially the form provided at www.courts.oregon.gov/forms 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 request 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 request 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 a request 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) Maintain the Segregated Information Sheet 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 request 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 Segregated Information Sheet 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 192.355(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.

(a) 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 the Request to Inspect Redacted or Segregated Information Sheet provided at www.courts.oregon.gov/forms and copy the requestor shown on the request and parties to the case as required by UTCR 2.080. The Request to Inspect must include a declaration under penalty of perjury, in substantially the same form as specified in ORCP 1E. 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.

(b) Any person inspecting information segregated and kept from public inspection under this rule must not further disclose the information, except:

(i) Within the course and scope of the client-lawyer relationship, unless limited or prohibited by court order;

(ii) As authorized by law; or

(iii) As ordered by the court.

(c) Violation of subsection (b) of this section may subject a person to contempt of court under ORS 33.015 to 33.155.

(9) Denied Requests. If a court denies a request under this rule:

(a) For every piece of personal information on a Segregated Information Sheet, the court will attach the request 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 Segregated Information Sheet, 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 request and the redacted copy of the form to the document from which the information was segregated and place the request 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), 110.575, or 192.368.

(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 a request in substantially the form provided at www.courts.oregon.gov/forms. The request must:

(i) Describe generally the protected personal information and set out the legal authority for protecting the information.

(ii) Specifically identify the case file, document in the case file, and the page number of the page that is sought to be redacted.

(iii) Include a declaration under penalty of perjury, in substantially the same form as specified in ORCP 1E.

(iv) 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 at www.courts.oregon.gov/forms 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 request 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 request 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 request 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 or UTCR, a declaration under penalty of perjury, in substantially the same form as specified in ORCP 1E, may be used in lieu of an affidavit required or allowed by these rules.

2.130 CONFIDENTIAL PERSONAL INFORMATION IN FAMILY LAW AND CERTAIN PROTECTIVE ORDER PROCEEDINGS

(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; any other names used, now or in the past; and employer's name, address, and telephone number.

(b) "Confidential Information Form" (CIF) means a document substantially in the form provided at www.courts.oregon.gov/forms.

(c) "Inspect" means the ability to review and copy a CIF to the same extent as any other document contained in a court file.

(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, or 110, or initiated under ORS 24.190, ORS 30.866, ORS 124.010, or ORS 163.763, 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:

(i) The information required in a money award under ORS 18.042;

(ii) The former legal name of a party pursuant to a name change request under ORS 107.105(1)(h); or

(iii) A document filed in an adoption proceeding initiated under ORS 109.309.

(c) Documents filed in a contempt action filed in a proceeding under ORS chapters 25, 106, 107, 108, 109, or 110, or a proceeding initiated under ORS 24.190, ORS 30.866, ORS 124.010, or ORS 163.763, 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 at www.courts.oregon.gov/forms.

(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 an affidavit of 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 an affidavit of consent, signed and dated by the party whose information is to be inspected, that states the dates during which the consent is effective.

(d) Notwithstanding UTCR 2.120, a declaration under penalty of perjury may not be used in lieu of an affidavit required by this subsection.

(e) This rule does not limit a person's legal right to inspect a CIF as otherwise allowed by statute or rule.

(f) Oregon Judicial Department personnel may have access to a CIF when required for court business.

(g) 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 192.355(10).

(h) 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 192.355(10).

(i) Any person inspecting a CIF must not further disclose the confidential personal information except:

(i) Within the course and scope of the client-lawyer relationship, unless limited or prohibited by court order;

(ii) As authorized by law; or

(iii) As ordered by the court.

(j) An order entered under UTCR 2.130(10)(d) may further limit disclosure of confidential personal information.

(k) Violation of subsection (i) or (j) in this section 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 at www.courts.oregon.gov/forms.

(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), 110.575, 192.368, or any other rule or law.

2.140 APPLICATION FOR WAIVER OR DEFERRAL OF FEES OR COURT COSTS

(1) The court must segregate an application for waiver or deferral of fees or court costs filed under ORS 21.698 from documents that are subject to public inspection. Public inspection of an application for waiver or deferral of fees or court costs is prohibited except as authorized by this rule or other provision of law.

(2) Access and Confidentiality

(a) A party may inspect an application described in subsection (1) that was filed by that party.

(b) No other party to a proceeding may inspect an application described in subsection (1) filed by another party.

(c) This rule does not limit a person's legal right to inspect an application described in subsection (1) as otherwise allowed by ORS 21.698 or other provision of law.

(d) Oregon Judicial Department personnel may have access to an application described in subsection (1) when required for court business.

CHAPTER 3—Decorum in Proceedings

3.010 PROPER APPEARANCE

(1) All persons attending court, whether in person or by remote means, must be dressed so as not to detract from the dignity of court. A person may wear a religiously required head covering unless the court orders otherwise. Members of the public not dressed in accordance with this rule may be removed from the courtroom.

(2) When appearing before the court, whether in person or by remote means, all attorneys and court officials must wear appropriate attire.

(3) All persons attending court by remote means must ensure that the screen visible to other court participants, whether real or virtual, does not detract from the dignity of court.

3.020 PROPER APPAREL FOR IN-CUSTODY WITNESSES AND DEFENDANTS APPEARING IN CRIMINAL PROCEEDINGS

In-custody witnesses and defendants appearing for trial, whether in person or by remote means, 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. Jurors may not be addressed by name but may be addressed by number or by another means ordered by the court.

3.040 ADVICE TO CLIENTS AND WITNESSES OF COURTROOM FORMALITIES

Attorneys must advise their clients and witnesses of the formalities of the court, whether attending in person or by remote means, 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 court contact information under UTCR 1.110 of the party and of the new attorney, if one is being substituted, and the date of any scheduled trial or hearing. 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:

UTCR 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 Oregon Rule of Professional Conduct (ORPC) 1.16.

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.

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 $500 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.

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.

(9) An applicant is not required to associate with local counsel pursuant to subsection (1)(c) of this section or pay the fee established by subsection (6) of this section if the applicant establishes to the satisfaction of the Bar that:

(a) The applicant seeks to appear in an Oregon court for the limited purpose of participating in a child custody proceeding as defined by 25 USC §1903, pursuant to the Indian Child Welfare Act of 1978, 25 USC §1901 *et seq.* and the Oregon Indian Child Welfare Act, ORS 419B.600 *et seq.*);

(b) The applicant represents an Indian tribe, parent, or Indian custodian, as defined by 25 USC §1903 and ORS 419B.603; and

(c) An Indian tribe as defined in 25 USC §1903 or ORS 419B.603(7) has affirmed the child's eligibility for membership or citizenship in the tribe.

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.

3.180 ELECTRONIC RECORDING AND WRITING

(1) As used in this rule:

(a) "Electronic recording" includes video recording, audio recording, and still photography by cell phone, tablet, computer, camera, tape recorder, or any other means. "Electronic recording" does not include "electronic writing."

(b) "Electronic writing" means the taking of notes or otherwise writing by electronic means and includes but is not limited to the use of word processing software and the composition of texts, emails, and instant messages.

(c) "Electronic transmission" means to send an electronic recording or writing, including but not limited to transmission by email, text, or instant message; live streaming; or posting to a social media or networking service.

(2) Except with the express prior permission of the court, and except as provided in subsection (3) of this rule, a person may not:

(a) Electronically record in any area of the courthouse under the control and supervision of the court unless permitted by SLR pursuant to subsection (11)(a) of this rule;

(b) Electronically record any court proceeding;

(c) Electronically transmit any recording from within a courtroom during a proceeding;

(d) Engage in electronic writing within a courtroom;

(e) Electronically transmit any electronic writing from within a courtroom during a proceeding; or

(f) While remotely observing or participating in a proceeding, electronically transmit any electronic writing directly and specifically to a witness until the witness is excused by the court.

(3) Subsections (2)(d), (e), and (f) of this rule do not apply to attorneys or to agents of attorneys unless otherwise ordered by the court.

(4) (a) A request for permission to engage in electronic recording or writing must be made prior to the start of a proceeding. No fee may be charged.

(b) The granting of permission to any person or entity to engage in electronic recording or writing is subject to the court's discretion, which may include considerations of the need to preserve the solemnity, decorum, or dignity of the court; the protection of the parties, witnesses, or jurors; or whether the requestor has demonstrated an understanding of all provisions of this rule.

(c) If the court grants all or part of the request,

(i) The court shall provide notice to all parties, and electronic recording or writing thereafter shall be allowed in the proceeding, in any courtroom or during a remote proceeding, consistent with the court's permission.

(ii) The court shall permit one video camera, one still camera, and one audio recorder in the courtroom, and it may permit additional cameras and electronic recording in any courtroom or during a remote proceeding consistent with this rule.

(ii) The court may prescribe the location of and the manner of operating electronic equipment within a courtroom. Artificial lighting is not permitted.

(iv) Any pooling arrangement made necessary by limitations on equipment or personnel imposed by the court is the sole responsibility of the persons or entities seeking to electronically record.

(v) The court will not mediate disputes. If multiple persons or entities seeking to electronically record are unable to agree on the manner in which the recording will be conducted or distributed, the court may terminate any or all such recording.

(5) Except as otherwise provided in this rule:

(a) The court shall not wholly prohibit all electronic recording of a court proceeding unless the court makes findings of fact on the record setting forth substantial reasons that establish:

(i) A reasonable likelihood that the electronic recording will interfere with the rights of the parties to a fair trial or will affect the presentation of evidence or the outcome of the trial; or

(ii) A reasonable likelihood that the costs or other burdens imposed by the electronic recording will interfere with the efficient administration of justice.

(b) "Wholly prohibit all electronic recording" means issuing an order prohibiting all recording of a proceeding by all persons. The court's denial of a particular request under the factors in section (4)(b) does not constitute an order prohibiting all recording by all persons and does not require findings of fact on the record, even if the person whose request is denied is the only person who has requested permission to record a proceeding.

(6) The court has discretion to limit electronic recording of particular components of the proceeding based on one or more of the following factors:

(a) The limitation is necessary to preserve the solemnity, decorum, or dignity of the court or to protect the parties, witnesses, or jurors;

(b) The use of electronic recording equipment interferes with the proceedings;

(c) The electronic recording of a particular witness would endanger the welfare of the witness or materially hamper the testimony of the witness; or

(d) The requestor has not demonstrated an understanding of all provisions of this rule.

(7) Notwithstanding any other provision of this rule, the following may not be electronically recorded by any person at any time:

(a) Proceedings in chambers.

(b) Any notes or conversations intended to be private including but not limited to counsel and judges conferring 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) Proceedings involving a sex crime, if the victim has requested that the proceeding not be electronically recorded.

(e) *Voir dire*.

(f) Any juror anywhere under the control and supervision of the court during the entire course of the trial in which the juror sits.

(g) Recesses or any other time the court is off the record.

(8) For the purpose of determining whether this rule or other requirements imposed by the court have been violated, or to ensure the effective administration of justice, a person engaged in electronic recording under this rule must, upon request and without expense to the court, provide to the court, for *in camera* review, an electronic recording in a format accessible to the court. The copy may be retained by the court and may be sealed if necessary for the further administration of justice.

(9) If a person violates this rule or any other requirement imposed by the court, the court may order the person, and any organization with which the person is affiliated, to terminate electronic recording or electronic writing.

(10) This rule does not:

(a) Limit the court's contempt powers;

(b) Operate to waive ORS 44.510 to 44.540 (media shield law); or

(c) Apply to court personnel engaged in the performance of official duties.

(11) A judicial district may, by SLR:

(a) Designate areas outside a courtroom and under the control and supervision of the court, including hallways or entrances, where electronic recording is allowed without prior permission, unless otherwise ordered in a particular instance.

(b) Adopt procedures to obtain permission for electronic recording or electronic writing.

(c) SLR 3.181 is reserved for any SLR adopted under this subsection.

3.190 CIVIL ARRESTS (Repealed)

REPORTER'S NOTE: UTCR 3.190 was repealed to avoid conflict or duplication with ORS 181A.828.

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

(1) In the absence of a showing of good cause or an SLR to the contrary, 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.

(2) A party filing a motion under subsection (1) of this rule may request that a pretrial hearing be held prior to the date of trial. Such a request must be specified in the caption of the motion.

(3) If a party requests a pretrial hearing under subsection (2), absent good cause, the hearing must be held at least 7 days prior to the trial date.

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.

4.040 REMOTE APPEARANCE IN LIEU OF TRANSPORTATION

Upon agreement of the parties, when, as a result of negotiations, an in-custody defendant intends to resolve cases in more than one jurisdiction, any appearance required in a court, other than the court of jurisdiction in the county in which the defendant is in custody, shall be by remote means unless good cause is shown.

4.050 ORAL ARGUMENT ON MOTIONS IN CRIMINAL CASES

(1) Oral argument may be 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. The court must allow oral argument unless:

(a) The motion requests a trial postponement; or

(b) The court receives documents that resolve the motion before the time set for hearing.

(2) Counsel for either the state or the defense may request that a motion not requiring testimony be heard by remote means. The following apply to a request for oral argument by remote means:

(a) A request must be set out in the caption of the motion or response. If oral argument by remote means is requested, the first paragraph of the motion or response must include the names, email addresses, 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 a hearing by remote means and provides a signed waiver of in-person 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) If the mode of hearing is by conference call, the requesting party must initiate the conference call at its expense unless the court directs otherwise.

(3) Subsection (2) does not apply if an applicable Chief Justice Order (CJO) or Presiding Judge Order (PJO) issued pursuant to such a CJO has the effect of suspending the requirement that a party affirmatively request a hearing by remote means.

4.060 MOTION TO SUPPRESS EVIDENCE

(1) All motions to suppress evidence:

(a) Must cite any constitutional provision, statute, rule, case, or other authority upon which it is based; and

(b) Must include in the motion document the moving party's brief, which must sufficiently apprise the court and the adverse party of the arguments relied upon. If the evidence sought to be suppressed was obtained without a warrant, it is sufficient for the moving party to so state.

(2) Any response to a motion to suppress:

(a) Must, in the absence of a showing of good cause or an SLR to the contrary, be served and filed, together with opposing affidavits, if any, upon which it is based, 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 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) Closed-circuit television; and

(c) Video conference, whether via internet or other platform.

(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) Requests for authorization to use electronic citations must be submitted to the Odyssey Change Control Workgroup (OCCW) for review. The OCCW must:

(a) Submit the results of its review to the State Court Administrator, and

(b) Obtain approval from the State Court Administrator before authorizing use of electronic citations.

(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) 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.

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 provided at www.courts.oregon.gov/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 provided at www.courts.oregon.gov/forms. The claim must be filed with the court clerk's office in the court in which the criminal case is pending.

4.110 DEFENDANT MOTION FOR REIMBURSEMENT

(1) As used in this rule, "Reviewing Court" means an appellate court or a post-conviction relief court.

(2) A defendant may request reimbursement of costs, fines, fees, and restitution imposed by the court as a result of conviction and paid by the defendant to the court pursuant to a criminal judgment if:

(a) The criminal judgment has been reversed or vacated by a reviewing court; and

(b) All opportunities to seek a criminal judgment through retrial on remand and appeal are time barred or have been waived by the prosecutor.

(3) A defendant seeking reimbursement must file and serve on the prosecutor a motion in the criminal case that states:

(a) Information showing that the criminal judgment has been reversed or vacated by a reviewing court;

(b) The name of the reviewing court, the reviewing court case number, and the date of the reviewing court decision;

(c) Information showing that all opportunities to seek a criminal judgment through retrial on remand and appeal are time barred or have been waived by the prosecutor; and

(d) The itemized amounts that the defendant has paid to the court in costs, fines, fees, and restitution.

(4) This rule does not apply to fees imposed by the court on a defendant independent of conviction or acquittal, including indigent defense application fees, contribution fees, and attorney's fees.

4.120 MOTIONS TO REDUCE OR MODIFY OUTSTANDING COURT-ORDERED FINANCIAL OBLIGATIONS

(1) As used in this rule:

"Reduction-Eligible Court-Ordered Financial Obligations" means any fines, fees, costs, or court-appointed attorney fees imposed by the court in a final criminal judgment of conviction or a judgment finding a person in contempt of court that a defendant has failed

to pay in full as ordered by the court. "Reduction-eligible court-ordered financial obligations" does not include compensatory fines imposed pursuant to ORS 137.101 or restitution awards as defined in ORS 137.103.

(2) After the time for filing a notice of appeal under ORS 138.071, if the case is not pending on appeal, a person with outstanding reduction-eligible court-ordered financial obligations may file a motion in the criminal case requesting that the court reduce, modify, or waive unpaid fines, fees, and costs, including court-appointed attorney fees, as provided in ORS 161.685(5), ORS 161.665(5), ORS 151.487(5), ORS 151.505(4)(a), or other applicable legal authority. Notice must be provided to the prosecuting attorney by service or first-class mail. The motion must include the following:

(a) The statutory or other legal authority for the motion;

(b) Information showing that the person's circumstances satisfy the legal criteria for the relief requested.

(3) Any response to the motion must be served and filed not more than 28 days after notice under subsection (2) of this rule, or the date of filing the motion, whichever occurs latest. Upon good cause shown, the court may allow a late filing. Notwithstanding UTCR 4.050, the court may hold a hearing on the motion or may decide the motion without a hearing after the time for filing a response to the motion has expired.

(4) If the court orders the reduction, modification, or waiver of some or all of the person's unpaid fines, fees, or costs, the court shall enter an appropriate supplemental judgment.

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 AUTHORITIES IN MOTIONS AND OTHER REQUIREMENTS

(1) Every motion document must include a memorandum of law or a statement of authority 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 or the date of filing of the motion, whichever is later.

(2) A reply memorandum, if any, must be filed within 7 days of the service or filing of the responding memorandum, whichever is later.

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 REMOTE MEANS

(1) Oral argument may be 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. The court must allow oral argument unless the court receives documents which resolve the pending motion before the time set for hearing.

(2) A party may request that a nonevidentiary hearing or a motion not requiring testimony be heard by remote means.

(a) A request for a nonevidentiary hearing or oral argument by remote means must be set out in the caption of the pleading, motion, response, or other initiating document.

(b) If appearance or argument by remote means is requested, the first paragraph of the pleading, motion, response, or other initiating document must include the names, email addresses, and telephone numbers of all parties served with the request. The request must be granted.

(c) If the mode of hearing is by conference call, the first party requesting conference call must initiate the conference call at its expense unless the court directs otherwise.

(3) When recording is requested, a remote proceeding must be recorded by the court if suitable equipment is available; otherwise, it will be provided at the expense of the party requesting recording.

(4) Subsection (2) does not apply if an applicable Chief Justice Order (CJO) or Presiding Judge Order (PJO) issued pursuant to such a CJO has the effect of suspending the requirement that a party affirmatively request a hearing by remote means.

5.060 STIPULATED AND *EX PARTE* MATTERS

(1) A judicial district may adopt a local rule regarding specific stipulated or *ex parte* matters for which the documents must be presented conventionally as defined in UTCR 21.010 and may not be electronically filed. SLR 2.501 is reserved for judicial districts to adopt a local rule for that purpose.

(2) Any stipulated or *ex parte* matter that may be presented conventionally 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 that may be presented conventionally 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.

(3) A motion for an *ex parte* order must contain the term "*ex parte"* in the caption and must be accompanied by a proposed order.

(4) *Ex parte* matters that are presented conventionally shall be presented anytime during court hours, except as modified by SLR promulgated pursuant to UTCR 1.050. 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 DECLARATION FOR ATTORNEY FEES, COSTS, AND DISBURSEMENTS

In civil cases, the declaration for attorney fees, costs, and disbursements must be filed in substantially the form provided at www.courts.oregon.gov/forms.

5.090 NOTICE TO COURT IN WATER RIGHTS CASES; NOTICE TO COURT IN CASES SUBJECT TO SECTIONS 7, 13, 21, and 23, CHAPTER 5 OREGON LAWS 2013, REGARDING COMMENCING AN ACTION AGAINST A HEALTH CARE PROVIDER OR A HEALTH CARE FACILITY

(1) 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:

(a) Be filed as a separate document.

(b) Include the caption of the case and the case number.

(c) Include a statement that the case involves water rights.

(d) Be signed by the attorney or party.

(2) Notice to court in cases subject to sections 7, 13, 21, and 23, chapter 5 Oregon Laws 2013, Regarding Actions Against A Health Care Provider or A Health Care Facility.

A party must place the following in the title of a pleading in the case if the pleading contains a claim which creates a duty upon the court to provide notice to the parties under sections 7, 13, 21, and 23, chapter 5 Oregon Laws 2013 (including any claim, counterclaim, cross claim, or third-party claim): "ADVERSE HEALTH CARE INCIDENT SUBJECT TO COURT NOTICE". This language must not be in the title of a pleading for any other purpose. A party's signature on pleadings constitutes the party's certificate under ORCP 17 that the pleading contains a claim which requires notice by the court under section 7, chapter 5 Oregon Laws 2013 if the language is present and does not contain any such claim if the language is omitted.

5.100 SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS

(1) Except as provided in subsection (3) of this rule, any proposed judgment or proposed order submitted to the court for signature must be:

(a) Served on each counsel not less than 3 days prior to submission to the court, or

(b) Accompanied by a stipulation by each counsel that no objection exists as to the judgment or order, or

(c) Served on a self-represented party not less than 7 days prior to submission to the court and be accompanied by notice of the time period to object.

(2) Except as provided in subsection (4) of this rule, any proposed judgment or order submitted to the court must include, following the space for judicial signature, a dated and signed certificate that describes:

(a) The manner of compliance with any applicable service requirement under this rule; and

(b) The reason that the submission is ready for judicial signature or otherwise states that any objection is ready for resolution, identifying the reason in substantially the following form:

"This proposed order or judgment is ready for judicial signature because:
"1. [ ] Each party affected by this order or judgment has stipulated to the order or judgment, as shown by each party's signature on the document being submitted.
"2. [ ] Each party affected by this order or judgment has approved the order or judgment, as shown by each party's signature on the document being submitted or by written confirmation of approval sent to me.
"3. [ ] I have served a copy of this order or judgment on each party entitled to service and:
"a. [ ] No objection has been served on me.
"b. [ ] I received objections that I could not resolve with a party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
"c. [ ] After conferring about objections, [role and name of objecting party] agreed to independently file any remaining objection.
"4. [ ] Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.

"5. [ ] This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (5) of this rule.
"6. [ ] Other: _____."

(3) The requirements of subsection (1) of this rule do not apply to:

(a) A proposed order or judgment presented in open court with the parties present;

(b) A proposed order or judgment for which service is not required by statute, rule, or otherwise;

(c) A proposed judgment subject to UTCR 10.090;

(d) An uncontested probate or protective proceeding, or a petition for appointment of a temporary fiduciary under ORS 125.605(2); and

(e) Matters certified to the court under ORS 25.515, ORS 25.550, ORS 25.552, and ORS 25.531, unless the proposed order or judgment is ready for judicial signature without hearing.

(f) A proposed order allowing attorney resignation under UTCR 3.140.

(4) The requirements of subsection (2) of this rule do not apply to a proposed order or judgment presented and signed in open court with the parties present.

(5) 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.

(6) The certificate required under subsection (2) may be combined with any certificate of service required by another statute or rule.

REPORTER'S NOTE (08/01/2021): This rule does not apply in the following types of cases: criminal; proposed orders setting aside a record of arrest under ORS 137.225; contempt cases seeking punitive sanctions; juvenile under ORS chapter 419A, 419B, or 419C; or violations, parking violations, or small claims (see UTCR 1.010(3)). Nothing in this rule prohibits a court from adopting an SLR that applies this rule to matters under SLR chapters other than chapter 5.

Pursuant to UTCR 1.130, computation of Uniform Trial Court Rule time requirements is subject to ORCP 10.

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 provided at www.courts.oregon.gov/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, and declaration at *ex parte*. If the motion is allowed, the court shall issue the commission.

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

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

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 petition and request for issuance of a subpoena pursuant to ORCP 38 C, substantially in the form provided at www.courts.oregon.gov/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 in substantially the form provided at www.courts.oregon.gov/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 or declaration 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 or declarant 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 STREAMLINED CIVIL JURY CASES

(1) A civil case eligible for jury trial may be designated as a streamlined 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 a streamlined civil jury case.

(b) Submit a joint motion and an order to the presiding judge in substantially the forms provided at www.courts.oregon.gov.

(2) The decision to accept or reject a case for designation as a streamlined 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 a streamlined 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 180 days from the date of the order.

(3) (a) Within 30 days of the date of the Order Designating a Streamlined Civil Jury Case, each party must provide to all other parties:

(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; and

(iii) A copy of all insurance agreements and policies discoverable pursuant to ORCP 36 B(2).

(b) The parties may, and are encouraged to, file stipulations regarding the scope, nature, and timing of discovery.

(c) The parties must complete discovery no later than 14 days before trial.

(d) The parties may request and the court may utilize streamlined procedures for resolving any discovery dispute.

(4) No later than 3 days before trial, the parties must file stipulations regarding the admission of exhibits, the manner for submitting expert testimony, the use of deposition excerpts (if any), and the conduct of the trial.

(5) After an order designating the case as a streamlined 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 streamlined 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.

5.170 LIMITED SCOPE REPRESENTATION

(1) Applicability

This rule applies to limited scope representation in civil cases subject to this chapter when an attorney intends to appear in court on behalf of a party.

(2) Notice of Limited Scope Representation

When an attorney intends to appear in court on behalf of a party, the attorney shall file and serve, as soon as practicable, a Notice of Limited Scope Representation in substantially the form as set out on the Oregon Judicial Department website (www.courts.oregon.gov/forms).

(3) Termination of Limited Scope Representation

When the attorney has completed all services within the scope of the Notice of Limited Scope Representation, the attorney shall file and serve a Notice of Termination of Limited Scope Representation in substantially the form as set out on the Oregon Judicial Department website (www.courts.oregon.gov/forms), in accordance with UTCR 3.140.

(4) Service of Documents

After an attorney files a Notice of Limited Scope Representation in accordance with this section, service of all documents shall be made upon the attorney and the party represented on a limited scope basis. The service requirement terminates as to the attorney when a Notice of Termination of Limited Scope Representation is filed and served, or when an attorney withdraws.

5.180 CONSUMER DEBT COLLECTION

(1) Definitions. As used in this rule, unless otherwise indicated:

(a) "Consumer" means a natural person who purchases or acquires property, services, or credit for personal, family, or household purposes.

(b) "Debt" means an obligation or alleged obligation that arises out of a consumer transaction.

(2) Debt-Buyer Collection Actions

(a) This subsection applies to an action for collection of a debt under ORS 646A.670, when the plaintiff is either a debt-buyer as defined in ORS 646.639(1)(g) or is a debt collector as defined in ORS 646.639(1)(h) bringing the action on a debt-buyer's behalf.

(b) The initiating pleading in an action described in subsection (a) must:

(i) In the title, contain the words, "SUBJECT TO ORS 646A.670(1) and UTCR 5.180(2)";

(ii) In the body, include a statement to the following effect: "See the Oregon Judicial Department's website for information about debt-collection cases"; and

(iii) Attach and incorporate by reference a completed Consumer Debt Collection Disclosure Statement in substantially the form as set out on the Oregon Judicial Department website (www.courts.oregon.gov), including a statement that the plaintiff has complied with ORS 646A.670(1).

(c) If the initiating pleading does not comply with subsection (2)(b)(iii) of this rule, written notice shall be given to the plaintiff that the case will be dismissed 30 days from the date of mailing of the notice, unless the plaintiff complies with subsection (2)(b)(iii) by that time.

(d) If the plaintiff moves for entry of a judgment of default, the motion must include a declaration, under penalty of perjury, that the initial pleading complied with ORS 646A.670(1).

(3) Other Consumer Debt Collection Actions

(a) This subsection applies to an action for collection of a consumer debt, when the action otherwise does not satisfy the requirements of subsection (2)(a).

(b) The initiating pleading must, in the title, contain the words, "SUBJECT TO UTCR 5.180(3)".

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 request, or the court may arrange for, a conference by remote means.

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) A party must file any trial memorandum. The court also may require that a party submit a copy of the trial memo, in the manner and time that the court specifies.

(2) All trial memoranda must be served on the opposing party.

(3) Trial exhibits must be delivered or submitted as ordered by the assigned judge and not filed with the court except as required by UTCR 11.110 or UTCR 24.040(3)(a).

6.060 PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS

(1) A party must file any requested jury instruction or verdict form. The party must also submit a copy of the jury instructions and verdict forms to the trial judge in the manner and time specified by the judge.

(2) All requested jury instructions and verdict forms must be in writing and served on the opposing party.

(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 page.

(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 and 419A.255(1)(a), 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 recordings. An oversized document is one larger than standard letter size or legal size.

(8) Exhibits submitted in juvenile cases are subject to the requirements in UTCR 11.120 and are exempted from the requirements of this rule.

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 Federal Aviation Authority Regulations on Hazardous Substances, any provisions of the United States Code defining hazardous substances, or the Federal Controlled Substances Act; or is any potentially dangerous or contaminated substance capable of inflicting death or serious physical injury either immediately or over the course of time. A hazardous substance shall include any device or implement which carries, contains, or exhibits such characteristics.

(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 post-judgment 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) 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 any return or acceptance of service has not 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 against each unserved defendant for want of prosecution 28 days from the date of mailing of the notice unless one of the following occurs:

(a) Proof of service is filed within the time period.

(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.

(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 an 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) Whether the proceeding is scheduled to be conducted in person at the courthouse or by remote means, and, if by remote means, the type of remote means proceeding (e.g., by telephone, particular mode of video conference, etc.);

(h) The type of disability needing accommodation; and

(i) 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;

(g) Whether the proceeding is scheduled to be conducted in person at the courthouse or by remote means, and, if by remote means, the type of remote means proceeding (e.g., by telephone, particular mode of video conference, etc.); and

(h) 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.

7.090 EXPRESSION OF MILK

(1) A person requesting an expression of milk accommodation should notify the court as soon as practicable. A request for an accommodation may be made by the person in need of the accommodation or by a party on behalf of the person.

(2) Notification to the court must provide:

(a) The name of the person needing accommodation;

(b) The case number;

(c) The nature of the proceeding;

(d) The person's status in the proceeding;

(e) The time, date, and estimated length of the proceeding;

(f) Whether the proceeding is scheduled to be conducted in person at the courthouse or by remote means, and, if by remote means, the type of remote means proceeding (e.g., by telephone, particular mode of video conference, etc.); and

(g) The type of accommodation needed or preferred.

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 or from the Oregon Judicial Department website.

(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 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 a joint statement containing this information.

(4) Except as provided in paragraph (c) of this subsection, in all proceedings under ORS chapter 107, 108, or 109 wherein child support or spousal support is requested by either party, each party must file a Uniform Support Declaration (USD) in the form specified at www.courts.oregon.gov/forms and serve it on the other party. A USD required by this subsection must be completed as follows:

(a) In all such cases, the parties must complete the declaration and required attachments.

(b) In all such cases, the parties must also complete the schedules and the attachments required by the schedules if:

(i) Spousal support is requested by either party, or

(ii) Child support is requested by either party in an amount that deviates from the uniform support guidelines.

(c) A USD is not required if the parties have stipulated to all judgment terms.

(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 under section (4) of this rule, the DCS or DA must be allowed to file and serve, in lieu of the USD, an affidavit or a declaration under penalty of perjury that 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 that might affect the determination of support.

(6) (a) Unless an SLR provides to the contrary, the documents required to be filed under subsection (3) must be filed and served not less than 14 days before the trial on the merits unless both parties stipulate otherwise, but in any event before the beginning of trial.

(b) Subject to the requirements of UTCR 8.040 or UTCR 8.050, when applicable, and unless an SLR provides to the contrary, the documents required to be filed under subsections (4) and (5) must be filed and served within 30 days of service of a petition or other pleading that seeks child support or spousal support on other than a temporary basis.

(7) No judgment under this chapter shall be signed, filed or entered unless all relevant documents have been filed, including all of the following:

(a) An affidavit or a declaration under penalty of perjury of completed service.

(b) An affidavit or a declaration under penalty of perjury of nonmilitary service and the proposed order of default, if the respondent is in default.

(c) The affidavit or declaration under penalty of perjury 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) A USD as provided under subsection (4) of this rule.

(f) If child support is requested by either party, the Division of Child Support (DCS) worksheets described in UTCR 8.060.

(g) A proposed judgment.

(8) 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

(1) Every proposed order or judgment providing for the support of any person under ORS chapters 25, 107, 108, 109, 110, 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.

(2) Every proposed order or judgment that includes a provision concerning child support must include notice that, if services are provided by the Division of Child Support, the obligor and obligee must inform the administrator, as defined in ORS 25.010(1), in writing of any change in private health insurance enrollment status within 10 days of the change.

8.030 JOINT PETITIONS AND STIPULATED JUDGMENTS FOR DISSOLUTION OF MARRIAGE, SEPARATION, OR PROCEEDINGS UNDER ORS 109.103

(1) In an action for dissolution of marriage or Registered Domestic Partnership, separation, or as set out under ORS 109.103, the parties may file a joint petition for relief and, regardless of whether a joint petition was filed, may submit a stipulated general judgment.

(2) A joint petition filed under this rule requires payment of only one filing fee under ORS 21.155, payable by one initiating party.

(a) If parties jointly file under this rule but do not submit a stipulated judgment, a second filing fee under ORS 21.155 will be due from the other party before any hearing or trial will be scheduled.

(b) If a stipulated judgment entered under this rule becomes the subject of a contested modification action, the moving party must pay the filing fee due from a responding party under ORS 21.155.

(3) Parties with joint children under the age of 21 who both file a joint petition and submit a stipulated judgment must also send a copy of the joint petition and proposed stipulated judgment to the Department of Justice, Division of Child Support.

(4) Parties seeking a stipulated general judgment under this rule must submit the appropriate completed stipulated general judgment and are not required to file a motion requesting entry of judgment.

(5) A stipulated general judgment submitted under this rule must be accompanied by the following documents if not previously filed:

(a) The affidavit or declaration required under ORS 107.095(4), which may be included in the petition.

(b) If the judgment is for dissolution of either a marriage or a Registered Domestic Partnership, a completed Oregon State Health Division Record of Dissolution of Marriage, Annulment, or Registered Domestic Partnership form.

(c) If the parties have joint children under the age of 21, the Division of Child Support (DCS) worksheets described in UTCR 8.060.

(6) If the parties submitting a stipulated general judgment under this rule have any joint children ages 18, 19, or 20, the parties must file a waiver of further appearance and consent to entry of judgment for each adult child. In the absence of such a waiver for any adult child, the submitted judgment must include the signature of that child. If any adult child chooses not to sign or execute a waiver, the parties may not submit a stipulated judgment under this rule.

(7) This rule does not apply to supplemental or limited judgments.

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 an affidavit or a declaration under penalty of perjury 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 or declaration under penalty of perjury, 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) Except as provided in subsection (4), when a party seeks temporary support under ORS 107.095(1), each party must file a Uniform Support Declaration (USD), as follows:

(a) The party seeking temporary support must include a USD as a documentary exhibit to the motion.

(b) The opposing party must file a USD and serve it on the party seeking temporary support. Unless an SLR provides to the contrary, the opposing party must file and serve the USD within 14 days of service of the motion seeking temporary support.

(c) Any USD must be completed as provided under UTCR 8.010(4), in the form specified at www.courts.oregon.gov/forms.

(4) Exceptions to USD requirement:

(a) A party seeking temporary support, or the opposing party, need not file a USD under subsection (3) if:

(i) The party is simultaneously filing a pleading under UTCR 8.010(4) that incorporates a USD; or

(ii) Within the prior 30 days, the party already filed a pleading under UTCR 8.010(4) that incorporated a USD and the information therein has not changed.

(b) If an exception applies, the motion for temporary support must:

(i) Under subsection (4)(a)(i), identify the accompanying pleading and state that it includes a USD; or

(ii) Under subsection (4)(a)(ii), identify the earlier pleading and state that it included a USD, that it was filed within the prior 30 days, and that the information therein has not changed.

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 or a declaration under penalty of perjury setting forth the factual basis for the motion or by other procedure established by SLR. The initiating documents must contain a notice substantially in the form set out at ORCP 7. This notice may be a separate document or included in an Order to Show Cause or Motion.

(2) Except as provided in paragraph (d) of this subsection, when support is requested by either party, each party must complete and file a Uniform Support Declaration (USD), as set out below.

(a) The party seeking modification to support must file a USD with the motion and serve it under subsection (3) of this rule.

(b) If an order to show cause issues, the opposing party must file a USD and serve it on the party seeking modification of support. Unless an SLR provides to the contrary, the USD must be filed and served within 30 days of service of the order to show cause.

(c) Any USD must be completed as provided under UTCR 8.010(4), in the form specified at www.courts.oregon.gov/forms.

(d) A USD is not required from either party when the motion seeks to terminate child support solely because the child is no longer legally entitled to support.

(3) Initiating documents must be served by delivering a certified copy of each document and USD, if applicable, in the manner necessary to obtain jurisdiction.

(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 USD, 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 WORKSHEETS REQUIRED IN CHILD SUPPORT CASES

Parties must submit the completed Division of Child Support (DCS) child support calculation worksheets that are available at www.doj.state.or.us/child-support/calculators-forms/forms as required by the following:

(1) If child support is requested by either party at the time of trial, the UTCR 8.010(3) statement of each party must include the worksheets. If child support is awarded, the judgment must incorporate the worksheets as an exhibit evidencing the basis for the court's award.

(2) In cases involving temporary child support, the party seeking temporary support must serve the opposing party with the worksheets. If child support is requested by either party at the time of hearing, each party must submit the worksheets to the court.

(3) In cases involving modification of a judgment, if modification of child support is requested at the time of hearing, each party must submit the worksheets to the court. If an award of child support is modified, the amending judgment must incorporate the worksheets 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

(1) The form of notice provided at www.courts.oregon.gov/forms must be used for the statutory restraining order established by ORS 107.093. The petitioner must ensure that a copy of the notice is attached to the summons as required by ORS 107.093(5). The notice need not be signed by a judge.

(2) The form of notice provided at www.courts.oregon.gov/forms must be used for the statutory restraining order established by ORS 109.103(5). The petitioner must ensure that a copy of the notice is attached to the summons as required by ORS 109.103(5)(d). The notice need not be signed by a judge.

(3) The request for hearing required by ORS 107.093(3) or 109.103(5)(b) shall be in substantially the same form as provided at www.courts.oregon.gov/forms.

8.090 CERTIFICATE REGARDING PENDING CHILD SUPPORT PROCEEDINGS AND/OR EXISTING CHILD SUPPORT ORDERS AND/OR JUDGMENTS

(1) This rule applies to information about other pending child support orders, judgments, or proceedings, 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), in any motion or petition filed pursuant to ORS 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, and 125.025.

(2) In any motion or petition described in subsection (1), a filer must include a certificate stating whether any pending child support proceeding, or child support order or judgment, exists between the parties. The certificate must be placed at the end of the motion or petition, immediately above the declaration line.

(3) The motion or petition also must include the name of the court or agency handling a pending proceeding, the case number, and date of any existing order or judgment. That information may be included in the certificate described in subsection (2) or may be set out elsewhere in the motion or petition. If set out elsewhere, the filer must specifically identify

the information provided as involving a pending child support proceeding, or an existing order or judgment.

(4) The information required by subsections (2) and (3) of this rule must be completed in substantially the form provided at www.courts.oregon.gov/forms.

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 request in substantially the form provided at www.courts.oregon.gov/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.

8.110 LIMITED SCOPE REPRESENTATION (Repealed)

REPORTER'S NOTE: UTCR 8.110 was repealed effective August 1, 2017. UTCR 5.170 (Limited Scope Representation) became effective that date and applies to domestic relations proceedings, so UTCR 8.110 was no longer needed.

8.120 INFORMAL DOMESTIC RELATIONS TRIAL

(1) Upon the consent of both parties, Informal Domestic Relations Trials may be held to resolve any or all issues in original actions or modifications for dissolution of marriage, separate maintenance, annulment, child support, and child custody filed under ORS chapter 107, ORS chapter 108, ORS 109.103, and ORS 109.701 through 109.834.

(2) The parties may select an Informal Domestic Relations Trial at any time before trial commences by filing either a Domestic Relations Trial Process Selection form (traditional or informal trial) in substantially the form provided at www.courts.oregon.gov/forms or making such selection orally on the record. If the selection is made orally, the judicial officer accepting the parties' selection must ensure the parties agree to the items identified on the form provided at www.courts.oregon.gov/forms. This form must be accepted by all judicial districts. SLR 8.121 is reserved for the purpose of making such format mandatory in the judicial district and for establishing a different time for filing the form that is more consistent with the case management and calendaring practices of the judicial district.

(3) The Informal Domestic Relations Trial will be conducted as follows:

(a) At the beginning of an Informal Domestic Relations Trial the parties will be asked to affirm that they understand the rules and procedures of the Informal Domestic Relations Trial process, they are consenting to this process freely and voluntarily, and they have not been threatened or promised anything for agreeing to the Informal Domestic Relations Trial process.

(b) The Court may ask the parties or their lawyers for a brief summary of the issues to be decided.

(c) The moving party will be allowed to speak to the Court under oath concerning all issues in dispute. The party is not questioned by counsel, but may be questioned by the Court to develop evidence required by any statute or rule, for example, the applicable requirements of the Oregon Child Support Guidelines if child support is at issue.

(d) The parties will not be subject to cross-examination. However, the Court will ask the non-moving party or their counsel whether there are any other areas the party wishes the Court to inquire about. The Court will inquire into these areas if requested and if relevant to an issue to be decided by the Court.

(e) The process in subsections (3)(c) and (3)(d) is then repeated for the other party.

(f) Expert reports will be received as exhibits. Upon the request of either party, the expert will be sworn and subjected to questioning by counsel, the parties, or the Court.

(g) The Court will receive any exhibits offered by the parties. The Court will determine what weight, if any, to give each exhibit. The Court may order the record to be supplemented.

(h) The parties or their counsel will then be offered the opportunity to respond briefly to the statements of the other party.

(i) The parties or their counsel will be offered the opportunity to make a brief legal argument.

(j) At the conclusion of the case, the Court shall render judgment. The Court may take the matter under advisement, but best efforts will be made to issue prompt judgments.

(k) The Court may modify these procedures as justice and fundamental fairness requires.

(4) The Court may refuse to allow the parties to utilize the Informal Domestic Relations Trial procedure at any time and may also direct that a case proceed in the traditional manner of trial even after an Informal Domestic Relations Trial has been commenced but before judgment has been entered.

(5) To opt out, a party who has previously agreed to proceed with an Informal Domestic Relations Trial must notify the parties and the court at any time before trial commences. A change in the type of trial to be held may result in a change in the trial date.

CHAPTER 9—Probate and Adoption Proceedings

9.010 MAILING PROBATE MATERIALS TO THE COURT

Except for a document that is electronically filed, any petition, motion, order, or judgment not requiring a court appearance may be mailed to the trial court administrator, with a self-addressed stamped envelope or postcard for response.

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 contact information required by UTCR 2.010(6) must be typed or printed on the last page of every document submitted to the court.

(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 proposed order submitted to the court.

(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 ORS 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 the manner in which oral objections may be made under ORS 125.075 to petitions or motions 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.

9.090 CAPTIONING FILINGS IN PROBATE AND PROTECTIVE PROCEEDINGS

The captions of all probate filings must contain the name of the decedent. The captions of all filings in protective proceedings must contain the name of the protective proceeding or respondent. A filing in a contested matter in a probate or protective proceeding must also contain the names and roles of the parties seeking relief and against whom relief is sought.

For example:

In the Matter of the Estate of JANE DOE, Deceased.	)	Case No. _____
COLLECTION CO. LLC, Claimant, v. RICHARD ROE, Personal Representative.	)	REQUEST FOR SUMMARY DETERMINATION

9.160 FORM OF ACCOUNTINGS

Accountings substantially in the form provided at www.courts.oregon.gov/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) 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) 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 (Repealed)

REPORTER'S NOTE: UTCR 9.320 was repealed effective January 1, 2018.

9.400 COURT VISITOR'S REPORT

A court visitor must file the court visitor's report in an adult guardianship in substantially the form provided at www.courts.oregon.gov/forms 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.

9.410 PROTECTIVE PROCEEDING – CONFIDENTIAL INFORMATION ORDER

A person who petitions for, and obtains, a protective order under ORS 125.012 must serve a copy of the order 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.

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.

(2) The DMV must submit the record to 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. A court may adopt a supplementary local rule describing how and in what form the DMV record must be submitted. If submitted in paper form, the record must be the original record.

(3) The record must be preceded by an index of its contents, and the pages of the record must be consecutively numbered at the bottom center of each page. If submitted in paper form, the record must be securely fastened in a suitable cover or folder that shows 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. If electronically filed, the record must include a cover sheet that shows that same information.

(4) When the court has entered its judgment and the period for appeal has elapsed without an appeal being taken, the court will return the record to the agency, if submitted in paper form, 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 remote means.

(a) A request must be in writing, be copied or served on the other party, and must include the names, email addresses, and telephone numbers of all parties. The request must be granted.

(b) If the mode of hearing is by conference call, the first party requesting the conference call must initiate the call at its expense unless the court directs otherwise.

(3) UTCR 10.090 and all applicable rules of decorum in proceedings must be observed by the parties and enforced by the court during a remote means proceeding.

(4) Subsection (2) does not apply if an applicable Chief Justice Order (CJO) or Presiding Judge Order (PJO) issued pursuant to such a CJO has the effect of suspending the requirement that a party affirmatively request a hearing by remote means.

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 declaration of financial condition, under penalty of perjury, 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 declaration of financial condition, under penalty of perjury, 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 (Repealed)

REPORTER'S NOTE: UTCR 11.050 was repealed effective August 1, 2013.

11.060 PREDISPOSITION INVESTIGATION

(1) If an investigation report is prepared under ORS 419A.012, 419B.112(2)(a), 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.

11.100 SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS IN DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS CASES

(1) Except as provided in subsection (3) of this rule, any proposed judgment or proposed order submitted to the court for signature must be:

(a) Served on each counsel not less than 3 days prior to submission to the court, or

(b) Accompanied by a statement by counsel that no objection exists as to the judgment or order, or

(c) Served on a self-represented party not less than 7 days prior to submission to the court and be accompanied by notice of the time period to object.

(2) Except as provided in subsection (4) of this rule, any proposed judgment or order submitted to the court must include, following the space for judicial signature, a dated and signed certificate that describes:

(a) The manner of compliance with any applicable service requirement under this rule; and

(b) The reason that the submission is ready for judicial signature or otherwise states that any objection is ready for resolution, identifying the reason in substantially the following form:

"This proposed order or judgment is ready for judicial signature because:
"1. [ ] Each party, with the exception of an unrepresented child, has stipulated to the order or judgment, as shown by each party's signature on the document being submitted.
"2. [ ] Each party, with the exception of an unrepresented child, has communicated approval of the order or judgment to me.
"3. [ ] I have served a copy of this order or judgment on each party entitled to service and:
"a. [ ] No objection has been served on or communicated to me.
"b. [ ] I received objections as attached.
"c. [ ] After conferring about objections, [role and name of party] agreed to independently file any remaining objection.
"4. [ ] Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
"5. [ ] Other: _____."

(3) The requirements of subsection (1) of this rule do not apply to:

(a) A proposed order or judgment presented in open court with the parties present;

(b) A proposed order or judgment for which service is not required by statute, rule, or otherwise;

(c) A proposed order or judgment filed in a juvenile delinquency proceeding, and

(d) Proposed orders for transport of in-custody parties.

(4) The requirements of subsection (2) of this rule do not apply to:

(a) A proposed order or judgment presented and signed in open court with the parties present; and

(b) A proposed order or judgment filed in a juvenile delinquency proceeding.

(5) The certificate required under subsection (2) may be combined with any certificate of service required by another statute or rule.

REPORTER'S NOTE (08/01/2017): Pursuant to UTCR 1.130, computation of Uniform Trial Court Rule time requirements is subject to ORCP 10.

11.110 SUBMISSION OF EXHIBITS

(1) The trial court shall establish a process by supplementary local rule or presiding judge order by which all exhibits offered in juvenile cases will be submitted to the court.

(2) If the trial court requires counsel to submit exhibits through electronic filing under subsection (1), the following requirements apply:

(a) The court shall maintain an exhibit log for each hearing or trial listing each exhibit offered and whether or not it was received. The log shall be maintained in the record of the case.

(b) Each exhibit that is electronically filed must comply with the format requirements of UTCR 21.040. The filer shall provide the party role, hearing or trial date and exhibit number or numbers in the comment field. A party may comply with the requirement in UTCR 21.040(4) that certain information be contained in the document filed by including a cover page that provides the required information with each electronic filing of an exhibit or group of exhibits, if they are filed together.

(c) Exhibits shall be electronically filed on the day of the hearing or trial or by the end of the next judicial day.

11.120 MAINTENANCE OF EXHIBITS

(1) For purposes of maintaining exhibits pursuant to ORS 419A.255(1)(a), the trial court shall maintain in the record of the case all documentary and nondocumentary exhibits offered at a hearing or trial in accordance with Oregon Judicial Department policy and any order entered under ORS 7.120.

(2) Exhibits in the court's custody shall not be removed from the trial court's control except by stipulation or order of the court, or as otherwise provided in this rule.

(3) Nothing in this rule shall prevent parties from seeking the release or return of exhibits before the times specified in this rule.

(4) Upon the filing of a notice of appeal by any party, the trial court will promptly transmit the documentary and nondocumentary exhibits to the appellate court, when requested to do so by the appellate court under ORAP 3.25.

(5) For purposes of this rule, "documentary exhibits" includes text documents, photos and maps, if not oversized, and audio and video recordings. An oversized document is one larger than standard letter size or legal size.

11.130 NEW DEPENDENCY PETITION ALLEGATIONS, WHEN CHILD IS A WARD

(1) When a child is already a ward of the court under ORS 419B.100 and ORS 419B.328, any new petition containing allegations under ORS 419B.100 must be filed under the ward's existing dependency case number, unless otherwise permitted under ORS 419B.118.

(2) If there is more than one dependency case number for the ward for the current wardship episode, a petition filed under subsection (1) must be filed under the first case number established for the ward during that wardship episode.

(3) In addition to the requirements of ORS 419B.809, ORS 419B.863, and ORS 419B.866, a petition filed under an existing wardship must:

(a) Include in the document title the sequential number of the petition before the word "PETITION," e.g., "SECOND PETITION;" and

(b) Include in the body of the petition:

(i) The date of the initial judgment establishing jurisdiction over the ward during the current wardship episode;

(ii) The existing bases of jurisdiction and the date each basis was established in a judgment of jurisdiction and whether each allegation was admitted or otherwise proved; and

(iii) Any allegation that remains pending from a previous petition and the title of that petition.

(c) An allegation filed in an existing wardship petition must be numbered consecutively to allegations listed in the previous petition.

(4) A copy of any new petition containing allegations under ORS 419B.100 filed during an existing wardship must be served with a summons in accordance with ORS 419B.815.

11.140 DEPENDENCY JUDGMENTS OF JURISDICTION AND DISPOSITION

(1) A judgment of jurisdiction entered under ORS chapter 419B must state how each allegation in the petition(s) under consideration is resolved: whether it is admitted, proved, dismissed, or pended.

(2) A judgment of jurisdiction entered under ORS chapter 419B that is based on a post-jurisdiction dependency petition filed during an existing wardship must include:

(a) In the document title, in parentheses, the title of the petition or petitions it is resolving, e.g., JUDGMENT OF JURISDICTION (SECOND PETITION);

(b) The bases of jurisdiction previously established during the existing wardship that have not been dismissed;

(c) The date each basis of jurisdiction was established in a judgment of jurisdiction; and

(d) The date of the first judgment establishing jurisdiction over the ward during the current wardship episode.

(3) A separately entered judgment of disposition that is based on a post-jurisdiction dependency petition filed during an existing wardship must include the title of the petition it is based on in parentheses in the document title.

CHAPTER 12—Mediation

REPORTER'S NOTE: Effective August 1, 2022, mediator qualifications formerly housed in Chief Justice Order (CJO) No. 05-028 were moved into UTCR chapter 12. Guidelines implementing UTCR 12.100 (formerly section 3.2) and UTCR 12.110 (formerly section 3.3) can be found at https://www.courts.oregon.gov/rules/Pages/other.aspx under "Court-Connected Mediator Qualifications.

A mediator qualifications workgroup is currently meeting to consider proposed amendments to this chapter. Once the workgroup has completed its work, the UTCR Committee plans to consider recommendations for amendments to UTCR chapter 12 (Mediation). For questions regarding the workgroup or the adoption of these rules, please contact the UTCR Reporter.

12.010 APPLICABILITY

UTCR chapter 12:

(1) Establishes minimum qualifications, obligations, and mediator disclosures, including education, training, experience, and conduct requirements, applicable to:

(a) General civil mediators as provided by ORS 36.200(1).

(b) Domestic relations custody and parenting mediators as provided by ORS 107.775(2).

(c) Domestic relations financial mediators as provided by ORS 107.755(4).

(2) Provides that a mediator approved to provide one type of mediation may not mediate another type of case unless the mediator is also approved for the other type of mediation.

(3) Does not:

(a) In any way alter the requirements pertaining to personnel who perform conciliation services under ORS 107.510 to 107.610.

(b) Allow mediation of proceedings under ORS 30.866, 107.700 to 107.735, 124.005 to 124.040, or 163.738, as provided in ORS 107.755(2).

(c) In any way establish any requirements for compensation of mediators.

(d) Limit in any way the ability of mediators or qualified supervisors to be compensated for their services.

12.020 DEFINITIONS

As used in UTCR chapter 12:

(1) "Approved Mediator" means a mediator who a circuit court or judicial district of this state officially recognizes and shows by appropriate official documentation as being approved within that court or judicial district as a general civil mediator, domestic relations custody and parenting mediator, or domestic relations financial mediator for purposes of the one or more mediation programs operated under the auspices of that court or judicial district that is subject to UTCR 12.010.

(2) “Basic Mediation Curriculum” means the curriculum set out in UTCR 12.100.

(3) “Continuing Education Requirements” means the requirements set out in UTCR 12.140.

(4) “Court-System Training” means a curriculum or combination of courses set out in UTCR 12.130.

(5) “Determining Authority” means an entity that acts under UTCR 12.030 concerning qualification to be an approved mediator.

(6) “Domestic Relations Custody and Parenting Mediation Curriculum” means the curriculum set out in UTCR 12.110.

(7) “Domestic Relations Custody and Parenting Mediation Supervisor” means a person who is qualified at the level described in UTCR 12.070.

(8) “Domestic Relations Custody and Parenting Mediator” means a mediator for domestic relations, custody, parenting time, or parenting plan matters in circuit court under ORS 107.755 who meets qualifications under UTCR 12.070.

(9) “Domestic Relations Financial Mediation Supervisor” means a person who is qualified at the level described in UTCR 12.080.

(10) “Domestic Relations Financial Mediation Training” means a curriculum or combination of courses set out in UTCR 12.120.

(11) “Domestic Relations Financial Mediator” means a mediator for domestic relations financial matters in circuit court under ORS 107.755 who meets qualifications under UTCR 12.080.

(12) “General Civil Mediator” means a mediator for civil matters in circuit court under ORS 36.185 to 36.210, including small claims and forcible entry and detainer cases, who meets qualifications under UTCR 12.060.

(13) “General Civil Mediation Supervisor” means a person who is qualified at the level described in UTCR 12.060.

(14) “Independent Qualification Review” means the process described in UTCR 12.090.

(15) “Mediation” is defined at ORS 36.110.

12.030 DETERMINING AUTHORITY, DETERMINING MEDIATOR QUALIFICATIONS, OTHER RESPONSIBILITIES AND AUTHORITY

(1) The determining authority:

(a) Is the entity within a judicial district with authority to determine whether applicants to become an approved mediator for courts within the judicial district meet the qualifications as described in these rules and whether approved mediators meet any continuing qualifications or obligations required by these rules.

(b) Is the presiding judge of the judicial district unless the presiding judge has delegated the authority to be the determining authority as provided or allowed by statute. Delegation under this paragraph may be made to an entity chosen by the presiding

judge to establish a mediation program as allowed by law or statute. A delegation must be in writing and, if it places any limitations on the presiding judge's ultimate authority to review and change decisions made by the delegatee, must be approved by the State Court Administrator before the delegation can be made.

(2) Authority over qualifications. Subject to the following, a determining authority, for good cause, may allow appropriate substitutions, or obtain waiver, for any of the minimum qualifications for an approved mediator.

(a) Except as provided in paragraph (b) of this subsection, a determining authority that allows a substitution must, as a condition of approval, require the applicant to commit to a written plan to meet the minimum qualifications within a specified reasonable period of time. A determining authority that is not a presiding judge must notify the presiding judge of substitutions allowed under this subsection.

(b) For good cause, a determining authority, other than the presiding judge for the judicial district, may petition the presiding judge for a waiver of specific minimum qualification requirements for a specific person to be an approved mediator. A presiding judge may waive any of the qualifications to be an approved mediator in an individual case with the approval of the State Court Administrator.

(3) The determining authority may revoke a mediator's approved status at the determining authority's discretion, including in the event that the mediator no longer meets the requirements set forth in these rules.

(4) The determining authority may authorize the use of an evaluation to be completed by the parties, for the purpose of monitoring program and mediator performance.

(5) In those judicial districts where a mediator is assigned to a case by the court, or where mediators are assigned to a case by a program sponsored or authorized by the court, the determining authority shall ensure that parties to a mediation have access to information on:

(a) How mediators are assigned to cases.

(b) The nature of the mediator's affiliation with the court.

(c) The process, if any, that a party can use to comment on, or object to the assignment or performance of a mediator.

(6) The minimum qualifications of these rules have been met by an individual who is an approved mediator at the time these rules become effective if the individual has met the minimum requirements of Chief Justice Order 05-028, in effect prior to August 1, 2022.

(7) The State Court Administrator may approve the successful completion of a standardized performance-based evaluation to substitute for formal degree requirements under UTCR 12.070 or 12.080 upon determining an appropriate evaluation process has been developed and can be used at reasonable costs and with reasonable efficiency.

12.040 MEDIATOR ETHICS

An approved mediator, when mediating under ORS 36.185 to 36.210 or ORS 107.755 to 107.795, is required to:

(1) Disclose to the determining authority and the participants at least one of the relevant codes of mediator ethics, standards, principles, and disciplinary rules of the mediator's relevant memberships, licenses, or certifications. It is not the court's responsibility to enforce any relevant codes of mediator ethics, standards, principles, and/or rules;

(2) Comply with relevant laws relating to confidentiality, inadmissibility, and nondiscoverability of mediation communications including, but not limited to, ORS 36.220, 36.222, and 107.785; and

(3) Inform the participants prior to or at the commencement of the mediation of each of the following:

(a) The nature of mediation, the role and style of the mediator, and the process that will be used;

(b) The extent to which participation in mediation is voluntary and the ability of the participants and the mediator to suspend or terminate the mediation;

(c) The commitment of the participants to participate fully and to negotiate in good faith;

(d) The extent to which disclosures in mediation are confidential, including during private caucuses;

(e) Any potential conflicts of interest that the mediator may have, i.e., any circumstances or relationships that may raise a question as to the mediator's impartiality and fairness;

(f) The need for the informed consent of the participants to any decisions;

(g) The right of the parties to seek independent legal counsel, including review of the proposed mediation agreement before execution;

(h) In appropriate cases, the advisability of proceeding with mediation under the circumstances of the particular dispute;

(i) The availability of public information about the mediator pursuant to UTCR 12.050; and

(j) If applicable, the nature and extent to which the mediator is being supervised.

12.050 PROVIDING AND MAINTAINING PUBLICLY AVAILABLE INFORMATION

(1) Information for court use and public dissemination: all approved mediators must provide the information required to the determining authority of each court at which the mediator is an approved mediator. Reports must be made in substantially the form provided at www.courts.oregon.gov/forms, or any substantially similar form authorized by the determining authority.

(2) All approved mediators must update the information provided in UTCR 12.050 at least once every two calendar years.

(3) The information provided in UTCR 12.050 must be made available to all mediation parties and participants upon request.

12.060 QUALIFICATION AS AN APPROVED GENERAL CIVIL MEDIATOR, ONGOING OBLIGATIONS

To become an approved general civil mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet ongoing requirements as described:

(1) Training. An applicant must have completed training, including all the following:

(a) The basic mediation curriculum described in UTCR 12.100, or substantially similar training; and

(b) Court-system training in UTCR 12.130, or substantially similar training or education.

(2) Experience. An applicant must have:

(a) Observed three actual mediations; and

(b) Participated as a mediator or co-mediator in at least three cases that have been or will be filed in court, observed by a person qualified as a general civil mediation supervisor under this section and performed to the supervisor's satisfaction.

(3) Continuing Education.

(a) During the first two calendar years beginning January 1 of the year after the mediator's approval by the determining authority, general civil mediators must complete at least 12 hours of continuing education as follows:

(i) If the approved mediator's basic mediation training was 36 hours or more, 12 hours of continuing education as described in UTCR 12.140.

(ii) If the approved mediator's basic mediation training was between 30 and 36 hours, then one additional hour of continuing education for every hour of training fewer than 36 (i.e., if basic mediation training was 30 hours, then 18 hours of continuing education; if the basic mediation training was 32 hours, then 16 hours of continuing education).

(b) Thereafter, as an ongoing obligation, an approved general civil mediator must complete 12 hours of continuing education requirements every two calendar years as described in UTCR 12.140.

(4) Conduct. An applicant and, as an ongoing obligation, an approved general civil mediator must subscribe to the mediator ethics in UTCR 12.040.

(5) Public information. An applicant and, as an ongoing obligation, an approved general civil mediator must comply with requirements to provide and maintain information as provided in UTCR 12.050.

(6) Supervision. A qualified general civil mediation supervisor is an individual who has:

(a) Met the qualifications of a general civil mediator as defined in this section, and

(b) Mediated at least 35 cases to conclusion or completed at least 350 hours of mediation experience beyond the experience required of an approved general civil mediator in this section.

12.070 QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS CUSTODY AND PARENTING MEDIATOR, ONGOING OBLIGATIONS

To become an approved domestic relations custody and parenting mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet ongoing requirements as described.

(1) Education. An applicant must possess at least one of the following:

(a) A master's or doctoral degree in counseling, psychiatry, psychology, social work, marriage and family therapy, or mental health from an accredited college or university.

(b) A law degree from an accredited law school with course work and/or Continuing Legal Education credits in family law.

(c) A master's or doctoral degree in a subject relating to children and family dynamics, education, communication, or conflict resolution from an accredited college or university, with coursework in human behavior, plus at least one year full-time equivalent post-degree experience in providing social work, mental health, or conflict resolution services to families.

(d) A bachelor's degree in a behavioral science related to family relationships, child development, or conflict resolution, with coursework in a behavioral science, and at least seven years full-time equivalent post-bachelor's experience in providing social work, mental health, or conflict resolution services to families.

(2) Training. An applicant must have completed training in each of the following areas:

(a) The basic mediation curriculum in UTCR 12.100;

(b) The domestic relations custody and parenting mediation curriculum in UTCR 12.110; and

(c) Court-system training in UTCR 12.130, or substantially similar training.

(3) Experience. An applicant must have completed one of the following types of experience:

(a) Participation in at least 20 cases including a total of at least 100 hours of domestic relations mediation supervised by or co-mediated with a person qualified as a domestic relations custody and parenting mediation supervisor under this section. At least ten cases and 50 hours of the supervised cases must be in domestic relations custody and parenting mediation. At least three of the domestic relations custody and parenting mediation cases must have direct observation by the qualified supervisor; or

(b) At least two years full-time equivalent experience in any of the following: mediation, direct therapy or counseling experience with an emphasis on short-term problem

solving, or as a practicing attorney handling a domestic relations or juvenile caseload. Applicants must have:

(i) Participated as a mediator or comediator in a total of at least ten cases including a total of at least 50 hours of domestic relations custody and parenting mediation, and

(ii) An understanding of court-connected domestic relations programs.

(4) Continuing education. As an ongoing obligation, an approved domestic relations custody and parenting mediator must complete 24 hours of continuing education every two calendar years, beginning January 1 of the year after the mediator's approval by the determining authority, as described in UTCR 12.140.

(5) Conduct. An applicant and, as an ongoing obligation, an approved domestic relations custody and parenting mediator must subscribe to the mediator ethics in UTCR 12.040.

(6) Public information. An applicant and, as an ongoing obligation, an approved domestic relations custody and parenting mediator must comply with requirements to provide and maintain information in UTCR 12.050.

(7) Supervision. A qualified domestic relations custody and parenting mediation supervisor is an individual who has:

(a) Met the qualifications of a domestic relations custody and parenting mediator as defined in UTCR 12.070;

(b) Completed at least 35 cases including a total of at least 350 hours of domestic relations custody and parenting mediation beyond the experience required of a domestic relations custody and parenting mediator in this section; and

(c) An understanding of court-connected domestic relations programs.

12.080 QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS FINANCIAL MEDIATOR, ONGOING OBLIGATIONS

To become an approved domestic relations financial mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet all ongoing requirements as described.

(1) Education. An applicant must meet the education requirements under UTCR 12.070 applicable to an applicant to be approved as a domestic relations custody and parenting mediator.

(2) Training. An applicant must have completed training in each of the following areas:

(a) The basic mediation curriculum in UTCR 12.100;

(b) The domestic relations custody and parenting mediation curriculum in UTCR 12.110;

(c) Domestic relations financial mediation training in UTCR 12.120; and

(d) Court-system training in UTCR 12.130, or substantially similar training.

(3) Experience. An applicant must have completed one of the following types of experience:

(a) Participation in at least 20 cases including a total of at least 100 hours of domestic relations mediation supervised by or co-mediated with a person qualified as a domestic relations financial mediation supervisor under this section. At least ten cases and 50 hours of the supervised cases in this paragraph must be in domestic relations financial mediation. At least three of the domestic relations financial mediation cases must have direct observation by the qualified supervisor; or

(b) At least two years full-time equivalent experience in any of the following: mediation, direct therapy or counseling experience with an emphasis on short term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. Applicants must have:

(i) Participated as a mediator or co-mediator in a total of at least ten cases including a total of at least 50 hours of domestic relations financial mediation; and

(ii) An understanding of court-connected domestic relations programs.

(4) Continuing education. As an ongoing obligation, an approved domestic relations financial mediator must complete 24 hours of continuing education every two calendar years, beginning January 1 of the year after the mediator's approval by the determining authority, as described in UTCR 12.140.

(5) Conduct. An applicant and, as an ongoing obligation, an approved domestic relations financial mediator must subscribe to the mediator ethics in UTCR 12.040.

(6) Public information. An applicant and, as an ongoing obligation, an approved domestic relations financial mediator must comply with requirements to provide and maintain current information in UTCR 12.050.

(7) Insurance. As an ongoing obligation, an approved domestic relations financial mediator shall have in effect at all times the greater of:

(a) $100,000 in malpractice insurance or self-insurance with comparable coverage; or

(b) Such greater amount of coverage as the determining authority requires.

(8) Supervision. A qualified domestic relations financial mediation supervisor is an individual who has:

(a) Met the qualifications of a domestic relations financial mediator as defined in this section;

(b) Completed at least 35 domestic relations cases including a total of at least 350 hours of domestic relations financial mediation beyond the experience required in this section; and

(c) Malpractice insurance coverage for the supervisory role in force.

12.090 INDEPENDENT QUALIFICATION REVIEW

(1) In programs where domestic relations financial mediators are independent contractors, the determining authority must appoint a panel consisting of at least:

(a) A representative of the determining authority;

(b) A domestic relations financial mediator; and

(c) An attorney who practices domestic relations law locally.

(2) The panel shall interview each applicant to be an approved domestic relations financial mediator solely to determine whether the applicant meets the requirements for being approved or whether it is appropriate to substitute or waive some minimum qualifications. The review panel shall report its recommendation to the determining authority in writing.

(3) Nothing in this section affects the authority under UTCR 12.030 to make sole and final determinations about whether an applicant has fulfilled the requirements to be approved or whether an application for substitution should be granted.

12.100 BASIC MEDIATION CURRICULUM

The basic mediation curriculum is a single curriculum that is designed to integrate the elements in this section consistent with any guidelines promulgated by the State Court Administrator. The basic mediation curriculum shall:

(1) Be at least 30 hours, or substantially similar training or education.

(2) Include training techniques that closely simulate the interactions that occur in a mediation and that provide effective feedback to trainees, including, but not be limited to, at least six hours participation by each trainee in role plays with trainer feedback to the trainee and trainee self-assessment.

(3) Include instruction to help the trainee:

(a) Gain an understanding of conflict resolution and mediation theory;

(b) Effectively prepare for mediation;

(c) Create a safe and comfortable environment for the mediation;

(d) Facilitate effective communication between the parties and between the mediator and the parties;

(e) Use techniques that help the parties solve problems and seek agreement;

(f) Conduct the mediation in a fair and impartial manner;

(g) Understand mediator confidentiality and ethical standards for mediator conduct adopted by Oregon and national organizations; and

(h) Conclude a mediation and memorialize understandings and agreements.

(4) Be conducted by a lead trainer who has:

(a) The qualifications of a general civil mediator as defined in UTCR 12.060, except the requirement in UTCR 12.060(1)(a) to have completed the basic mediation curriculum;

(b) Mediated at least 35 cases to conclusion or completed at least 350 hours of mediation experience beyond the experience required of a general civil mediator in UTCR 12.060; and either

(c) Served as a trainer or an assistant trainer for the basic mediation curriculum outlined in this section at least three times; or

(d) Have experience in adult education and mediation as follows:

(i) Served as a teacher for at least 1000 hours of accredited education or training for adults; and

(ii) Completed the basic mediation curriculum outlined under this section.

12.110 DOMESTIC RELATIONS CUSTODY AND PARENTING MEDIATION CURRICULUM

The domestic relations custody and parenting mediation curriculum shall:

(1) Include at least 40 hours in a domestic relations custody and parenting mediation curriculum consistent with any guidelines promulgated by the State Court Administrator.

(2) Include multiple learning methods and training techniques that closely simulate the interactions that occur in a mediation and that provide effective feedback to trainees.

(3) Provide instruction with the goal of creating competency sufficient for initial practice as a family mediator and must include the following topics:

(a) General family mediation knowledge and skills;

(b) Knowledge and skill with families and children;

(c) Adaptations and modifications for special case concerns; and

(d) Specific family, divorce, and parenting information.

(4) Be conducted by a lead trainer who has all of the following:

(a) The qualifications of a domestic relations custody and parenting mediator as defined in UTCR 12.070;

(b) Completed at least 35 cases including a total of at least 350 hours of domestic relations custody and parenting mediation beyond the experience required of a domestic relations custody and parenting mediator in UTCR 12.070;

(c) Served as a mediation trainer or an assistant mediation trainer for the domestic relations custody and parenting mediation curriculum outlined in this section at least three times; and

(d) An understanding of court-connected domestic relations programs.

12.120 DOMESTIC RELATIONS FINANCIAL MEDIATION TRAINING

(1) Domestic relations financial mediation training shall include at least 40 hours of training or education that covers the topics relevant to the financial issues the mediator will be mediating, including:

(a) Legal and financial issues in separation, divorce, and family reorganization in Oregon, including property division, asset valuation, public benefits law, domestic relations income tax law, child and spousal support, and joint and several liability for family debt;

(b) Basics of corporate and partnership law, retirement interests, personal bankruptcy, ethics (including unauthorized practice of law), drafting, and legal process (including disclosure problems); and

(c) The needs of self-represented parties, the desirability of review by independent counsel, recognizing the finality of a judgment, and methods to carry out the parties' agreement.

(2) Of the training required in subsection (1) of this section:

(a) Twenty-four of the hours must be in an integrated training (a training designed as a single cohesive curriculum that may be delivered over time);

(b) Six hours must be in three role plays in financial mediation with trainer feedback to the trainee; and

(c) Fifteen hours must be in training accredited by the Oregon State Bar.

12.130 COURT-SYSTEM TRAINING

When court-system training under this section is required, the training shall include, but not be limited to:

(1) At least six hours including, but not limited to, the following subject areas:

(a) Instruction on the court system including, but not limited to:

(i) Basic legal vocabulary;

(ii) How to read a court file;

(iii) Confidentiality and disclosure;

(iv) Availability of jury trials;

(v) Burdens of proof;

(vi) Basic trial procedure;

(vii) The effect of a mediated agreement on the case including, but not limited to, finality, appeal rights, remedies, and enforceability;

(viii) Agreement writing;

(ix) Working with interpreters; and

(x) Obligations under the Americans with Disabilities Act.

(b) Information on the range of available administrative and other dispute resolution processes.

(c) Information on the process that will be used to resolve the dispute if no agreement is reached, such as judicial or administrative adjudication or arbitration, including entitlement to jury trial and appeal, where applicable.

(d) How the legal information described in this subsection is appropriately used by a mediator in mediation, including avoidance of the unauthorized practice of law.

(2) For mediators working in contexts other than small claims court, at least two additional hours including, but not limited to, all of the following:

(a) Working with represented and unrepresented parties, including:

(i) The role of litigants' lawyers in the mediation process;

(ii) Attorney-client relationships, including privileges;

(iii) Working with lawyers, including understanding of Oregon State Bar disciplinary rules; and

(iv) Attorney fee issues.

(b) Understanding motions, discovery, and other court rules and procedures;

(c) Basic rules of evidence; and

(d) Basic rules of contract and tort law.

12.140 CONTINUING EDUCATION REQUIREMENTS

(1) Of the continuing education hours required of approved mediators every two calendar years:

(a) If the mediator is an approved general civil mediator:

(i) One hour must relate to confidentiality;

(ii) One hour must relate to mediator ethics; and

(iii) Six hours can be satisfied by the mediator taking the continuing education classes required by his or her licensure unless such licensure is not reasonably related to the practice of mediation.

(b) If the mediator is an approved domestic relations custody and parenting or domestic relations financial mediator:

(i) Two hours must relate to confidentiality;

(ii) Two hours must relate to mediator ethics;

(iii) Twelve hours must be on the subject of either custody and parenting issues or financial issues, respectively;

(iv) Twelve hours can be satisfied by the mediator taking the continuing education classes required by his or her licensure unless such licensure is not reasonably related to the practice of mediation; and

(v) The hours required in subparagraphs (i) and (ii) can be met in the hours required in subparagraph (iii) if confidentiality or mediator ethics is covered in the context of domestic relations.

(2) Continuing education topics may include, but are not limited to, the following examples:

(a) Those topics outlined in UTCR 12.100, 12.110, and 12.120;

(b) Practical skills-based training in mediation or facilitation;

(c) Court processes;

(d) Confidentiality laws and rules;

(e) Changes in the subject matter areas of law in which the mediator practices;

(f) Mediation ethics;

(g) Domestic violence;

(h) Sexual assault;

(i) Child abuse and elder abuse;

(j) Gender, ethnic, and cultural diversity;

(k) Psychology and psychopathology;

(l) Organizational development;

(m) Communication;

(n) Crisis intervention;

(o) Program administration and service delivery;

(p) Practices and procedures of state and local social service agencies; and

(q) Safety issues for mediators.

(3) Continuing education shall be conducted by an individual or group qualified by practical or academic experience. For purposes of this section, an hour is defined as 60 minutes of instructional time or activity and may be completed in a variety of formats, including but not limited to:

(a) Attendance at a live lecture or seminar;

(b) Attendance at an audio or video playback of a lecture or seminar with a group where the group discusses the materials presented;

(c) Listening or viewing audio, video, or internet presentations;

(d) Receiving supervision as part of a training mentorship;

(e) Formally debriefing mediation cases with mediator supervisors and colleagues following the mediation;

(f) Lecturing or teaching in qualified continuing education courses; and

(g) Reading, authoring, or editing written materials submitted for publication that have significant intellectual or practical content directly related to the practice of mediation.

(4) Continuing education classes should enhance the participant's competence as a mediator and provide opportunities for mediators to expand upon existing skills and explore new areas of practice or interest. To the extent that the mediator's prior training and experience do not include the topics listed above, the mediator should emphasize those listed areas relevant to the mediator's practice.

(5) Where applicable, continuing education topics should be coordinated with, reported to, and approved by the determining authority of each court at which the mediator is an approved mediator and reported at least every two calendar years via the electronic Court-Connected Mediator Continuing Education Credit Form available on the Oregon Judicial Department's webpage or other reporting form authorized by the appropriate determining authority.

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) Notwithstanding subsection (1), each judicial district may adopt an SLR requiring arbitration proceedings under ORS 742.505 and ORS 742.521 to be conducted pursuant to UTCR 13.140, 13.150, 13.170, 13.180, and 13.190.

(3) 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 36.675.

(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) If a party fails to tender to the arbitrator the party's pro rata share of the preliminary payment under subsection (2) of this rule and fails to obtain a waiver or deferral of arbitration fees under subsection (3) of this rule, the arbitrator may preclude the party from appearing or participating in the arbitration. The failure of a party to appear or participate in the arbitration proceeding by reason of failing to pay the arbitrator fee or obtain a waiver or deferral of the fee does not affect the ability of the party to appeal the arbitrators decision and award in the manner provided by ORS 36.425.

(5) Any dispute as to the amount of the arbitrator's fee must be submitted to the court.

(6) The arbitrator's fee may be considered a recoverable item of costs.

(7) 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 Rules 1, 4.1 to 4.3, 4.5 to 4.10, 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 28 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 28 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) In all cases, 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 42 days after the conclusion of the arbitration hearing.

(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), a judgment shall be prepared based on the arbitration decision and award and submitted to the court to be entered.

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 of the corresponding document made available to the public on www.courts.oregon.gov/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 of the corresponding document made available to the public on www.courts.oregon.gov/forms, to request a default judgment pursuant to ORS 46.475(2).

(c) Declaration of Noncompliance and Request for Judgment substantially in the form of the corresponding document made available to the public on www.courts.oregon.gov/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 of the corresponding document made available to the public on www.courts.oregon.gov/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 of the corresponding document made available to the public on www.courts.oregon.gov/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 of the corresponding document made available to the public on www.courts.oregon.gov/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.

15.030 CONSUMER DEBT COLLECTION – SMALL CLAIMS

(1) If a small claims action qualifies as a debt-buyer collection action under UTCR 5.180(2)(a), then the requirements set out in UTCR 5.180(2) apply.

(2) If a small claims action qualifies as a consumer debt collection action under UTCR 5.180(3)(a), then the requirement set out in UTCR 5.180(3)(b) applies.

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.

(a) For purposes of the court’s electronic case management system, the trial court administrator will treat the contempt proceeding as a separate case.

(b) Any subsequent filing by any party in the contempt proceeding must include both case numbers, with the contempt proceeding case number appearing first.

(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; Electronic Files of the Court

21.010 DEFINITIONS

The following definitions apply to this chapter:

(1) "Conventional Filing" means a process whereby a filer submits a paper document for filing with the court.

(2) "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.

(3) "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 (www.courts.oregon.gov).

(4) "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.

(5) "Filer" means a person registered with the electronic filing system who submits a document for filing with the court.

(6) "Service Contact" means any party to be served electronically by the electronic filing system, through email notification.

(7) "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.

(8) "Electronic Forms System" means the system provided by the Oregon Judicial Department for the interactive and electronic preparation and filing of completed form documents through the electronic filing system. A filer may access the system through the Oregon Judicial Department's website (www.courts.oregon.gov/services/online/Pages/iforms.aspx).

21.020 LOCAL RULES OF COURT NOT PERMITTED

No circuit court may make or enforce any local rule, other than those local rules authorized by UTCR 4.090, 10.020, and 11.110, 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 Portable Document Format (PDF) or a 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. A filer submitting separate files under this section must include in the Filing Comments field for each submission a description that clearly identifies the part of the document that the file represents, for example, "Motion for Summary Judgment, part 1 of 2."

(2) Except as provided in subsections (a) or (b) of this section or in UTCR 24.040(3)(a), when a document to be electronically filed incorporates a documentary exhibit, an affidavit, a declaration, a certificate of service, or another document, the electronic filing must be submitted as a unified single PDF file, rather than as separate electronically filed documents, to the extent practicable. An electronic filing submitted under this section that exceeds 25 megabytes must comply with section (1) of this rule.

(a) If an electronic filing consists of a motion or similar document and a corresponding proposed order, judgment, or any other document that requires court signature, the filer must submit the document requiring court signature through the eFiling system as a separate electronically filed document from the motion. A filer submitting separate documents under this subsection must include in the Filing Comments field for each submission a description that clearly identifies the filing, for example,

"Motion for Summary Judgment" and "Proposed Order Granting Motion for Summary Judgment."

(b) If an electronic filing is filed in a case that is not confidential by statute or rule, but includes an incorporated document that is confidential or otherwise exempt from disclosure, the filer must submit the incorporated document through the eFiling system as a separate electronically filed document. When submitting a confidential document through the eFiling system under this subsection, a filer must designate the document as confidential. A filer submitting separate documents under this subsection must include in the Filing Comments field for each submission a description that clearly identifies the filing, for example, "Motion for Stay" and "Confidential Attachment to Motion for Stay." A filer otherwise eFiling any confidential document, or any document in a case that is confidential by statute or rule, also must comply with UTCR 21.070(6) and (7).

(c) The reference in section (2) to an affidavit and a declaration applies to only an affidavit or a declaration that is an incorporated document.

(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) When submitting an electronic filing that creates a new case or adds a party to an existing case,

(a) A filer must enter into the "Add Party" screen the names of all known parties or all parties being added; and

(b) A filer must enter party names in proper case, for example, "John Doe" and not "JOHN DOE."

(5) 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.

(2) Fee Waivers and Deferrals

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, or the required fee is paid.

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.

(3) Register of Actions

The following apply whether or not a document is electronically filed with the court:

(a) For the purpose of ORS 7.020(1) and (2), the date that a document was filed displays in the date column of the register of actions for the case in the court's electronic case management system.

(b) For the purpose of ORS 7.020(2), entry occurs on the date an event is created in the register of actions.

21.070 SPECIAL FILING REQUIREMENTS

(1) Courtesy Copies and Other Copies

(a) 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.

(b) When a filer submits a document for conventional filing or electronic filing, the filer need not submit for filing additional copies of that document unless otherwise required by the court.

(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 any party not already otherwise so required to file or 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) An initiating instrument in a contempt proceeding, including for purposes of this rule a motion and supporting documentation filed contemporaneously with the motion under ORS 33.055 (remedial) or an accusatory instrument that initiates a contempt proceeding and supporting documentation filed contemporaneously with the initiating instrument under ORS 33.065 (punitive).

(e) 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.

(f) A foreign subpoena, with an accompanying original subpoena and two copies, submitted under UTCR 5.140(1).

(g) 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, except that a document may be electronically filed in an adoption case.

(h) 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 (h)(i) of this subsection, the filer must include in the Filing Comments 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.

(iii) If the filer elects to electronically file an image of an original document as set out in paragraph (h)(i) of this subsection, when conventionally filing the original document, the filer must include a notification to the court that the image was previously electronically filed.

(i) A negotiable instrument tendered under UTCR 2.060 for entry of notation of judgment.

(j) A document delivered to the court under ORCP 55 (D)(8)(a).

(k) A petition filed by a family or household member that requests an extreme risk protection order under ORS 166.527(1) and any supporting affidavit.

(l) A petition or motion for waiver of the mandatory eFiling requirement, as set out in UTCR 21.140(3).

(m) Any stipulated or *ex parte* matter listed in SLR 2.501 in a Judicial District's Supplementary Local Rules, except that documents submitted under the Family Abuse Prevention Act, the Elderly Persons and Persons with Disabilities Abuse Prevention Act, and the sexual abuse restraining order statutes (ORS 163.760 to 163.777) may be electronically submitted through the electronic forms system, when those forms are available in that system.

(n) An undertaking that is accompanied by a deposit as security for the undertaking.

(o) A demonstrative or oversized exhibit.

(p) Trial exhibits, which must be submitted or delivered as provided in UTCR 6.050, except as provided in UTCR 11.110 or UTCR 24.040(3)(a), or as directed or permitted by Chief Justice Order.

(q) A non-documentary exhibit filed pursuant to UTCR 2.010(8)(d).

(r) A victim's request for a United States Citizenship and Immigration Services certification, and related documents, authorized by ORS 147.620.

(4) Consolidated Cases

Unless provided otherwise by court order or SLR adopted under UTCR 2.090, a party electronically filing a document that is applicable to more than one case file must electronically file the document in each case using existing case numbers and captions.

(5) Expedited Filings

(a) A filer who submits an expedited filing through the eFiling system:

(i) Must include the words "EXPEDITED CONSIDERATION REQUESTED" in the Filing Comments field when submitting the filing; and

(ii) May notify the court by email or telephone, as designated on the court's judicial district website, that an expedited filing has been eFiled in the case.

(b) A judicial district may adopt a Supplementary Local Rule that requires a filer submitting an expedited filing through the eFiling system to separately notify the court that an expedited filing has been submitted.

(6) Filings in Confidential Cases Made Confidential by Statute or Rule, and Other Confidential Filings

(a) Confidential case type. Except as provided in subsection (b) of this section, if a case is confidential by statute or rule, a filer submitting a document in the case through the eFiling system must not designate the document as confidential, because the case itself already is designated as confidential.

(b) Confidential case type, confidential document type. Notwithstanding subsection (a) of this section, and as additionally provided in section (7) of this rule, if a particular document type is deemed confidential by statute or rule within a case type deemed confidential by statute or rule, a filer submitting such a document through the eFiling system must designate the document as confidential.

(c) Non-confidential case type, confidential document type. If a document that is confidential by statute, rule, or court order is being submitted in a case that is not confidential by statute or rule, a filer submitting such a document through the eFiling system must designate the document as confidential.

(d) Non-confidential case type, non-confidential document type. If a particular document type is not deemed confidential by statute or rule, and the case type is also not deemed confidential by statute or rule, a filer submitting such a document through the eFiling system may not designate the document as confidential.

(7) Filings in Adoption Cases

(a) Initiating documentation in an adoption case must be submitted as a unified single PDF file, rather than as separate electronically filed documents, to the extent practicable and except as otherwise provided in subsection (c) of this section. An electronic filing submitted under this subsection that exceeds 25 megabytes must comply with UTCR 21.040(1).

(b) The petition and related exhibits required under ORS 109.315(3) and 109.385(9) must be filed as a unified single PDF. Filers in adoption proceedings initiated under ORS 419B.529 must submit the initiating document and related exhibits as a unified single PDF. When submitting a filing identified in this subsection through the eFiling system, a filer must not designate the filing as confidential, because the case type "adoption" already is designated as confidential.

(c) An Adoption Summary and Segregated Information Statement (ASSIS) and related exhibits filed under ORS 109.317(2), ORS 109.385(10), and ORS 419B.529(2) must be filed separately from the petition or initiating document and related exhibits as a unified single PDF that includes both the ASSIS and any ASSIS exhibit. When submitting a filing identified in this subsection through the eFiling system, a filer must designate the document as confidential because the unified document containing the ASSIS and any ASSIS exhibit is segregated from other documents in the case file.

21.080 ELECTRONIC FILING AND 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, or to any other document that requires court signature, that is electronically filed.

(b) When the court accepts a proposed order or judgment or any other document that requires court signature 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.

(6) Except as provided in subsection (c), if the eFiling system is temporarily unavailable or if an error in the transmission of the document or other technical problem prevents the eFiling system from receiving a document, the court must, upon satisfactory proof, permit the filing date of the document to relate back to the date that the eFiler first attempted to file the document to meet filing requirements.

(a) A filer seeking relation-back of the filing date due to system unavailability or transmission error described in this section must comply with the requirements in subsection (5)(a) of this rule.

(i) The cover letter described in subsection (5)(a)(i) must include the date of the original attempted submission and the date that the filer was notified that the submission was not successful, and explain the reason for requesting that the date of filing relate back to the original submission, with the words "RESUBMISSION OF FILING, SUBMISSION UNSUCCESSFUL, RELATION-BACK DATE OF FILING REQUESTED" in the subject line of the cover letter.

(ii) The Filing Comment field notification for an electronic resubmission described in subsection (5)(a)(ii) must include the words "RESUBMISSION OF FILING, SUBMISSION UNSUCCESSFUL, RELATION-BACK DATE OF FILING REQUESTED."

(iii) The filer may include supporting exhibits that substantiate the system malfunction together with the filer's cover letter.

(b) A responding party may object in the same manner and subject to the same time calculations as in subsection (5)(b) of this rule.

(c) Technical problems with the filer's equipment or attempted transmission of a document within the filer's control will not generally excuse an untimely filing. A court may permit the filing date to relate back to the date that the eFiler first attempted to file the document only upon a showing of extraordinary circumstances based on satisfactory proof. A filer seeking relation-back under this subsection must comply with subsection (6)(a) of this rule and must, in the cover letter, explain why extraordinary circumstances exist.

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) When a document to be electronically filed contains the signature of the filer, the filer may sign the document using either an electronic signature, or an authenticated signature, as those terms are defined in UTCR 1.110.

(3) When a document to be electronically filed contains the signature of someone other than the filer, the document may be signed using either an original signature or authenticated signature, as those terms are defined in UTCR 1.110. The filer certifies by filing that, to the best of the filer's knowledge after appropriate inquiry, the signature purporting to be that of the signer is in fact that of the signer.

(a) If the document contains an authenticated signature, the filer must retain the electronic document until entry of a general judgment or other judgment or order that conclusively disposes of the action, unless the court orders otherwise.

(b) If the document contains an original signature, the printed document bearing the original signature must be imaged and electronically filed in a format that accurately reproduces the original signature and contents of the document, and the filer must

retain the document in the filer's possession in its original paper form for no less than 30 days, unless the court orders otherwise.

(4) 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.

(5) When a document to be electronically filed contains the signature of a notary public, the document must be electronically filed in a format that accurately reproduces the signatures and contents of the document.

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 section (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(7). 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(7).

(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) Court Notification and Transmission Constituting Service

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 section (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) 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 AND CERTIFICATION OF ORIGINAL SIGNATURES (Repealed)

REPORTER'S NOTE: UTCR 21.120 was repealed effective March 27, 2020. See UTCR 21.090 for retention and certification requirements.

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.

21.140 MANDATORY ELECTRONIC FILING

(1) An active member of the Oregon State Bar must file a document using the electronic filing system, instead of using conventional filing, unless:

(a) The document is required to be conventionally filed under UTCR 21.070(3); or

(b) The filer has obtained a waiver under subsection (2) of this rule.

(2) An active member of the Oregon State Bar may seek a waiver of the requirement in section (1) of this rule as follows:

(a) The Bar member must file one of the following:

(i) A petition for waiver in all cases in a specific judicial district for a specific period of time.

(ii) A motion in an existing case for waiver in that specific case.

(b) A petition or motion must include an explanation describing good cause for the waiver.

(c) A separate petition for waiver must be filed in each judicial district in which the person desires a waiver.

(d) If the court grants a petition for waiver, the Bar member obtaining the waiver must

(i) File a copy of the court's order in each case subject to the waiver; and

(ii) Include the words "Exempt from eFiling per Waiver Granted [DATE]" in the caption of all documents conventionally filed during the duration of the waiver.

(e) If the court grants a motion for waiver, the Bar member obtaining the waiver must include the words "Exempt from eFiling per Waiver Granted [DATE]" in the caption of all documents conventionally filed in the case.

(3) If the electronic filing system is continuously unavailable for a period of more than 24 hours, an active member of the Oregon State Bar may file documents using conventional filing until the end of the first full business day after the day on which the electronic filing system becomes available.

(4) If a filer submits a document for conventional filing in contravention of section (1) of this rule and the filer has not obtained a waiver pursuant to section (2) of this rule nor is the electronic system unavailable as described in section (3) of this rule, then court staff may, to the extent allowed by policy adopted by the presiding judge, take any of the following actions:

(a) Direct the filer to the court's kiosk to complete the filing electronically.

(b) Refuse to accept the document for filing.

(c) Return the document to the filer as unfiled.

(d) Refer the filing to a judge for consideration of sanctions under UTCR 1.090.

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) After assignment of the case to the OCLC judge, the parties must:

(a) File all documents in the court with venue; and

(b) If directed by the OCLC judge, provide copies of all filed documents to that judge in the manner that the judge directs.

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.

CHAPTER 24—Post-Conviction Relief

24.010 POST-CONVICTION RELIEF – CASE INITIATION; DEFENDANT'S MOTION, DEMURRER, OR ANSWER

(1) (a) Counsel appointed for petitioner has 120 days from the date of appointment to file an amended petition, a notice that petitioner will proceed on the original petition, or, if unable to plead a viable claim for relief or proceed on the original petition, an affidavit pursuant to ORS 138.590(5).

(b) A motion for extension of time to file an amended petition, a notice that petitioner will proceed on the original petition, or an affidavit pursuant to ORS 138.590(5) shall be granted only upon demonstrated good cause.

(c) Counsel's written notification to the court that the case will proceed on the original petition constitutes counsel's ORCP 17 C certification of the original petition filed by petitioner when petitioner was self-represented.

(d) Counsel must attach to the filing of an amended petition, an affidavit pursuant to ORS 138.590(5), or a notice that petitioner will proceed on the original petition proof of mailing demonstrating that said filing was mailed to petitioner prior to or concurrent with the filing of such document with the court.

(2) (a) (i) For cases with court-appointed counsel, defendant shall not file an answer, demurrer, or motion until petitioner has filed a notice that petitioner will proceed on the original petition, an amended petition, or an affidavit pursuant to ORS 138.590(5), or the time for filing has expired.

(ii) Defendant has 30 days after the notice, amended petition, or affidavit is entered in the court register, or from the expiration of the time for filing, to file an answer, demurrer, or motion against the pleadings.

(iii) Defendant may file a motion to dismiss as time-barred or successive at any time after appointed counsel has appeared on the case.

(b) If the petition is filed by counsel, or if petitioner files the petition pro se and does not seek appointment of counsel, defendant has 30 days from the date the petition is entered in the court register to file an answer, demurrer, or motion against the pleadings.

(c) A motion for extension of time to file an answer, any other motion, or demurrer shall be granted only upon demonstrated good cause.

(3) If defendant files a demurrer or motion against the pleadings, petitioner has 30 days to file a response.

(4) If petitioner files a response to defendant's demurrer or motion against the pleadings, defendant has 20 days to file a reply.

(5) If the court grants defendant's demurrer or motion against the pleadings and if it appears to the court that there is a reasonable expectation that petitioner will be able to cure the defect, the court shall grant petitioner 30 days to file an amended petition. The court may allow additional time to file the amended petition with good cause shown.

(6) If the court denies defendant's motion against the pleadings, defendant has 14 days to file an answer.

(7) Any motion for an extension of any filing deadline under this subsection must reflect in the caption the number of extensions that have been requested, including the current request. If filed by petitioner's counsel, a motion for an extension of a filing deadline must state that petitioner has been informed of the motion.

24.020 SCHEDULING IN COMPLEX CASES WITH APPOINTED COUNSEL

In a post-conviction case that involves a complex underlying case, including, but not limited to, criminal homicide as defined in ORS 163.005 or aggravated murder as defined in ORS 163.095, counsel for either party may request a scheduling conference within 60 days of appointed counsel's appearance. At the conference, the court, in its discretion, may issue an order modifying any deadlines set forth in these rules.

24.030 RELIANCE ON UNDERLYING CIRCUIT COURT CRIMINAL CASE

(1) If petitioner intends to rely on the contents of the underlying circuit court criminal case file to support the allegations in the petition, then petitioner must so state in the petition. If petitioner intends to rely on some, but not all, of the contents of the underlying case file, then petitioner must identify with reasonable specificity the materials on which petitioner intends to rely. Petitioner need not attach to the petition, as part of evidence supporting the allegations, any document from the underlying case file.

(a) This subsection applies only if the underlying criminal case was filed on or after the date that the circuit court in which the conviction was entered began using the Oregon eCourt Case Information system.

(b) The date that each circuit court began using the Oregon eCourt Case Information system is available at www.courts.oregon.gov/programs/ecourt/Pages/Implementation-Map-2011-2016.aspx.

24.040 EXHIBITS

(1) Only the portions of the trial transcript or other documents that are directly relevant to petitioner's claims must be attached to the petition or amended petition as an exhibit, or, if UTCR 24.030 applies, identified in the petition.

(2) (a) A pleading that relies on a previously filed exhibit must expressly describe the exhibit, the earlier pleading with which it was filed, and the date that earlier pleading was filed.

(b) Each exhibit submitted must be numbered sequentially with no duplication, regardless of when the exhibit is submitted or what document the exhibit relates to.

(c) An exhibit may not be submitted more than one time unless the filer is submitting a corrected exhibit.

(3) Unless UTCR 24.030 or UTCR 21.070(3)(g) apply, all documentary exhibits must be submitted as follows:

(a) If the filer is an authorized eFiler under UTCR 21.030(1)(a), the filer must submit the exhibits electronically unless the exhibit is an audio or video recording or the court orders otherwise. UTCR 21.040 applies to this subsection, except that each exhibit must be submitted as a separate electronically filed document.

(b) If the filer is not an authorized eFiler under UTCR 21.030(1)(a), the filer must submit the documentary exhibits pursuant to UTCR 6.050(3).

24.050 ADDITIONAL MOTIONS, BRIEFING, AND EXHIBITS

Unless otherwise ordered by the court:

(1) All substantive pretrial motions must be filed at least 60 days before trial. The court may allow a late filing for good cause shown.

(2) Petitioner's trial memoranda, including legal memoranda, and any additional exhibits not already filed with the court, must be filed not later than 30 days before trial.

(3) Defendant's trial memoranda, including any legal memoranda, and any additional exhibits not already filed with the court must be filed not later than 20 days prior to trial.

(4) Not later than 10 days before trial, petitioner may respond to defendant's memoranda and exhibits with a further memorandum and additional exhibits.

24.060 DISCLOSURE OF WITNESSES PURSUANT TO ORS 138.615

Unless otherwise ordered by the court for good cause shown, the disclosure of witness information required under ORS 138.615 must be made no later than 60 days before trial.

24.070 APPEARANCE AT HEARINGS AND TRIAL

(1) Unless the court orders otherwise, a petitioner in custody shall appear by simultaneous electronic transmission.

(2) Unless the court orders otherwise, if petitioner is not in custody, or is released from custody while the petition is pending, petitioner shall immediately notify the court, and petitioner shall appear at scheduled hearings and trial in person, at the courthouse.

(3) Counsel may appear in person at the courthouse or by remote means in accordance with ORS 138.622.

(4) Public access to the proceedings shall be provided at the circuit court in which the petition is pending, and the proceeding shall be deemed to take place at that location.

(5) Unless otherwise ordered by the court, all witnesses, except original trial counsel, appellate counsel, and law enforcement officers, must appear at the circuit court in which the petition is pending.

(6) Any party requiring the services of a court interpreter for a hearing or trial must request a court interpreter in accordance with UTCR 7.070 and any supplementary local rule enacted pursuant to that section. If a party fails to comply with UTCR 7.070 or any supplementary

local rule enacted pursuant to that section, the party is responsible for obtaining court-certified interpreter services at the party's own expense.

24.080 CONTINUANCES

(1) Motions to continue a hearing or trial may be made to the judge presiding over the hearing or trial, or such other judge as may be designated by supplementary local rules. The judge may allow a continuance for good cause shown.

(2) Any motion for continuance by a represented party must include a certification by the moving counsel that:

(a) Counsel has conferred with opposing counsel and whether opposing counsel objects or agrees to the motion; and

(b) If the motion is filed by petitioner's counsel and is beyond one year from the filing of the original petition, a statement that petitioner's counsel has conferred with petitioner and has authorization to request the continuance. If petitioner does not authorize the request, counsel must note petitioner's objections together with counsel's reason for requesting the continuance despite petitioner's objections.

24.090 PRESIDING POST-CONVICTION JUDGE

By supplementary local rule, a judicial district may assign a judge to serve as Presiding Post-Conviction Judge for purposes of pretrial case management. The Presiding Post-Conviction Judge may conduct status conferences, hear pretrial motions, and engage in other duties as provided by local rules enacted under this section.

24.100 TRIALS

(1) Trials will be scheduled as soon as possible after defendant's answer is filed or after the date for filing an answer has passed but, unless the parties consent, trial shall not be scheduled sooner than 90 days after the date the answer is filed or the date for filing an answer has passed.

(2) Trials will be scheduled for 30 minutes and without the expectation of live witness testimony other than petitioner. If the trial will take longer than 30 minutes, or if witnesses other than petitioner will be called, the party requesting additional time must notify the court no later than 45 days before the trial date.

24.110 CHALLENGES TO COURT APPOINTED COUNSEL

SLR 24.111 is reserved for judicial districts to adopt a local rule regarding challenges to court appointed counsel (*Church v. Gladden* claims).