

BAKER CIRCUIT COURT SUPPLEMENTARY LOCAL RULES

February 1, 2003

**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. Baker County Circuit Court is located at 1995 3<sup>rd</sup> Street, Suite 220, Baker City, OR 97814.

1.171 COURT WEBSITE \_\_\_\_\_

The website for Baker County Circuit Court is: <http://www.ojd.state.or.us/baker>

**CHAPTER 2 - Standards For Pleadings And Documents**

2.010 ADDRESSES AND TELEPHONE NUMBERS

- (1) Defendants in criminal and violation cases: During the pendency of any case charging an offense, including violations and criminal cases, or while any monetary or other obligations imposed by the court in such case remain unsatisfied, defendant must keep the court advised in writing of defendant's current name, mailing address and telephone or message telephone number.
- (2) Unrepresented parties in criminal, civil and domestic relations cases: During the pendency of any criminal, civil or domestic relations case any party who is not represented by an attorney of record must keep the Court advised in writing of the party's current name, mailing address and telephone or message telephone number.

**CHAPTER 3 - Decorum in Proceedings**

3.051 HEARING APPEARANCE BY TELEPHONE

When counsel, parties, or witnesses are granted permission to appear by telephone, they may appear only if:

- (1) Cell phones are used in good reception areas.
- (2) The cell phone caller is not operating or a passenger in a moving vehicle.

- (3) If all parties are appearing by telephone, the party making the motion for the hearing is responsible to contact a telephone operator and initiate a conference call to the Court with all parties connected.

## **CHAPTER 6 - Trials**

### **6.014 MANDATORY SETTLEMENT CONFERENCE**

- (1) Cases on the trial calendar assigned a time and a place for trial may be calendared for a mandatory settlement conference approximately 40 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) At the mandatory settlement conference, the Court requires the attendance of all parties and their trial attorneys. When a party is insured, a representative of the insurance company who has full authority to settle the case shall be in attendance or readily available by telephone. An out-of-state party may apply to be excused from appearing at the mandatory settlement conference by initiating a conference call to the Presiding Judge in advance of the scheduled settlement conference. The Presiding Judge or his designee shall rule on the request.
- (3) Settlement conferences shall be held informally before a judge at a time and place provided by the Presiding Judge. The conference may be continued by the judge as part of a continuing settlement conference to another day before trial. Each case on settlement conference calendar shall retain its place on the trial calendar. If the case does not settle at such conference, no reference shall thereafter be made to any settlement discussion had under this rule, except in subsequent settlement proceedings.
- (4) In the event that a settlement is not reached at the settlement conference, the settlement judge shall not try the case.
- (5) In the event settlement negotiations are not successful, counsel should expect and be prepared to proceed to trial on the scheduled date. Every effort will be made by the Court to insure that the case proceeds to trial as scheduled. This Court will deny all requests for continuance except in case of emergency or highly unusual circumstances.

6.018 SETTLEMENT AGREEMENT

Unless a settlement agreement signed by all parties is filed before the time set for trial, all parties are required to appear for trial. If settled, appearance may be in person or by telephone. The terms of the settlement agreement shall be read into the record and the parties will announce their agreement with the terms of settlement.

6.082 STIPULATION TO EXHIBITS

All exhibits marked pursuant to UTCR 6.080 shall be shown to opposing counsel before the commencement of trial. Counsel may stipulate to those exhibits which may be admitted and shall deliver the stipulated exhibits to the clerk.

**CHAPTER 7 - Case Management and Calendars**

7.025 COURT SCHEDULING

The scheduling of all courtroom matters is to be done with the docket clerk on Mondays 1:00 pm to 3:30 pm and Tuesday thru Friday 9:30 am to Noon and 3:30 pm to 4:00 pm by calling (541) 523-6303 Ext. 11.

Hearing notices for criminal and civil matters will be sent for prime/alternate trial dates, motions, order to show cause hearings, settlement conferences, sentencings, and pre-trial conferences, except that short-notice matters may be arranged by telephone.

Pre-Trial Conferences are scheduled on Mondays 8:15 am to 10:00 am with appearance by telephone allowed. Please call in at (541) 523-6303 Ext 12 at the scheduled pre-trial time. Restraining Orders are scheduled daily at 1:00 pm provided the petition is filed prior to 11:00 am. Drug Court is scheduled on Mondays 2:00 pm to 3:30 pm. Trials commence at 9:00 am and continue through 5:00 pm.

Juvenile cases are scheduled on Mondays from 3:30 pm to 5:00 pm and every 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month from 8:00 am to 5:00 pm. The juvenile department will provide their notice of hearing dates to all parties with the exception of pre-trial conferences which the Court will provide.

## **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, annulment, 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 contain a date obtained from the Court 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.
- (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 schedule set forth in the SLR Appendix Pages 2 thru 7 will be used as a basis for establishing parenting time. Because each family's circumstances are different, 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.

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 9 - Probate and Adoption Proceedings

9.081 OBJECTION TO PETITION FOR APPOINTMENT OF  
GUARDIAN/CONSERVATOR

Any interested person, as described in ORS 125.075(1), who has an objection to a Petition in a protective proceeding should contact a court clerk located at the Baker County Courthouse, Circuit Court 1995 3<sup>rd</sup> Street, Suite 220, Baker City, OR 97814 or (541) 523- 6303 Ext 11. The objecting party should advise the court clerk that the objecting party wishes to make oral objections to the Petition and would like to speak to the judicial assistant. 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.

If the objecting party wishes to file a written objection, the court clerk will provide upon request the Objection form contained in the Appendix on Page 8.

Objections must be received by the Court within fifteen (15) days of service of the Petition.

## CHAPTER 12 - Domestic Relations Mediation

### 12.015 MANDATORY MEDIATION ON DISPUTES WITH CHILD CUSTODY AND PARENTING TIME

- (1) 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.
- (2) Mediation of custody/parenting time disputes may be commenced at any stage in a civil action by the stipulation of the parties, by the order of the Court, or upon a response being filed with the Court . The Court may order mediation on the motion of either party or on the Court's own motion. For purposes of this rule, civil actions include dissolution of marriage, separation, annulment, filiation, dissolution of domestic partnership and such other cases shall be assigned by the Presiding Judge.
- (3) The Court may decline to hear a contested custody or parenting time issue until and unless the parties have participated in mediation in a good-faith attempt to resolve the issue between themselves. The mediator must file with the Court the form Report To The Court Regarding Mediation Completion/Results stating if parties have cooperated and if agreement has been reached.
- (4) If the parents can not agree on the amount of support to be paid by one to the other, and they are also in dispute as to custody or parenting time, upon the request of both parents, the mediator may assist in resolving the support issue as well.
- (5) If the parties cannot agree on the division of their assets and debts or other economic issues, and they are also in dispute as to custody or parenting time, upon the request of both parties the mediator may assist in resolving the additional issues as well.
- (6) Mediation shall not be used by any party in bad faith for the purposes of delay or undue influence on other issues. If the Court finds at any time that the mediation process is being misused, it may determine that further mediation is inappropriate, have the case removed from the mediation process and impose sanctions, as appropriate.
- (7) In the event the parties are not successful in mediating the custody or parenting time controversy, the mediator shall notify the Court. The matter will be scheduled for hearing as to the remaining unresolved issues, to be held in the same course and with the same priority on the docket as though there had been no mediation.

#### 12.016 JUVENILE DEPENDENCY MEDIATION

One hour of mediation shall be mandatory in all juvenile dependency cases. Five additional hours of mediation will be available based on the need of the parties. The scheduling of mediation will be done in Court at the Shelter Care hearing or a conference hearing will be held 7 days after the Shelter Care hearing. Mediation must be held within 45 days of the Shelter Care hearing.

#### 12.018 MEDIATION WHERE POWER IMBALANCE EXISTS

- (1) Where there is a restraining order between the parties, a history of domestic violence or abuse, an extreme imbalance in the power relationship between the parties or other reason to believe that mediation may be inappropriate, a party may contact the assigned mediator to request that the parties meet with the mediator separately, the presence of a support person during mediation, telephonic mediator or another remedy. A mediator may exclude a support person from a session if the support person disrupts the process of mediation .
- (2) The mediator may arrange separate sessions, require telephonic mediation or terminate mediation at any time if the mediator believes that issues of violence, abuse, threatening behavior, manipulation or power imbalance make further mediation inappropriate. In any telephonic mediation, both parties will participate by telephone.

#### 12.020 CONFIDENTIALITY OF MEDIATION

- (1) Pursuant to ORS 107.785 all communications occurring during the course of mediation are confidential. All mediators shall advise each party prior to commencement of mediation that they are mandated reporters regarding any allegation of child abuse or neglect.
- (2) The mediator may not be subpoenaed or called as a witness regarding any aspect the mediation other than to state whether an agreement was reached in mediation and the specific terms of the agreement as communicated to the Court.

#### 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 submit an original application to the Baker County Counsel; and
  - (c)    Receive approval by the presiding Judge, upon recommendation of the Baker County Family Law Advisory Committee.

12.055            APPOINTMENT OF MEDIATOR

The Court will order mediation and appoint a mediator from a list of approved mediators once a Response/Answer has been filed. The Notice will be sent out to the Mediator and both parties. If parties are represented by an attorney, then their attorney will receive the notice. The mediator will then make contact with either the parties directly or their attorney for scheduling a mediation session.

12.075            SCHEDULING OF MEDIATION SESSIONS

A mediation session must be set within seven to ten days from the date of the Notice of Appointment Of Mediator and the mediation session to be completed and any agreement must be filed within 90 days, however, additional time may be given when the agreement is being incorporated into the final divorce decree, modification of decree or stipulated order. All mediation agreements including partial agreements must be signed by the mediator and both parties prior to filing with the Court.

12.085            MEDIATION FEES

Mediation fees are obtained from a portion of the domestic relations case filing fees up to and including the first four hours of mediation. When mediation exceeds four hours, payment will be the responsibility of the parties and shall be paid directly to the mediator.

12.095            COMPENSATION OF MEDIATORS

The mediator shall be compensated at the rate of \$80.00 per hour not to exceed four hours including time spent preparing written memoranda or agreements. It will be the mediator's responsibility to collect the mediation fees from the parties if mediation requires more than 4 hours.

## **CHAPTER 13 - Arbitration**

### **13.005 MATTERS SUBJECT TO ARBITRATION**

The 8<sup>th</sup> 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.

The Baker County Arbitration Commission has established arbitrator compensation as follows: \$125 per hour for hearings to a maximum of six (6) hours and \$60 per hour for travel to a maximum of four (4) 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.

### 13.091 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.