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SUPPLEMENTARY LOCAL COURT RULES

for the

LINN JUDICIAL DISTRICT

(23rd Judicial District)

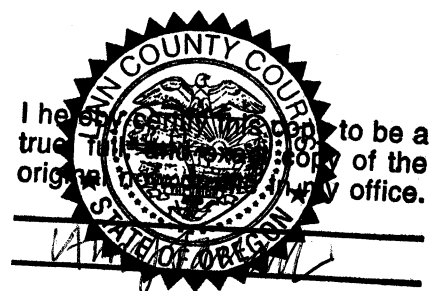


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CHAPTER 1
HOURS OF COURT OPERATION

1.151 HOURS OF COURT OPERATION

(1) Court Records

Hours open to the public are 8:00 a.m. to 12 noon, and 1:00 p.m. to 3:00 p.m. The same hours pertain to incoming telephone calls. The cashier station remains open until 5:00 p.m. to receipt monies and accept papers.

(2) Court Operations - Courtroom Facilities

Courtroom facilities are only open to the public when activity is scheduled and courtroom staff are in attendance. Otherwise the courtrooms are to remain locked. Cases are scheduled throughout the day from 8:00 a.m. to 12 noon and from 1:00 p.m. to 5:00 p.m. in all courtrooms at various time intervals. There may be periods of time when a courtroom is locked due to settlements being reached prior to trials, as an example.

(3) Administration

Office hours are the same as records; however, telephone calls are answered from 8:00 a.m. to 12 noon and from 1:00 p.m. to 5:00 p.m.

CHAPTER 6 TRIALS

6.012 SETTLEMENT CONFERENCES

A settlement conference may be set in every Circuit Court civil case. The settlement conference judge will not preside at the trial if any party objects thereto. At the settlement conference:

- (a) 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.
- (b) Parties and others with authority to settle the case must appear in person.

CHAPTER 7 CASE MANAGEMENT AND CALENDARING

[Circuit (541)967-3867]

7.025 CIVIL CASE SCHEDULING

- (1) Hearings on Motions will be specially set. The Court will send a written notice.
- (2) Hearings on Contempt Motions in Circuit Court

The adverse party should be cited to appear at 1:30 p.m. on either the first or third Wednesday of the month. When the responding party appears, the Court will set a contempt hearing for a later date. The Court will send advance written notice when that later hearing date is set.

7.045 JUDGMENT DEBTOR EXAM

The party requesting the debtor's exam may select the time for the examination provided: (1) the examination is set during days when the Court is in session between 9:00 a.m. and 4:00 p.m.; 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:

Linn County Courthouse- Room 107

7.055 DISMISSAL OF INACTIVE CASES

- (1) After the Court has rendered a decision in any civil or domestic relations case by pronouncement from the bench or by decision letter if the parties do not submit a proposed order, decree or judgment in conformance with the court's decision for a period of sixty (60) days or more the trial court administrator shall send a notice to the attorneys or pro se parties notifying them that if a proposed order, decree or judgment is not received within thirty (30) days the case will be dismissed.
- (2) Thirty (30) days after notice of dismissal is sent pursuant to Section (1) of this rule, the Trial Court Administrator shall submit an order dismissing the action to the Court if further activity as required by this rule has not occurred.
- (3) Any dismissal pursuant to this rule will be without prejudice to any party. Upon filing of a motion and supporting affidavit the Court may vacate the order of dismissal upon a showing of good cause.

CHAPTER 8
DOMESTIC RELATIONS

8.005 DOMESTIC RELATIONS CASE SCHEDULING

(1) Temporary Relief Hearings

All temporary relief motions shall be show cause motions, except as provided by ORS 107.097, and shall be handled as follows:

- (a) Motions for temporary relief shall be accompanied by an affidavit setting forth the justification for the requested relief. The Order to Show Cause shall require the filing of a response within fourteen (14) days following service if the adverse party wishes to contest the relief sought.
- (b) The Motion, Affidavit, and Order to Show Cause shall be filed with the Trial Court Administrator before being submitted to a judge.
- (c) A copy of this Supplementary Local Rule shall be served on the adverse party along with true copies of the Motion, Affidavit and Order to Show Cause.
- (d) If temporary child support or spousal support is sought, each party shall submit a Uniform Support Affidavit.
- (e) The Response shall admit and/or deny the relief sought and shall set forth any additional motions for temporary relief. The Response shall be accompanied by an Affidavit setting forth the justification for the relief opposed or sought by the responding party.
- (f) Within ten (10) days following service of the Response and Responding Affidavit on the moving party or their attorney, either or both parties may submit a Supplemental Affidavit in support of their respective positions. If service of the Response is made by mailing, the date of service shall be considered to be three (3) days after the date of mailing. Except for good cause shown, no further pleadings are required or permitted.
- (g) Temporary relief shall be determined without testimony, based upon the affidavits submitted. On matters of custody and parenting time only, upon written motion filed within ten (10) days after the Court's ruling, a hearing will be scheduled to review that ruling.

(2) Hearings on Motions to Hold a Party in Contempt

The adverse party should be cited to appear at 1:30 p.m. on either the first or third Wednesday of the month. 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.

- (a) In all cases where both parties are represented by counsel upon the filing of a response to the petition putting the case at issue the court will send a Status Report Form to counsel requiring the return of the Status Report Form with information about the status of the case and including any procedural requests by a date certain. Failure to file the Status Report Form on or before the date required will result in the case being removed from the Status Report system and being set for pre-trial conference.
- (b) When counsel have provided all the information required by the Status Report Form for the setting of trial the court will set the matter for trial.
- (c) In all cases where one or both of the parties appear *pro se* a pre-trial conference will be scheduled as soon as practicable after the case is at issue.
- (d) Pretrial conferences will be set the second Wednesday of each month. The Court will provide advance notice. Any cases which are not resolved at the pretrial conference will either be set for trial and/or upon good cause shown for another pretrial conference in open court (no written notice will be sent) or by the calendar clerk (written notice will be sent).

(4) Settlement Conferences

The judge conducting the pretrial conference may conduct settlement negotiations in dissolution cases.

8.011 PARENT EDUCATION PROGRAM

(1) Mandatory Parent Education Program

- (a) Linn County shall establish a parent education program of the type authorized by ORS 3.425. The program shall provide information on the impact of family restructuring on children to each person named in the following types of proceedings, when the proceedings involve minor children.
 - (1) Annulment or dissolution of marriage.
 - (2) Legal separation.
 - (3) Petition to establish custody or visitation (including paternity), and
 - (4) Post-judgment litigation involving custody or visitation.
- (b) Each party who files an appearance in a proceeding of the types described above shall complete the program unless exempted by the Court. A judgment/decreed shall not be entered in the proceeding until each party not otherwise exempted by the Court who has filed an appearance has completed the program or appropriate sanctions have been applied.
- (c) The party initiating the proceeding shall register for the program within 15 days after filing the initiating pleading with the Court. A copy of this local rule and instructions on how to register for the program shall be served by the initiating party on all parties against whom relief is sought. Service shall be completed in the manner provided in ORCP 7 at the time the initiating documents are served. All other parties shall have 30 days after service of notice upon them to register for the program.
- (d) The Trial Court Administrator shall provide a copy of this rule to the initiating party for service upon all parties against whom relief is sought, together with a statement describing the program including contact telephone numbers, addresses, and statement of costs.
- (e) The 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.
- (f) The Court may exempt one or more of the parties from the program if, after reviewing the requesting party's motion and supporting affidavit, the Court determines that participation is unnecessary or inappropriate.

- (g) The Court may allow one or more of the parties to participate in a comparable education program, if after reviewing the party's motion and supporting affidavit, the Court determines that the program is comparable and timely.

(2) Sanctions

- (a) The Court shall actively promote each party's completion of the program. Failure or refusal to complete the program in a timely manner shall be considered by the Court in making its ruling on issues which are in dispute.
- (b) A party who has completed the program shall have the right to:
 - (1) Request that the pleadings of a party who has appeared be stricken if that party has not completed the program in a timely manner without good cause.
 - (2) Request entry of an order from the Court to compel the non-complying party's completion of the program should the non-complying party not have completed the program in a timely manner without good reason. The Court shall enter an award of attorney fees in favor of the complying party who utilizes this option to force the non-complying party's compliance with this rule.

(3) Fees

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

(4) Effective Date

This rule shall apply to all cases and modifications proceedings filed after January 1, 1998.

CHAPTER 9
PROBATE PROCEEDINGS

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

In a proceeding for the appointment of a guardian for an alleged incapacitated person, the notice required under ORS 125.070(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 926-8678 or (toll-free) 1-800-817-4605. Free or low cost services may be obtained by calling Senior Services at 967-8630 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.

9.020 PROTECTIVE PROCEEDINGS OBJECTIONS

Persons wishing to object to a motion in a protective proceeding or to object to a petition in a protective proceeding pursuant to ORS 125.070 shall make such objection at Room #107 located on the first floor of the Linn County Courthouse, 300 - Fourth Avenue SW, Albany, Oregon. The clerk will receive oral objections and provide the means for such objections to be reduced to writing. Upon request, the clerk will assist in reducing such objections to writing.

CHAPTER 12
MEDIATION

12.005 MANDATORY MEDIATION PROGRAM

- (1) 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 visitation. “Good cause” includes cases where allegations of domestic abuse and/or power imbalance exists. Either party may petition the Domestic Relations Court to exclude them from mandatory mediation based on such circumstances. Requests for exemption shall be in writing and shall be made at any time during the pendency of the case. Mediation fees are set by the Linn County Board of Commissioners. The mediation program policies and guidelines are governed by the joint Linn and Benton County Mediation Commission.
- (2) In every case where mediation is required herein the respondent shall file with their first responsive pleading a request for mediation or waiver of mediation. If such request is not filed, the responsive pleading shall not be filed and shall be returned to the party or attorney submitting it with a request for compliance with this rule.
- [3) In the event that the mediator shall report to the court that a party refused to participate in mediation, the court shall strike the pleadings of that party and may grant relief sought by the opposing party. The court may grant relief from this section upon a showing of good cause.]

CHAPTER 13 ARBITRATION

(This chapter supplements ORS 36.400 et seq and UTCR Chapter 13)

An Arbitration Coordinator will be appointed by the Court.

13.005 MANDATORY ARBITRATION PROGRAM

- (1) The Circuit Court has established a Mandatory Arbitration Program under ORS 36.400 - 36.425 and UTCR Chapter 13.

Arbitration is required in matters involving \$50,000 or less in civil cases, and may be required in all domestic relations cases where there are contested issues involving property or debts.

The Court may require arbitration in all Domestic Relations cases on all property issues unless the Court, for good and compelling reason, grants an exemption from arbitration. An exemption shall be granted only upon the filing of a motion with supporting affidavit setting forth the reasons for exemption. Issues of child support, spousal support, child custody, visitation, and orders protecting persons shall not be subject to arbitration unless agreed to by the parties.

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

- (1) Cases which are otherwise subject to arbitration will be referred to arbitration as follows:
- (a) Within twenty days of the date on which the Answer is filed.
 - (b) Within fourteen days of the termination or completion of mediation where mediation is required in domestic relations cases.
 - (c) At any time as specifically directed by the Presiding Judge.

- (2) Once a case is referred to arbitration all motions against the pleadings, all motions for discovery, all similar pretrial motions not yet resolved will be determined by the arbitrator. The arbitrator's determination, however, will only apply during the arbitration proceeding. If an appeal is filed, those issues may be raised again in Circuit Court. If a party feels that the arbitrator's decision on a pretrial motion will prejudice the parties if an appeal from the arbitrator's decision is filed, that party may file an appropriate motion with the Presiding Judge of the appropriate Court.

13.085 ASSIGNMENT TO ARBITRATOR

- (1) A list of five proposed arbitrators will be furnished to the parties at the time the Court gives notice that the case is being transferred to arbitration.
- (2) If only one party responds within ten days, the Arbitration Clerk will appoint an arbitrator nominated by that party.
- (3) If neither party responds within ten days, the Arbitration Clerk will appoint one of the five proposed arbitrators.
- (4) Additional arbitrators for additional parties. If there are more than two adverse parties, at least two additional proposed arbitrators shall be added to the list with the above principles of selection to be applied. The number of adverse parties shall be determined by the Arbitration Clerk.
- (5) When an otherwise eligible case is referred to arbitration, the parties may select, by agreement an arbitrator who is on this list or to another arbitrator, whether or not that person is on the Linn County Arbitration Panel. The parties and the selected arbitrator may agree upon an arbitration fee which is different from the one provided in the rules. The arbitration procedure will, however, be subject to these rules unless modifications are authorized by the Presiding Judge.

13.095 ARBITRATION PANEL

- (1) The Twenty-third Judicial District may establish two or more Arbitration Panels, a General Civil Panel, a Domestic Relations Panel, and such other panels as the Arbitration Commission deems necessary; each consisting of a panel of attorneys practicing in Linn and/or Benton Counties, selected by the Arbitration Commission and having the following minimum qualifications:
 - (a) Civil Panel: an attorney meeting the requirements set forth in UTCR 13.090 with five years continuous practice including significant experience in civil litigation, with a present emphasis in civil litigation for service on the Civil Panel;

Domestic Relations Panel: five years continuous practice including significant experience in domestic relations litigation, with a present emphasis in domestic relations cases for service on the Domestic Relations Panel; or
 - (b) A retired or senior judge.
- (2) The panel will be selected by the Arbitration Commission subject to approval of this Judicial District's Presiding Judge.
- (3) The parties may stipulate to any arbitrator, including a non-lawyer arbitrator or a lawyer arbitrator who practices outside Benton and Linn counties.
- (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.
- (8) No arbitrator shall have pending at any given time more than three arbitration cases.

CHAPTER 16
VIOLATIONS

16.005 TESTIMONY BY AFFIDAVIT

Pursuant to ORS 153.080, if a signed waiver is filed by the alleged violator, testimony in a trial of any violation shall be allowable by affidavit. A copy of the Witness' affidavit shall be provided to the alleged violator before trial.

DATED this _____ day of _____, 2002.

RICK J. McCORMICK, PRESIDING JUDGE

23RD JUDICIAL DISTRICT

CIRCUIT COURT

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

Presiding Judge