

BAKER CIRCUIT COURT SUPPLEMENTARY LOCAL RULES

February 1, 2001

CHAPTER 1 - Court Operations

1.151 Hours of Operation.

Unless otherwise ordered by the Presiding Judge the court is open to conduct business and receive papers from 8 am until noon and from 1 pm until 5 pm. When hours of operation at the public window are shortened, papers may be deposited until 5 pm in a secure and adequate receptacle provided at the public window and they will be filed the day they are deposited.

CHAPTER 7 - Case Management and Calendars

7.025 DATES FOR HEARINGS ON MOTIONS.

The Trial Court Administrator will set hearing dates on motions and advise the parties in writing.

CHAPTER 8 - Domestic Relations Proceedings

8.055 ORDER TO SHOW CAUSE

- (1) This rule is limited to domestic relations actions. Domestic relations actions shall mean dissolution of marriage, legal separation, including pre-trial motions and post-decree motions, filiation and uniform reciprocal enforcement support acts. A contempt proceeding arising out of a domestic relations action 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. The order to show cause will not contain a date for hearing. Except as otherwise provided in this paragraph, the order to show cause shall provide that the adverse party must file and serve an affidavit in opposition to the motion within 14 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 advise the adverse party that if such opposing affidavit is not so filed and served within the 14 days the order requested by the motion and show cause order will be granted and entered by the Court. In proceedings to set aside, alter or modify a judgment of dissolution filed pursuant to Section 116, chapter 746, Oregon Laws 1997 (see Note following ORS 107.135) the adverse party shall have 30 days to respond.
- (3) If the adverse party fails to file an opposing affidavit within the time allowed, the moving party shall forthwith submit an order allowing the relief requested in the order to show cause. The Court may require the taking of testimony of the moving party in such default matters. The Court may enter the order requested if the adverse party does not file the

required affidavit and may do so upon its own motion if the moving party fails to present the required order.

- (4) When the adverse party files an opposing affidavit, the clerk shall forthwith set a hearing date and provide notice to the parties.

8.075 PARENTING TIME AND PARENTING PLAN

The parties are encouraged to work out their own parenting time schedule, either between themselves or through mediation. The court will generally approve any schedule agreed upon by the parties.

If the parties are unable to agree, the following parenting plan will be used as a basis for establishing parenting time. The parenting time schedule established by the court may make provision for more or less parenting time than desired by the parties.

The parenting plan that is agreed upon or imposed by the court shall be incorporated into the order or judgment.

PARENTING PLAN

I. GENERAL INFORMATION

- A. The parents' names are: _____ (Mother)
_____ (Father)

- B. The Parenting Plan applies to the following child(ren):

| Name: | Date of Birth: |
|-------|----------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

II. RESIDENTIAL SCHEDULE

- A. For the purposes of the Parenting Plan, "residential parent" means the parent that provides the primary residence for the children. The "nonresidential parent" refers to the parent who has parenting time with the children according to the schedule provided in this Parenting Plan.
- B. Mother / Father (choose one) shall be considered "residential parent."

III. GUIDELINES FOR PARENTING TIME WITH MINOR CHILDREN IN DOMESTIC RELATIONS CASES

A. DEFINITIONS:

1. Weekends: A weekend is defined as commencing at 6:00 p.m. on Friday and ending at 6:00 p.m. Sunday. If the parenting time weekend falls on a weekend during the school year on which the next Monday (or subsequent days) is a school, state or federally recognized holiday or break and school attendance is not required, parenting time will end at 6:00 p.m. on the last break day. If a day adjacent to a weekend is a holiday, the nonresidential parent shall have parenting time beginning at 6:00 p.m. on the night before the holiday or the Friday of the weekend, whichever comes first, and ending at 6:00 p.m. on Sunday evening or the holiday, whichever comes later. For example, if the nonresidential parent has weekend parenting time and the Monday following the weekend is President's Day (and no school is in session), parenting time will begin at 6:00 p.m. Friday and end at 6:00 p.m. Monday. HOWEVER, when a holiday specifically described herein coincides or conflicts with any weekend parenting times, the holiday or vacation shall supersede such weekend and there shall be no make-up weekend.

2. Vacation and Holiday Periods: These are Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas, spring break (coinciding with dates set by the public school district in which the child(ren) reside) and summer break, Mother's Day and Father's day.

B. PARENTING TIME: The non-residential parent shall have not less than the following parenting time with the minor child(ren):

1. Weekends:

2. Holidays:

i. _____ numbered years (Even/Odd: **CHOOSE ONE**):

(a) Spring Break: Monday through Friday of the holiday break (taking into consideration the first or last weekend will also be included).

(b) Memorial Day: Commencing on the Friday preceding the holiday at 6:00 pm and ending on Monday at 6:00 pm.

(c) Labor Day: Commencing on the Friday preceding the holiday at 6:00 pm and ending on Monday at 6:00 pm.

(d) Christmas: The first half of the vacation period beginning the day after school lets out. In the event Christmas Day is the midway point, the exchange shall occur at 11:00 am Christmas Day.

(e) _____

ii. _____-numbered years: (Even/Odd: CHOOSE ONE)

(a) Easter: Beginning at 10:00 am Easter Sunday and ending at 6:00 pm.

(b) The Fourth of July: If this holiday does not fall on Friday, Saturday, Sunday or Monday, parenting time shall commence at 9:00 a.m. and shall end at 10:00 p.m. on July 4 (or immediately after the fireworks display). If this holiday falls on a Friday, Saturday, Sunday, or Monday, parenting time shall commence at 6:00 p.m. on the Friday preceding the Fourth of July (or Thursday, if it falls on a Friday) and shall end on Sunday the 4th, or Monday the 4th, as the case may be, at 6:00 p.m.

(c) Thanksgiving holiday: Commencing on Wednesday prior to Thanksgiving, at 6:00 p.m. and ending on the Sunday following Thanksgiving at 6:00 p.m.

(d) Christmas: The second half of the school vacation ending at 6:00 p.m. the day before school resumes. Also, on Christmas Eve from 5 pm to 9 pm or on Christmas Day from 1:00 pm to 6:00 pm.

(e) _____

iii. Every Year:

(a) Mother's Day/Father's Day: Each year, the mother shall have the children on Mother's Day and the father shall have the children on Father's Day, from 9:00 a.m. to 6:00 p.m.

(b) Summer vacation: The non-residential parent will have six weeks of summer parenting time with the children each year. He or she shall notify the residential parent by May 1 of each year of the times they intend to exercise parenting time. Failure to give notice will allow the residential parent to set the summer parenting time period to avoid conflict with the residential parent's prior plans. Within the six week period the residential parent shall have parenting time for one weekend from 6:00 p.m. on

Friday until 6:00 p.m. on Sunday.

(c) Non-residential parent's birthday commencing at 9:00 am and ending at 6:00 pm unless it is a school day wherein it will begin at 5:00 pm and end at 8:00 pm. Likewise, the residential parent shall have parenting time on their birthday at these times if it is the non-resident parent's weekend parenting time.

(d) _____

C. RULES OF PARENTING TIME:

1. Holiday Parenting Time Supersedes: Holiday and summer parenting time supersedes weekend parenting time in the event there is a conflict of dates.

2. Exchange Times: All parenting time periods shall be exercised in a prompt manner so that both parties can make their plans accordingly. The parties shall meet at a mutually agreed public spot to exchange the children. The exchange times will be exercised as promptly as possible, but not earlier than 15 minutes before and no later than 15 minutes after the parenting time commences. The residential parent shall have the children fed and ready on time for parenting time, with sufficient and proper clothing packed and ready for the parenting time. The children shall be returned fed and with their clothing in the same manner (packed and cleaned) as they were when picked up for parenting time.

3. Makeup Parenting Time: In the event the children are ill and unable to visit, a makeup parenting time will be allowed to the non-residential parent on the next succeeding weekend. However, if the non-residential 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.

4. Personal Plans: Personal plans of the residential parent or children, school 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 to postponement of parenting time schedule. Both parties will provide addresses and contact telephone numbers to the other parent and of any emergency circumstances or substantial changes in the health of the children.

4. Correspondence and Telephone Contact: The non-residential parent shall, in addition to the parenting time set forth in this order, have the unlimited right to

correspond with the minor children of the parties, and to telephone the minor child(ren) during reasonable hours without interference or monitoring by the residential parent or anyone else in any way. Unless otherwise agreed to between the parties, telephone conferences between the non-residential parent and the children shall be limited to no more than 2 per week and shall be limited, each call, to 10 minutes or less in duration. The residential parent shall also have similar communication rights during periods of the non-residential parent's parenting time.

5. Inappropriate Remarks: Neither parent shall make derogatory comments about the other parent or in any way diminishing the love, respect and affection that the children have for the other parent.

6. School Activities: In addition to the parenting time specified above, the non-residential parent shall have the right to visit with the children at school, attend the children's school activities and sports events, and have full access to school teachers and administrators for complete information about the children in school. The residential parent shall immediately notify the non-residential parent of any parent-teacher conferences scheduled and shall provide copies of all report cards and individual school photographs.

7. Child's Parenting time Requests: The children will not be permitted to determine whether they wish to visit the non-residential parent.

8. FAILURE TO COMPLY: If either or both the residential parent and/or nonresidential parent fail to comply with the provisions of this parenting plan after it has been approved and incorporated into a Court order, the noncomplying parent may be held in contempt of Court punishable by jail time or imposition of a money judgment or both. Failure to comply with this parenting plan may also form a basis for a change of custody or parenting time. The terms of parenting time are for the benefit of the child(ren) not the parents. You must comply with parenting plan orders, even if you are not receiving child support.

8.435 EXPEDITED ENFORCEMENT OF PARENTING TIME

- (1) Except where contempt remedies are invoked or where the dispute is referred to mediation by the court, proceedings for enforcement of parenting time pursuant ORS 107.434 may be heard as soon as 5 judicial days after service of a motion and affidavit on the party alleged to have violated a parenting time order.
- (2) Mediation of any such dispute shall be conducted in accordance with Chapter 12 of these rules and shall be concluded in sufficient time for the court to conduct a hearing within 45 days after the filing of a motion seeking enforcement of a parenting time order or judgment.
- (3) The trial court administrator shall maintain a supply of form necessary for this procedure.

CHAPTER 12 - Domestic Relations Mediation

12.015 APPLICATION OF RULES

These rules shall apply to mediation of domestic relations actions pursuant to ORS 107.755 to 107.795 and shall not be applied to restrict the process, but rather to grant considerable discretion to the mediator and mediating parties.

12.025 EXEMPTION FROM MEDIATION

A matter may be excused from mandatory mediation upon a showing of good cause.

12.045 MEDIATORS

(1) To qualify as a Court-approved mediator, a person must:

- (a) Meet the requirements of ORS 36.200 and OAR 718-30-000 through 100.
- (b) Sign and file an application with the Court; and
- (c) Receive approval by the presiding Judge, upon recommendation of the Baker County Family Law Advisory Committee.

12.055 ASSIGNMENT TO MEDIATOR

In the absence of agreement of the parties, the Court will appoint a mediator from the list of approved mediators.

12.075 SCHEDULING OF MEDIATION SESSIONS

Mediation shall be completed promptly.

12.095 COMPENSATION OF MEDIATORS

The mediator shall be compensated at the rate of \$80.00 per hour including time spent preparing written memoranda or agreements.

CHAPTER 13 - Arbitration

13.005 MATTERS SUBJECT TO ARBITRATION

The 8th Judicial District (Baker County) has established a Mandatory Arbitration Program by Orders and Supplementary Local Rule (SLR) pursuant to ORS 36.400 to 36.425 and this Chapter. Arbitration is required for actions involving less than \$25,000.

NOTE: The Baker County Arbitration Commission has established arbitrator compensation as follows: \$125 per hour for hearings to a maximum of six hours and \$60 per hour for travel to a maximum of four hours.

13.061 COURT SHALL DETERMINE WHETHER CASE IS SUBJECT TO ARBITRATION

- (1) Any party may file and serve notice of a request that the court transfer a case to arbitration.
- (2) A case will be assigned to arbitration unless it is excluded as provided in UTCR 13.060(1). A case assigned to arbitration will not be removed, except as might occur under Paragraph 3 of this Rule, without an affidavit, motion and order.
- (3) Only in extraordinary circumstances will the court order a case returned from arbitration to the court docket after a case has been assigned to an arbitrator. The presiding judge may remove a case from arbitration any time the presiding judge is of the opinion that such extraordinary circumstances exist.
- (4) If amended pleadings are allowed by the arbitrator by which a party will be added to the case, or which causes the case not to be subject to mandatory arbitration, the party filing the amended pleading shall notify the Trial Court Administrator of that fact. Such a case, when again subject to arbitration, may be reinstated into arbitration. In the event that the case is not thereafter subject to mandatory arbitration, the party requesting removal from arbitration shall file a motion to exempt the case from arbitration, or to remove it if it was previously referred to arbitration.

13.071 EXEMPTION FROM ARBITRATION

A court decision on an exemption filed pursuant to UTCR 13.070 will be rendered within 5 days following the filing of a motion for exemption from arbitration. If the motion is allowed, the case will be returned to the active trial docket for future disposition. If the motion is denied, the case will remain in arbitration in accordance with these rules and the Uniform Trial Court Rules.

13.081 SELECTION OF ARBITRATOR AND SETTING HEARING DATE

- (1) When a case is referred to arbitration, the Trial Court Administrator will send to the parties the names of five arbitrators and the notice to refer the case to arbitration. From the date of the referral the parties have fourteen days to select an arbitrator and agree on a hearing date with the arbitrator.
- (2) Plaintiff or plaintiff's counsel shall contact the defendant or defendant's counsel to select

an arbitrator and notify the Trial Court Administrator of the arbitrator selected.

- (3) If an agreement cannot be reached by the parties on the selection of an arbitrator, plaintiff or plaintiff's counsel shall notify the Trial Court Administrator within two judicial days following the time period to select the arbitrator. Before notifying the Trial Court Administrator each party may strike two of the proposed arbitrators from the list. Upon notice, or if the time elapses without notice, the Trial Court Administrator shall appoint the arbitrator from the original list of five on a rotating basis. The Trial Court Administrator shall notify the parties and the arbitrator.

13.091 ARBITRATORS

- (1) There shall be a panel of arbitrators in such number as the Arbitration Commission may from time to time determine. Persons desiring to serve as an arbitrator shall submit in writing their desire to be placed on the arbitration panel, with the date they were admitted to the Bar, their name, address and phone number, and if they have any preference against certain types of cases. A list showing the names of arbitrators available to hear cases will be available for public inspection in the office of the Trial Court Administrator in each county in the Judicial District.
- (2) The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator must notify the Trial Court Administrator immediately if refusing to serve, or if any cause exists for the arbitrator's disqualification from the case upon any of the grounds of interest, relationship, bias, or prejudice governing the disqualification of judges. No arbitrator shall have pending at any given time more than three arbitration cases, subject to the discretion of the Presiding Judge.
- (3) If such disqualification or refusal occurs, the arbitrator must notify all parties and immediately return all appointment materials in the case to the Trial Court Administrator.

13.101 MOTIONS

If the first appearance of a defendant is not an answer, but is a motion directed to the complaint or a dispositive motion, the motion shall be decided before the case is referred to arbitration. No case shall be referred to arbitration unless all parties have appeared or have had an order of default entered against them. If a case has been referred to arbitration prior to the filing of a motion directed to the complaint or a dispositive motion, the motion shall be heard and decided by the arbitrator pursuant to UTCR 13.100.

13.121 RELIEF FROM PAYMENT OF ARBITRATION FEES

- (1) Parties who are unable to pay the compensation and other expenses of the arbitrator within 14 days from the date the case is transferred to arbitration may request waiver or deferral of such compensation or fees. The request must be submitted by motion and order supported by an affidavit setting forth with specificity the party's income, assets, and expenses and presented to the Presiding Judge for approval.

- (2) In the event funds are available under ORS 36.420 for the payment of fees that are waived, the arbitrator shall be reimbursed after completion of the arbitration, filing of the arbitration award, and submission of the form approved by the State Court Administrator for such purpose.

13.181 STIPULATIONS

No agreement or consent between parties or lawyers relating to the conduct of the arbitration proceedings, the purport of which is disputed, will be regarded by the arbitrator unless the agreement or consent is made at the arbitration hearing or is in writing and signed by the lawyers and parties.

CIRCUIT COURT 8th Judicial Dist. }
STATE OF OREGON, County of Baker } ss
I hereby certify that I have compared the within instrument with the original now on file in my office, and that it is a true and correct copy of the same and of the whole thereof.
Dated 12-27 2001
Marnie J. Jones, Trial Court Adm.
By: Marnie J. Jones Court Clerk

