

NINTH JUDICIAL DISTRICT
CIRCUIT COURTS

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 Courts for Malheur County.

J. BURDETTE PRATT
Presiding Judge

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CHAPTER 1
General Provisions

1.002 ADDRESSES AND TELEPHONE NUMBERS

- (1) Defendants in criminal and violation cases.

During the pendency of any case charging an offense, including traffic, boating, game violation and criminal cases, or while any monetary or other obligations imposed by the Court in such case remains unsatisfied, defendant must keep the Court advised in writing of defendant's current name, mailing address and telephone or message telephone number.

- (2) Unrepresented parties in civil and small claims cases.

During the pendency of any civil or small claims case, any party who is not represented by an attorney of record must keep the Court advised in writing of the party's current name, mailing address and any telephone or message telephone number.

1.151 HOURS OF COURT OPERATION

The Circuit Courts for Malheur County hours to conduct business are Monday through Friday, excluding legal holidays, 8:00 a.m to noon and 1:00 p.m. to 5:00 p.m. Mountain Time except that on Tuesdays the window in the Record's Office will be open over the noon hour during the arraignment process only, unless otherwise provided by order of this Court pursuant to authorization of the Chief Justice of the Supreme Court. Papers will be received and filed during these hours of operation. In addition, judicial proceedings may be held at other times and on other days when required by the court for the conduct of its business and upon notice to the parties required to appear. In the event hours are changed by order of the Presiding Judge, the new hours will be posted on the OJD website at:
<http://www.ojd.state.or.us/courts/circuit/index.htm>.

1.171 COURT WEBSITE

The website for the Malheur County Circuit Court is located at: _____
<http://www.ojd.state.or.us/malheur>

CHAPTER 3
Decorum in Proceedings

3.011 Proper Apparel for Malheur County Circuit Court for Non-Lawyers

- (1) Proper attire is required by everyone entering the Malheur County Circuit Court and will be strictly enforced. Anyone not properly dressed upon arriving in the

courtroom may be sent away until properly dressed.

- (2) The following items are unacceptable attire;
- (a) Tube tops, tank tops, halter tops, bare midriff tops, see-through tops;
 - (b) Shorts;
 - (c) Dresses shorter than the fingertips of extended arms;
 - (d) Skirts or pants with waists that allow undergarments to be seen;
 - (e) Clothing with large holes;
 - (f) Hats;
 - (g) Clothing which display controlled substances (tobacco, alcohol, drugs), double meanings, hate motivated behavior, illegal activities, obscene gestures or language, profanity, sexual references, or violence;
 - (h) Bare feet;
 - (i) Chains which could be used as weapons;
- (3) Please remember, your choice of clothing reflects an attitude when appearing before the Court. The following attire is suggested for all non-lawyers appearing in Court.
- (a) MALE - long or short sleeve shirts with collars. Slacks or dress denim trousers.
 - (b) FEMALE - Dresses, skirts, or slacks and blouse.

3.125 JURY SELECTION

Pursuant to the provisions of ORS 10.205, to promote the efficiency of the selection process and promote jury security, jurors in the Malheur County Circuit Court shall be identified by number rather than by name. When addressing jurors during a court proceeding, attorneys, court staff and judges shall address the jurors by number only. A list shall be at counsel table showing the jurors names and their corresponding juror numbers.

3.181 Media or Other Public Access Coverage of Court Events

Media or Public Access Coverage is prohibited in the hallways outside of any Courtroom or Court Office. Upon request, on a case by case basis, the Court will consider designating an area outside of the courtrooms and prohibited court areas for media and public access coverage.

CHAPTER 4
Proceedings in Criminal Cases

4.011 SCHEDULING CRIMINAL MATTERS

During the week, in custody criminal arraignments, including initial appearances for alleged probation violations and alleged violations of restraining orders, and requests for restraining orders, will be conducted by a Judge on a daily basis at 1:00 p.m. The weekly arraignments for out-of-custody defendants will be handled on Tuesday of every week, unless notified otherwise by the Court. Video rights and filling out required documents associated with such appearances for out-of-custody defendants, will begin at 12:00 noon. Thus, out-of-custody Defendants need to be cited or ordered to appear at 12:00 noon rather than at 1:00 p.m.

4.031 Motions to Transport Inmate Witnesses

Motions to transport inmate witnesses for Court proceedings pursuant to UTCR 4.030 must be accompanied by supporting affidavit certifying that the attorney or his representative, or, in the case of pro se litigants, the party seeking the order, has:

- (1) actually spoken to the witness;
- (2) the witness is willing to testify or will testify if compelled by the Court to do so;
- (3) the attorney or party seeking the order has a good faith belief that the testimony is admissible, relevant and material to the issues expected to be raised at trial; and
- (4) the testimony of the witness is necessary to the presentation of the case of the party seeking the order.

(See Appendix C)

4.081 APPEARANCE AT CRIMINAL PROCEEDING BY SIMULTANEOUS ELECTRONIC TRANSMISSION

- (1) Unless otherwise ordered by the Court, all arraignments, pre-trial conferences, pleas, pre-trial motions and sentencings involving a defendant incarcerated at an Oregon Department of Corrections Institution shall be held by simultaneous electronic transmission as defined in UTCR 4.080.
- (2) Unless otherwise ordered by the Court all arraignments involving defendants incarcerated in the Malheur County Jail Facility shall be held by simultaneous electronic transmission as defined in UTCR 4.080.
- (3) Upon the motion of either party and the approval of the Court, other defendants may appear in criminal proceedings by simultaneous electronic transmission as defined in UTCR 4.080 and subject to the provisions of UTCR 4.080.

CHAPTER 5
Proceedings in Civil Cases

5.017 SERVICE OF MOTION AT OR BEFORE DELIVERY OF COPY TO JUDGE

In any civil action, the service of a motion, response, proposed order, request for postponement, or reply, on opposing parties must occur before or simultaneously with the delivery of a copy of the document to the judge assigned to hear the matter and must comply with UTCR 5.100.

5.035 ORDER BY PREVAILING PARTY; PRESENTING JUDGMENT AND ORDER FOR JUDICIAL SIGNATURE

- (1) After a motion ruling, unless otherwise ordered, it is the responsibility of the prevailing party to draft an order incorporating the ruling and to submit it to the proper judge, accompanied by proof of service on opposing counsel in compliance with UTCR 5.100.
- (2) Any judgment or order requiring the signature of a pro tem judge, reference judge, or senior judge shall be directed to the Trial Court Administrator's Office unless that judge directs otherwise. The Trial Court Administrator's Office will forward the order to the Judge for signature.
- (3) All judgments, orders, and other papers requiring the signature of a specific judge shall be sent directly to that judge.

5.055 STAMPED, SELF-ADDRESSED CONFIRMATION CARDS REQUIRED

- (1) Any party desiring information of any filing, (e.g. date of filing, date of signature, costs and attorney fees awarded, or name of judge), shall attach a stamped, self-addressed confirmation card. On orders or judgments, confirmation cards shall be attached for all parties. Unless required by law or rule, conformed copies of the order or judgment will not be provided by the Trial Court Administrator's office. Signed copies of orders and judgments may be obtained from the Circuit Court Record's Office.
- (2) An ex-parte motion for trial set-over shall have confirmation cards attached by the moving party for all parties.

CHAPTER 6
Trials

6.011 HABEAS CORPUS AND POST-CONVICTION RELIEF PROCEEDING BEFORE THE COURT BY VIDEO OR TELEPHONIC CONFERENCING

- (1) Unless otherwise ordered by the court, all hearings and trials in which inmates in the custody of the Oregon Department of Corrections are seeking post-

conviction relief pursuant to ORS 138.510 - 138.686 or habeas corpus relief pursuant to ORS 34.310-34.730 shall be held by video conferencing or, if video conferencing is not available, by telephonic conferencing.

- (2) The inmates shall remain at and appear from the Snake River Correctional Institution or other institution in which they are being held.
- (3) The inmate's attorney, the attorney for the Oregon Attorney General's office or an attorney representing any other party to the proceeding, may appear by video or telephone conferencing or may appear in person before the Court.
- (4) Regardless of the physical location of the judge hearing the matter, any proceeding shall be recorded by the Ninth Judicial District.
- (5) Public access and viewing of the proceeding shall be provided at the Malheur County Courthouse in Vale, Oregon, and the proceeding shall be deemed to be taking place at said courthouse and city.
- (6) All motions to continue trial/hearings, whether written or verbal, shall be submitted to the Presiding Judge of the Ninth Judicial District, or to another judge of the Ninth Judicial District if the Presiding Judge is not available.
- (7) Motions to continue shall not be made to the Plan B or Pro-Tem trial judge except in cases of emergency when the Presiding Judge or other judge of the Ninth Judicial District are not available.

6.012 SETTLEMENT CONFERENCES

- (1) Court on its own motion or upon the request of any party, may set a mandatory settlement conference. Scheduling of a settlement conference is subject to judicial availability and a settlement conference shall not be scheduled so as to delay trial of the case. The pretrial settlement conference will not be required if either party demonstrates good cause why the settlement conference should not be held.
- (2) The purpose of the settlement conference is to provide a forum to resolve disputes before trial through the active participation of counsel and the Court. The attendance of all parties and their trial attorneys is required. When a party is insured, a representative of the insurance company with authority to settle the case shall be in attendance or readily available by telephone. Upon a showing of good cause, the judge conducting the settlement conference may excuse a party from personally appearing, but the party may be required to participate by telecommunication.
- (3) Pretrial settlement conferences shall be conducted by a judge other than the assigned trial judge, unless all parties stipulate in writing that the trial judge may also conduct the settlement conference.

- (4) For a meaningful settlement conference to occur, all attorneys and parties must participate in good faith. The failure of any person to comply with these rules, appear at, or participate in a settlement conference, unless good cause is shown for any such failure, may result in the court imposing appropriate sanctions as described in UTCR 1.090. Cases for a settlement conference shall retain their place on the trial docket.
- (5) If settlement negotiations are not successful, counsel should be prepared to proceed to trial on the date scheduled. The court will make every effort to ensure the case proceeds to trial on the date scheduled.
- (6) If a settlement is reached, the parties shall place notice of the settlement on the record before the scheduled trial date, in accordance with UTCR 6.020.
- (7) Upon a settlement being reached, the Court will enter an Order of Dismissal on settlement giving the parties thirty (30) days in which to submit the final judgment. A longer period may be allowed if requested by the parties.
- (8) Statements and other documents submitted to the judge by the Parties and materials or notes prepared by the settlement conference judge are confidential and will not be placed in the trial court file in the event that the case does not settle or upon request of either party, and in that event, the materials or notes shall be destroyed by the settlement conference judge.

6.025 PAYMENT OF TRIAL FEES AND HEARING FEES

- (1) A fee receipt, fee waiver, or fee deferral must be presented to the courtroom clerk prior to commencement of a hearing where a fee is required to be paid under ORS 21.114, 21.270, 21.275, 21.320, 46.570 or 105.130, or other Statute.
- _____ (2) _____ The trial judge may elect to delay commencement of the case until the fees are paid, but failure to pay the fees as stated in SLR 6.025(1) shall not be grounds for postponement.
- (3) If trial fees are not paid as required by ORS 21.270(2) when the case is set for trial, a grace period of fifteen (15) days will be allowed. If the fees are not paid at the end of the grace period, the Court will send a notice to the attorney or party, advising them that they have ten (10) days to pay the trial fees. If the fees are not paid at the end of ten (10) days, the case will be removed from the trial docket and not returned to the trial docket until the trial fees are paid. In that event, the trial date may not be the same one as previously set and removed due to the non-payment of the trial fee. The attorney or party will be sent a notice that unless the trial fees are paid within thirty (30) days, the case will be dismissed for lack of prosecution.

6.026 TRIAL CONFERENCES

In all criminal trials, there will be a trial conference prior to the day of trial with the trial attorneys and the trial judge, or other judge if the trial judge is not available, to address legal issues, witness issues, or any other issue relating to the ability to go forward with the trial on the date scheduled.

6.027 PERSONAL COMMUNICATION DEVICES

Unless otherwise permitted by the judge presiding over the trial or other proceeding, personal communication devices (any electronic or other equipment capable of communicating with others including, but not limited to cell phones and pagers), shall not be permitted in the courtrooms or jury rooms. Attorneys may possess personal communication devices in the courtrooms, but such devices shall not be turned on without the approval of the judge.

6.031 MOTION TO POSTPONE

(1) No motion for postponement shall be considered unless the motion is filed more than one week before the trial date; provided, however, an exception may be made if a written stipulation by all counsel is filed with the motion, or if the party seeking such exception shall, in addition to any statutory requirements or the requirements of ORCP 52, satisfy the Court that the cause for postponement came to the knowledge of the part and counsel too late to be timely presented.

_____ (2) The first sentence of the motion must state the current trial or hearing date and in criminal cases whether or not the defendant is in custody.

6.151 REGARDING THE POSSESSION OF FIREARMS AND OTHER WEAPONS IN COURT FACILITIES IN MALHEUR COUNTY ORS. 166-360. - 166.370

(1) A sheriff, police officer, parole and probation officer, other duly appointed peace officer, a district attorney, deputy district attorney (if approved by the district attorney), or a corrections officer, while acting within the scope of employment, may possess a firearm or other weapon in the Malheur County Court facilities.

(2) A firearm or weapon which is evidence or an exhibit in a court proceeding may be possessed by attorneys, court staff, evidence technicians, forensic lab personnel and others while in the performance of their duty and to the extent that is necessary for any grand jury or court proceedings.

(3) Notwithstanding the above provisions, no firearms or other weapons shall be allowed in the court facility inside the Snake River Correctional Institution unless specifically approved by the court and the Department of Corrections.

CHAPTER 7
Case Management and Calendaring

7.011 PLEA NEGOTIATIONS

- (1) Except for good cause shown, on the date set for trial the only plea or pleas which will be accepted by the Court will be entry of plea or pleas to the charges as set forth in the accusatory instruments. Pleas to lesser-included charges, or other charges, or to only some of the charges as per offer previously tendered by the State through plea negotiations, will not be accepted on the day of trial.
- (2) Once a negotiated plea contemplated by the Parties has been disapproved by a Judge, the negotiated plea shall not be presented to another Judge for consideration. In such a situation any subsequent plea negotiations which need the approval of the Court will be before the Judge who originally considered the initial proposed negotiated plea or another Judge if the Judge who originally considered the proposed negotiated plea agrees that another Judge can handle the matter.
- (3) All criminal cases, except where driving under the influence of intoxicants is the only criminal charge, will be set for a pretrial conference prior to entry of plea. The attorneys and the defendant shall appear in person for the pretrial conference at the time scheduled unless a plea agreement is reached prior to the pretrial conference, and a pretrial report is filed with the Court. Failure of the defendant to appear at the pretrial conference, unless approved by the Court in advance, will result in issuance of a warrant for the defendant's arrest.

7.012 SET OVERS/CONTINUANCES IN CIVIL AND CRIMINAL MATTERS

Once a Judge has been assigned to a case for trial purposes, that Judge shall be responsible for all matters pertaining to such case including but not limited to any requests for set-over or continuance, unless the Presiding judge directs otherwise. Set-overs and continuances shall be discouraged and will not be allowed unless there are particular circumstances associated with the case being considered for set-over or continuance which justify additional time being provided.

7.013 ABSENCE OF JUDGE

The Trial Court Administrator, and/or Court Operations Supervisor, subject to the supervision of the Presiding Judge, shall be responsible for scheduling around planned absences and rescheduling during an absence due to illness or other emergency involving the Judges.

7.014 Request for Services of an Interpreter

Attorneys and parties must notify the Court when an interpreter is required for parties appearing before the Court and/or for witnesses, as provided in UTCR 7.070. Such notice must be in writing. If after notification to the Court the services of the interpreter are no longer needed, the Court must be notified immediately.

7.015 ROTATING JUDICIAL RESPONSIBILITIES

In Malheur County each Monday or Wednesday one of the Judges will be assigned, if a Judge is available and as scheduling needs dictate, to miscellaneous matters which may include but not be necessarily limited to child support proceedings, FEDs, Small Claims, contested show cause proceedings, contested provisional process proceedings, and probation violation initial appearances. Contested domestic relations temporary order proceedings will be held on alternating Mondays, except for holidays, at 2:00 p.m. only.

7.016 In all civil cases, when an answer or other pleading is filed placing the case “at issue”, the attorneys unavailable dates for the next six (6) months, shall accompany said filing.

7.021 SCHEDULING OF CRIMINAL TRIALS/CIVIL TRIALS AND RELATED MATTERS`

(1) Trial/Hearing Settings:

(a) Trial settings for a civil case (s) will normally be accomplished as per one of the following:

1. As per UTCR 7.020 (6); or

2. In the event that trial is not set as per UTCR 7.020 (6), the trial date(s) and settlement hearings on civil cases will be set by the Trial Court Administrator and/or the Court Operations Supervisor based on the available dates submitted by the attorneys. If no available dates are submitted by the attorneys, then the settlement conference and trial dates will be as assigned. An attorney who fails to provide the Court with their available dates in a timely manner, will not be granted a continuance absent a showing of good cause .

(b) Trial settings may be assigned by either the Court or by the Trial Court Administrator, or a person designated by the Court or the Trial Court Administrator.

(2) Criminal Trial Settings:

Whenever possible, criminal trial dates will be set in open court with the attorneys and defendant present. The defendant shall sign a Trial Certification and times will be set by the Court for filing of pretrial motions.

(3) Notification

Upon any trial or other hearing being scheduled, unless the matter is scheduled in open Court with the attorneys and/or parties present, in which case notices will not be sent, the Trial Court Administrator or designee, will be responsible for disseminating written notice of such setting to the attorney(s) involved, or, in the event that a party is not represented, then to such party. The Parties and their counsel will be advised in trial or hearing notices as to the judge who will be assigned to the case. The parties and attorneys will be notified promptly when the case is assigned to a different judge.

(4) Primary and Alternate Trial Settings

A case is given a designation as a primary trial setting or an alternate trial setting. Primary trial settings will begin at 9:00 a.m. on the date set unless the attorney (s) and/or party(s), in the event that a party is not represented, are otherwise notified. Alternate trial settings must be ready to go to trial as the primary case on the date set for trial until 1:00 p.m. of the last working day before the day set for trial. If the case set as an alternate has not moved into a primary position by 1:00 p.m. of the last working day before the day set for trial, the case will simply be rescheduled for trial as per the above-delineated procedure.

(5) Show Cause Matters

Routine show cause matters will be set by Order for 2:00 p.m. on alternating Mondays. Such matters will be heard in an order as set by the Court. Proceedings will be scheduled for one hour, one-half hour allotted to each side, or such further time as the Court may allow, until all matters have been heard and resolved. Attorneys and clients will be required to be present for such show cause proceedings unless prior authorization is given by the Court for non-appearance.

(6) When there are decisions made on pre-trial matters which will affect the procedural handling of a trial or the substantive law to be applied in a trial, every attempt will be made to assign the judge who heard such pre-trial matters associated with a case as the trial judge with certain exceptions including the following:

The Judge who conducts any pre-trial settlement conference on a case will not be assigned as the trial judge unless the Parties agree in writing to such assignment.

(7) Trial Times

Trials will normally be conducted from 9:00 a.m. through 12:00 noon and from 1:00 p.m. through 5:00 p.m. or until a case is concluded.

(8) Resetting Due to Holiday

In the event that a holiday or the unavailability of both judges occur with regard to any assigned day, the normal Judicial assignments for such day shall simply be considered canceled.

**CHAPTER 8
Domestic Relations Proceedings**

8.011 EDUCATION FOR DIVORCING PARENTS

- (1) The following cases are subject to this rule: annulment or dissolution of marriage actions, legal separation actions, petitions to establish custody or visitation, and post-judgment litigation involving custody or visitation.
- (2) A Family Assessment may be ordered by the Court prior to hearing a contested matter involving custody and/or parenting time upon the request of either party or upon the Court's own motion. Said Family Assessments shall be done by Lifeways Behavioral Health in Ontario, Oregon, unless some other agency or individual is approved. When a family assessment is ordered, it shall be filed with the court at a time designated by the Court.
- (3) The fee for the Family Assessment shall be split equally between the parties, unless otherwise ordered by the Court.

8.013 MANDATORY PARENT EDUCATION PLAN

All cases as specified in ORS 3.425(1) in which minor children are involved, both parents shall attend a Court approved parenting class as provided in ORS 3.425, and the certificate of completion of the parenting class shall be filed with the Court prior to the issuance of the final Judgment of Dissolution, or Order on Judgment, unless such provision is waived by the Court.

8.015 PARENTING TIME ENFORCEMENT FORMS

Appendix C contains the forms adopted for use in Malheur County as the expedited parenting plan forms to be used in the enforcement of parenting time violations and the requirements contained therein are hereby ordered. Said forms will be available to parties requesting them from the Court. Similar forms that substantially comply with these provisions may be used by the parties represented by counsel.(Appendix B)

8.016 FILING OF AN ANSWER

When an Answer is filed in a domestic relations matter placing the case at issue, the Answer must set out what issues are being contested, and the attorney's or parties, unavailable dates for the next six (6) months must be also be submitted.

8.017 DISMISSAL OF FAMILY ABUSE PREVENTION ACT ORDERS

Unless this provision is waived by the Court, a Restraining Order to Prevent Abuse issued pursuant to ORS 107.700 to 107.732 shall not be dismissed at the request of the Petitioner until the Restraining Order has been in effect for six (6) months, or the Petitioner has completed an approved counseling program for victims of domestic violence. This provision is automatically waived if a counseling program for domestic violence victims is not available.

8.075 STANDARD PARENTING PLAN

In the absence of a parenting plan agreed upon by the Parties involved, or another plan being ordered by the Court, the Standard Parenting Plan (see Appendix B) shall be the approved Parenting Plan in any annulment or dissolution of marriage action, legal separation action, petition to establish custody, or parenting time, and post-judgment litigation involving custody, or parenting time. Such Parenting Plan shall be filed with the Court in conjunction with the entry of the final Judgment of Judgment. (Appendix A)

CHAPTER 11 **Juvenile Court Proceedings**

11.051 Personal Appearance Required

In all termination and dependency cases, parent (s) and any guardian(s) shall be served a Summons to personally appear at a time and place specified to answer the Petition. The parent(s) and any guardian(s) must personally appear in court at the time and date specified in the Summons. A written appearance shall not be permitted. A parent or guardian may make written application to the Court for their personal appearance by telephone in extraordinary circumstances; however, the written application must be filed with the Court two (2)days prior to the time scheduled for the parent's or guardian's personal appearance. The written application must include the person's current residence address,

mailing address, telephone number, and the person's acknowledgment that it is their obligation to initiate/place the telephone call to the Court at the time scheduled for their appearance.

CHAPTER 12 Mediation

12.015 MANDATORY MEDIATION IN DOMESTIC RELATIONS CASES

Mandatory Mediation

(1) Any action filed in Circuit Court involving a controversy over custody, visitation or parenting time with minor children, including contempt disputes involving parties who are non-parents, shall be subject to mediation. The court may decline to hear a custody, visitation or parenting time dispute until and unless the parties have participated in mediation which has not resolved the issues between them. The court may order mediation even in the absence of a party's request.

(2) Except as outlined in paragraph 12.005(3) of this rule, all cases are subject to this rule when the case is at issue. "At issue" means that the case is ready to be set for trial, or, if a party seeks to modify the parenting time or custody provisions of a dissolution of marriage judgment or a judgment establishing paternity, when the case is ready to be set for hearing.

Waiver of Mandatory Mediation

(3) A party may seek waiver of mandatory mediation on the grounds that such requirement will seriously jeopardize the rights of a party or the child or children involved. Such waivers will be allowed only after a showing of extraordinary circumstances. In the absence of an order waiving mediation, all matters including contempt, cases with an out-of-state party or parties where Oregon has jurisdiction over abuse where there is no active Juvenile Court or Oregon Youth Authority or State Office for Children and Family Services involvement will be referred to mediation and a custody/parenting time/visitation study.

Request for Mediation

(4) (a) If there is a disagreement between the parents concerning custody or parenting time at any stage of a domestic relations proceeding, both parents, or their attorneys, may sign and file with the court a stipulated request for mediation and custody/ parenting time study. No particular form is required by the court. The parents will be referred to a court-approved mediation program for mediation and a custody/parenting time study in accordance with these rules, or the parties may agree and stipulate to an independent mediator in their stipulated request for mediation. In the event such independent mediation is unsuccessful, the parties

may be required to participate in a custody/parenting time study by a court-approved mediation program.

(b) If there is a disagreement between the parents concerning custody or parenting time at any stage of a dissolution of marriage or any proceeding subject to mandatory mediation under this rule, either parent seeking to resolve the matter may file with the court and serve upon the other parent, or his/her attorney, a request for mediation. No particular form is required by the court. Hearing shall be set within fourteen days following the date of service of a request for mediation on the other parent and both parents shall appear before the court. The parents will be referred to a Court-approved mediation program for mediation and a custody/parenting time study in accordance with these rules, unless a stipulated request has been filed.

Temporary Support

(5) If the parents cannot agree on the amount of support to be paid by one to the other, and they are also in dispute as to the custody and/or parenting time, upon the request of the parents, the mediator may assist in resolving the support issue as well.

Temporary Custody and Visitation Orders

(6) At any point during mediation, the court may approve a temporary custody and parenting time order reflecting the parents' agreement as to the issues. If the agreement is reached through mediation by the court-approved mediation program and prepared by one of its mediators, the mediator shall hold the signed agreement for seven calendar days from the date of the last signature and mail notice of the agreement to the parties and their attorneys, if known to the program. The mediator shall forward the signed agreement to the court for approval unless, within that time period, the counselor receives written notice of a party's repudiation.

Good Faith Required

(7) Mediation shall not be used by any parent in bad faith for the purposes of delay or resolution of other issues. If the court finds at any time that the mediation process is being misused, it may determine that mediation has been unsuccessful and have the case removed from the mediation process.

Unsuccessful Mediation

(8) In the event the parents are not successful in mediating the custody or parenting time controversy, the mediator shall notify the court. The matter will be scheduled for hearing, to be held after the preparation of a custody and visitation study, in the same course and with the same priority on the docket as though there had been no mediation.

Control

- (9) (a) The Circuit Court may order parties to mediation when the parties have a closed or open case in Malheur County, involving custody and parenting time.
- (i) A custody or parenting time dispute has arisen prior to the entry of a Judgment of Dissolution, Separation, Annulment or Paternity; or
 - (ii) The Judgment of Dissolution, Separation, Annulment, or Paternity has been entered, and a custody dispute has arisen and a Motion to Modify Custody has been filed with an Affidavit setting forth allegations sufficient to support a claim of change of circumstances; or
 - (iii) An action alleging a violation of a custody or parenting time order has been filed; or
 - (iv) An action alleging a violation of a custody/parenting time or visitation by a parent or a party who is a non-parent has been filed.
- (b) As a rule the Court-approved mediation program will decline to mediate or evaluate the parties when:
- (i) There is a pending Juvenile Court petition regarding the child or children in question; or
 - (ii) Temporary or permanent custody or wardship of the child or children in question has been granted to the Oregon Department of Human Services or the Oregon Youth Authority; or
 - (iii) The Juvenile Court has assumed temporary or permanent jurisdiction over the child or children in question.
- _____ (c) A domestic relations case filed in the Circuit Court remains under the control of the Court in all phases of the proceedings, including mediation. The Court referring a case to mediation may set, in its referral order, the limits of the mediator's scope of authority in the case.

12.016 MEDIATION WHERE POWER IMBALANCE EXISTS;

- (1) Where there is a restraining order between the parties, a history of domestic violence or abuse, an extreme imbalance in the power relationship between the parties or other reason to believe that mediation may be inappropriate, a party may contact the assigned mediator to request that the parties meet with the mediator separately, the presence of a support person during mediation,

telephonic mediator or another remedy. A mediator may exclude a support person from a session if the support person disrupts the process of mediation.

- (2) The mediator may arrange separate sessions, require telephonic mediator or terminate mediation at any time if the mediator believes that issue of violence, abuse, threatening behavior, manipulation or power imbalance make further mediation inappropriate. In any telephonic mediation, both parties will participate by telephone.

12.017 MEDIATION COMMISSION

Commission

- (1) A Mediation Commission shall be formulated.

Duties

- (2) The Commission's function shall be to supervise the mediation program, to render advisory opinions at the request of the Court, and to recommend rule changes to the Judges.

Membership

- (3) The composition of the Commission shall be:
 - a Malheur County Circuit Court Judge;
 - the Malheur County District Attorney;
 - two (2) members of the Malheur County Bar Association appointed by the Presiding Judge; and
 - the Director of the Court-approved mediation program.

Quorum

- (4) Three (3) members of the Commission, including at least one of whom must be a judge, shall constitute a quorum.

12.025 ALTERNATE MEDIATION PROCEDURE IN CIVIL ACTIONS

Mediation Defined

- (1) Mediation, as used in these rules, is a facilitated negotiation process in which a neutral third-party assists the parties in attempting to reach a resolution of their controversy. The mediator has no authority to make a decision or to impose a solution.

Selecting Mediation Rather Than Arbitration

- (2) 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 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 Malheur County Supplementary Local Rules 13.025 and 13.045.

Mediator Selection

- (3) 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 a 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.

Mediator Qualifications

- (4) Mediators whose names are maintained on the court-maintained list shall have the same qualifications of arbitrators as set by the Dispute Resolution Commission.

Selection of Mediator After Arbitrator Assigned

- (5) If an arbitrator has already been assigned at the time of the stipulation to mediate, the parties may select a mediator by 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 to so serve, UTCR 13.130 shall be applicable.
 - (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 Supplemental Local Rules, for any time already invested in the case.

Mediator Compensation

- (6) The mediator is to be compensated pursuant to UTCR 13.120, the Supplemental Court Rules, and the hourly rate established by the arbitration commission.

Required Information

- (7) If requested by the mediator, the parties shall supply to the mediator a 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. This shall be supplied to the mediator at least one (1) day prior to the scheduled mediation.

Mediation Results

- (8) The results of a mediation shall be reported by the mediator to the Court as either “settled” or “not settled.” If settled, the terms of the settlement shall be stated on the report, unless the parties have agreed that the terms shall be kept confidential and not entered as a judgment. The report 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 and/or their attorneys shall be retained by the mediator and not made a part of the court file or entered as a judgment. Such a confidential statement held by the mediator or the report to the Court including the terms of the settlement shall be admissible to prove the settlement, but shall not otherwise be admissible.

Failure to Mediate in Good Faith

- (9) In the event any party fails to mediate in good faith after signing a stipulation for mediation, pursuant to this rule, the Court may assess as costs under UTCR 1.090.

Nature of Mediation Proceedings

- (10) The mediation proceedings described by this rule are compromise negotiations for purposes of ORE 408 (ORS 40.190) and are confidential under ORS 36.205.

12.040 MEDIATION IN CRIMINAL CASES

- (1) Mediation of criminal cases shall be handled as per those provisions relating to mediation in ORS 135.951 to 135.959.

CHAPTER 13
Arbitration

13.025 REQUEST FOR AND OBJECTIONS TO ARBITRATION

- (1) Any party may file and serve notice of a request that the Court transfer a case to arbitration.
- (2) A Court decision on an exemption filed pursuant to UTCR 13.070 will be rendered within 5 days following the filing of a motion for exemption from arbitration. If the Court does not act on the motion for an exemption within five days it shall be deemed denied. If the motion is allowed, the case will be returned to the active trial docket for future disposition. If the motion is denied, the case will remain in arbitration in accordance with these rules and the UTCR.

13.035 COURT SHALL DETERMINE WHETHER CASE IS SUBJECT TO ARBITRATION

- (1) A case will be assigned to arbitration unless it is excluded as provided in UTCR 13.060(1). A case assigned to arbitration will not be removed, except as might occur under (2) of this Rule, without an affidavit, motion, and order.
- (2) Only in extraordinary circumstances will the Court order a case returned from arbitration to the Court docket after a case has been assigned to an arbitrator. The Presiding Judge of the Judicial District in which the case was filed does retain the authority to remove a case from arbitration any time the presiding judge is of the opinion that such extraordinary circumstances exist.
- (3) In the event that amended pleadings are allowed by the arbitrator (e.g., amended complaint, third party complaint, etc.), in which a party or parties will be added to the case, or which causes the case not to be subject to mandatory arbitration, the party filing such an amended pleading must notify the Trial Court Administrator (or the Trial Court Administrator's designee). Such a case, when again appropriate, may be reinstated into arbitration. In the event that the case is not thereafter subject to mandatory arbitration, the party requesting removal from arbitration shall file a motion to exempt the case from arbitration, or to remove it if it was previously referred to arbitration.

13.042 REFERRAL TO ARBITRATION

If the first appearance of a defendant is not an answer, but is a motion directed to the complaint or a dispositive motion, the motion shall be decided before the case is referred

to arbitration. No case shall be referred to arbitration unless all parties have appeared or have had a order of default entered against them. If a case has been referred to arbitration prior to the filing of a motion directed to the complaint or a dispositive motion, the motion shall be heard and decided by the arbitrator pursuant to UTCR 13.100.

13.048 INDIGENT PARTIES

- (1) Indigent parties must seek waiver of the arbitrator's fee within 14 days from the date the case is transferred to arbitration. The request must be submitted by motion and order, supported by an affidavit setting forth with specificity the party's income, assets, and expenses, and presented to the Presiding Judge for approval.
- (2) In the event funds are available under ORS 36.420 for the payment of fees that are waived, the arbitrator shall be reimbursed after completion of the arbitration, filing of the arbitration award, and submission of the form approved by the State Court Administrator for such purpose.

13.055 ARBITRATORS

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

13.061 DOMESTIC RELATIONS TO ARBITRATION

All domestic relation suits as defined in ORS 107.510 in which the only contested issue

is the division or other disposition of property, the parties will be referred to mandatory Arbitration, unless the matter is referred to mediation as provided in ORS 36.405(3), or unless waived by the Court, as provided in ORS 36.405(2).

13.065 STIPULATIONS

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

13.071 PREHEARING STATEMENT OF PROOF

If one or more parties in the case fails to submit the Prehearing Statement of Proof required by UTCR 13.170, or fails to submit the preliminary payment to the arbitrator required by UTCR 13.120 within the time provided by those rules, the arbitrator may refer the matter back to the Court for further proceedings. If the matter is referred back to the Court, any party who timely complied with UTCR 13.170 and UTCR 13.120 may move the Court for appropriate sanctions.

13.075 ALTERNATE MEDIATION PROCEDURE

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 under UTCR Chapter 12 rather than arbitrate any civil or domestic relations matter subject to mandatory arbitration.

13.085 NO AWARD FILED WITHOUT PROOF OF NOTICE

At the conclusion of arbitration, if the arbitrator attempts to file the award with the Court without the proof of service of a copy of the decision and award upon each party as required by ORS 36.425(1), the award will not be filed and will be returned to the arbitrator.

13.125 ARBITRATOR'S COMPENSATION

- (1) The arbitrator shall be compensated at the rate of \$150.00 per hour for hearings and related work. Each party shall pay a \$400.00 deposit directly to the arbitrator prior to the arbitrator beginning work on the case. The arbitrator shall be compensated at the rate of \$75.00 per hour for travel time.
- (2) If either fails to pay their share of the deposit within 14 days of assignment to the arbitrator, the court may exercise its authority to strike the parties pleadings or impose other appropriate sanctions, including entry of a default judgment.

- (3) The parties shall pay the arbitrator's fee in full before the arbitrator files the award with the court. This requirement is waived for any portion of the fee payable under ORS 36.420.

16.005 VIOLATIONS BUREAU

- (1) A Violations Bureau is established pursuant to ORS 153.800.
- (2) The Trial Court Administrator is appointed as Violations Clerk, and duly appointed deputies of the Administrator are further appointed as Deputy Violations Clerks.
- (3) The Violations Bureau may exercise authority over all offenses authorized by ORS 153.800.
- (4) Appearances before the Violations Bureau shall be permitted on any authorized offenses to a maximum of two (2) occurrences within any 12 month period.

16.015 TRIAL BY AFFIDAVIT

- (1) Testimony in violation cases may be allowed by affidavit after a defendant has filed a waiver signed by defendant (Appendix D);
- (2) Defendant may also waive the right to an oral hearing by submitting a signed waiver (Appendix C).

APPENDIX A
(Supplemental Local Rule 8.075)

STANDARD PARENTING PLAN

It is the policy of this Court to encourage the parties to work out their own Parenting Plan, either between themselves, with the help of legal professionals or through mediation. The Court will generally approve any Parenting Plan agreed upon by the parties.

The intent of the Standard Parent Plan is to provide a Parenting Plan to parties who have not been able to agree to an alternate, more flexible plan. Because family's circumstances are different, the Court may make provisions for more or less parenting time than provided for in the Standard Parenting Plan. The best interest of the child is not just the paramount consideration, it is the only consideration.

1. RESIDENTIAL SCHEDULE

For the purpose of the Standard Parenting Plan, "residential parent" means the parent who provides the primary residence for the child(ren). The "nonresidential parent" means the parent who has parenting time with the child(ren) according to the schedule provided in the Parenting Plan.

() Mother () Father shall be considered the "residential parent."

(a) Children over age 36 months

The nonresidential parent shall have parenting time with a child over 36 months of age on alternating weekends commencing at 6 p.m. on Friday and ending at 6 p.m. on Sunday, and on alternate Mondays from 6 p.m. until 8 p.m. on the Monday preceding the nonresidential parent's alternate weekend with the child(ren).

The nonresidential parent shall have the child(ren) on the first alternate weekend following the entry of the "Judgment" and "Modified Judgment". In the event a holiday or school closure day is attached to an alternate weekend, the nonresidential parent shall have the child(ren) for the additional day.

(b) Children under age 36 months

Unless it can be shown that there is a significant pre-existing parent-child attachment,

and or, in the case of children over 24 months of age, the child would accompany other older siblings for the parenting time, the nonresidential parent's parenting time with child(ren) less than three years of age shall be:

- Child(ren) age 30 to 36 months. Friday at 6 p.m., until Saturday at 6 p.m. on alternate weekends.
- Child(ren) age 18 to 30 months. Once per week for six hours on a consistent day and time selected by the residential parent.
- Child(ren) age birth to 18 months. Twice per week, for two hours each on consistent days and times that are selected by the residential parent.

2. HOLIDAY AND VACATION PLANNING

(a) WINTER VACATION

- Children over age 36 months. Whether or not the child(ren) is/are in school during the period of winter school vacation in the district in which they reside, parenting time for the nonresidential parent shall begin at 9 a.m. the day after school adjourns through noon on December 26 in even numbered years.

The nonresidential parent shall have parenting time with the child(ren) beginning at noon on December 26 and ending at 1 p.m. the day before school reconvenes in odd numbered years.

- Children age 30 months to 36 months. The nonresidential parent shall have the child(ren) from 6 p.m. from December 24 until 6 p.m. on December 25 in even numbered years and from 6 p.m. on December 25 until 6 p.m. on December 26 in odd numbered years.
- Children age birth to 30 months. The nonresidential parent shall have the child(ren) on December 25 from 9 a.m. until 6 p.m. in even numbered years and on December 24 from 9 a.m. until 6 p.m. in odd numbered years.

(b) SUMMER VACATION

- Prior to May 1, the nonresidential parent shall select and notify, in writing, the residential parent of the dates of the summer parenting time periods. If the

nonresidential parent fails to provide such written notice prior to May 1, the residential parent shall be entitled to designate those periods by notifying the nonresidential parent in writing by May 20 of the same year. In the event that a parent has the child(ren) for more than nineteen (19) consecutive days, the other parent shall have the right to have the child(ren) on the third weekend after the commencement of the extended parenting time.

- Child(ren) over age 6. Whether or not the child(ren) is/are in school, the nonresidential parent shall have the child(ren) for a period of thirty-five days (5 weeks) during the period of school summer vacation.
- Child(ren) age 36 months to 5 years. The nonresidential parent shall have the child(ren) for 3 one-week blocks of time, for a total of three weeks. One week shall be in June, one in July, and one in August of each summer. There shall be at least a two-week block of time between each of the one-week blocks.

(c) HOLIDAYS

In even numbered years parenting time for the nonresidential parent and in odd numbered years for the residential parent, parenting time with each parent shall occur on the following holiday periods:

- Children over age 36 months

Spring Vacation. Whether or not the child(ren) is/are enrolled in school, the spring vacation (measured from the day school adjourns through the day before school resumes), commencing at 6 p.m., and ending at 6 p.m.

Memorial Day Weekend. Commencing on the Friday preceding Memorial Day at 6 p.m. and ending on the following Monday, Memorial Day, at 6 p.m.

Thanksgiving Holiday. Commencing on Wednesday evening at 6 p.m. and ending the following Sunday evening at 6 p.m.

Fourth of July Weekend. If this holiday does not fall on Friday, Saturday, Sunday or Monday, parenting time shall commence at 9 a.m. on July 4th and shall end at 9 a.m. on July 5th. If this holiday falls on a Friday, parenting time shall commence at 7 p.m. on Thursday, July

3rd and shall end at 7 p.m. the following Sunday. If this holiday falls on Sunday, parenting time shall commence at 7 p.m. on Friday and shall continue until 9 a.m. on Monday. If this holiday falls on a Monday, parenting time shall commence at 9 a.m. on Saturday and continue until 9 a.m. on Tuesday.

The Birthdays of the Child(ren). From 9 a.m. until 8:30 p.m., unless said days fall during school days and the child(ren) is/are in school, in which case parenting time shall be from the time school is out until 8:30 p.m.

- Children under age 36 months.

Thanksgiving Holiday. The nonresidential parent shall have the child(ren) from 9 a.m. Thanksgiving Day until 6 p.m. on Thanksgiving Day.

Fourth of July. The nonresidential parent shall have the child(ren) on July 4 from 9 a.m. until 6 p.m.

Birthdays of the Child (ren). The nonresidential parent shall have the child(ren) from 9 a.m. until 6 p.m. on the child(ren)'s birthday.

The above scheduled holidays and vacations shall supercede wither parent's a "alternate weekend" or the mid-week parenting time. Any missed "alternate weekend" or midweek visit will not be made up nor the weekend schedules changed. In other words, there are 26 residential and 26 nonresidential alternate weekends in a year of which some will be lost to conflicting vacations and holidays.

3. DECISION-MAKING

Day-to-day decisions. Each parent shall make decisions regarding the day-to-day care and control of the child(ren) while the parent is caring for the child(ren). Regardless of the allocation of decision making in the Parenting Plan, both parents are authorized to make emergency decisions affecting the health or safety of the child(ren).

Major decisions. Decisions regarding the child(ren)'s education, non-emergency health-care and religious training are considered major decisions. Sole decision-making authority means that one parent has the responsibility for making major decision.

The residential parent shall have sole decision-making authority.

5. INFORMATION SHARING

Unless otherwise ordered by the court, each parent shall have equal access to important information regarding the child(ren); including, but not limited to, the child(ren)'s current address and telephone number, education, medical, governmental agency, psychological, and law enforcement records. Each parent must immediately notify each other regarding any emergency circumstances or substantial changes in the health of the child(ren).

6. RELOCATION OF A PARENT

Parents shall provide each other with reasonable (at least 30 days) prior notice of any planned relocation more than 60 miles out of the area.

Regardless of any decision-making allocation of this Parenting Plan, any relocation of one parent that would disrupt the other parent's scheduled time with the child(ren) shall require a modification of the residential schedule that is mutually agreed upon or is ordered by the court.

Each parent shall notify the other parent of his or her contact phone number and address and shall notify the other parent of any change in that information within 72 hours of such a change.

Further, if either parent takes the child(ren) from that parent's usual residence, he or she shall notify the other parent of any emergency contact phone number and where the child(ren) will be staying.

7. TELEPHONE ACCESS

The non-residential parent shall have the unlimited right to correspond with the child(ren) and to telephone the child(ren) during reasonable hours without interference or monitoring by the residential parent or anyone else in any way. Telephone conference between the nonresidential parent and the child(ren) shall be limited to no more than three per week and shall be limited to no more than 10 minutes or less in duration. The residential parent shall have the same communication rights during periods of the nonresidential parent's parenting time.

8. OTHER PROVISIONS

(a) Meals and Clothes

The residential parent shall have the child(ren) fed and ready on time with sufficient clothing packed, and ready for the nonresidential parent's parenting time. The nonresidential parent

shall return all the clothing which accompanied the child(ren) and shall have the child(ren) fed before the child(ren) return to the residential parent.

(b) Exchange Of Children From One Parent To The Other.

When parents live no more than 60 miles apart, the nonresidential parent shall pick the child(ren) up from the residential parent's residence no earlier than nor later than 15 minutes from the scheduled beginning of the parenting time. The residential parent shall pick up the child(ren) from the nonresidential parent's residence no earlier than nor later than 15 minutes from the ending of the nonresidential parent's parenting time.

When parents live more than 60 miles apart, both parents will share in the costs of transportation of the child(ren) according to mutual agreement or as assigned by the court.

(c) Makeup of Missed Parenting Time

Only substantial medical reasons will be considered sufficient for postponement of parenting time. If a child is ill and unable to visit, a makeup parenting time shall occur on the following weekend. If, however, the nonresidential parent fails to exercise his/her parenting time, there will be no makeup parenting time.

(d) Affection and Respect

Neither parent shall say things or willfully allow others to say things in the presence of the child(ren) that would impair the natural development of the child(ren)'s love and respect for the other parent.

(e) School Involvement

Unless otherwise ordered by the court, both parents are encouraged to participate in the child(ren)'s including visiting the classroom, attending parent-teacher conferences, and sports activities.

(f) Non-assigned Time.

Unless otherwise agreed in writing, the residential parent is responsible for the child(ren) during all times not awarded to the nonresidential parent.

(g) Failure to Comply

If a parent fails to comply with a provision of this plan the other parent's obligations

under the plan are not affected.

9. DISPUTE RESOLUTION

The parents will attempt to cooperatively resolve any disputes that arise over the terms of the Parenting Plan. If the parents are unable to resolve a dispute, they are required to use mediation as a first recourse. Any cost for mediation shall be shared equally by the parents or as determined in the dispute resolution process. A written record shall be prepared of any agreement reached in mediation and shall be provided to each parent. If the parents are unable to resolve a dispute through any other dispute resolution process, the dispute shall be resolved through court action.

APPENDIX B
(Supplemental Local Rule 8.015)

**INSTRUCTIONS FOR PARENTING
TIME ORDER ENFORCEMENT**

1. Fill out the motion and affidavit for order to show cause completely.
2. Attach a copy of the order granting parenting time which you are seeking to enforce.
3. Fill out the order to show cause but leave the hearing date blank. The court clerk will fill in the date for the hearing, make sure that the “Important Notice About Parenting Time Enforcement” is attached to the order to show cause..
4. If the other party appears on the date set for hearing, both parents will be required to attend mediation, **before the final hearing is held**, unless mediation is waived by the Court. Mediation will only be waived in extraordinary circumstances. The Court clerk has forms if you wish to ask for a waiver. Unless waived, you **must** attend mediation before the final hearing can be held.
5. If you have not already done so, you must attend the Transitional Parenting Class and provide proof to the Court before the hearing can be held. A referral is available from the court clerk.
6. It is your responsibility to see that the other party is served with a copy of all documents filed by you with the Court (motions, affidavits, parenting plan orders) and all documents issued by the Court (orders and notices).
7. If you have any questions concerning the enforcement of your parenting rights, you should contact an attorney.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MALHEUR

_____ ,	)	Case No _____
)	
Petitioner,	)	MOTION AND AFFIDAVIT FOR
	)	ORDER TO SHOW CAUSE RE:
vs.	)	VIOLATIONS OF PARENTING TIME
	)	ORDER ON PARENTING PLAN
_____ ,)	
)	
Respondent.)	

Pursuant to ORS 107.434, comes now Petitioner Respondent in the above case, and moves the Court for an Order to Show Cause directing Petitioner Respondent to appear and show cause why they should not be required to fully comply with the terms of the Parenting Time Order issued by the Court in this matter on _____ (Date of Order), a copy of which is attached hereto.

State of Oregon)
Malheur County) ss.

I allege that Petitioner Respondent has violated the Parenting Time Order or failed to comply with the terms of the Parenting Plan in the following particulars:

The above statements are true and correct.

A copy of the order or judgment establishing parenting time is attached.

Dated this _____ day of _____, 20_____.

Signature Petitioner Respondent

Address: _____

Phone: _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20__

Clerk of Court/Notary Public Comm. Exp _____

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MALHEUR

_____)
Petitioner,) Case No _____
)
vs.)
) ORDER TO SHOW CAUSE RE;
) VIOLATIONS OF PARENTING TIME
) ORDER OR PARENTING PLAN
_____)
Respondent.)

TO: _____

Address: _____

YOU ARE HEREBY ORDERED TO APPEAR in Courtroom _____ of the
Malheur County Courthouse, 251 B Street, West, Vale, Oregon, on the ____ day of
_____, 20____, at _____ .M. to show cause why the Parenting
Time Order or Parenting Plan in the above matter should not be enforced in the following way:

IT IS FURTHER ORDERED that if both parents appear on the above date, they will be ordered to participate in mediation, unless waived, and the hearing will be postponed until the parties have completed mediation.

IT IS FURTHER ORDERED that **both parents**, if they have not already done so, shall immediately successfully complete the Transitional Parenting Class offered by the court designated providers or a pre-approved alternative education program. Registration forms may be obtained from the court clerk.

ATTACHED IS AN IMPORTANT NOTICE ABOUT PARENTING TIME ENFORCEMENT.

Dated this _____ day of _____, 20_____.

Circuit Judge

IMPORTANT NOTICE

ABOUT PARENTING TIME ENFORCEMENT

IN ADDITION TO ANY OTHER REMEDY THE COURT MAY IMPOSE TO ENFORCE THE PROVISION OF A JUDGMENT RELATING TO THE PARENTING PLAN, THE COURT MAY:

- a) Modify the provisions relating to the parenting plan by:
 - 1. Specifying a detailed parenting time schedule;
 - 2. Imposing additional terms and conditions on the existing parenting time schedule; or
 - 3. Ordering additional parenting time, in the best interest of the child, to compensate for wrongful deprivation of parenting time;
- b) Order you to post bond or security;
- c) Order either or both parties to attend counseling or educational sessions that focus on the impact of violation of the parenting plan on the children.
- d) Award the prevailing party expenses, including, but not limited to, attorney fees, filing fees and court costs, incurred in enforcing the parties' parenting plan;
- e) Terminate, suspend or modify spousal support;
- f) Terminate, suspend or modify child support as provided in ORS 107.431 or;
- g) Schedule a hearing for modification or custody as provided in ORS 107.135(13).

WHEN PLEADED AND SHOWN IN A SEPARATE LEGAL ACTION, VIOLATION OF COURT ORDERED PARENTING TIME MAY ALSO RESULT IN A FINDING OF CONTEMPT, WHICH CAN LEAD TO FINES, IMPRISONMENT OR OTHER PENALTIES, INCLUDING COMPULSORY COMMUNITY SERVICE.

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MALHEUR

_____)	Case No. _____
Petitioner,)	
vs.)	LIMITED/SUPPLEMENTAL
_____)	JUDGMENT RE: ENFORCEMENT
Respondent.)	OF PARENTING PLAN

This matter came before the Court:

At the request of _____ for an order granting relief requested in
(Print your name)
the Order to Show Cause dated _____.

(Date)

On the stipulations of the parties, as shown by the signatures below.

At a hearing held _____, at which the following persons were
(Date)

present:

Petitioner Petitioner's attorney _____

Respondent Respondent's attorney _____

NOW, THEREFORE, IT IS HEREBY ORDERED:

The parenting plan currently in effect shall be modified in accordance with the following:

_____ shall be required to attend the following counseling or education sessions: _____

Spousal support shall be ___ terminated ___ suspended ___ modified as follows: _____

_____ shall be required to post bond or security as follows: _____

The requested relief is denied.

Other: _____

_____ shall be awarded reasonable attorney fees filing fees

court costs incurred in enforcing the parenting plan.

If Court Costs and Fees were Deferred: (please check the boxes below that apply)

Petitioner (or) Respondent shall be liable for all the filing fees, court costs and service fees that were deferred.

Petitioner and Respondent shall each be liable for one-half the filing fees, court costs,

and service fees that were deferred.

The State of Oregon shall have judgment against Petitioner or Respondent for one-half all the filing fees, court costs fees.

Malheur County shall have a judgment against Petitioner Respondent for one-half all the service fees.

If Court Costs and Fees were Paid by the Parties: (please check the boxes below that apply).

Petitioner Respondent shall be liable for one-half all the filing fees and court costs and service fees that have been paid in this suit, and judgment shall be entered accordingly.

MONEY JUDGMENT SUMMARY

(Child Support Obligation included not included)

A. CHILD SUPPORT

1. Judgment Creditor: _____
2. Attorney for Judgment Creditor: _____
3. Judgment Debtor: _____
4. Amount of Judgment: _____ per month, starting the first day of the month following the date of judgment.
5. Interest:
 - a. Interest accrues at 9% per annum, simple interest.
 - b. Interest accrues on the judgment on each unpaid installment as it becomes due on the first day of each month.

B. SPOUSAL SUPPORT:

1. Judgment Creditor: _____
2. Attorney for Judgment Creditor: _____
3. Judgment Debtor: _____
4. Amount of Judgment: _____ per month, starting the first day of the month following the date of judgment.
5. Interest:
 - a. Interest accrues at 9% per annum, simple interest.
 - b. Interest accrues on the judgment on each unpaid installment as it becomes due on the first day of each month.

C. COURT COSTS (i.e. filing fees, hearing fees, trial fees)

1. Judgment Creditor: _____
2. Attorney for Judgment Creditor: _____
3. Judgment Debtor: _____
4. Amount of Judgment: _____ per month, starting the first day of the month following the date of judgment.
5. Interest:
 - a. Interest accrues at 9% per annum, simple interest.
 - b. Interest accrues on the judgment on each unpaid installment as it becomes due on the first day of each month.

D. SERVICE FEES

1. Judgment Creditor: _____
2. Attorney for Judgment Creditor: _____
3. Judgment Debtor: _____
4. Amount of Judgment: _____ per month, starting the first day of the month following the date of judgment.
5. Interest:
 - a. Interest accrues at 9% per annum, simple interest.
 - b. Interest accrues on the judgment on each unpaid installment as it becomes due on the first day of each month.

E. ATTORNEY FEES

1. Judgment Creditor: _____
2. Attorney for Judgment Creditor: _____
3. Judgment Debtor: _____
4. Amount of Judgment: _____ per month, starting the first day of the month following the date of judgment.
5. Interest:
 - a. Interest accrues at 9% per annum, simple interest.
 - b. Interest accrues on the judgment on each unpaid installment as it becomes due on the first day of each month.

Dated this _____ day of _____, 20_____.

Circuit Judge

IT IS SO AGREED:

Petitioner, Pro se

Respondent, Pro Se

Certificate of Document Preparation

You are required to truthfully complete this certificate regarding the document you are filing with the Court. I certify that: (check all that apply)

- I selected this document for myself.
- I was provided this document by an attorney.
- I completed this document without paid assistance.
- I paid or will pay money to _____ for assistance in preparing this document.

Submitted by:

Petitioner/Respondent, Pro Se (Print Name)

Petitioner/Respondent, Pro Se (Signature)

Address

City, State, Zip Code

Telephone

APPENDIX C
(Supplemental Local Rule 4.031)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MALHEUR

STATE OF OREGON,	)	Case No.
)	
Plaintiff,)	
	)	MOTION AND ORDER TO TRANSPORT
vs.	)	AND PROVIDE COURT SECURITY
)	
Defendant.)	
_____)	

COMES NOW, (inmate's name) by and through his attorney, (name), and respectfully moves the Court for an Order to transport (inmate's name & SID #).

This matter came before the Court on the ___ day of _____, 20____, before The Honorable (name of judge) and said case was set for (type of proceeding that was set), and the appearance of (inmate's name & SID #) is needed.

(State reason why the inmate testimony is needed for the proceeding). My investigator, (investigator name) has interviewed (inmate's name and SID#).

(Inmate's name) will testify he witnessed the defendant (set out based on the charges).

Said inmate is currently in the custody of the (name of Institution and address).

Therefore, we respectfully request an Order allowing the transport of (inmate's name and SID # to the Malheur County Circuit Court, Vale, Oregon, on (date of proceeding inmate is needed for).

MOTION AND ORDER TO TRANSPORT AND PROVIDE COURT SECURITY

Further, the Defendant respectfully requests an Order for the State of Oregon, Department of Corrections to provide adequate security at all times while said inmate is at the Malheur County Circuit Court.

Dated this _____.

(Name of attorney)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MALHEUR

STATE OF OREGON	)	Case No.
)	
Plaintiff,)	
	)	ORDER TO TRANSPORT
vs.	)	AND PROVIDE COURT SECURITY
)	
Defendant.)	

This matter having come before the Court on the ___ day of _____, 20____, before The Honorable _____ and said case having been set for (type of proceeding) and the appearance of (inmate's name and SID #) is needed, and said inmate is currently in the custody of the (Institution and address).

The Court having reviewed the files and records herein;

NOW, THEREFORE, THIS COURT HEREBY ORDERS the temporary release of (inmate's name and SID #), from the (name of Institution), (or any other correctional facility the inmate may be transferred to prior to said hearing), for the pending (type of proceeding) against the above-named Defendant, with the State of Oregon, Department of Corrections retaining jurisdiction.

IT IS FURTHER ORDERED that the inmate shall be transported or made available to testify via simultaneous television (video) by the State of Oregon, Department of Corrections, to the Malheur County Circuit Court, Vale, Oregon, on (date of proceeding), and

MOTION AND ORDER TO TRANSPORT AND PROVIDE COURT SECURITY

returned to the custody of the (name of Institution) immediately thereafter.

IT IS FURTHER ORDERED that the State of Oregon, Department of Corrections, shall provide adequate security at all times while said inmate is at the Malheur County Circuit Court.

DATED this ____ day of _____, 20____.

Judge

MOTION AND ORDER TO TRANSPORT AND PROVIDE COURT SECURITY

APPENDIX D
(Supplemental Local Rule 16.015)

RETURN TO:
MALHEUR COUNTY CIRCUIT COURT
251 B Street, West
Vale, OR 97918

DUE: _____

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR MALHEUR COUNTY

STATE OF OREGON,)
)
)
_____))
) **Plaintiff,**)
) **vs.**)
)
_____))
) **Defendant**)

Case
No. _____
Waiver and Affidavit

WAIVER

I, _____, have plead NOT GUILTY and requested a trial in the above-captioned case.

Pursuant to ORS 153.080, I hereby waive my right to have my testimony and the testimony of the officer presented orally in Court, and I agree that testimony may be presented by sworn affidavit. I understand that, if I do choose to appear in person for trial after signing this affidavit, a copy of the police officer's affidavit will be presented to me at that time. The police office may not be present.

I am not represented by an attorney in this matter. If I retain counsel, I will advise the Court immediately.

INSTRUCTIONS: If you waive your right to have testimony presented orally in court, please fill out the below *Testimony by Affidavit* and return all documents to the court at least two weeks prior to the trial date. The judge will give your affidavit the same consideration as a personal appearance.

STATE OF _____)
) ss.
County of _____)

TESTIMONY BY AFFIDAVIT

I, _____, being first duly sworn, state that I am the

Police Officer Defendant

in the above violation offense. Pursuant to ORS 153.080, this affidavit represents my sworn testimony concerning the above violation offense. (Continued on reverse side.)

