

RULES
OF THE
CIRCUIT COURT
OF THE STATE OF OREGON
FOR
DOUGLAS COUNTY
(16th Judicial District)

Effective: February 1, 2008

Judges of the 16th Judicial District

DOUGLAS COUNTY CIRCUIT COURT

Randolph Lee Garrison

William L. Lasswell

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TERMS OF COURT

Terms of Court Commence on the
First Court Day of Each Month

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CHAPTER 1 - GENERAL PROVISIONS

1.151 Hours of Court Operation

The hours of the operation for the 16th Judicial District, Trial Court Administration offices will be from 8:00 a.m. to 5:00 p.m. during a standard working week. A standard working week consists of Monday - Friday (official holidays excluded).

The Court is located behind the Courthouse in the Justice Building at 1036 SE Douglas, Roseburg, Oregon.

1.171 Court Website

Douglas County Circuit Court website address is: www.ojd.state.or.us/douglas

CHAPTER 3 -- Decorum in Proceedings

3.181 MEDIA COVERAGE IN THE COURTROOM & NON COURTROOM AREAS

(1) Authorization

All requests for media coverage in the courtroom and non courtroom areas as well as requests for information shall be directed to:

Public Information Officer
Douglas County Circuit Court
1036 SE Douglas
Justice Building, Room 201
Roseburg, OR 97470
(541) 957-2425

(2) Procedures

(a) All requests for media coverage of court events must be served on the attorneys or parties prior to the scheduled event. Media representatives requesting coverage shall be responsible for serving the appropriate parties. The request and an affidavit of service shall be submitted to the Public Information Officer prior to the court event. Any response or objection to the request must be presented to the court prior to the scheduled event. The request should allow the court as much advance notice as possible. In the event the request is submitted without sufficient time for the judge to review prior to the scheduled event, the request shall be considered denied. The request should be in writing on a form provided by the court.

(b) The Public Information Officer or designee shall report the request to the assigned judge. The judge will approve or deny the request in accordance with UTCR 3.180. The Public Information Officer or designee will report the judges decision to the media. If approved the Public Information Officer or designee will also notify court security of plans for media coverage.

(c) The following procedures are set forth to insure coverage will not unduly detract from the solemnity, decorum or dignity of the court or place unreasonable demands on court operation resources.

(d) Media representatives are encouraged to work out agreements in advance for sharing photographs, audio or TV tapes of specific trials or hearings.

(3) Photographic Coverage

Photographers are to conduct themselves according to UTCR 3.180 and cannot be located inside the bar.

(4) Audio Coverage

Reporters making audio recordings shall conduct themselves according to UTCR 3.180. All audio coverage shall be done from a seat in the gallery. No equipment or microphones may be placed in or around the courtroom. All recording equipment must be operated and maintained at the reporters seat in the gallery.

(5) Television Coverage

Reporters must set up or remove TV equipment from the courtroom when court is not in session. The camera cannot be located inside the bar or be moved while court is in session.

(6) Coverage of Non-Courtroom Areas

The public or media wanting to film, photograph or tape record in non-courtroom areas such as court operations offices, judges chambers, jury rooms, non-public/public corridors and offices must obtain approval from the Presiding Judge, Trial Court Administrator or Public Information Officer.

CHAPTER 4 - Appearance by Simultaneous Electronic Transmission

4.081 - COMPLIANCE WITH UTCR 4.080

- (1) An in-custody defendant may appear by simultaneous electronic transmission pursuant to UTCR 4.080 at the following hearings:
 - a. Arraignment
 - b. Release
 - c. Probation Violation
 - d. Plea
 - e. Sentencing

CHAPTER 5 -- Motions in Civil Cases

5.061 SCHEDULING AND COMMUNICATIONS WITH THE JUDGE IN EX PARTE MATTERS

- (1) All ex parte matters of any nature or kind whatsoever may be left in the office of the Trial Court Administrator for consideration and signature.
- (2) After a case has finally been submitted to the court, no attorney shall submit further evidence, arguments, memorandums or authorities to the court without prior approval of the court and notice to the opposing counsel (or party if the party is not represented by counsel).

5.075 SCHEDULING HEARINGS

- (1) Monday of each week shall be known as motion day. If Monday is a legal holiday, then motion day will be the next judicial day following the Monday holiday.
- (2) All civil motions requesting oral argument will be set by the court. Each party will receive written notice of the date and time. Civil motions will be set on motion day. Some matters reported as requiring an hour or less court time may be set on any judicial day between 8:00 a.m. and 9:30 a.m.
- (3) Custody matters in Domestic Relation cases involving unsuccessful mediation will be set in accordance with SLR 12.025 (1) (d).

CHAPTER 6 -- Trials

6.005 GENERALLY

All parties should plan on proceeding to trial as scheduled unless contacted by the court and informed otherwise. The contact will be by telephone and be made as soon as possible but in no case later than 5:00 p.m. the day preceding the trial date.

6.012 SETTLEMENT CONFERENCES IN CIVIL CASES

- (1) Cases designated by the court shall be scheduled for a mandatory settlement conference approximately 60 days before trial. The purpose of the mandatory settlement conference is to provide a forum to resolve disputes before trial through the active participation of counsel and the court.
- (2) The court shall require the attendance of all parties and their trial attorneys. When a party is insured, a representative of the insurance company with authority to settle the case shall be in attendance or readily available by telephone. An out-of-county or out-of-state party may request in writing to be excused from appearing at a settlement conference. The judge conducting the settlement conference may excuse the party from appearing, although, the party may be required to participate by telecommunication.
- (3) Cases set for a settlement conference shall retain their place on the trial docket. If a case does not settle no reference shall be made to any settlement discussion except in any subsequent settlement proceedings and a judge other than the one who participated in the settlement conference shall be assigned to try the case.
- (4) For a meaningful settlement conference to take place, all attorneys and parties must participate in good faith. The failure of any person to comply with these rules, appear at, or participate in a settlement conference, unless good cause is shown for any such failure, may result in the court imposing appropriate sanctions as described in UTCR 1.090.
- (5) Parties are required to file, not less than seven (7) days prior to the date of the settlement conference, a detailed settlement conference statement with the court. The date and time of hearing shall be typed on the face sheet of the statement.
 - (a) In the case of personal injury/property damage litigation, the plaintiff is directed to prepare a summary of facts, a summary of the injuries and/or damages, a summary of any special legal issues involved, and a settlement demand. Plaintiff shall attach a copy of the most recent medical report(s).

The defendant is directed to prepare a similar statement setting forth the defendant's version of the facts, the injuries, legal issues, settlement offer, and a copy of the most recent defense medical report(s).

- (b) In other classifications of cases each side shall prepare an appropriate

settlement statement setting forth a summary of the facts, legal issues, damages and relief demanded, together with a plaintiff's demand or defendant's offer.

- (c) The purpose of the statement is to inform and assist the settlement judge and it should be sent directly to that judge. The statement should not be sent to opposing counsel and will not be filed in the case.
- (6) In the event settlement negotiations are not successful, counsel should expect and be prepared to proceed to trial on the date scheduled. Every effort will be made by the court to insure that the case proceeds to trial on the date scheduled.
- (7) If a settlement is reached the parties shall place notice of the settlement on the record. Settlements that occur after the scheduled conference are to be reported as required by UTCR 6.020 and SLR 6.015.

6.015 COURT NOTIFICATION OF AGREEMENTS OR STIPULATIONS IN CRIMINAL AND CIVIL CASES

No agreement or stipulation between the parties and their attorneys concerning any proceeding before the court or disposition thereof, will be regarded or enforced unless the same be made in open court in the presence of the parties and reported, or reduced to writing and subscribed by the party or attorney to be bound thereby, unless otherwise ordered by the court.

6.061 ELECTRONIC COPY OF JURY INSTRUCTIONS REQUIRED IN CIVIL CASES

Not later than the commencement of trial, each party in a Civil case must submit to the court an electronic copy of all proposed or requested jury instructions. The electronic copy must be in jury ready form. The electronic copy should be in Microsoft Word format. This rule applies to civil, but not criminal cases. This rule applies to all Uniform Oregon Jury Instructions requested as well as any special instructions requested. This rule is in addition to the requirements of ORCP 59A., UTCR 6.060 and UTCR 6.070. For good cause shown, a party may request relief from the requirements of this rule.

CHAPTER 7 -- Case Management and Calendaring

7.045 MOTION PRACTICE IN CRIMINAL CASES

Criminal motions generally will be heard on Monday of each week. If Monday is a legal holiday, then motion day will be the next judicial day following the Monday holiday. All criminal motions will be set by the court as soon as the court calendar will allow.

7.055 TRIAL DATE AND STATUS CONFERENCE IN CRIMINAL CASES

(1) Schedule

All criminal cases will be set for a hearing to review the status of the case in advance of trial. The date and time of the status check hearing will be set at arraignment, except for felonies prior to a Grand Jury Indictment.

(2) Appearances

The attorney for each party and the defendant shall appear at the hearing.

(3) Trial Dates

Trial dates will be set in court. If the defendant is in custody, at arraignment. If the defendant is not in custody, at the status conference.

7.065 SENTENCING

Counsel shall advise the docket clerk if, in the opinion of counsel, the hearing will be in excess of 15 minutes.

7.075 PRETRIAL CONFERENCES IN CIVIL CASES

- (1) A pretrial conference shall be scheduled in all civil cases not less than six (6) weeks before the trial date. The parties and their counsel will appear personally at the conference unless the court orders otherwise.
- (2) A party and his/her counsel may appear at the pretrial conference by telephone, unless otherwise directed by the court. A party or an attorney intending to appear at the pretrial conference by telephone must do all of the following:
 - (a) Notify the court in writing at least seven days prior to the scheduled date for the pretrial conference.
 - (b) Arrange for and place the call to the court at the time scheduled for the pretrial conference.

- (c) Arrange for all other parties and their counsel to participate in the same telephone call.
 - (d) Pay for the expense of the telephone call or conference call.
- (3) Not less than seven (7) days before the conference each party shall file with the court a completed pretrial conference statement found on pages 27 and 28 in the "Appendix of Forms". The form shall also be served on the opposing counsel not less than seven (7) days before the date of the conference.

CHAPTER 8 -- Domestic Relations Proceedings

8.015 MANDATORY PARENT EDUCATION PROGRAM

- (1) APPLICATION: Douglas County has established a parent education program requirement as authorized by ORS 3.425. The program shall provide information on the impact of family restructuring on children to each person named as a party in the following types of proceedings:
- Annulment or dissolution of marriage;
 - Legal separation;
 - Custody or parenting time involving unmarried parents;
 - Post-judgment litigation involving custody or parenting time.
- (2) PARENT EDUCATION REQUIREMENT: When custody or parenting time of a child under the age of 18 is at issue each party in the proceeding shall successfully complete the parent education class offered through a court approved parent education program.
- (3) NOTICE: A copy of a notice regarding this requirement and an explanation of the program shall be provided to the moving party by the circuit court clerk accepting the filing at the time the moving party's documents are filed. The moving party shall serve a copy of this notice on the opposing party along with the moving papers in the manner provided in ORCP 7. The return of service on the opposing party shall indicate service of this notice as well as the other documents requiring service.
- (4) REGISTRATION: The parties shall register for the program or make application for approval of an alternative program within thirty (30) days after the case is at issue and shall complete the class within sixty (60) days thereafter.
- (5) WAIVER: Upon a showing of good cause and within 30 days after the case is at issue, either party may request waiver of this rule. The request shall be made to the court. The request shall be granted if the court determines that participation is either unnecessary or inappropriate.
- (6) FEE: Each party shall pay a fee determined by the program provider to cover the

program costs. The fee may be waived or modified by the program provider, subject to court review.

- (7) **NOTICE OF COMPLETION:** The parties are responsible for providing the court case title and number to the provider. The program provider shall file a notice of completion with the court when the participant has completed the program.
- (8) **FAILURE TO COMPLETE:** Failure or refusal to complete the program in a timely manner may be considered by the court in making its custody and parenting time rulings.

8.041 PRE-JUDGMENT RELIEF

- (1) Prejudgment relief motions, excepting motions for temporary child custody or parenting time, shall be submitted to the Trial Court Administrator supported by affidavits and other documentation necessary to justify the requested relief. The prejudgment relief motion(s), affidavit(s), and supporting documentation shall be served upon the opposing party, together with a notice to appear in accordance with sections (3) and (4) below.
- (2) If the opposing party has not appeared in the proceeding, Prejudgment Relief Motion(s), supporting documentation, and the Notice to Appear shall be served upon the opposing party in the manner prescribed by ORCP 7. If the opposing party has appeared in the proceeding, Prejudgment Relief Motion(s), affidavit(s), supporting documentation, and Notice to Appear shall be served in the manner prescribed by ORCP 9.
- (3) The original Notice to Appear shall be filed with the Trial Court Administrator. The Notice to Appear shall contain a notice in substantial conformity with the following:

PETITIONER/RESPONDENT HAS REQUESTED CERTAIN PREJUDGMENT RELIEF MOTIONS, PURSUANT TO ORS 107.095 AND SLR 8.041.

YOU ARE HEREBY GIVEN NOTICE THAT IF IT IS YOUR INTENT TO CONTEST THE REQUESTED PREJUDGMENT RELIEF, THEN NOT LATER THAN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE OF THIS NOTICE UPON YOU, THE FOLLOWING MUST BE DONE:

- (A) YOU MUST FILE A COUNTERAFFIDAVIT AND ANY SUPPORTING DOCUMENTATION WITH THE TRIAL COURT ADMINISTRATOR, AND,
- (B) YOU MUST SERVE YOUR COUNTERAFFIDAVIT AND ANY SUPPORTING DOCUMENTATION UPON YOUR SPOUSE'S ATTORNEY OR, IF HE/SHE IS NOT REPRESENTED BY AN ATTORNEY, THEN UPON HIM/HER IN THE MANNER PRESCRIBED BY ORCP 9.
- (C) IF YOU WISH TO SEEK AFFIRMATIVE RELIEF IN ADDITION TO OR INSTEAD OF CONTESTING THE RELIEF SOUGHT HEREIN, YOU MUST

FILE YOUR OWN MOTION PURSUANT TO SLR 8.041.

AFTER FOURTEEN (14) DAYS FROM THE DATE OF SERVICE OF THIS NOTICE UPON YOU, THE COURT SHALL RULE ON THE REQUESTED PREJUDGMENT RELIEF MOTION(S) WITHOUT A HEARING AND SHALL ENTER AN ORDER WHICH SHALL BECOME EFFECTIVE IMMEDIATELY.

- (4) Any motion or counteraffidavit regarding temporary support, debt payment, or attorney fees shall be accompanied by a Uniform Support Affidavit in the form specified in the Appendix of Forms to the Uniform Trial Court Rules and a completed support computation worksheet as set forth in Administrative Rules 137-050-320 through 137-050-490. (Child Support Guidelines). In any case involving parties to which a Family Abuse Prevention Act Order (ORS 107.700-730) applies, a copy of said order shall be attached to any affidavit or counteraffidavit. Except for the initiating motion, affidavit (and supporting matter) and the counteraffidavit (and supporting matter), no other pleading shall be allowed or permitted, except as permitted by the court for good cause shown.
- (5) To the extent relevant to the prejudgment relief requests, each Prejudgment Relief Affidavit and counteraffidavit shall address the following matters in the following order using the following suggested subheadings:
 - (a) EMPLOYABILITY: If different than the present employment as set forth in the Uniform Support Affidavit, the past employment circumstances and employability of each party.
 - (b) FAMILY HOME: Circumstances concerning the family home and any request for exclusive use thereof. A party making a specific request for exclusive use, possession, or control of the family home shall address the factors set out in ORS 107.095(1)(d) and (1)(g).
 - (c) DEBTS/INSURANCE: Debt and liability repayment obligations and needs, and requests for maintenance of insurance.
 - (d) RESTRAINING ORDERS: Reasons for any requested restraining orders, except for a temporary protective order of restraint as allowed by ORS 107.097(2) and SLR 8.042.
 - (e) PERSONAL PROPERTY: Circumstances concerning a request by a party for exclusive use of a vehicle or other personal property.
 - (f) ATTORNEY FEES: Sources of and need for attorney and expert witness fees.
 - (g) OTHER: Any other matter(s) relevant to the Court's consideration. Provided, however, in accordance with ORS 107.036, no affidavit shall recite nor shall the Court consider any statement of alleged specific acts of misconduct by either party. Matters concerning child custody shall be considered under SLR Chapter 12 and SLR 8.042.

- (6) If either party desires to contest the relief granted by the Court in the Temporary Relief Order, that party must file a motion requesting a hearing within 14 days of the date the order is entered specifying the modification requested. A copy of that request must be served upon the opposing attorney or if not represented, upon the party. Upon receipt of the request for hearing, the docket clerk shall promptly schedule a hearing. The Court will consider the evidence in the file and any additional evidence relevant to the issues at the hearing.
- (7) Except as allowed by the Abuse Prevention Act, ORS 107.700, et seq, no ex parte order denying access to the marital home will be granted by the Court. The Court may consider denying a party access to the marital home as otherwise allowed under the procedures prescribed in this rule, but only under the circumstances permitted by ORS 107.095(1)(d) and (1)(g).
- (8) After an initial ruling on the record or a ruling resulting from a request for hearing under (5) above, except for a contempt proceeding, no further motion(s) for Prejudgment Relief by the same party may be allowed or considered by the Court except upon a showing of an emergency. As used in this subparagraph, the term "emergency" means unforeseen, extraordinary and extreme circumstances, or a substantial change of circumstances arising after the entry of the Court's last Prejudgment Relief Order.

8.042 EX PARTE CUSTODY AND PARENTING TIME ORDERS

Motions for temporary child custody or parenting time shall be made in accordance with this rule. Only orders as set forth below will be entered pending mediation.

(1) Temporary Order of Restraint

Either party may apply to the court for an ex parte temporary order of restraint as allowed by ORS 107.097(2). The order shall provide as follows:

The parties are restrained and enjoined from changing the children's usual place of residence, from interfering with the present placement and daily schedule of the children, from hiding or secreting the children from either parent, from interfering with each parent's usual contact and parenting time with the children, from leaving the State of Oregon with the children without the written permission of the other parent or the permission of the Court, or from in any manner disturbing the current schedule and daily routine of the children until custody or parenting time has been determined by mediation or by further order of this court.

(2) Temporary Custody and Parenting Time Orders

Where a parent is present in court and presents an affidavit, and the facts of the parent's testimony and affidavit are sufficient to show that a child is in immediate physical danger, an ex parte temporary custody and parenting time order may be issued by the court. The parent securing such an order must provide the court with telephone numbers where the

party can be reached at any time during the day and a contact address.

(3) Notice and Right to Hearing

An ex parte order obtained under SLR 8.042(1) or 8.042(2), together with the supporting affidavit and the following notice, shall be served upon the other parent in the manner of service of summons under ORCP 7.

NOTICE TO RESPONDENT

You have the right to contest the provisions of this order by requesting a hearing by filing a hearing request form with the court at any time while this order is in effect. The hearing request form shall be in substantially the form set out in ORS 107.097(5).

The court shall make reasonable efforts to hold a hearing within 14 days and shall hold a hearing no later than 21 days after receipt of the request for the hearing. The court shall notify each party of the time, date and place of the hearing.

This order will remain in effect through the date of the hearing. If you do not appear at the scheduled hearing without good cause, the court shall continue the order in effect.

(4) Referral to Mediation

If custody and/or parenting time are at issue, the parties will immediately be ordered to mediation pursuant to SLR Chapter 12. In the event that mediation is unsuccessful, temporary custody and parenting time pursuant to ORS 107.095(1)(b) shall be determined pursuant to SLR 12.025(1)(d).

(5) Limitations on Ex Parte Orders

No ex parte order involving custody or parenting time will be entered in a case where either party has obtained a Family Abuse Prevention Act order pursuant to ORS 107.700-732.

8.051 POST-JUDGMENT MODIFICATION (ORS 107.138, 109.119 and 107.730)

(1) Motions for modification of judgments described in subsection (2) shall be submitted to the court supported by affidavits, uniform support affidavit and other documentation necessary to justify the requested relief. The motion shall be served upon the opposing party together with an order to show cause containing the notice described in subsection (3).

(2) This rule shall apply to modification[s] of domestic relation's judgments (ORS 107.135) and modifications of [a] judgment entered pursuant to ORS 109.119 (establishing emotional ties). This rule shall also apply to modification of custody and parenting time provisions requested pursuant to or to be made under the authority of ORS 107.730.

(3) The notice to be given shall state:

"PURSUANT TO DOUGLAS COUNTY CIRCUIT COURT RULE 8.051, THE PETITIONER/RESPONDENT HEREIN SHOULD TAKE NOTICE THAT IF IT IS YOUR INTENT TO CONTEST THE MATTERS INVOLVED HEREIN, A WRITTEN RESPONSE SPECIFYING THE MATTERS TO BE CONTESTED MUST BE FILED BY YOU WITH THE TRIAL COURT ADMINISTRATOR WITH PROOF OF SERVICE OF A COPY THEREOF ON PETITIONER'S/RESPONDENT'S ATTORNEY NOT LATER THAN THIRTY (30) DAYS FROM THE DATE OF SERVICE OF THIS ORDER UPON YOU. ABSENT GOOD CAUSE SHOWN, NO CONTEST TO A SHOW CAUSE SHALL BE PERMITTED UNLESS THE CONTESTANT HAS FILED A WRITTEN RESPONSE.

(4) The written response shall respond to the original affidavit. Upon the filing of a written respond, the matter will be set for trial pursuant to UTCR 7.020. Futher pleadings will not be permitted except for good cause shown. If the respondent is seeking affirmative relief rather than or in addition to opposing relief requested by the other party, respondent must file a separate motion pursuant to this rule.

(5) Where no written response is filed, the court may rule on the motion without a hearing upon the expiration of thirty (30) days from the date of service, or the court may request additional documents or may set the matter for hearing.

CHAPTER 9 -- Probate and Adoption Proceedings

9.021 AMOUNT OF SURETY BONDS

In view of the personal representative's power of sale without court order, corporate surety bonds in the amount of the assets of the estate will be required unless otherwise ordered by the court. The amount of the bond must be increased to provide continuing coverage of all assets and may be decreased as the circumstances permit. Personal surety bonds are to be allowed only on approval by the court and then only for a period of six months.

9.081 OBJECTIONS IN PROTECTIVE PROCEEDINGS AND NOTICE OF INFORMATION

- (1) Any person who wishes to file a oral or written objection to a petition in a protective proceeding under ORS 125.075 may contact a court clerk at room 201, Douglas County Justice Building, 1036 S.E. Douglas Avenue, Roseburg, Oregon, telephone (541) 957-2471. Oral objections may be made with the court clerk. If the person wishes to file a written objection, the court clerk will provide the objection form found on Page 29 in the "Appendix of Forms" Upon receipt of the objection and payment of the applicable fee under ORS 21.310, the Court will schedule a hearing and notify the parties.
- (2) Information about free or low cost legal services may be obtained from the court clerk in room 201, Douglas County Justice Building, 1036 S.E. Douglas Avenue, Roseburg, Oregon.

CHAPTER 11 – JUVENILE COURT PROCEEDINGS

11.005 APPEARANCE IN JUVENILE COURT FOR TERMINATION OF PARENTAL RIGHTS CASES

- (1) A parent who is served with a summons for the first appearance in a petition to terminate parental rights case, shall appear personally in court at the time and place specified in the summons to admit or deny the allegations of the petition.
- (2) A parent who fails to appear shall be subject to entry of a default order and/or judgment granting the relief sought by the petitioner.

CHAPTER 12 -- MEDIATION

12.015 MATTERS SUBJECT TO MEDIATION

(1) Mandatory Mediation

Any domestic relation suit filed in Circuit Court involving a controversy over custody or parenting time of minor children shall be subject to mediation.

- (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. 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. 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) Other Matters

The parties and mediator may agree that the mediator may deal additionally with child support.

12.025 MEDIATION AND TEMPORARY SUPPORT

1) Mediation

(a) Commencement of Mediation by Stipulated Request for Mediation

If there is a disagreement between the parents concerning custody or parenting time prior to a judgment or after a judgment in a domestic relations suit proceeding, both parents, or their attorneys, may sign and file with the court a stipulated request for mediation, in substantially the form as of that attached to these rules. The parents will be referred by the court to the Douglas County Mental Health Division for mediation in accordance with these rules, or the parents may agree and stipulate to an independent mediator in their stipulated request for mediation. (Form found on page 26 in the "Appendix of Forms").

(b) Custody or Parenting Time is at Issue & Mediation Orientation

Whenever a respondent appears in a domestic relations case by filing an answer and indicates on the pleading whether child custody or parenting time is at issue, the court shall refer the parties to the Mental Health Division for Mediation Orientation. (Form found on pages 23,24 and 25 in the "Appendix of Forms").

(c) Temporary Custody and Parenting Time Orders

At any point during the mediation, the court may approve a temporary custody and parenting time order reflecting the parents' agreement as to the issues.

(d) Good Faith Required

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

(e) Unsuccessful Mediation

In the event the parents are not successful in mediating the custody or parenting time controversy, the mediator shall notify the court. Upon written request by either party, a temporary custody and parenting time hearing shall be scheduled as soon as possible. Any request by a party for a hearing shall identify the issues to be determined and the length of time required for the hearing.

(2) Temporary Support

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

12.035 INDEPENDENT MEDIATORS

- (1) The parties may select by stipulation a mediator independent of the court system. The parties shall directly contract with the independent mediator and be responsible for payment of any agreed-upon fee for mediation service.
- (2) If an independent mediator is selected, the parties or their attorneys shall file with the court a written stipulation indicating the name of the mediator and the date set for the first mediation session.
- (3) If a stipulation for independent mediation is not filed by the time set for the hearing on any child custody or parenting time dispute, the parties will be ordered to the Mental Health Division for mediation pursuant to Rule 12.025.
- (4) If the parties select an independent mediator pursuant to Rule 12.035(2), after a referral has been made to the Mental Health Division, they shall comply with Rule 12.035(2) and send a copy of the stipulation to the Mental Health Division.

12.045 LITIGATION OF UNRESOLVED CONFLICT

If the court is notified by a mediator, in the case of mandatory mediation, that further attempts at mediation will prove unsuccessful or detrimental to the interests of any party, then the court shall notify the domestic relations docketing clerk that the matter shall be

set for trial, unless a party advises the clerk that the matter is settled.

12.055 CUSTODY EVALUATIONS

(1) If the parties agree, a private custody evaluation may be conducted and the parties shall be responsible for the costs of the evaluation. The parties shall notify the court in writing that a private evaluator has been chosen and shall provide the court with the name and address of the evaluator within 10 days.

(2) The evaluator shall be provided 10 weeks from the time of referral to complete the evaluation and must submit the report to the parties at least 14 days prior to the scheduled court hearing. The evaluator may provide the opportunity for a meeting with counsel and/or the parties to discuss the evaluation results prior to the scheduled court hearing. The report shall not be provided to the court unless offered to the court as evidence.

(3) The evaluator assigned to do a custody or parenting time evaluation shall not be the same individual who served as a mediator for the parties unless the parties give their written consent.

(4) The court shall be notified by the evaluator if a party refuses to cooperate with the evaluation process. The evaluator shall also notify the court if the evaluator cannot complete a report and indicate why the report cannot be completed.

12.065 SMALL CLAIMS MEDIATION

(1) All contested small claims actions shall be referred to mediation orientation.

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

(2) Failure of either party to abide by the stipulated order will be grounds for the opposing party to file an Affidavit of Non-Compliance and obtain a judgment on the mediated agreement.

12.075 FED Mediation

(1) All contested FED actions shall be referred for mediation orientation at first appearance.

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

12.105 MEDIATION PROGRAM

The 16th Judicial District has a mediation referral program pursuant to ORS 36.180 to

36.210.

(1) Any contested guardianship or conservatorship case may be referred to mandatory mediation. The court will provide a court appointed mediator at no cost, or the parties may agree to a mediator of their own choice and at their own expense. If an agreement is not reached, the case will proceed to trial.

12.125 ARBITRATION AND MEDIATION COMMISSION

- (1) There is established an Arbitration and Mediation Commission which includes judges, attorneys, non-attorneys, and the court administrator, at least some of whom have experience as a mediator.
- (2) All members shall be appointed by, and serve at the pleasure of, the Presiding Judge for two year terms.
- (3) The function of the Arbitration and Mediation Commission is to monitor the mediation program, review the qualifications and training of mediators, and advise the court on the functioning of the mediation program.

12.135 MEDIATION PANEL ESTABLISHED

There shall be a panel of mediators made up of persons who have the minimum qualifications and training prescribed in OAR Chapter 718 Division 40, and have been appointed at the discretion of the Presiding Judge.

12.145 APPOINTMENT TO MEDIATION PANEL

- (1) To apply to be listed on the panel of mediators, a person must sign and file an application as provided by the court.
- (2) The Arbitration and Mediation Commission shall review each applicant and make a recommendation to the Presiding Judge.
- (3) The decision as to whether an individual is qualified to be on the panel of mediators shall be made by the Presiding Judge.
- (4) Failure to submit a confirmation of address and intent to remain on the list shall be cause for removal from the list.

12.155 REMOVAL FROM MEDIATION PANEL

- (1) The Arbitration and Mediation Commission shall monitor the performance of mediators.
- (2) The Presiding Judge may remove a listed mediator at the Presiding Judge's discretion.

12.165 ASSIGNMENTS, SELECTION, AND COMPENSATION OF MEDIATOR

- (1) A mediator shall be assigned by the court or selected by the parties within 21 days after the referral to mediation.
- (2) The Arbitration and Mediation Commission may establish a compensation schedule which shall apply only when a mediator is assigned by the court. If a mediator is selected by the parties, then compensation shall be determined by the parties and the mediator.

12.175 COMPLETING THE MEDIATION

Any mediation under these Rules must be completed within 90 days after the entry of an order referring the case to mediation, unless otherwise ordered by the court.

12.185 TOLLING OF TRIAL AND DISCOVERY TIME LINES AND REQUIREMENTS

- (1) For purposes of ORS 36.190(3), tolling of trial and discovery time lines and requirements commences on the earlier of the following:
 - (a) the date of the entry of an order referring a case to mediation.
- (2) For purposes of ORS 36.190(3), tolling of trial and discovery time lines and requirements ends on the earliest of the following:
 - (a) the date the court is notified in writing of the termination of the mediation by the mediator together with proof of service on the parties.
 - (b) the date a party files a written objection to mediation together with proof of service on all other parties, or
 - (c) 90 days after the entry of an order referring the case to mediation.

12.195 EFFECT ON MANDATORY ARBITRATION

In any case which otherwise is subject to mandatory arbitration --

- (a) Arbitration shall not be required if all parties participate in a mediation session.
- (b) If one or more parties file a written objection to mediation together with proof of service on all other parties, then the case shall be transferred to or continued in arbitration.

CHAPTER 13
ARBITRATION

13.095 ARBITRATOR APPLICATION

To qualify as an arbitrator, a person must complete and sign an application approved by the Arbitration and Mediation Commission.

APPENDIX OF FORMS

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF DOUGLAS

_____))
Plaintiff,) Case No. _____
v.))
_____)) PRETRIAL CONFERENCE
)) STATEMENT OF
)) PLAINTIFF/DEFENDANT
Defendant.) (SLR 7.075 (3))

1. A pretrial conference has been scheduled in this case on the _____ day of _____, _____ at _____ m. I certify that I have reviewed the pleadings and that no further amendments have to be made. I cannot certify that all the necessary amendments to my client's pleadings have been made because:

(Note: All pretrial amendments must be completed sufficiently in advance of the trial date to avoid any delay in the proceedings or the amendment will not be allowed.)

2. I certify that all discovery has been completed. I cannot certify that all discovery has been completed because:

(Note: All discovery must be completed promptly to avoid a delay in the proceedings. Failure to complete discovery in a diligent manner will not be grounds for a postponement.)

3. I certify that I have notified my clients and all of my material witnesses of the trial date. I cannot so certify because:

Appendix

(Per SLR 7.075 (3))

4. I have made a good faith effort to confer with the opposing side concerning settlement. I have not done so because:

5. I have asked the opposing side to stipulate to undisputed matters so that evidence will not have to be produced unnecessarily. I have not done so because:

6. General comments: I wish to apprise the court of the following which will have to be discussed with the court and opposing counsel at the time of the pretrial conference.

7. NOTE: A copy of this statement must be furnished to the court and opposing counsel not less than seven (7) days before the date of the pretrial conference.

Attorney for (Plaintiff) (Defendant)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF DOUGLAS
ROOM 201 JUSTICE BUILDING
ROSEBURG, OR 97470
PROBATE DEPARTMENT

In the Matter of

Case No. _____

**OBJECTION TO PETITION/MOTION
ON PROTECTED PERSON
(SLR 9.081(1))**

I, _____, am objecting to the Motion ____, Petition ____, in this protective proceeding. My reasons are as follows:

Certificate of Document Preparation. You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

- I selected this document for myself, and I completed it without paid assistance.
- I paid or will pay money to _____ for assistance in preparing this form/document.
-

Address/Mailing Address

Signature

Phone: _____

Objectors Signature

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20__.

CLERK/NOTARY PUBLIC FOR OREGON

My Commission expires: _____

DOU*PB-26:11/00 - Objection to Petition/Motion on Protected Person

Appendix
(Per SLR 9.081(1))

SERVICE

(Do not sign until you are in the presence of a Notary Public or Clerk of the Court.)

PERSONAL NOTICE: (The Mother, or the Father, or any other adult may give the copy to the other parent, and should then complete the section below and return it to the Clerk's office to be filed.)

STATE OF OREGON)
County of Douglas) ss.

I, _____, hereby swear that I gave an exact and true copy of this Request for Mediation by One Parent to the other parent, _____, who is the (mother) (father), by personally handing it to him/her.

DATE GIVEN TO OTHER PARENT: _____

SIGNED: _____
(Sign only before a Notary or Clerk)

MAIL NOTICE: (The Mother, or the Father, or any other adult may mail the copy to the other parent, and should then complete the section below.)

I, _____, hereby swear that I could not personally hand a copy of this Request for Mediation by One Parent to the other parent, so I mailed a true, exact and full copy of it to him/her as follows:

DATE MAILED: _____ TIME: _____ AT: _____
(City, State)

I mailed it to the other parent's last known mailing address, which is:

_____ Street

_____ City, State and Zip Code

SIGNED: _____
(Sign only before a Notary or Clerk)

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ day of _____, 200__.

_____ NOTARY PUBLIC/CLERK

My Commission Expires: _____