

SUPPLEMENTARY LOCAL COURT RULES
for the
CIRCUIT COURT OF THE STATE OF OREGON FOR BENTON COUNTY
21st JUDICIAL DISTRICT

February 1, 2003 - January 31, 2004

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CHAPTER 1
GENERAL PROVISIONS

1.151 COURT BUSINESS HOURS

The Circuit Court in Benton County (21st Judicial District), located in the Benton County Courthouse, 120 NW 4th Street, Corvallis, Oregon, is open to conduct business between the hours of 8:00 a.m. to 12:00 p.m. and 1:00 to 5:00 p.m., Monday through Friday, excluding legal holidays.

CHAPTER 6 TRIALS

(For scheduling and notification of parties for trial, show cause hearings and motions, see B-SLR 7.025, *infra*)

6.012 SETTLEMENT CONFERENCES

The Circuit Court, on its own motion or upon request of any party, may set a settlement conference. Parties are encouraged to request a settlement conference in civil cases. The settlement conference judge will not preside at the trial unless all parties agree that the judge may preside. 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 trial.
- (2) All attorneys and their clients must attend the settlement conference unless the attorney has complete authority to settle the case. The settlement conference, with permission of the Court in advance of the settlement conference, may be by telephone conference call.

6.085 EX PARTE MATTERS

Ex parte matters may be presented between the hours of 8:00 a.m. to 12:00 p.m. and 1:00 to 5:00 p.m., Monday through Friday. The Calendar Clerk should be called to verify that a judge will be available.

CHAPTER 7
CASE MANAGEMENT AND CALENDARING

Calendar Clerk, (541)766-6651
Criminal Clerk, (541)766-6674

7.015 CRIMINAL CASE SCHEDULING

- (1) The Benton County Circuit Court uses a consolidated criminal appearance procedure. A copy of the current omnibus procedures may be obtained by calling the Criminal and Traffic Unit at (541)766-6674 or requesting by letter to:

Trial Court Administrator
Benton County Courthouse, Room 104
PO Box 1870
Corvallis, OR 97339

- (2) Guilty or No Contest Pleas. Dates for guilty or no contest pleas will be scheduled by the Calendar Clerk. The Court will not accept a guilty or no contest plea unless the defendant has first read and completed a Petition to Enter a Plea of Guilty or No Contest and a Notice and Advice of Rights on Appeal form.
- (3) Preparation of Judgment When Defendant is Found Not Guilty or Where the Charge is Dismissed. Defense counsel shall prepare and submit the judgment in any case where the defendant is found not guilty or where the charge is ordered dismissed by the Court over the State's objections.

Civil Clerk, (541)766-6825

7.025 CIVIL CASE SCHEDULING

- (1) Hearings on Motions requiring oral argument (other than motions to hold a party in contempt) will be set between the hours of 9:00 a.m. to 12:00 p.m., Monday through Friday. The Court will send a written notice.
- (2) Hearings on Motions to Hold a Party in Contempt. The adverse party should be cited to appear at 9:00 a.m., Monday, Tuesday, Wednesday, or Friday. The party requesting the contempt order does not have to appear at the time set in the show cause order. When the responding party appears, the Court will set a contempt hearing for a later date. The Court will send a written notice when that later hearing date is set.

- (3) Settlement Conferences. A settlement conference will be set at the request of any party. A written notice will be sent.

Domestic Relations Clerk, (541)766-6705

7.035 DOMESTIC RELATIONS CASE SCHEDULING (for additional supplementary local rules on domestic relations matters, see Chapter 8, *infra*)

- (1) Temporary Relief Hearings. Dissolution, separation, or modification of decree cases requiring hearings for temporary relief will be specially set for hearing. The Court will send a notice.
- (2) Hearings on Motions to Hold a Party in Contempt. The adverse party should be cited to appear at 9:00 a.m., Monday, Tuesday, Wednesday, or Friday. The party requesting the contempt order does not have to appear at the time set in the show cause order. When the responding party appears, the Court will set a contempt hearing for a later date. The Court will send a written notice when that later hearing date is set.
- (3) Pretrial Conferences and Trial Settings. Contested dissolution, separation, and modification cases will be set, pursuant to a fast-track procedure, for trial. The Court will send a written notice.
- (4) Settlement Conferences. A settlement conference for a dissolution case will be set upon request of either party.

Civil Clerk, (541)766-6825
Small Claims Clerk, (541)766-6829

7.045 JUDGMENT DEBTOR EXAM SCHEDULING

The party requesting the debtor's exam may select the time for the examination provided: (1) the examination is set between the hours of 9:00 a.m. to 12:00 p.m. and 1:00 to 3:00 p.m., Monday through Friday; and, (2) the debtor is allowed at least ten (10) days between date of service and the date of examination.

The debtor should be cited to appear as follows:

Circuit Civil - Benton County Courthouse, 120 NW 4th Street, Room 106,
Corvallis, Oregon
Small Claims - Benton County Courthouse, 120 NW 4th Street, Room 106,
Corvallis, Oregon

7.055. APPEARANCES BY TELEPHONE

In any matter in which counsel, a party, or a witness (collectively "the party") is permitted by the Court to appear by telephone:

- (1) The cost of such telephone call shall be borne by the party requesting the telephonic appearance.
- (2) Local calls shall be placed by the Court when telephonic appearances have been approved by the Court for two or fewer parties. Because of technological limitations in the courtrooms, telephonic appearances by three or more parties, once approved by the Court, must be arranged cooperatively among the parties through telephone conferencing or other means and the parties must place the call to the Court as specified in paragraph 4 of this Rule.
- (3) Long distance or other calls for which a toll or fee is charged shall be placed by the party at the time scheduled for the appearance.
- (4) Long distance calls being placed by the party shall be placed to the office of the judge assigned to hear the matter. The party is responsible for determining in advance of the proceeding which judge shall hear the matter and for directing the call appropriately.
- (5) Unless otherwise arranged and approved by the Court, telephone appearances by counsel shall be conducted in counsel's office.

- (6) If the party fails to appear by telephone because the party fails to telephone the Court or the Court is unable to reach the party at the number provided or in counsel's office, the party may be deemed not to have appeared and the matter may be decided upon the evidence before the Court.

CHAPTER 8
DOMESTIC RELATIONS

(For scheduling and notification of parties for trial, show cause hearings and motions, see B-SLR 7.035, supra)

Domestic Relations Clerk, (541)766-6705

8.011 PARENT EDUCATION

(1) Mandatory Parent Education Program

- (a) The Benton County Circuit Court has established a parent education program authorized by ORS 3.425.
- (b) Parties to a divorce, separation or other proceeding where custody or parenting time is at issue shall attend the Benton County Circuit Court-mandated Co-Parenting Education Seminar, or an equivalent parent education program offered by another court in another county or State within forty-five (45) days of receiving the Court's notice of requirement to attend. The notice of requirement to attend will be given by the Court to the petitioner at the time of filing and mailed to the other parties within ten (10) court business days after the initiating petition or motion is filed.
- (c) The Court may extend the time within which a party must attend a parent education program or waive the requirement after reviewing the requesting party's motion and supporting affidavit.
- (d) The parent education program provider shall issue a certificate of completion to the participants when they have completed the program. This certificate must be presented to the Court.
- (e) A copy of the current Co-Parenting Education Seminar schedule may be obtained by calling the Domestic Relations Clerk at (541)766-6705 or requesting by letter to:

Trial Court Administrator
Benton County Courthouse, Room 106
P.O. Box 1870
Corvallis, OR 97339

(2) Sanctions

- (a) The Court shall actively promote each party's completion of a parent education program. Failure or refusal to complete a program in a timely manner may be considered by the Court in making its ruling on issues which are in dispute.
- (b) A party who has completed a parent education program may request that the Court strike the pleadings of a party who has not completed the program in a timely manner without good cause.

(3) Fees

Each party shall pay a fee to the parent education program provider upon registering for the program.

(4) Effective Date

This rule shall apply to all cases and modifications filed after January 1, 2000.

8.013. STATEMENTS OF ASSETS AND LIABILITIES IN CONTESTED DISSOLUTIONS, SEPARATE MAINTENANCE AND ANNULMENT ACTIONS

- (1) Unless otherwise ordered by the Court, in lieu of the filing of separate statements of assets and liabilities, values and proposed distribution as provided by UTCR 8.010(4), counsel for the parties shall file a joint statement containing a list of those assets and liabilities which either or both parties claim to be subject to distribution by the Court. Such joint statements shall set forth, opposite a description of each listed asset and liability, each party's valuation and proposal for distribution of such asset or liability or a statement that such asset or liability is not subject to distribution by the Court, or that the value of the asset or liability should not be taken into account by the Court in the division and distribution of the parties' assets and liabilities. The statement must be filed at least two days prior to the scheduled trial date.
- (2) Statements of assets and liabilities, whether filed jointly or separately, shall, to the extent possible, also reflect the following:
 - (a) assets and liabilities shall be grouped by category and divided or highlighted so as to distinguish property that is disputed as to possession or value from property that is not disputed as to possession or value.
 - (b) each line listing a value shall list the source(s) utilized in determining that value, such as "Blue Book", private appraisal, institution statement, or estimate.

8.043 REQUESTS FOR IMMEDIATE EX PARTE RELIEF

Delivery of Ex Parte Motions and Orders to the Court. Ex parte temporary relief motions and orders may be delivered by messenger between the hours of 8:30 a.m. to 12:00 p.m. and 1:00 to 4:45 p.m., Monday through Friday. The Calendar Clerk should be called in advance to make sure that a judge will be available.

8.045 MOTIONS TO HOLD A PARTY IN CONTEMPT

(1) Contempt Show Cause Motions and Orders. A contempt show cause motion and order must be submitted in documents separate from other motions and orders filed in the case. A contempt motion and order may not be included, even as a separate paragraph, in a motion and order for temporary relief or in a motion and order to modify. However, the same affidavit may be used to support the motion for contempt and the other motions.

(a) The contempt show cause order shall require the responding party to personally appear in court at 9:00 a.m., Monday, Tuesday, Wednesday, or Friday.

(b) Every show cause order for contempt of court shall contain the following or a similar notice:

"N O T I C E, READ THESE PAPERS CAREFULLY -- YOU ARE ORDERED TO PERSONALLY APPEAR IN THE ABOVE-ENTITLED COURT AT THE DATE AND TIME SPECIFIED IN THIS ORDER. IF YOU FAIL TO APPEAR IN COURT ON THIS DATE AND TIME, YOU MAY BE ARRESTED, HELD IN CUSTODY AND BROUGHT BEFORE THE COURT TO ANSWER THE CONTEMPT CHARGES WHICH HAVE BEEN MADE AGAINST YOU."

(2) First Appearances on Contempt Matters. The party requesting the contempt order does not have to appear at the time set in the show cause order for the responding party to appear. When the responding party appears, the Court will advise the responding party of the possible consequences of contempt of court. A contempt hearing will then be set for a later date. The Calendar Clerk will send a written notice of this later hearing date to all parties.

8.051 MOTIONS TO MODIFY EXISTING ORDERS OR DECREES

Modifications to existing orders or decrees have the same requirements for mediation as set forth in B-SLR 12.005.

The show cause order will require the opposing party to file a written response within thirty (30) days from the date the order is served.

8.071 SETTLEMENT CONFERENCE

The Court, on its own motion or upon request of any party, may set a settlement conference. The settlement conference judge will not preside at the trial unless all parties agree. At the settlement conference:

- (a) No information disclosed will be revealed by the settlement judge or by any of the parties to the judge who will thereafter try the case.
- (b) All attorneys and clients must attend the settlement conference unless the attorney has complete authority to settle the case. The settlement conference, with permission of the Court, may be held by telephone conference call.

8.075 PARENTING TIME

A copy of the Benton County Standard Parenting Plan may be obtained by calling the Domestic Relations Clerk at (541)766-6705 or requesting by letter to:

Trial Court Administrator
Benton County Courthouse, Room 106
PO Box 1870
Corvallis, OR 97339

CHAPTER 9
PROBATE AND ADOPTION PROCEEDINGS

Probate Clerk, (541)766-6825

9.081 ALLEGED INCAPACITATED PERSONS -- NOTICE REGARDING FREE OR LOW COST LEGAL AND OTHER RELEVANT SERVICES

- (1) In a proceeding for the appointment of a guardian for an alleged incapacitated person, the notice required under ORS 125.070(3), shall include the following language or its equivalent:

“Free legal services for persons at least 60 years of age who are subject to a guardianship proceeding may be obtained by calling Oregon Legal Services's Senior Law Program at (541)926-8678 or (toll-free) 1-800-817-4605. Free or low cost services may be obtained by calling Senior Services at (541)967-2090 or (toll-free) 1-800-638-0510. Senior Services provides services to help people maintain maximum independence, remain in their homes as long as possible, select an appropriate adult foster care home or nursing home, obtain necessary personal and/or medical care, and stop or prevent physical or financial abuse.”

- (2) Place for making oral objections: Oral objections pursuant to ORS 125.075 may be made in Room 106 of the Benton County Courthouse, 120 NW 4th Street, Corvallis, Oregon 97339, during regular office hours.

CHAPTER 12
MEDIATION

Domestic Relations Clerk/Mediation Coordinator (541)766-6705

12.005 MANDATORY MEDIATION PROGRAM

Except for good cause, mandatory mediation shall be ordered in all domestic relations, dissolution, annulment, or separation cases involving issues of child custody and/or parenting time. Mediation fees are set by the Benton County Board of Commissioners. The mediation program policies and guidelines are governed by the Benton County Mediation/Arbitration Commission.

CHAPTER 13
ARBITRATION

Arbitration Coordinator, (541)766-6825

13.005 MANDATORY ARBITRATION PROGRAM

- (1) Arbitration is required in matters involving less than \$50,000.
- (2) A party may choose to waive, for the purposes of arbitration, that portion of the Claim in excess of the arbitration limit and have the case referred to arbitration.

13.055 REFERRING CASES TO ARBITRATION

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

- (a) Within twenty (20) days of the date on which the Answer is filed.
- (b) At any time as specifically directed by the Presiding Judge.

13.095 ARBITRATION PANEL

- (1) The Twenty-first Judicial District Arbitration Panel will consist of a panel of attorneys practicing in Benton and/or Linn Counties, selected by the Benton County Mediation/Arbitration Commission and having the following qualifications:
 - (a) Five years continuous practice including significant experience in civil litigation, with a present emphasis in his or her practice of law on civil litigation.
 - (b) A retired, senior, or pro tem judge.
- (2) The parties may stipulate to any arbitrator, including a non-lawyer arbitrator or a lawyer arbitrator who practices outside Benton and Linn counties.
- (3) The panel will be selected by the Benton County Mediation/Arbitration Commission subject to approval of this Judicial District's Presiding Judge.
- (4) The Arbitration Clerk will assign arbitrators to cases in a manner to ensure random selection.
- (5) 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.

- (6) 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.
- (7) If disqualified, the arbitrator must immediately return all materials in the case to the Arbitration Clerk.

13.285 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.

CHAPTER 16
TRAFFIC VIOLATIONS

16.005 TRIAL BY AFFIDAVIT

If a signed waiver is filed by the alleged violator, testimony in a traffic violation trial is allowable by affidavit. A copy of the Witness' affidavit shall be provided to the alleged violator before trial (Section 22, Chapter 1051, 1999 Oregon Laws; ORS 153.080).

Dated this _____ day of _____, _____.

Janet Schoenhard Holcomb, Presiding Judge

CIRCUIT COURT OF THE STATE OF OREGON FOR BENTON COUNTY

21ST JUDICIAL DISTRICT

This will certify pursuant to UTCR 1.040 that appended hereto is a true and correct copy of proposed Supplementary Local Rules of the Circuit Court of the State of Oregon for Benton County.

Dated this _____ day of _____, _____.

Janet Schoenhard Holcomb, Presiding Judge