

**CLATSOP COUNTY CIRCUIT COURT
SUPPLEMENTAL LOCAL RULES FOR 2005**

Chapter 1 - General Provisions

1.151 HOURS OF OPERATION: Clatsop County Circuit Court is open for business from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m. Monday through Friday, and documents may be filed during these hours. The Clerks' Office closes at 4:00 p.m. on the first Wednesday of each month.

1.171 WEBSITE ADDRESS: The internet address for Clatsop County Circuit Court website is: www.ojd.state.or.us/clatsop

1.173 PHYSICAL/MAILING ADDRESSES: The street address and physical location of Clatsop County Circuit Court is 749 Commercial Street, Astoria, Oregon 97103. The mailing address is P. O. Box 835, Astoria OR 97103/ All physical appearances required by these rules shall occur at that location unless otherwise specified by the court.

Chapter 2 - Standards for Pleadings and Documents
(Reserved for expansion)

Chapter 3 - Decorum in Proceedings

3.181 PUBLIC ACCESS COVERAGE: Public access coverage shall not disrupt court proceedings or interfere with normal activities conducted within the courthouse (including ingress into the courthouse and egress from the courthouse). Public access coverage is allowed in the lobby areas located in the basement, first floor and second floor of the Clatsop County Courthouse unless the court designates another area.

Chapter 4 - Proceedings in Criminal Cases

4.005 MOTIONS TO DISMISS: Motions to dismiss a criminal action made by the prosecutor shall be in writing, signed by the attorney, and include the facts supporting the motion.

4.015 TIME FOR FILING PRETRIAL MOTIONS: Pretrial motions, including discovery motions and motions filed pursuant to ORS 135.037, shall be filed no more than 30 days after the early resolution conference if the defendant is out of custody and no more than 48 hours after the early resolution conference if the defendant is in custody. In any case, pretrial motions shall be filed no later than the time allowed in UTCR 4.010.

Chapter 5 - Proceedings in Civil Cases

5.061 EX PARTE AND STIPULATED ORDERS: Ex parte and stipulated orders shall be presented to the court clerk to be forwarded to the judge, with the applicable court file, for signing. Attorneys may personally present ex parte and stipulated orders to the court for signing on Wednesday at 8:15 a.m. in Courtroom 200.

Chapter 6 - Trials

6.005 GENERAL TRIAL SCHEDULING

- (1) Trials generally will be scheduled at 9:00 a.m. Tuesday and Wednesday and at other times as circumstances allow.
- (2) Attorneys and their clients will be present in the assigned courtroom at least 15 minutes prior to the time set for trial.

6.012 SETTLEMENT CONFERENCES: A settlement conference may be set in civil cases at the request of the court or a party.

- (1) Parties and others with authority to settle the case must appear in person unless they reside out of state, in which case they must be available by telephone.

6.031 SCHEDULING CONFLICTS: Requests to reschedule a court proceeding, including trials and hearings, must be in writing and received by the court not later than ten days after the proceeding is entered in the court register. The written request shall be provided to attorneys of record and unrepresented parties and shall include a list of dates on which the parties and counsel are available to try the matter. After ten days, continuances shall not be allowed except for substantial cause.

6.051 DELIVERY OF TRIAL MEMORANDA AND OTHER DOCUMENTS: In civil cases, trial memoranda, requested jury instructions, witness lists, motions in limine and exhibit lists shall be received by the Court and opposing counsel at least one day prior to the commencement of the trial.

Chapter 7 - Case Management and Calendaring

7.011 SETTING TRIALS IN CRIMINAL CASES

- (1) The Court will accept not guilty pleas at arraignment pursuant to UTCR 7.010.
- (2) All criminal cases in which the victim is under 18 years of age at the time of the offense shall be tried within 90 days of arraignment. The District Attorney shall notify the court and defendant at the time of the arraignment when this rule applies. On motion of either the defendant or the District Attorney and for good cause shown, the trial may be postponed for a reasonable period of time.
- (3) Counsel may jointly request an expedited or special-set trial date at a conference with the judge in cases with special witness problems, speedy trial requests, or other considerations. A special-set case shall receive priority over other cases scheduled to be tried the same day. Motions to continue special-set cases shall be denied absent extraordinary circumstances.

7.013 SCHEDULING OF CRIMINAL ARRAIGNMENTS, SENTENCINGS, PRETRIAL HEARINGS, CHANGE OF PLEAS, ETC.

- (1) Criminal arraignments for out-of-custody defendants, first appearances, and other hearings will be held at 8:30 a.m. Monday through Friday. Criminal arraignments for in-custody defendants will be held at 1:15 p.m. Monday through Friday. Detention hearings for in-custody juveniles will be held at 1:15 p.m. Monday through Friday.
- (2) In criminal cases, an early resolution conference will be scheduled at arraignment approximately four weeks out for in-custody defendants and approximately eight weeks out for out-of-custody defendants. At the early resolution conference, attorneys and unrepresented parties shall meet with the Court and report on the progress of negotiations, discovery, and pretrial motions, shall attempt to resolve the case, and shall advise the Court whether a trial is needed and the time needed for trial.
 - (a) Defendants in criminal cases must attend resolution conferences unless the court authorizes a waiver of appearance in advance.
 - (b) Absent good cause, the early resolution conference is the deadline for negotiated pleas. A party may request a final resolution conference if the case does not settle at the early resolution conference. The final resolution conference is the deadline for negotiated pleas unless a party can show good cause for a later date.

7.021 SETTING TRIALS IN CIVIL CASES

- (1) In civil cases, a status hearing will be scheduled approximately 60 days after the case is at issue. Attorneys and unrepresented parties shall meet with the Court and report on the progress of negotiations, discovery, and pretrial motions and advise the Court whether a trial is needed, the time needed for trial and available trial dates.
- (2) Counsel may jointly request an expedited or special-set trial date at a conference with the judge in cases with special witness problems or other considerations. A special-set case will receive priority over other cases scheduled to be tried the same day. Motions to continue special-set cases shall be denied absent extraordinary circumstances.

7.022 SCHEDULING OF CIVIL MOTIONS: Civil motions generally will be heard on Mondays and Fridays.

7.023 SCHEDULING OF SHOW CAUSE PROCEEDINGS

- (1) Show cause matters (except in domestic relations proceedings - see Supplemental Local Rule (SLR) 8.031 below) may be set at any time the court schedule permits.
- (2) Except as provided in SLR 8.031, an applicant for an order to show cause shall obtain a time and date for a hearing from the calendar clerk and insert that date in the prospective Order to Show Cause prior to delivering the order to the clerk for the judge's signature. Service of the order upon the adverse party shall constitute notice to such party of the time and place of the hearing.

7.031 DOCKET CALL

- (1) Criminal docket call shall be held at 9:30 a.m. on the Thursday before the scheduled trial date. Notice of docket call dates shall be provided to attorneys of record and unrepresented parties.
 - (a) Attorneys of record and unrepresented parties shall appear in person for docket call. Attorneys may appear by phone if arrangements are made with the docket clerk prior to docket call.
 - (b) Defendants shall appear in person at docket call unless the court authorizes a waiver of appearance in advance. In misdemeanor cases, the defendant may waive appearance if the defendant has been in personal contact with the attorney within ten days prior to docket call.
 - (c) Docket call is the final deadline for negotiated pleas.
- (2) Civil docket call is in writing. Attorneys of record and unrepresented parties shall complete the form marked as Appendix I of these Supplemental Local Rules and submit it to the Court and to all attorneys of record and unrepresented parties prior to 10:00 a.m. on the Thursday before the scheduled trial date. Failure to file a written report may result in sanctions pursuant to UTCR 1.090, including dismissal of the case.
- (3) Parties to a negotiated plea or settlement shall appear in court during or immediately following docket call for change of plea or to put the settlement on the record unless other arrangements have been made with the court prior to docket call.
- (4) Diversion agreements, civil compromise documents, and jury waivers shall be filed prior to docket call. DUII diversion petitions shall be filed pursuant to ORS 813.210 and prior to docket call.

Chapter 8 - Domestic Relations Proceedings

8.015 PARENTING TIME RULES

- (1) In any domestic relations proceeding, dissolution of marriage, annulment, separation or custody case, paternity, filiation or similar proceeding, unless otherwise ordered by the court or the parties agree to a different parenting plan which is approved by the court, a non-custodial parent shall have the right to parenting time with the minor child(ren) of the parties according to the schedule in Appendix II to these rules.
- (2) In cases involving custody, parenting time or visitation, the petitioner shall serve on all parties a notice as set forth in Appendix III to these rules.

8.031 SHOW CAUSE ORDERS: An applicant for an order to show cause in a modification proceeding must serve the opposing party in the manner provided by ORCP 7. The party served must file a written response with the court within 30 days after service of a notice as provided in ORS 107.135(12).

8.045 PRE-JUDGMENT OR PENDENTE LITE RELIEF IN DOMESTIC RELATIONS CASES

- (1) All applications for prejudgment relief in domestic relations cases must be made by motion for a show cause order and include a supporting affidavit(s). The motion and order must state separately each item of relief requested. Such motions and orders may not state the requested relief by reference to a supporting affidavit.
- (2) All show cause orders for prejudgment relief shall specify a response time not less than 14 days from the date of service upon the opposing party. When the show cause order is served outside the state of Oregon or by publication, the order shall require the opposing party to file an answer in writing not less than 20 days from the date of service. Such orders shall require the opposing party to respond by filing an answer in writing, together with opposing affidavits and cross motions, if any, and serving a copy of the answer and affidavits on the moving party within the response time. The motion, order and supporting affidavits must be served upon the opposing party. The order must include a notice as set forth in Appendix IV to these rules if the opposing party is unrepresented.
- (3) If the opposing party fails to respond to the show cause order within the time set forth in the order, the moving party may present an order granting the relief sought, provided that proof of service has been filed. The Court, in its discretion, may allow or deny the requested relief in whole or in part, or the Court may direct that a hearing be scheduled for the presentation of additional evidence in support of the relief sought by the moving party.

- (4) If the opposing party responds to the show cause order, the moving party shall have five days from the date of service to file a reply affidavit. No further pleadings will be considered. Either party may notify the court in writing when the matter is ready for determination, and the court shall decide the matter and promptly notify the parties of any decision by mail or by telephone conference call.
- (5) For good cause shown or upon its own motion, the court may set show cause proceedings for hearing.
- (6) Motions for prejudgment relief or responses to motions for prejudgment relief shall be considered by the Court to be general appearances pursuant to ORS 107.055, thereby placing the case at issue and ready for referral to mediation and/or a trial setting.

8.046 EDUCATION FOR DIVORCING PARENTS

- (1) Mandatory parent education shall be required in any matter described in ORS 107.765 and any other proceeding where child custody, parenting time or visitation is an issue.
- (2) All parties shall successfully complete the parent education program offered by the court. Petitioners shall register for the program or apply for an alternate program within 15 days of filing the petition. Respondents shall register for the program or apply for an alternate program within 15 days of their being served. All parties shall complete the program within 30 days of registration or obtain consent of the court for an extension.
- (3) The court shall provide notice and instructions regarding parent education to the petitioner when the petition is filed. Petitioner shall serve respondent with a copy of the court notice with service of summons and petition. The petitioner's return of service shall indicate service of the parent education notice.
- (4) Each party shall pay a fee to cover program costs. The fee may be waived by court order if the party files a motion and affidavit for fee waiver.
- (5) Each person who successfully completes the program shall receive a certificate of completion, a copy of which must be filed with the court.
- (6) A party may request the court waive his or her participation in the parent education program on a showing of good cause. The request must be by motion with affidavit and must be filed within the time allowed to register for the class.
- (7) The parent education class shall include information about parenting children during the process of separation or divorce, and shall be designed to assist parents and other adults in meeting children's needs during this period.

8.047 CUSTODY EVALUATION PANEL

- (1) The court has established a panel of trained custody evaluators. To qualify as a panelist, a person must complete court-ordered training, sign and file an application with the Court, and be approved by the Court and the Family Law Advisory Committee.
- (2) The court shall appoint an evaluator from the court panel for investigations pursuant to ORS 107.425 unless otherwise agreed by the parties.

Chapter 9 - Probate, Guardianships, Conservatorships, and Adoption Proceedings

9.035 DELINQUENT FILINGS: In the event of a delinquency in filing any document required by statute, rule or court order, the fiduciary and attorney of record shall be notified. The personal representative, guardian or conservator shall promptly cure the delinquency. If the delinquency is not cured within 30 days after mailing of the notice or other time limitation set by the court, an Order to Show Cause shall be issued which requires the personal representative, conservator or guardian and attorney of record to appear before the court.

9.045 GUARDIANSHIPS AND CONSERVATORSHIPS

- (1) When a petition for guardianship and proof of service of notices of an alleged incapacitated person are filed, a copy of the petition and supporting documentation, marked "Visitor's Copy," shall be delivered to the court's probate clerk. After receipt of the copies, the probate clerk shall prepare an order appointing a visitor and provide a copy of the order to petitioner or attorney for petitioner.
- (2) The visitor's fee shall be paid to the visitor or an affidavit of indigency approved by the Court within two judicial days of the order appointing visitor. The visitor shall be compensated as provided in ORS 125.170 and the Court's order.
- (3) Within 30 days after each anniversary of appointment of all guardians, including those for minors, the guardian or the guardian's attorney of record shall file a guardian's report in substantially the same form as provided in ORS 125.325.

9.081 OBJECTION TO PETITION FOR APPOINTMENT OF GUARDIAN OR CONSERVATOR: Any interested person as described in ORS 125.075(1), who has an objection to the relief sought in a Petition in a protective proceeding may contact the probate clerk. The objecting party shall advise the clerk that they wish to make oral objections to the Petition. Upon request, the probate clerk shall provide a form of objection (Appendix V). Upon receipt of the objection and payment of the applicable fee required by ORS 21.310, the Court shall schedule a hearing and notify the appropriate parties. Written objections shall be mailed or delivered to the Clatsop County Circuit Court, 749 Commercial Street, P. O. Box 835, Astoria, OR 97103.

9.082 PROTECTIVE PROCEEDINGS - NOTICE OF FREE LEGAL AND OTHER RELEVANT SERVICES: In a proceeding for the appointment of a guardian for an alleged incapacitated person, the notice required under ORS 125.060 shall include the following language or its equivalent:

You are hereby informed of free and low cost legal and other relevant services available in this area, pursuant to ORS 125.070, as follows:

- (1) Free legal services for people at least 60 years of age who are subject to guardianship proceedings may be obtained by calling the Senior Law Program of the Oregon Legal Services at 1-888-245-4091. Many other kinds of free or low cost services for people at least 60 years of age may be obtained by calling Senior and Disabled Services at (503) 325-4543.
- (2) A low-cost one-time legal consultation may be obtained by calling the Lawyer Referral Service of the Oregon State Bar at 1-800-452-7636.

9.161 FORM OF ACCOUNTINGS: Accountings in estate and conservatorship cases shall be submitted in the format specified in UTCR 9.160.

9.185 VOUCHERS AND DEPOSITORY STATEMENTS IN PROBATE AND PROTECTIVE PROCEEDINGS

- (1) Vouchers need not be filed with accountings unless they are required by the court.
- (2) Statements of deposits made for each account shall be filed with accountings.

Chapter 10 - Proceedings Relating to Vehicle Laws and Driving Privilege Suspensions
(Reserved for expansion)

Chapter 11 - Juvenile Court Proceedings

11.015 PRETRIAL MOTIONS: The schedule for filing pretrial motions provided in UTCR 4.010 shall govern the filing of pretrial motions in delinquency cases.

11.017 RELEASE AGREEMENTS: Conditional release agreements signed by youths in delinquency cases shall be filed with the court.

11.055 JUDICIAL REVIEW HEARINGS: The child, the child's attorney, the parents, the district attorney or attorney general, and any party or agency having guardianship or legal custody of a child may request a review hearing provided that such request:

- (1) Is in writing;
- (2) Sets forth the reason for the review hearing; and
- (3) Is served on all parties.

11.065 DISPOSITION REPORTS IN DELINQUENCY CASES: Whenever practicable, the Juvenile Department shall prepare and file a disposition report in cases in which a youth has been found to be within the jurisdiction of the juvenile court on an offense which, if committed by an adult, would be chargeable as a crime.

11.075 MANDATORY MEDIATION IN DEPENDENCY CASES: All contested juvenile dependency cases shall proceed to mediation following the shelter hearing or first appearance hearing. See SLR 12.201.

11.085 CASE PLAN IN DEPENDENCY CASES: The Department of Human Services (DHS) shall file a case plan with the court no later than the disposition hearing in dependency cases in which DHS has been awarded legal custody of the child(ren).

- (1) DHS shall file with the court signed service agreements within 30 days of obtaining the parent's signature.
- (2) In those cases in which there is no signed service agreement, DHS shall file with the court its letter of expectation within 30 days of the date of such letter.

11.087 SUMMONS FOR FIRST APPEARANCE IN PERMANENT GUARDIANSHIP OR TERMINATION PROCEEDINGS: Summons for the first appearance in a proceeding to establish permanent guardianship or to terminate parental rights shall require that the parent appear personally before the Court at the time and place specified in the summons to admit or deny allegations of the petition.

CHAPTER 12 - Mediation in Domestic Relations, Civil, Juvenile Dependency, and Small Claims cases

12.001 DOMESTIC RELATIONS MEDIATION GENERALLY

- (1) Mandatory Mediation: Any matter described in ORS 107.765 and any other proceeding where child custody, parenting time or visitation is contested shall be subject to mandatory mediation except as provided in ORS 107.755(2).
- (2) Prejudgment Relief: Requests for prejudgment custody and parenting time orders under ORS 107.095 are not subject to mandatory mediation, but mediation shall be ordered for prejudgment issues on the joint request of the parties or immediately after the prejudgment determination is made.
- (3) Exclusion from Mediation: The Court may exclude a case from mandatory mediation for good cause shown after hearing on the motion of a party with service on the opposing party.
- (4) Other Matters: A mediator qualified to mediate financial issues may consider issues of property division or spousal or child support in connection with the mediation of a dispute concerning child custody, parenting time or visitation with the written approval of both parties or their counsel.

12.002 DOMESTIC RELATIONS MEDIATION: COURT CONTROL

- (1) Cases filed in Circuit Court remain subject to the control of the Court during mediation. Mediators shall report to the Court and counsel for the parties the outcome of the mediation at the conclusion of the mediation proceeding. If the parties are unable to reach agreement, the mediator's report shall report only that the parties were unable to agree. Any agreements of the parties reached as a result of mediation must be presented to the Court, and the Court shall retain final authority to accept, modify or reject the agreement.
- (2) In the following instances, notice of mediation shall be filed in the other appropriate court and notice provided to the parties:
 - a. When there is a pending juvenile court petition regarding the child(ren);
 - b. When custody of the child(ren) has been granted to the Oregon Department of Human Services or Oregon Youth Authority; or
 - c. When the juvenile court has assumed jurisdiction over the child(ren).

12.003 COMMENCEMENT AND PROCESS OF DOMESTIC RELATIONS MEDIATION

- (1) Commencement of Mediation by Stipulated Request for Mediation: If there is a disagreement between the parents concerning custody, parenting time or visitation at any stage of a proceeding, both parents or their attorneys may sign and file with the Court a stipulated request for mediation. A mediator will be available to the parents in accordance with these rules or the parents may agree and stipulate to an independent mediator in their stipulated request for mediation. If the parties choose an independent mediator, the costs for the mediator will be paid by the parties pursuant to their agreement, or, if they cannot agree, jointly.
- (2) Commencement of Mediation by Request for Mediation by One Parent: If there is a disagreement between the parents concerning custody, parenting time or visitation at any stage of a proceeding, either parent seeking to resolve the matter shall file with the Court and serve upon the other parent or his or her attorney a request for mediation.
- (3) Commencement of Mediation When Respondent Notifies Court: Whenever a respondent appears by filing a response or answer or by filing a request for prejudgment relief or a response to a request for prejudgment relief, the respondent also shall state whether child custody, parenting time and/or visitation is or is not an issue in the case. If the respondent reports that custody and/or visitation is an issue, the Court shall refer the matter to mediation.

- (4) Referral by Court to Mediation: When it appears that custody, parenting time and/or visitation are issues in any proceeding that will result in a final judgment or order, the Court shall refer the matter to mediation. In a proceeding that will result in a temporary order, the Court will refer the matter to mediation prior to a prejudgment decision at the request of both parties or immediately after the prejudgment determination is made.
- (5) The Court may remove a case from mediation at any time.

12.004 DOMESTIC RELATIONS MEDIATION: LAWYERS AND MEDIATORS

- (1) Unless otherwise agreed in writing by the parties, the parties' legal counsel shall not be present at mediation sessions.
- (2) A mediator shall encourage disputing parties to obtain independent legal advice and review of any mediated agreement before signing any agreement.
- (3) A mediator shall not act as a lawyer for either party.

12.005 DOMESTIC RELATIONS MEDIATION ORIENTATION

- (1) Mediation shall consist of an orientation session and three hours of mediation. Additional mediation may be scheduled by the mediator with prior approval of the Court. Mediation orientation shall include information about the mediation process, other dispute resolution processes, including litigation, and circumstances in which mediation may not be appropriate.
- (2) The Court may exempt a party from orientation for good cause.

12.006 ASSIGNMENT TO DOMESTIC RELATIONS MEDIATORS

- (1) The parties may select a mediator of their own choosing, but if the mediator is not on the list of mediators approved by the court, the expense of the mediator shall be the responsibility of the parties.
- (2) The parties shall choose a mediator prior to or at orientation. The parties shall notify the Court of the mediator selected, and the Court shall appoint the mediator and notify the parties of the appointment.
- (3) If the parties have not selected a mediator by the end of orientation, the mediation clerk shall select a mediator from the court's list of mediators.

12.007 SCHEDULING OF DOMESTIC RELATIONS MEDIATION SESSIONS: Upon receipt of a mediation assignment, a mediator shall immediately notify the parties of a date and time for the initial mediation session. The initial mediation session shall occur within fourteen (14) days of notice of the assignment to the mediator.

12.008 DOMESTIC RELATIONS MEDIATION COMPLETION

- (1) Mediation shall be completed promptly without causing unnecessary delay of court proceedings and in no event later than any deadline set by the judge.
- (2) The mediator shall notify the Court immediately when mediation is concluded. If the parties have been unable to reach agreement, the case shall proceed to trial.
- (3) At any time during mediation, the Court may approve a custody or parenting time order reflecting the parents' full or partial agreement. If the agreement is reached through a mediator assigned by the court, the mediator shall hold the signed agreement for seven days from the date of the last signature and provide notice of the agreement to the parties and their attorneys, if known. Parties to the agreement may repudiate the agreement within that seven-day period by providing the mediator with written notice. If, after the passage of seven days, the mediator has received no notice of repudiation, the mediator shall submit the agreement to the Court for the Court's consideration.

12.009 CONFIDENTIALITY OF DOMESTIC RELATIONS MEDIATION

- (1) All communications occurring in the course of mediation are confidential pursuant to ORS 107.785.
- (2) The mediator shall not disclose to any person, other than the mediation participants, substantive or procedural matters arising during mediation. The mediator, however, shall inform the Court of the terms of the parties' agreement, or advise the Court if the parties were unable to reach agreement. Where the parties were unable to reach agreement, the mediator's report to the Court shall not include recommendations other than a recommendation to appoint a custody evaluator. The mediator may not be subpoenaed or called as a witness regarding any aspect of mediation.
- (3) The mediator may advise the Court of a perceived failure by either party to engage in mediation in good faith.
- (4) The mediator may advise the Court of a perceived need for the Court to appoint counsel to represent a minor child.
- (5) Mediators are mandated reporters regarding any allegation of child abuse or neglect, and nothing in this rule shall be deemed to prohibit a mediator's duty to make such reports.

12.011 DOMESTIC RELATIONS MEDIATION COMMITTEE: A Domestic Relations Mediation Committee is established. The committee's function shall be to supervise the mediation program and to recommend rule changes to the judge. The committee shall be composed of at least one judge and two attorneys who practice in the county and whose practices include domestic relations work, and one mediator. The Presiding Judge of the Eighteenth Judicial District shall appoint the committee members and shall be an ex officio member.

12.101 MEDIATION PROCEDURE IN CIVIL ACTIONS

- (1) Mediation, as used in these rules, is a facilitated negotiation process in which a neutral uninvolved person assists the parties in attempting to reach a resolution of their controversy. The mediator has no authority to make a decision or impose a solution.
- (2) On the parties' written stipulation filed with the court at any time prior to the commencement of an arbitration hearing, the parties may elect to mediate (pursuant to ORS 36.185 to 36.210) rather than arbitrate any civil or domestic relations matter subject to mandatory arbitration. Such mediation shall be accomplished within the same time period required for court-annexed arbitration under these rules. If the parties mediate in good faith, they shall be deemed to have met the requirements for mandatory arbitration, whether or not the mediation results in resolution of all claims, and shall not thereafter be required to submit to arbitration. Nothing in this rule, however, precludes the parties from entering into arbitration in the event that mediation is unsuccessful in resolving the controversy. Any such request to arbitrate after mediation shall be governed by SLR 13.005 to 13.161.

12.103 ASSIGNMENT OF MEDIATOR IN CIVIL ACTIONS

- (1) If no arbitrator has been selected or assigned at the time of the stipulation to mediate, the parties may:
 - a. Select a mediator by stipulation; or
 - b. Follow the procedures for assignment of an arbitrator pursuant to UTCR 13.080, except that the mediator shall be chosen from among those on the court-maintained list who have agreed to serve as mediators. The parties shall notify the arbitration clerk of their desire to select the mediator from such a list prior to the issuance of a list of potential arbitrators, if possible.
- (2) Mediators whose names are maintained on the court-maintained list shall have the qualifications of arbitrators under UTCR 13.090(1).
- (3) If an arbitrator has already been assigned at the time of the stipulation to mediate, the parties may select a mediator in either of the following methods:
 - a. Request the arbitrator to serve as a mediator. Execution of the oath of arbitrator shall not preclude the arbitrator from agreeing to act as mediator pursuant to this rule. If the arbitrator agrees so to serve, UTCR 13.130 shall be inapplicable.
 - b. Stipulate to another mediator. If another mediator is selected, the arbitrator shall be informed immediately, and shall be compensated, pursuant to UTCR 13.120 and the Supplementary Local Rules, for any time already invested in the case.

12.105 COMPENSATION OF MEDIATOR IN CIVIL ACTIONS: The mediator shall be compensated pursuant to UTCR 13.120, the Supplementary Local Rules, and the hourly rate established by the arbitration commission.

12.107 MEDIATION PROCESS IN CIVIL ACTIONS

- (1) If requested by the mediator, each party shall supply to the mediator, at least five days prior to the scheduled mediation, a copy of the pleadings, a confidential statement of the nature of the case, the status of settlement negotiations, and any other information requested by the mediator or deemed helpful by any party for resolution of the dispute.
- (2) The mediator shall report the results of mediation on such forms as the court may direct, as either "settled" or "not settled." If settled, the terms of the settlement shall be stated on the report form and signed by the parties and attorneys, unless the parties have agreed that the terms shall be kept confidential and not entered as a judgment. The report form shall be filed and the reported settlement entered as a judgment in the same manner as the filing of an award from arbitration that has not been appealed. If the parties have agreed to keep the statement confidential, a written statement of the terms of the settlement signed by the parties or the attorneys shall be filed under seal and shall not be made a part of the court file or entered as a judgment. This confidential statement shall be admissible to prove the settlement, but shall not otherwise be admissible.
- (3) In the event any party fails to mediate in good faith after signing a stipulation for mediation, the Court may assess as costs any other party's costs necessarily incurred in the mediation.
- (4) The mediation proceedings described by this rule are compromise negotiations for purposes of ORE 408 (ORS 40.190) and are confidential under ORS 36.220.

12.201 JUVENILE DEPENDENCY MEDIATION REQUIRED: All contested juvenile dependency cases shall proceed to mediation following the shelter hearing or first appearance hearing. At any stage of the proceedings, any party of the case, the court on its own motion, or the Citizens Review Board may request mediation. The court may remove a case from mediation or terminate mediation for good cause.

12.203 DEPENDENCY MEDIATION REFERRAL PROCEDURES

- (1) At the first hearing at which parties are present (shelter, shelter review, first appearance, status) if there is no stipulation regarding jurisdiction of the juvenile court, every dependency case shall be scheduled for mediation to occur approximately 14 days before the jurisdictional hearing or approximately 45 days from the first appearance, whichever is sooner.

- a. If jurisdiction is established prior to the mediation date, mediation may be canceled.
 - b. If the case has not resolved prior to the scheduled mediation, the case will proceed to mediation.
- (2) The Court shall schedule mediation, notify all parties, and enter the data into the case register.

12.205 DEPENDENCY MEDIATION GENERALLY

- (1) Mediation Sessions
 - a. The mediator shall have the authority and responsibility to make procedural decisions.
 - b. After a good faith effort, a party may choose not to continue with mediation.
 - c. Parties may have an attorney present at mediation.
- (2) Post-Mediation
 - a. All parties shall report to the Court at the time scheduled for mediation.
 - b. All parties shall report to the court immediately upon completion of mediation to advise the outcome, present any agreement for review and approval, put stipulations on the record, and/or schedule the next hearing. If Court is not in session or the judge is not available for an immediate hearing, the parties shall report in writing and shall schedule a hearing at the earliest available date.
 - c. The Court may approve or reject any agreement.

12.207 LEGAL EFFECT OF AGREEMENTS: Mediated settlement agreements are enforceable after court review and approval.

12.209 JUVENILE DEPENDENCY MEDIATION CONFIDENTIALITY is governed by Oregon Administrative Rules.

12.211 JUVENILE DEPENDENCY MEDIATORS

- (1) Qualifications
 - a. Mediators must possess the minimum qualifications and training for court-connected domestic relations mediators as provided in Oregon Administrative Rules and Uniform Trial Court Rules.

- b. Mediators must complete JCIP-approved training in the following areas:
 - (i) Abuse and neglect mediation;
 - (ii) Child abuse issues;
 - (iii) Dependency court procedures and time-lines.
 - c. Mediators shall be subject to thorough criminal history checks through Oregon State Police, DHS Central Registry, and professional licensing boards.
 - (i) Any person convicted of child abuse, offenses against persons, sexual offenses, child neglect, or felony drug offenses is ineligible to serve as a dependency mediator.
 - (ii) Any other offenses which appear to bear a substantial relationship to the qualifications, functions or duties of a dependency mediator shall be presented to the Court for determination of fitness to serve as a dependency mediator.
 - d. Mediators must have an adequate safety plan for mediation sessions.
- (2) Mediation shall be conducted by a single mediator unless the Court orders otherwise.

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

12.303 SMALL CLAIMS MEDIATION PROCEDURES

- (1) The Small Claims Clerk shall assign cases to a volunteer mediator. Each party must come to mediation with full authority to make and accept offers for settlement.
- (2) All parties must appear for mediation. A party not appearing for mediation may have a judgment entered against him or her. An authorized representative may appear on behalf of a business but must be familiar with the facts of the case and must have full authority to settle. Attorneys shall not be permitted to attend a small claims mediation session.

- (3) If mediation is not successful, a trial will take place. Trials may be set for a future date. If mediation is successful, the parties shall appear before the judge if a judge is available or the agreement will be forwarded to a judge for approval. All parties shall be provided a copy of the agreement.
- (4) If the agreement states that one party shall have judgment against the other, the judgment is entered in the record as an enforceable judgment. If the agreement calls for the recovery of money, specific personal property or any penalty or forfeiture, and the party who owes the debt does not abide by the agreement, the party who is owed is responsible for enforcing the judgment.
- (5) If the agreement does not state that one party shall have judgment against the other, the signed agreement is entered in the case as a stipulated order. If one party fails to comply with the terms of the agreement, the other party can file an affidavit of non-compliance which, if approved by a judge, will convert the stipulated order into a judgment for the original claim, less what the debtor has already paid. The creditor's filing fees, service costs, and a prevailing fee for a default will be added.

12.401 GOOD FAITH MEDIATION: All parties shall comply with the mediation rules and procedures and with the directions of the Court and mediator.

CHAPTER 13 - Arbitration

13.005 ARBITRATION PROGRAM: Arbitration is required in civil actions involving the recovery of money or damages in an amount less than \$50,000, exclusive of attorney fees, costs, disbursements and interest. This rule does not apply to matters in the small claims department or to domestic relations matters relating to child custody or parenting rights. This requirement for arbitration does apply to domestic relations matters that are limited to the disposition of property

13.009 MEDIATION IN LIEU OF ARBITRATION : On the parties' written stipulation, filed with the court at any time prior to the commencement of the arbitration hearing, the parties may elect to mediate (pursuant to ORS 36.185 to 36.210) rather than arbitrate any civil or domestic relations matter subject to mandatory arbitration. Such mediation shall be accomplished within the same time period required for court-annexed arbitration under these rules. If the parties mediate in good faith, they shall be deemed to have met the requirements for mandatory arbitration, whether or not the mediation results in resolution of all claims, and shall not thereafter be required to submit to arbitration. Nothing in this rule, however, precludes the parties from entering into arbitration in the event that mediation is unsuccessful in resolving the controversy.

13.011 REFERRAL TO ARBITRATION

- (1) A case subject to arbitration shall be transferred to arbitration when the case is at issue or 90 days have elapsed since its filing, whichever occurs first.
- (2) In the event a motion to file an amended pleading is allowed by the arbitrator which causes the case to no longer be subject to mandatory arbitration, the party filing such a pleading must notify the Arbitration Clerk. Unless the parties stipulate otherwise, the clerk shall then remove the case from arbitration.
- (3) The Court may remove a case from arbitration at any time.

13.035 ARBITRATION COMMISSION: The arbitration program shall function under the direction of an Arbitration Commission, which shall consist of a judge and at least two attorneys. The Trial Court Administrator shall be an ex officio member of the Commission.

13.101 GOOD FAITH ARBITRATION: All parties and attorneys shall comply with the arbitration rules and procedures and with the directions of the Court and arbitrator.

13.161 LOCATION OF ARBITRATION PROCEEDINGS: Unless otherwise stipulated by all parties, arbitration and mediation proceedings shall be scheduled at a location in Clatsop County, Oregon. The arbitrator may schedule phone conference calls to deal with scheduling and procedural issues.

CHAPTER 15 - Small Claims

15.015 SETTING TRIALS IN SMALL CLAIMS CASES: Small claims cases shall be managed according to the following timelines.

- (1) If no proof of service has been filed by the 28th day after the filing of the complaint, written notice may be given to plaintiff that the case will be dismissed for want of prosecution 21 days from the date of the mailing of the notice unless:
 - a. Proof of service is filed within the time period;
 - b. Good cause to continue the case is shown to the court in writing; or
 - c. The defendant has appeared.
- (2) If proof of service has been filed and any defendant has not filed an appearance 21 days from the date of service, written notice may be given to plaintiff that the case will be dismissed 21 days from the date of mailing of the notice unless:

- a. A request for a default judgment is filed;
- b. Good cause to continue the case is shown to the court in writing; or
- c. The defendant has appeared.

15.025 MANDATORY MEDIATION: Mediation in small claims cases is mandatory and shall proceed as set forth in SLR Chapter 12 unless the Court exempts a case from mediation for good cause.

APPENDIX I
SEE SLR 7.031(2)

DOCKET CALL - CIVIL CASE
ATTORNEY APPEARANCE IN WRITING

CASE NAME AND NUMBER: _____

TRIAL DATE: _____

DOCKET CALL DATE: _____

ATTORNEY NAME (or Party Name if unrepresented):
TRIAL ATTORNEY IF DIFFERENT:

I make the following representations regarding this case:

ARE YOU READY FOR TRIAL WITH ALL WITNESSES SUBPOENAED? **G** Yes **G** No
IF NO, WHY NOT?

IF YES, Number of Witnesses _____
Estimated Length of Your Portion of the Trial _____
Motion in Limine to be Filed: **G** Yes **G** No **MUST BE FILED 24 HOURS BEFORE TRIAL**
Jury trial? **G** Yes **G** No If yes, **G** 12-person jury **G** 6-person jury

ANTICIPATED PROBLEMS OR PRETRIAL ISSUES: _____

ISSUES AT TRIAL: _____

SUBMIT WITNESS AND EXHIBIT LIST TO THE COURT 24 HOURS PRIOR TO TRIAL.

SIGNATURE: _____

DATE: _____

APPENDIX II
See SLR 8.015(1)

RULES FOR PARENTING TIME WITH MINOR CHILDREN IN DOMESTIC RELATIONS
CASES

For the purposes of this schedule, a weekend is defined as commencing at 7:00 p.m. on Friday and ending at 7:00 p.m. on Sunday. The first weekend of the month is defined as the first one that has both a Saturday and a Sunday within that month.

The noncustodial parent shall have parenting time with the minor child(ren) as follows:

- (1) Except when a specific period is set forth hereafter, the first and third weekends of each month; and
- (2) Whether or not the child(ren) are in school, during the period of Christmas school vacation from the day after school adjourns until 10:00 a.m. on Christmas morning in even-numbered years, and from 10:00 a.m. on Christmas morning until 7:00 p.m. on the day before school resumes in odd-numbered years; and
- (3) Whether or not the child(ren) are in school, for a period of thirty-five days during the period of school summer vacation. Before May 1 of each year, the non-custodial parent shall select and notify the custodial parent in writing of the inclusive dates of the thirty-five day parenting time period with the child(ren). If the non-custodial parent fails to give such notice to the custodial parent before May 1 of the year of the summer parenting time, the non-custodial parent nevertheless shall have the right to such parenting time with the child(ren) after giving two (2) weeks written notice to the custodial parent, if and to the extent that the time remains for such time; provided, however, that the custodial parent shall have the right to choose the inclusive dates for such parenting time. When the non-custodial parent exercises his or her right to parenting time of more than nineteen consecutive days with the child(ren), the custodial parent shall have the right to a weekend with the child(ren) on the third weekend after commencement of the extended parenting time by the non-custodial parent. Such interim parenting time by the custodial parent shall not lengthen the thirty-five days of parenting time allowed to the non-custodial parent; and
- (4) Parenting time in even-numbered years on the following holidays or during the following holiday periods:
 - (a) The birthdays of the child(ren) from 9:00 a.m. to 7:00 p.m. if the birthday falls on a weekend, or from 5:00 p.m. to 8:30 p.m. if the birthday falls on a weekday;
 - (b) Thanksgiving holiday, commencing on Wednesday at 7:00 p.m. and ending on the following Sunday at 7:00 p.m.;
 - (c) The Fourth of July. If this holiday does not fall on Friday, Saturday, Sunday, or Monday, visitation shall commence at 9:00 a.m. and shall end at 10:00 p.m. on July 4. If this holiday falls on a Saturday, Sunday, or Monday, parenting time shall

commence at 7:00 p.m. on the Friday preceding July 4, and shall end on Sunday the 4th or Monday the 4th, as the case may be, at 7:00 p.m. If the holiday falls on a Friday, parenting time shall commence at 7:00 p.m. on Thursday and shall end at 7:00 p.m. on the following Sunday; and

- (d) Whether or not the child(ren) are in school, during the period of school spring vacation (measured from the day after school adjourns through the day before school resumes), commencing at 9:00 a.m. and ending at 7:00 p.m.
- (5) Parenting time in odd-numbered years on the following holidays or during the following holiday periods:
- (a) The day before the child(ren)'s birthday from 9:00 a.m. to 7:00 p.m. if the birthday falls on a weekend or from 5:00 p.m. to 8:30 p.m. if the birthday falls on a weekday.
 - (b) Memorial Day weekend, commencing on the Friday preceding Memorial Day at 7:00 p.m. and ending on the following Monday at 7:00 p.m.; and
 - (c) Labor Day weekend, commencing on the Friday preceding Labor Day at 7:00 p.m. and ending on Monday, Labor Day, at 7:00 p.m.

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

The custodial parent shall have the right to designate one weekend each summer when the non-custodial parent's weekend parenting time will not occur in order that the custodial parent can have the child(ren) for an uninterrupted two (2) week period. Before May 15th of each year, the custodial parent shall inform the non-custodial parent of which weekend has been selected. The weekend shall not be on a holiday, birthday or during the non-custodial parent's 35 days of summer parenting time.

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

Personal plans of the custodial parent or child(ren), school activities, church activities and other considerations will not be reasons for failing to adhere to this parenting time schedule. Only substantial medical reasons will be considered sufficient for postponement of a parent's

parenting time. Both parties will provide addresses and contact telephone numbers to the other party and advise of any emergency circumstances or substantial changes in the health of any child(ren).

The non-custodial parent shall, in addition to the parenting time set forth in this order, have the unlimited right to correspond with the minor child(ren) of the parties, and to telephone the minor child(ren) during reasonable hours without interference or monitoring by the custodial parent or anyone else in any way. Unless otherwise agreed to between the parties, telephone conferences between the non-custodial parent and the child(ren) shall be limited to no more than three (3) per week and shall be limited, each call, to ten (10) minutes or less in duration.

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

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

APPENDIX III
See SLR 8.015(2)

NOTICE TO PARTIES IN CASES INVOLVING CHILDREN

The court considers the welfare of the children to be the most important part of this case.

The behavior, comments and attitude of the parents will have a huge effect on how a divorce will affect the children. Children are greatly influenced by the things that their parents say and do, especially concerning the other parent.

Children need to know that the family break-up is not their fault and that they still will have both of their parents. They need to be shielded from the conflict between their parents as much as possible. They need to be able to continue to have parenting time with both of their parents. It takes careful work by the parents to keep the children out of the conflict and may involve the parents' educating others about the importance of this. The parents will need to try to work together to come up with a parenting plan to involve both parents in the children's lives, regardless of where the child actually resides most of the time.

The court will, in its temporary and final orders in this case, enter orders designed to protect the children from emotional as well as physical harm. These orders may include the following:

1. Neither parent shall make derogatory remarks about the other parent within the hearing of the children, or in any way diminish the love, respect and affection that the children have for the other parent.
2. The children will not be used to communicate about disputes between parents. The proceedings shall not be discussed with the children.
3. The parents will follow the parenting plan in good faith and in the best interest of the children.
4. The parents will minimize the negative effects of the dissolution on the children, using mutual cooperation and active involvement by each of them.
5. The children will have the right to reasonable telephone access to both parents.
6. Both parents will be able to participate in the children's school and other activities.

The court will take into account the past willingness of the parties to obey the above orders, in making its decision in this case.

For the sake of your children, each of you shall obey the court's orders immediately.

APPENDIX IV
See SLR 8.045(2)

NOTICE

You must file an answer in writing to this Order within the time allowed by the Order. If you do not file a written answer within such time, the other side may be given whatever he or she is requesting in the motion. If you have any questions, you should see an attorney immediately.

In order to file an answer in writing, you must do the following things:

- (1) Your written answer must contain the title and number of this case.
- (2) Your written answer must specify the item or items of relief requested by the other side which you oppose. Although you do not need to state the reasons why you oppose the requested relief, your answer will be more easily understood if you do. Your answer will have more authority if it is in the form of a sworn affidavit but this also is not required.
- (3) Your written answer must be signed by you and must contain your current mailing address. All future notices and documents in this case will be sent to you at the address listed on your written answer unless and until you file in this case a written notice of a change of such address, and the Court will proceed on the assumption that you have received all communications and documents mailed to you at your most current address on file in this case.
- (4) Your written answer must be mailed or presented to the clerk of the Court so as to actually reach the clerk of the Court within the time allowed.
- (5) Your written answer must be accompanied by payment of any filing fee required by law for the filing of the answer, or you must obtain a Court order waiving or deferring such filing fee (you should contact the clerk of the Court if you have any questions concerning a filing fee).
- (6) At or before the time you file your written answer with the clerk of the Court, you must mail a copy of the answer to the attorney for the other side or to the other side personally if he or she is not represented by an attorney. You must attach a certificate showing proof of mailing to the answer which you file with the clerk. If you properly file a written answer, the Court will decide whether or not to grant the relief requested by the other side, and you will be notified by mail of the Court's decision. If you do not file an answer within the time allowed, the relief requested may be granted. If you wish to seek affirmative relief for yourself against the other side, you must file an appropriate motion with an affidavit, and you must mail a copy of the motion and affidavit to the attorney for the other side or to the other side personally if he or she is not represented by an attorney.

