

2008

The Nineteenth Judicial District

COLUMBIA COUNTY
CIRCUIT COURT

SUPPLEMENTAL LOCAL RULES

Effective February 1, 2008

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COLUMBIA COUNTY CIRCUIT COURT

SUPPLEMENTARY LOCAL RULES

The following supplementary rules are established pursuant to UTCR 1.030 and apply to operations in the Circuit Court.

Chapter 1 General Provisions

1.151 HOURS OF COURT OPERATION

The Circuit Court in Columbia County (19th Judicial District,) is located in the Columbia County Courthouse, 230 Strand Street, St Helens, Oregon. Court is in session from 8:30 A.M. to 5:00 P.M., Monday through Friday, excluding legal holidays. The Trial Court Administrator's Office is open to conduct business between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday, excluding legal holidays.

1.161 FILING OF DOCUMENTS IN COURT

From 8:00 A.M. to 5:00 P.M. court documents may be filed at the front counter in the Trial Court Administrator's office. Receipts for filing fees mailed to the court will be provided if a self-addressed, stamped envelope is attached to the filing. Documents without the appropriate filing fee attached will not be accepted for filing, and will be returned to the party.

1.171 COURT WEBSITE

Columbia County Circuit Court maintains a website which lists information about it's court. The address is www.ojd.state.or.us/col.

1.201 INFORMATION ON FREE OR LOW-COST SERVICES

There may be free or low-cost legal services or other relevant services in Columbia County that may be helpful to the parties in a case. Information about these services is posted on the bulletin board in the Trial Court Administrators Office.

Chapter 2 Standards for Pleadings and Documents

2.081 REMOVAL OF RECORDS AND FILES

- (1) All court records will remain in the custody of the Trial Court Administrator, except as noted in sub-paragraph 2 below.
- (2) The attorney of record may check-out records and files from the Trial Court Administrator's Office only for the purpose of delivering the records and files to the judge for signature by the judge on Orders, Judgments and Judgments therein, and shall then return the records to the Trial Court Administrator's Office. If the party is pro se, a court clerk will deliver the court

record or file to the judge. No records of the court shall be removed from the Columbia County Courthouse unless specifically ordered by the Court.

Chapter 3 Decorum In Proceedings

3.181 MEDIA OR OTHER PUBLIC ACCESS COVERAGE IF COURT EVENTS

Media or public access coverage is prohibited in the hallways outside of any courtroom or court office. Upon request, on a cases by case basis, the court will consider designating an area outside of the courtrooms and prohibited court areas for media and public access coverage. Requests to conduct public access coverage in such areas may be made to the Office of the Trial Court Administrator at any time during the business day.

Chapter 5 Proceedings in Civil Cases

5.061 EX PARTE MATTERS

All ex parte matters will be heard at 8:30 A.M. or by arrangement with the individual judge's judicial assistant. The file must accompany any ex-parte orders and it is the responsibility of the attorney of record to deliver the file to the court .

Chapter 6 Trials

6.012 SETTLEMENT CONFERENCES

The Circuit Court will comply with ORCP Rule 54F. At the settlement conference:

- (1) No information disclosed will be revealed by the settlement judge or by any of the parties to the settlement to the judge or jury who will thereafter try the case, unless the parties have agreed that the settlement conference judge may preside at the trial.
- (2) All trial attorneys and parties or representatives of a corporation or insurance company who have full authority to settle and compromise the litigation shall personally appear at the pre-trial settlement conference. However, the judge may permit telephone appearances in lieu of personal appearance for good cause.

6.021 TRIAL FEES PAYABLE BEFORE TRIAL

No court or jury trial will proceed to trial until the fees under this Rule are paid to the Trial Court Administrator. The receipt given for payment of said fees shall be shown to the Courtroom Clerk at the time of trial before said trial will proceed.

6.031 TRIAL CONTINUANCES

No continuances will be granted except for good cause. All requests must be made in writing, clearly stating: the reason for the request; acknowledgment that the client has been advised of the request for continuance; and, whether the attorney/party for the opposing side agrees or objects to the continuance.

- (1) Requests for continuance that are submitted twenty-one (21) days or more prior to the time of the trial status report

The motion will be heard at 8:30 A.M. three business days following the filing of the motion. The attorneys/parties may appear in person or by telephone. If a conference call is needed, the moving party shall initiate the telephone conference call.

- (2) Requests for continuance that are submitted after twenty-one (21) days prior to or at the time of the trial status report.

The motion will be heard at 8:30 A.M. on the next judicial day following the reporting day unless otherwise set by the court. The attorneys/parties shall appear before the ex-parte Judge in person or by telephone. If a conference call is needed, the moving party shall initiate the telephone conference call.

- (3) Requests for continuances that are submitted after the trial status report

Requests for continuances after the trial status report can only be filed for extraordinary reasons. The hearing on such a request for continuance will be held before the assigned trial judge or as assigned by the presiding judge at 8:30 A.M. the next judicial day after filing the request for continuance.

6.081 EXHIBITS

In order for the Trial Court Administrator to comply with Oregon Judicial Department Policy pertaining to the listing and valuing of exhibits offered as evidence, the exhibits will be assigned a value of zero, unless the party submitting the exhibit supplies a written opinion as to their value to the Trial Court Administrator.

6.121 DISPOSITIONS OF EXHIBITS IN CRIMINAL CASES

- (1) In cases where the parties request that an exhibit remain in the custody of the court, the court may require that the party requesting custody provide the court with a storage facility or safe deposit box, depending on the circumstances.
- (2) Upon request by an appellate court for transmission of exhibits pursuant to Rules of Appellate Procedure, Rule 3.25, the party having custody of the exhibit, shall immediately resubmit the exhibit to the Trial Court Administrator for transmission pursuant to the Rule.
- (3) Thirty (30) days following judgment if the court retained the exhibits, or upon return of the exhibits from the Court of Appeals, a notice will be sent to the attorneys of record requesting that they recover their respective exhibits within thirty (30) days or they will be disposed of by the Court in accordance with Judicial Department Policy.
- (4) In the interests of victims, exhibits which are their personal property shall be returned as expeditiously as possible. The District Attorney shall seek such returns on their behalf as

soon as is practicable.

Chapter 7 Case Management and Calendaring

7.011 CRIMINAL CASE GUILTY OR NO CONTEST PLEAS

Dates for guilty or no contest pleas will be scheduled by the docketing clerk on the non-trial docket at the next available date after conferring with the parties. The Court will not accept guilty or no contest pleas unless the defendant has first read and completed a Petition to Enter a Plea of Guilty or No Contest. The Plea Petition shall be read and completed prior to the time set for trial.

7.012 SCHEDULING AND NOTIFICATION

Hearings, trials, and show cause hearings and motions will be set by the clerk responsible for docketing that appearance. The Court will notify the parties of the date and time of the hearing or trial.

7.013 CRIMINAL AND CIVIL TRIAL STATUS REPORT

- (1) A Trial Status Report must be given by each attorney, or if unrepresented, by each party, to the Judicial Assistant of the Judge assigned to try the case. The Trial Status Report must be given by FAX, in person or by letter delivered prior to noon the day of reporting. The Trial Status Report shall not be given sooner than seven days` before noon of the reporting date.
- (2) The Trial Status Report must be made by noon on the Thursday, two weeks before the week the trial is set. If the Thursday is a non-judicial day, then the report shall be made by noon the Wednesday two weeks before the week the trial is set. The Judicial Assistant will notify the attorney/parties by 2:00 P.M. on the Friday preceding the week the trial is set whether the case will be tried or will be required to remain ready as an alternate.
- (3) The Trial Status Report shall report whether the case is ready for trial, has been settled or a plea will be entered; and if:
 - (a) Trial - How much time is needed for trial.
 - (b) Civil Settlement - How much time is needed for any dispositional hearing or when the Judgment will be presented to the Court. The Judicial Assistant will notify the attorneys/parties by 2:00 P.M. on the judicial day following the final reporting day whether the dispositional hearing will be held on the trial setting day or set for another day.
 - (c) Criminal Plea - How much time will be needed for plea and sentencing or other dispositional hearing. The Judicial Assistant will notify the attorneys/parties by 2:00 P.M. on the judicial day following the final reporting day whether the plea and/or sentencing or other dispositional hearing will be done on the trial setting day or some other day.

7.014 CONTINUANCES

No continuances will be granted except for good cause. All requests must be made in writing, clearly

stating: the reason for the request; acknowledgment that the client has been advised of the request for continuance; and, whether the attorney/party for the opposing side agrees or objects to the continuance.

- (1) See 6.031 for rule on trial continuances.
- (2) All other continuance requests should be submitted as soon as the party is aware of the need for a continuance, but no later than noon the day before the hearing.

7.015 - Scheduling Conflicts

If the court schedules an attorney and/or a party for more than one matter, in more than one courtroom, for a particular date and time (whether at the exact time or overlapping times), immediately upon receiving the second docket notice, the attorney/party shall do the following:

- (a) If there are more than ten (10) days until the scheduled proceedings, the attorney/party shall file a Motion to Resolve a Scheduling Conflict in both matters, with service on all affected attorneys/parties. The judges assigned to the conflicting matters shall confer to resolve the conflict, and will notify the attorneys/parties of the decision. If the conferring judges cannot resolve the conflict, the Presiding Judge or the Presiding Judge's designee shall make the decision and notify the attorneys/parties.
- (b) If there are ten (10) days or less until the scheduled date and time, the attorney/party shall notify the other attorney/parties in all the scheduled matter, verbally or in writing, that they will be appearing before the Presiding Judge or the Presiding Judges's designee at 8:30 a.m. on the next business day to seek a resolution of the scheduling conflict. The Presiding judge or designee shall resolve the conflict and notify the attorney/parties.
- (c) If the attorney/party does not have sufficient time to comply with (a) and (b) or fails to comply, the attorney/party shall appear on the matter with the earliest date on the court's docketing notices. The attorney-party shall not leave that proceeding until it has been concluded or they have been released by the judge handling the matter. The attorney/party shall notify the judge and the other attorneys/parties in the second matter, as soon as possible but not later than twenty four (24) hours before the conflicting time, of the reason for their inability to appear in the conflicting case at the time scheduled.

7.016 PRE-TRIAL CONFERENCE AND CALL SYSTEM FOR NON-CUSTODY CRIMINAL CASES

- (1) The first pre-trial conference (PTC) for a non-custody criminal case will be set on the docket 5 to 7 weeks from the plea date. Discovery will be made available to the defense counsel not less than 5 days after entry of plea. The district attorney shall provide a settlement offer to defense counsel not less than 10 to 14 days prior to the first PTC. Defense counsel shall meet with their client not less than 5 to 7 days prior to the first PTC.
- (2) If the parties are unable to resolve the case at the first PTC, at the discretion of the court for good cause shown - not by stipulation of the parties - a second PTC may be set. The second PTC shall be set on the docket no later than 24 to 35 days out for misdemeanor cases and no later than 35 to 42 days later for felony cases.
- (3) If unable to resolve the case at the first or second PTC, the case will be set for trial that day. The defendant and their attorney must be present in person for the PTC's and the trial date and call date will be given to everyone at that time. There will be no exceptions except for

serious illness, incarceration, or good cause shown. If the defendant fails to appear, a warrant will issue. No more than three non-custody trials will be set at any time on the same trial date.

- (4) There will be no more status conferences or pre-trial conferences scheduled after the trial is set. A trial readiness appearance/call date will be set on the Monday at 11:00 A.M. before the week the trial is set. All parties (DA, Defense Attorney and Client) must appear in person to advise the court they are ready for trial on the Monday the week before the trial is set. This will be eight to ten days before the trial is to occur.
- (5) If the defendant fails to appear in person for the trial call, a warrant will issue and the trial will be taken off the docket and reset only after the defendant is arrested. Re-release may be problematic.
- (6) The district attorney's plea offer, either on the first or second PTC must be the last best offer and is good only until that PTC date. A first PTC offer could be affected by defense discovery or other issue and a second offer from the DA, if changed, must be made not less than 7 days prior to the second PTC.
- (7) If the last best offer from the district attorney's office is not accepted at the first or second PTC, all negotiated pleas are finished. The trial will be on all of the charges. Either the DA will dismiss all charges, the defendant plead guilty or no contest to all charges or go to trial. However, at the discretion of the court and only upon a showing of good cause will a negotiated plea be allowed after the trial date is set and no later than two (2) weeks before the trial readiness report. If the court allows a negotiated plea the defendant and his attorney will complete a plea petition and the plea shall be taken prior to the trial readiness report.

7.017 CALL SYSTEM FOR IN-CUSTODY CRIMINAL CASES

- (1) There will be no more status conferences or pre-trial conferences scheduled after the trial is set. A trial readiness appearance/call date will be set on the Monday at 11:00 A.M. before the week the trial is set. The District Attorney and the Defense Attorney must appear in person or by video to advise the court they are ready for trial on the Monday the week before the trial is set. This will be eight to ten days before the trial is to occur.
- (2) The district attorney's plea offer, either on the first or second PTC must be the last best offer and is good only until that PTC date. A first PTC offer could be affected by defense discovery or other issue and a second offer from the DA, if changed, must be made not less than 7 days prior to the second PTC.
- (3) If the last best offer from the district attorney's office is not accepted at the first or second PTC, all negotiated pleas are finished. The trial will be on all of the charges. Either the DA will dismiss all charges, the defendant plead guilty or no contest to all charges or go to trial. However, at the discretion of the court and only upon a showing of good cause will a negotiated plea be allowed after the trial date is set and no later than two (2) weeks before the trial readiness report. If the court allows a negotiated plea the defendant and his attorney will complete a plea petition and the plea shall be taken prior to the trial readiness report.

Chapter 8 - Domestic Relations Proceedings

8.011 DIVISION OR VALUATION OF PERSONAL PROPERTY

- (1) Parties to all contested dissolution of marriage and dissolution of domestic partnerships must

prepare a joint exhibit list similar to SLR Appendix Form 8.011.5 if there is any dispute as to the division or valuation of personal property.

- (2) The exhibit list must contain:
 - (a) each item of property
 - (b) in columns to the right of the property list there is to be
 - i. each party's estimate of fair-market value
 - ii. each party's proposed distribution
 - iii. any claim as to pre-marital or inherited property
 - (c) at the bottom of each page there is to be a subtotal for each party's claimed fair-market value of the property
 - (d) the last page is to have a total for each party based upon their claim for the item and their estimated fair-market value.
- (3) Each party must provide the other party with their exhibit list at least seven (7) days prior to the final hearing.
- (4) The joint property list exhibit is to be prepared pre-trial and submitted to the Court at the beginning of the final hearing.

8.012 EDUCATION FOR DIVORCING PARENTS

- (1) The following cases are subject to this rule: Annulment or dissolution of marriage actions, legal separation actions, petitions to establish custody or parenting, and post-judgment litigation involving custody or parenting time.
- (2) All parties, where the interest of a child under the age of 18 years of age is involved, shall successfully complete the education for divorcing parents program offered by court-designated providers or a pre-approved alternative education program. Parties shall register for the program or make application for approval of an alternate program within 15 days of receiving notice of this education requirement. All parties shall complete the program before the initial pre-trial conference.
- (3) Notice and information to the petitioner of the requirement that the parties complete the education program or alternative education program will be provided by the Trial Court Administrator when the petition is filed. The party initiating the proceeding shall register for the program within 15 days after filing the initiating pleading with the Court. A copy of this local rule and instructions on how to register for the program shall be served by the initiating party on all parties against whom relief is sought. Service shall be completed in the manner provided in ORCP 7 at the time the initiating documents are served. All other parties shall have 30 days after service of the notice upon them to register for the program.
- (4) Each party shall pay a fee determined by the program provider to cover program costs. The fee may be waived if the party presents a verified affidavit of indigence to the court, and the party meets indigence guidelines.
- (5) Each person who successfully completes the Court's program or the pre-approved alternative program shall present a certificate of completion to the judge at the pre-trial conference.
- (6) Upon showing of good cause, a party may request a waiver of this rule. The request must be made by motion, supported by affidavit, and filed within 15 days of receipt of the Trial Court Administrator's notice.

- (7) Court action on a petition shall not be delayed by a party's refusal or delay in completing the program unless the non-complying party is the petitioner or the moving party. Upon a party's failure to successfully complete the education program pursuant to this rule, the assigned judge may take appropriate action including, but not limited to, proceedings for contempt.

8.041 PREJUDGMENT RELIEF

- (1) The procedures of this rule are limited to domestic relation cases. Domestic relation cases shall mean dissolution of marriage, legal separation cases including pre-trial motions, filiation and uniform reciprocal enforcement support acts. A contempt proceeding arising out of a domestic relations case is not covered by this rule. Modification of existing domestic relations final orders is intended to be handled by rule 8:055.
- (2) Prejudgment orders requested pursuant to ORS 107.095 and 107.097(4) shall be scheduled for a maximum of twenty (20) minutes, unless the court finds good reason to extend the hearing. The parties should be present to answer any questions the court may pose. The court will not hear oral testimony but will consider sworn written responses of witnesses. All written responses must be filed with the court at least three (3) business days prior to the hearing.
- (3) A notice of this hearing shall be served upon the opposing party along with a copy of the requested relief and with a blank Uniform Support Affidavit if support is an issue. In such cases, the notice of hearing shall contain a statement that the adverse party is required by UTCR 8.040(4) to serve a copy of the Uniform Support Affidavit upon the moving party and file the original with the court at least seven (7) days before the hearing. In addition, the notice of hearing shall contain a warning that if the adverse party fails to serve and file the Uniform Support Affidavit no later than noon on the last judicial day before the hearing, the court, in its discretion, may not consider the Uniform Support Affidavit or any other evidence which the adverse party intends to present at the hearing.
- (4) Pre-judgment relief hearings will be scheduled on Friday's from 9:00 a.m. to noon or as the docket allows.

8.051 DOMESTIC RELATIONS POST JUDGMENT SHOW CAUSE ORDERS

- (1) The procedures of this rule are limited to post judgment domestic relations cases. "Domestic relations case(s)" means dissolution of marriage, legal separation cases including post-judgment motions, filiation and interstate support proceedings. A contempt proceeding arising out of a domestic relations case is not covered by this rule.
- (2) An order to show cause will be allowed only upon the motion of a party supported by affidavit/declaration. The order to show cause shall not contain a date for hearing. It shall provide that the adverse party must file and serve a written response in opposition to the motion within thirty (30) days from the date of service of the order and affidavit, or within such additional time as allowed by the court upon a showing of good cause. The order must further state that if an opposing response is not filed and served within the thirty (30) days, the order requested by the motion and show cause order will be granted and entered by the court. (See Appendix C for an example order.)
- (3) If the opposing party fails to file the opposing written response within the time allowed, the moving party shall submit an order allowing the relief requested in the order to show cause. The court may require testimony of the moving party in such default matters. The court may,

upon its own motion, enter the order requested if the opposing party does not file the required response or if the moving party fails to present the requisite order for signature.

- (4) If the opposing party files an opposing written response, either party may move for assignment of a hearing date. The party requesting assignment of a hearing date shall serve a copy of the order setting the date on the other party. If either party fails to submit a motion requesting a hearing date the court may set a date on its own motion. The first paragraph of the motion requesting a hearing date shall include an estimate of time required for argument and a statement whether official court reporting services are requested.
- (5) This rule is not intended to act as the procedure for orders requested pursuant to ORS 107.097(3), (4) and (5).

8.071 CHILD PARENTING TIME

Columbia County Circuit Court has adopted a standardized parenting plan, per UTCR 8.070. (See Appendix D.)

Chapter 9 Probate and Adoption Proceedings

9.081 PROTECTIVE PROCEEDINGS/OBJECTIONS

- (1) Any interested person, as described in ORS 125.075(1), who has an objection to a Petition in a protective proceeding should contact the probate clerk at (503)397-2327, Ext. 308. The objecting party should advise the court clerk that the objecting party wishes to make oral objections to the Petition. Upon receipt of the objection and payment of the applicable fee required by ORS 21.310, the court will schedule a hearing and notify the appropriate parties.
- (2) If the objecting party wishes to file a written objection, the court clerk will provide the objection form.

9.181 STATEMENTS AND DISBURSEMENTS

Vouchers for disbursements made during the period covered by the account shall be retained by the personal representative.

9.311 ADOPTIONS

- (1) The petition for adoption shall be submitted with payment for the required filing fees only. Payment for the amended birth certificate is to be tendered with the proposed judgment in accordance with sub-paragraph 2 (below)
- (2) The proposed judgment for an adoptee who was born in Oregon shall be accompanied by an attorney check or money order payable to the Center for Health Statistics in the amount required by the center with the issuance of an amended birth certificate for each such adoptee. Judgments submitted without the required check or money order will be returned to the presenter.

Chapter 12 Mediation

12.001 MANDATORY MEDIATION

- (1) Any dispute involving custody and/or visitation and/or parenting time arising from any of the following types of cases shall be subject to mediation under this rule:
 - (a) Any domestic relations case, as defined in ORS 107.510(3)
 - (b) Any filiation proceeding pursuant to ORS 109.124 to 109.230.
 - (c) Proceedings to determine custody or support of a child under ORS 109.103.
 - (d) Any proceeding to modify custody and/or visitation/parenting time previously determined in one of the above types of cases.
 - (e) Any other matter involving a dispute over custody and/or visitation and/or parenting time upon request of the court.
- (2) The court which refers a case to mediation may set in its referral order the limits of the mediator's scope of authority in the case. In order to preserve and promote the integrity of mediation as a dispute-resolution technique, the court will endeavor to include all reasonable agreements reached by the parties in formulating its order in the case.
- (3) A party subject to these rules may be excused from mandatory mediation upon application by the party to the Court with service upon the opposing party and after being given the opportunity to be heard in objection and upon showing good cause.

12.011 APPLICATION OF RULES

- (1) These rules do not apply to mediation by private agreement.
- (2) These rules shall not be applied to restrict the process, but rather to grant considerable discretion to the mediator and mediating parties.

12.012 COURT JURISDICTION

- (1) A case filed in the Circuit Court remains under the jurisdiction of that court in all phases of the proceeding, including mediation.
- (2) Any agreement of the parties reached as a result of mediation for which court enforcement may be sought must be presented to the court and the court shall retain final authority to accept, modify or reject the agreement.
- (3) At any point during the mediation, the court may approve a temporary custody and visitation order reflecting the parties' agreement as to those issues.

12.021 MEDIATION ORIENTATION

- (1) When a proceeding under SLR 12.001 is filed with the court, the parties shall be ordered to appear at mediation orientation. The parents will be given the opportunity to choose a mediator from those on the court-approved mediator list at orientation or consult with their counsel and report their choice of mediator to the court within fourteen (14) days. If the parties are unable to agree upon a mediator within fourteen (14) days, the court will appoint a mediator and notify the parties of the appointment.
- (2) Mediation shall consist of an orientation session and a maximum of eight hours involving the

parties and the mediator. Additional time may be provided at the parties' expense.

- (3) Once assigned to mediation, the parties are required to attend the scheduled orientation session, unless by 5:00 P.M. the day of orientation, the parties through their attorneys or personally, request in writing, signed by both parties or their attorneys, excuse from attendance due to settlement or unforeseen emergency. If excused, the parties are required to attend the next mediation orientation unless the court has received a signed, Stipulated Order of Judgment by 5:00 P.M. of that day.

12.022 MEDIATORS

- (1) To qualify as a court-approved mediator, a person must:
 - (a) Sign and file an application with the court; and
 - (b) Receive approval of the Presiding Judge, upon recommendation of the Local Family Law Advisory Committee.
- (2) The Presiding Judge may remove a mediator from the court-approved list at any time at the Presiding Judge's discretion.

12.031 CASE ASSIGNMENT OF MEDIATORS

- (1) The parties may select a mediator of their own choosing; however, if the mediator is not on the list of court approved mediators, the expense of the mediator shall be the responsibility of the parties.
- (2) In the absence of a mediator selected by the parties, the court will appoint a mediator from the court approved list of mediators.

12.032 AUTHORITY OF MEDIATORS

- (1) A mediator has the authority and control over the mediation process; but a mediator has no control or authority over the parties or their decisions in the case.
- (2) A mediator has the authority to include and exclude attorneys from the mediation sessions unless otherwise agreed to by the mediator and the parties, in writing.
- (3) A mediator shall encourage disputing parties to obtain individual legal advice and individual legal review of any mediation agreement before signing the agreement.
- (4) A mediator shall not act as a lawyer for either party.

12.041 SCHEDULING OF MEDIATION SESSIONS

- (1) Upon notification of a mediation assignment, the mediator shall immediately notify the parties of a reasonable date(s) and time(s) for the mediation sessions which shall take place in Columbia County unless another location is agreed upon by the parties. The initial mediation session should occur within fourteen (14) days of the mediator's first notice of assignment.
- (2) Mediation shall be completed in a prompt manner as to not unduly delay the court and in no

event later than any deadline date which may be ordered by the court.

12.042 MEDIATOR'S REPORT TO THE COURT

(1) In all cases which have been referred to a court appointed mediator, the mediator shall make a final report to the court describing the conclusion of the mediation, whether successful or unsuccessful.

(a) **Successful Mediation**

The mediator shall prepare a written memorandum of any agreement which the parties have reached as a result of mediation. The unsigned, proposed form of the memorandum of agreement shall be distributed to the parties and their counsel by the mediator. If the parties choose to sign a memorandum of agreement after having had the opportunity to review with an attorney, the document may then be incorporated into a court judgment or order.

(b) **Unsuccessful Mediation**

The mediator may notify the court at any time following the initial mediation session involving the parties and the mediator that mediation has been unsuccessful, in which case the proceeding will be scheduled for hearing in the same course and with the same priority as if there had been no mediation. The mediator may determine that the mediation has been unsuccessful if the parties are unable to resolve the custody or parenting time controversy; or, if one or both parties are unwilling to participate in mediation; or, if the mediator determines that either party is using the mediation process in bad faith for the delay of resolution of other issues.

12.051 COMPENSATION OF MEDIATORS

(1) In issues subject to mandatory mediation under these rules, Columbia County shall compensate the mediator at the rate of \$75.00 per hour up to a maximum of eight (8) hours per case, including one (1) hour for time spent preparing written memoranda or agreements. The funding source shall be fees collected pursuant to ORS 107.615 and 21.112. The County shall compensate the mediator for one hour for attending the mediation orientation.

(2) In issues not involved in mandatory mediation, the parties may agree to mediate with the court-appointed mediator; but the compensation arrangements shall be between the parties and the mediator, as they may agree in writing, and the compensation rate shall be negotiated by and between the parties and the mediator.

(3) If the parties select a mediator who is not on the court-approved list, the compensation shall be fixed by agreement between the parties and the mediator, and shall be the responsibility of the parties.

12.061 SMALL CLAIMS MEDIATION

Mediation in small claims cases is mandatory. After a demand for hearing is filed, both parties shall be notified by mail of the date they are to appear for mediation. Any counterclaims shall be heard at the same time. Request for a change in the mediation date must be in writing and received by the court no later than seven (7) days before the scheduled mediation date.

- (1) All contested small claims cases shall be referred to mediation pursuant to ORS 36.185.
- (2) All parties must appear for mediation. A party not appearing for mediation may have a judgment entered against them. An authorized representative may appear on behalf of a business but must be familiar with the facts of the case and must have full authority to settle. Attorney shall not be permitted to attend a small claim mediation session.
- (3) If mediation is not successful, a trial will take place. Trials may be set for a future date. If mediation is successful, the agreement will be forwarded to a judge for approval.
- (4) If the agreement state that one party shall have judgment against the other, the judgment is entered in the records as an enforceable judgment. If the agreement calls for the recovery of money, specific personal property or any penalty or forfeiture, and the party who owes the debt does not abide by the agreement, the party who is owed is responsible for enforcing the judgment.
- (5) If the agreement does not state that one party shall have judgment against the other, the signed agreement is entered in the case as a stipulated order. If one party fails to comply with the terms of the agreement, the other party can file an affidavit of non-compliance within six months of the date of the stipulated order, which, if approved by a judge, will convert the stipulated order into a judgment for the original claim, less what the debtor has already paid. The creditor's filing fees, service costs, and a prevailing fee for a default will be added. After six months, if one party fails to comply with the signed order, a new case must be filed.

Chapter 13 Arbitration

13.031 ARBITRATION COMMISSION

The Arbitration Program shall function under the direction of an Arbitration Commission, appointed by the Presiding Judge.

13.041 REFERRING CASES TO ARBITRATION

Cases which are otherwise subject to arbitration will be referred to arbitration as follows:

- (1) Within twenty (20) days of the date on which the Answer is filed, or
- (2) If no Answer has been filed, but the return of service has been received, within ninety (90) days of the date the Complaint is filed, or
- (3) At any time as specifically directed by the Presiding Judge.

13.091 ARBITRATION PANEL

- (1) The Columbia County Arbitration Panel will consist of individuals selected by the Arbitration Commission and having the following qualifications:
 - (a) An attorney with at least five (5) years continuous practice of law in Oregon including significant experience in civil litigation, with a present emphasis in his or her practice of law on civil litigation; or

- (b) State of Oregon retired or senior judge.
- (2) The parties may stipulate to any arbitrator.
- (3) The panel will be selected by the Arbitration Commission subject to approval of the Presiding Judge.
- (4) A person desiring to serve as an arbitrator shall complete an information sheet on the form prescribed by the Court. A list showing the names of the members of the Arbitration Panel will be available for public inspection in the Arbitration Clerk's office. Execution of the form, oath and agreement to serve must be completed and filed before an applicant is eligible to arbitrate a case.
- (5) Refusal and Disqualification - The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator must notify the Arbitration Clerk immediately if refusing to serve, or if any cause exists for the arbitrator's disqualification from the case upon any grounds of interest, relationship, bias or prejudice governing the disqualification of judges.
- (6) If disqualified, the arbitrator must immediately return all materials in the case to the Arbitration Clerk and the assignment of the case to arbitration will be repeated.
- (7) No arbitrator shall have pending at any given time more than three (3) arbitration cases.

13.121 COMPENSATION OF ARBITRATORS - CIRCUIT COURT CASES

- (1) The Arbitration Commission shall establish a compensation schedule for arbitrators.* The fee will be paid in equal shares by the parties within fourteen (14) days after the assignment of the arbitrator and will be deposited in the arbitrator's trust account until final disposition of the action. After final disposition, any refunds then owing will be paid within seven (7) business days.

*The maximum fee per case established by the Arbitration Commission is \$500.00 except under extraordinary conditions when the procedural or substantive "complexity**" of the matter justifies a higher fee.

** For the purpose of this rule, "complexity" refers to the multiplicity of parties and their representative claims, but may include other factors. If the arbitrator suggests that such extraordinary conditions justify a larger fee, and the parties concur, the fee will be adjusted accordingly and will be paid in full by the respective parties prior to the commencement of the arbitration hearing. If the parties do not concur with the higher fee, the arbitrator will bring the matter to the attention of the Presiding Judge before the commencement of the arbitration hearing. In such circumstances, the Presiding Judge may authorize a higher arbitrator's fee which must be paid before the commencement of the arbitration hearing, but in no event more than fourteen (14) days following the Court's written approval.

- (2) If the plaintiff fails to pay the prescribed fee within fourteen (14) calendar days of assignment, the court may exercise its authority under UTCR 1.090 to strike the complaint which constitutes dismissal of the proceedings, absent relief prescribed by ORS 36.420(3).
- (3) If the defendant fails to pay the prescribed fee within fourteen (14) calendar days of assignment, the Court may exercise its authority under UTCR 1.090 to impose an appropriate sanction.

13.122 INDIGENT PARTIES

- (1) In the event that funds are available under ORS 36.420 for the payment of fees that are waived or deferred, the arbitrator shall be reimbursed after completion of the arbitration, filing of the arbitration award, and submission of a request for payment to the Trial Court Administrator. Such request shall be in the form of a certificate stating the identity of the case, the total hours of service the arbitrator provided, and the share of those hours chargeable to the indigent party. If funds are available, reimbursement will be provided for up to three (3) hours for each indigent party. The certificate must be accompanied by a copy of the order waiving or deferring fees of indigent party.
- (2) In the event funds are not available under ORS 36.420 for the payment of fees that are waived or deferred by court order, a party may request that the clerk provide to the parties a list of arbitrators who have agreed to serve for no compensation, for compensation from one (1) party only, or at a reduced rate.
- (3) The clerk shall provide names of available arbitrators, but no arbitrator is required to serve unless he or she has agreed to such alternate fee arrangement. The parties shall select an arbitrator from the list.

13.281 TRIAL SETTINGS ON ARBITRATION CASES WHERE A REQUEST FOR DE NOVO TRIAL IS FILED

Every case in which a request for a trial de novo is filed will be set for trial within sixty (60) days of the date that the request for a trial de novo is filed.

SLR APPENDIX A - 8.011.5

JOINT PROPERTY LIST				COLUMBIA COUNTY CIRCUIT CASE NUMBER: _____								
<u>ASSETS ITEM DESCRIPTION</u>		<u>PETITIONER'S OPINION AWARD TO:</u>			<u>RESPONDENT'S OPINION AWARD TO:</u>			<u>PRE-MARITAL/ SEPARATE/JOINT</u>			<u>COURT'S OPINION OF VALUE AND ALLOCATION</u>	
		<u>VALUE</u>	<u>PET</u>	<u>RES P</u>	<u>VALUE</u>	<u>PET</u>	<u>RES P</u>	<u>JT</u>	<u>PET</u>	<u>RESP</u>	<u>PET</u>	<u>RESP</u>
<u>1</u>												
<u>2</u>												
<u>3</u>												
<u>4</u>												
<u>5</u>												
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<u>9</u>												
<u>10</u>												

SLR APPENDIX A

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF COLUMBIA**

Guardianship/Conservatorship of _____)
A Protected Person _____) Case No. _____)
) Objection to Petition for Appointment of
) Guardian/Conservator

I, _____, hereby object to the Protective proceeding or the proposed guardian or conservator for the following reasons:

Signature of Objecting Party

Printed Name of Objecting Party

Address or Contact Address

City State Zip

Telephone or Contact Telephone Number

IT IS HEREBY ORDERED that the following relief is granted immediately:

- (1) _____
- (2) _____
- (3) _____
- (4) _____

The following relief will be granted in twenty-one (21) days if no objection is filed:

- (1) _____
- (2) _____
- (3) _____
- (4) _____

Dated this _____ day of _____, 20____.

Circuit Court Judge

APPENDIX D - SLR 8.075

In the absence of a court order regarding parenting time the following parenting time schedule shall apply:

- (1) Except when a specified parenting period is set forth hereafter, every other weekend of each month. A weekend is defined as commencing at 7:00 p.m. on Friday and ending 7:00 p.m. the following Sunday; and
- (2) Whether or not the child(ren) are in school, during the period of Christmas school vacation from 9:00 a.m. the day after school adjourns until 9:00 a.m. on Christmas morning in even-numbered years, and from 9:00 a.m. on Christmas morning until 7:00 p.m. on the day before school resumes in odd-numbered years; and
- (3) Whether or not the child(ren) are in school, for a period of thirty-five (35) days during the period of school summer vacation. Before May 1 of each year, the non-custodial parent shall select and notify the custodial parent in writing of the inclusive dates of the thirty-five (35) day parenting time period with the child(ren). If the non-custodial parent fails to give such written notice to the custodial parent before May 1 of the year of the summer parenting time, the non-custodial parent nevertheless shall have the right to such summer parenting time with the child(ren) after giving two (2) weeks' written notice to the custodial parent, if and to the extent that the time remains for such parenting time; provided, however, that the custodial parent shall have the right to choose the inclusive dates for such parenting time. When the non-custodial parent exercises his or her right to a summer parenting time period of more than nineteen (19) days with the child(ren), the custodial parent shall have the right to a weekend parenting time with the child(ren), on the third weekend after commencement of the extended parenting time by the non-custodial parent. Such interim visitation/parenting time by the custodial parent shall not lengthen the thirty-five (35) day parenting time period allowed to the non-custodial parent; and
- (4) Parenting time, in even-numbered years, on the following holidays or during the following holiday periods:
 - (a) The birthdays of the child(ren), from 9:00 a.m. to 7:00 p.m. if the birthday falls on a weekend, or from 5:00 p.m. to 8:30 p.m. if the birthday falls on a school day;
 - (b) Thanksgiving holiday, commencing on Wednesday at 7:00 p.m. and ending on the following Friday at 7:00 p.m.;
 - (c) The Fourth of July from 9:00 a.m. to 11:00 p.m.; and
 - (d) Whether or not the child(ren) is(are) in school, during the period of school spring vacation (measured from the day after school adjourns through the day before school resumes), commencing at 9:00 a.m. and ending at 7:00 p.m. and
- (5) Parenting time, in odd-numbered years, on the following holidays or during the following holiday periods:
 - (a) Memorial Day weekend, commencing on the Friday preceding Memorial Day at 7:00 p.m. and ending on the following Monday at 7:00 p.m.; and
 - (b) Labor Day, commencing on the Friday preceding Labor Day at 7:00 p.m. and ending on Monday, Labor Day, at 7:00 p.m.

In each year, the mother shall have the child(ren) on Mother's Day, and the father shall have the child(ren) on Father's Day, from 9:00 a.m. to 7:00 p.m.

The custodial parent shall have the right to designate one weekend each summer when the non-custodial parent's weekend parenting will not occur in order that the custodial parent can have the child(ren) for an uninterrupted two (2) week period. Before May 15 of each year, the custodial parent shall inform the non-custodial parent of which weekend has been selected. The weekend shall not be on a holiday, birthday or during the non-custodial parent's summer parenting time.

Periods of *[visitation/]*parenting time are given the following priority: (1) Holiday; (2) Summer parenting time period; and (3) normal weekend parenting. In other words, if it is the non-custodial parent's Fourth of July holiday and that falls on a period when the custodial parent has the child(ren), the holiday parenting time will prevail, etc. There will not be normal weekend parenting time for the non-custodial parent during the summer school vacation except as specifically set forth above.

All parenting time periods shall be exercised in a prompt manner so that both parties can make their plans accordingly. The non-custodial parent shall pick the child(ren) up from the front steps of the custodial parent's residence no earlier than fifteen (15) minutes before and not later than fifteen (15) minutes after the parenting time period commences. Return of the child(ren) to the front steps of the custodial parent's residence shall also be subject to the fifteen (15) minute rule. The custodial parent shall have the child(ren) fed and ready on time for parenting, with sufficient and proper clothing packed and ready for the parenting time period which the non-custodial parent shall return. In the event the child(ren) are ill and unable to visit, a makeup parenting time will be allowed to the non-custodial parent on the next succeeding weekend. However, if the non-custodial parent fails to exercise his or her parenting time, for reasons of health or any other reason, there will be no makeup parenting time period. The child(ren) will not be permitted to determine whether they wish to visit with the non-custodial parent.

Personal plans of the custodial parent or child(ren), school activities, church activities, and other considerations **will not** be reasons for failing to adhere to this parenting time schedule. Only substantial medical reasons will be considered sufficient for postponement of parenting time. Both parties will provide addresses and contact telephone numbers to the other party and of any emergency circumstances or substantial changes in the health of the child(ren).

The non-custodial parent shall, in addition to the parenting time set forth in this order, have the unlimited right to correspond with the minor child(ren) of the parties, and to telephone the minor child(ren) during reasonable hours without interference or monitoring by the custodial parent or anyone else in any way.

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

In addition to the parenting time specified above, the non-custodial parent shall have the right to visit with the child(ren) at school, attend the child(ren)'s school activities, and have full access to school teachers and administrators for complete information about the child(ren) in school.