RULES

OF THE

CIRCUIT COURT

OF THE STATE OF OREGON

FOR

DOUGLAS COUNTY

(16th Judicial District)

Effective: February 1, 2012

JUDGES OF THE 16TH JUDICIAL DISTRICT

DOUGLAS COUNTY CIRCUIT COURT

George Ambrosini

Frances E. Burge

Randolph Lee Garrison

William Marshall

Ronald Poole

TERMS OF COURT

Terms of Court Commence on the
First Court Day of Each Month

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CHAPTER 1 - GENERAL PROVISIONS

1.151 HOURS OF COURT OPERATION

The hours of the operation for the 16th Judicial District, Trial Court Administration offices will be from 8:00 a.m. to 5:00 p.m. during a standard working week. A standard working week consists of Monday - Friday (official holidays excluded).

The Court is located behind the Courthouse in the Justice Building at 1036 SE Douglas, Roseburg, Oregon.

1.161 FACSIMILE FILINGS

(1) Except as provided below, Douglas County Circuit Court does not accept facsimiles for filing with the court. Counsel may fax documents to the judge as bench copies; but only original documents will be accepted for filing with the court.

(2) Douglas County Circuit Court will accept for filing documents faxed from the Douglas County Mental Health Department, provided the originally-signed document(s) can be provided upon request.

(3) Douglas County Circuit Court will accept for filing reports (but not motions, petition, affidavits or declarations) faxed from the Department of Human Resources/Child Welfare Program and the Court-Appointed Special Advocate (CASA) in juvenile dependency cases, provided the originally-signed document(s) can be provided upon request.

1.171 COURT WEBSITE

Douglas County Circuit Court website address is: http://courts.oregon.gov/Douglas.

CHAPTER 3 -- DECORUM IN PROCEEDINGS

3.181 MEDIA COVERAGE IN THE COURTROOM & NON COURTROOM AREAS

(1) Authorization

All requests for media coverage in the courtroom and non courtroom areas as well as requests for information shall be directed to:

Office of the Trial Court Administrator
Douglas County Circuit Court
1036 SE Douglas
Justice Building, Room 201
Roseburg, OR 97470
(541) 957-2409

(2) Procedures

(a) All requests for media coverage of court events must be served on the attorneys or parties prior to the scheduled event. Media representatives requesting coverage shall be responsible for serving the appropriate parties. The request and an affidavit of service shall be submitted to the Office of the Trial Court Administrator prior to the court event. Any response or objection to the request must be presented to the court prior to the scheduled event. The request should allow the court as much advance notice as possible. In the event the request is submitted without sufficient time for the judge to review prior to the scheduled event, the request shall be considered denied. The request should be in writing on a form provided by the court.

(b) The Trial Court Administrator or designee shall report the request to the assigned judge. The judge will approve or deny the request in accordance with UTCR 3.180. The Trial Court Administrator or designee will report the judge's decision to the media. If approved, the Trial Court Administrator or designee will also notify court security of plans for media coverage.

(c) The following procedures are set forth to insure coverage will not unduly detract from the solemnity, decorum or dignity of the court or place unreasonable demands on court operation resources.

(d) Media representatives are encouraged to work out agreements in advance for sharing photographs, audio or TV tapes of specific trials or hearings.

(3) Photographic Coverage

Photographers are to conduct themselves according to UTCR 3.180 and cannot be located inside the bar.

(4) Audio Coverage

Reporters making audio recordings shall conduct themselves according to UTCR 3.180. All audio coverage shall be done from a seat in the gallery. No equipment or microphones may be placed in or around the courtroom. All recording equipment must be operated and maintained at the reporters' seat in the gallery.

(5) Television Coverage

Reporters must set up or remove TV equipment from the courtroom when court is not in session. The camera cannot be located inside the bar or be moved while court is in session.

(6) Coverage of Non-Courtroom Areas

The public or media wanting to film, photograph or tape record in non-courtroom areas such as court operations offices, judges' chambers, jury rooms, non-public/public corridors and offices must obtain approval from the Presiding Judge, Trial Court Administrator or designee.

CHAPTER 4 - APPEARANCE BY SIMULTANEOUS ELECTRONIC TRANSMISSION

4.081 - COMPLIANCE WITH UTCR 4.080

An in-custody defendant may appear by simultaneous electronic transmission pursuant to UTCR 4.080 at the following hearings:

a. Arraignment
b. Release
c. Probation Violation
d. Plea
e. Sentencing

CHAPTER 5 -- MOTIONS IN CIVIL CASES

5.061 SCHEDULING AND COMMUNICATIONS WITH THE JUDGE IN EX PARTE MATTERS

(1) All ex parte matters of any nature or kind whatsoever may be left in the office of the Trial Court Administrator for consideration and signature.

(2) After a case has finally been submitted to the court, no attorney shall submit further evidence, arguments, memoranda or authorities to the court without prior approval of the court and notice to the opposing counsel (or party if the party is not represented by counsel).

5.075 SCHEDULING HEARINGS

(1) Monday of each week shall be known as motion day. If Monday is a legal holiday, then motion day will be the next judicial day following the Monday holiday.

(2) All civil motions requesting oral argument will be set by the court. Each party will receive written notice of the date and time. Civil motions will be set on motion day. Some matters reported as requiring an hour or less court time may be set on any judicial day between 8:00 a.m. and 9:30 a.m.

(3) Custody matters in Domestic Relation cases involving unsuccessful mediation will be set in accordance with SLR 12.025(1)(e).

CHAPTER 6 -- TRIALS

6.005 GENERALLY

All parties should plan on proceeding to trial as scheduled unless contacted by the court and informed otherwise. The contact will be by telephone and be made as soon as possible but in no case later than 5:00 p.m. the day preceding the trial date.

6.012 SETTLEMENT CONFERENCES IN CIVIL CASES

(1) Cases designated by the court shall be scheduled for a mandatory settlement conference approximately 60 days before trial. The purpose of the mandatory settlement conference is to provide a forum to resolve disputes before trial through the active participation of counsel and the court.

(2) The court shall require the attendance of all parties and their trial attorneys. 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. An out-of-county or out-of-state party may request in writing to be excused from appearing at a settlement conference. The judge conducting the settlement conference may excuse the party from appearing, although, the party may be required to participate by telecommunication.

(3) Cases set for a settlement conference shall retain their place on the trial docket. If a case does not settle no reference shall be made to any settlement discussion except in any subsequent settlement proceedings and a judge other than the one who participated in the settlement conference shall be assigned to try the case.

(4) For a meaningful settlement conference to take place, 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.

(5) Parties are required to file, not less than seven (7) days prior to the date of the settlement conference, a detailed settlement conference statement with the court. The date and time of hearing shall be typed on the face sheet of the statement.

(a) In the case of personal injury/property damage litigation, the plaintiff is directed to prepare a summary of facts, a summary of the injuries and/or damages, a summary of any special legal issues involved, and a settlement demand. Plaintiff shall attach a copy of the most recent medical report(s).

The defendant is directed to prepare a similar statement setting forth the defendant's version of the facts, the injuries, legal issues, settlement offer, and a copy of the most recent defense medical report(s).

(b) In other classifications of cases each side shall prepare an appropriate settlement

statement setting forth a summary of the facts, legal issues, damages and relief demanded, together with a plaintiff's demand or defendant's offer.

(c) The purpose of the statement is to inform and assist the settlement judge and it should be sent directly to that judge. The statement should not be sent to opposing counsel and will not be filed in the case.

(6) In the event settlement negotiations are not successful, counsel should expect and be prepared to proceed to trial on the date scheduled. Every effort will be made by the court to insure that the case proceeds to trial on the date scheduled.

(7) If a settlement is reached the parties shall place notice of the settlement on the record. Settlements that occur after the scheduled conference are to be reported as required by UTCR 6.020 and SLR 6.015.

6.015 COURT NOTIFICATION OF AGREEMENTS OR STIPULATIONS IN CRIMINAL AND CIVIL CASES

No agreement or stipulation between the parties and their attorneys concerning any proceeding before the court or disposition thereof, will be regarded or enforced unless the same be made in open court in the presence of the parties and reported, or reduced to writing and subscribed by the party or attorney to be bound thereby, unless otherwise ordered by the court.

6.061 ELECTRONIC COPY OF JURY INSTRUCTIONS REQUIRED IN CIVIL CASES

Not later than the commencement of trial, each party in a Civil case must submit to the court an electronic copy of all proposed or requested jury instructions. The electronic copy must be in jury ready form. The electronic copy should be in Microsoft Word format. This rule applies to all Oregon Uniform Jury Instructions requested as well as any special instructions requested. This rule is in addition to the requirements of ORCP 59A, UTCR 6.060 and UTCR 6.070. For good cause shown, a party may request relief from the requirements of this rule.

CHAPTER 7 -- CASE MANAGEMENT AND CALENDARING

7.045 MOTION PRACTICE IN CRIMINAL CASES

Criminal motions generally will be heard on Monday of each week. If Monday is a legal holiday, then motion day will be the next judicial day following the Monday holiday. All criminal motions will be set by the court as soon as the court calendar will allow.

7.055 TRIAL DATE AND STATUS CONFERENCE IN CRIMINAL CASES

(1) Schedule

All criminal cases will be set for a hearing to review the status of the case in advance of trial. The date and time of the status check hearing will be set at arraignment, except for felonies prior to a Grand Jury Indictment.

(2) Appearances

The attorney for each party and the defendant shall appear at the hearing.

(3) Trial Dates

Trial dates will be set in court if the defendant is in custody, at arraignment. If the defendant is not in custody at the arraignment, trial dates will be set at the status conference.

7.065 SENTENCING

Counsel shall advise the docket clerk if, in the opinion of counsel, the hearing will be in excess of 15 minutes.

7.075 PRETRIAL CONFERENCES IN CIVIL CASES

(1) A pretrial conference shall be scheduled in all civil cases not less than six (6) weeks before the trial date. The parties and their counsel will appear personally at the conference unless the court orders otherwise.

(2) A party and his/her counsel may appear at the pretrial conference by telephone, unless otherwise directed by the court. A party or an attorney intending to appear at the pretrial conference by telephone must do all of the following:

(a) Notify the court in writing at least seven days prior to the scheduled date for the pretrial conference.

(b) Arrange for and place the call to the court at the time scheduled for the pretrial conference.

(c) Arrange for all other parties and their counsel to participate in the same telephone call.

(d) Pay for the expense of the telephone call or conference call.

(3) Not less than seven (7) days before the conference each party shall file with the court a completed pretrial conference statement found on pages 28-29 in the “Appendix of Forms”. The form shall also be served on the opposing counsel not less than seven (7) days before the date of the conference.

CHAPTER 8 -- DOMESTIC RELATIONS PROCEEDINGS

8.015 MANDATORY PARENT EDUCATION PROGRAM

(1) APPLICATION: Douglas County has established a parent education program requirement as authorized by ORS 3.425. The program shall provide information on the impact of family restructuring on children to each person named as a party in the following types of proceedings:

- Annulment or dissolution of marriage;
- Legal separation;
- Custody or parenting time involving unmarried parents;
- Post- judgment litigation involving custody or parenting time; and
- Proceedings involving dissolution of Domestic Partnerships.

(2) PARENT EDUCATION REQUIREMENT: When custody or parenting time of a child under the age of 18 is at issue each party in the proceeding shall successfully complete the parent education class offered through a court approved parent education program.

(3) NOTICE: A copy of a notice regarding this requirement and an explanation of the program shall be provided to the moving party by the circuit court clerk accepting the filing at the time the moving party's documents are filed. The moving party shall serve a copy of this notice on the opposing party along with the moving papers in the manner provided in ORCP 7. The return of service on the opposing party shall indicate service of this notice as well as the other documents requiring service.

(4) REGISTRATION: The parties shall register for the program or make application for approval of an alternative program within thirty (30) days after the case is at issue and shall complete the class within sixty (60) days thereafter.

(5) WAIVER: Upon a showing of good cause and within 30 days after the case is at issue, either party may request waiver of this rule. The request shall be made to the court. The request shall be granted if the court determines that participation is either unnecessary or inappropriate.

(6) FEE: Each party shall pay a fee determined by the program provider to cover the program costs. The fee may be waived or modified by the program provider, subject to court review.

(7) NOTICE OF COMPLETION: The parties are responsible for providing the court case title and number to the provider. The program provider shall file a notice of completion with the court when the participant has completed the program.

(8) FAILURE TO COMPLETE: Failure or refusal to complete the program in a timely manner may be considered by the court in making its custody and parenting time rulings.

8.017 CUSTODY EVALUATIONS

(1) If the parties agree, a private custody and/or parenting time evaluation may be conducted and the parties shall be responsible for the costs of the evaluation.

(2) Upon motion made by a party or upon the Court's own motion, the Court may order custody and/or parenting time evaluation. The costs of the evaluation may be apportioned between or among the parties at any time during the proceeding, including (but not limited to) when the order for evaluation is made or upon final judgment.

(3) The Court shall be notified by the evaluator or by a party if a party refuses to cooperate with the evaluation process. The evaluator or a party shall also notify the Court if the evaluator cannot complete a report and indicate why the report cannot be completed.

(4) The Court may consider a party's lack of or refusal to cooperate in a custody evaluation when making a custody decision.

(5) This rule shall apply to any proceeding before the Court in which custody or parenting time is an issue.

8.019 PARENTING TIME COORDINATORS

(1) A Parenting Time Coordinator may be appointed upon stipulation of the parties, upon motion of a party, or upon the court's own motion (ORS 107.425(3)(a)).

(2) A form of model order appointing a Parenting Time Coordinator may be found on the Douglas County Circuit Court website at: http://courts.oregon.gov/Douglas/domesticrelations.page?

8.041 PRE-JUDGMENT RELIEF

(1) Prejudgment relief motions, excepting motions for temporary child custody or parenting time, shall be submitted to the Trial Court Administrator supported by affidavits and other documentation necessary to justify the requested relief. The prejudgment relief motion(s), affidavit(s), and supporting documentation shall be served upon the opposing party, together with a notice to appear in accordance with sections (3) and (4) below.

(2) If the opposing party has not appeared in the proceeding, Prejudgment Relief Motion(s), supporting documentation, and the Notice to Appear, shall be served upon the opposing party in the manner prescribed by ORCP 7. If the opposing party has appeared in the proceeding, Prejudgment Relief Motion(s), affidavit(s), supporting documentation, and Notice to Appear, shall be served in the manner prescribed by ORCP 9.

(3) The original Notice to Appear shall be filed with the Trial Court Administrator. The Notice to Appear shall contain a notice in substantial conformity with the following:

PETITIONER/RESPONDENT HAS REQUESTED CERTAIN PREJUDGMENT RELIEF MOTIONS, PURSUANT TO ORS 107.095 AND SLR 8.041.

YOU ARE HEREBY GIVEN NOTICE THAT IF IT IS YOUR INTENT TO CONTEST THE REQUESTED PREJUDGMENT RELIEF, THEN NOT LATER THAN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE OF THIS NOTICE UPON YOU, THE FOLLOWING MUST BE DONE:

(A) YOU MUST FILE A COUNTERAFFIDAVIT AND ANY SUPPORTING DOCUMENTATION WITH THE TRIAL COURT ADMINISTRATOR, AND,

(B) YOU MUST SERVE YOUR COUNTERAFFIDAVIT AND ANY SUPPORTING DOCUMENTATION UPON YOUR SPOUSE'S ATTORNEY OR, IF HE/SHE IS NOT REPRESENTED BY AN ATTORNEY, THEN UPON HIM/HER IN THE MANNER PRESCRIBED BY ORCP 9.

(C) IF YOU WISH TO SEEK AFFIRMATIVE RELIEF IN ADDITION TO OR INSTEAD OF CONTESTING THE RELIEF SOUGHT HEREIN, YOU MUST FILE YOUR OWN MOTION PURSUANT TO SLR 8.041.

AFTER FOURTEEN (14) DAYS FROM THE DATE OF SERVICE OF THIS NOTICE UPON YOU, THE COURT SHALL RULE ON THE REQUESTED PREJUDGMENT RELIEF MOTION(S) WITHOUT A HEARING AND SHALL ENTER AN ORDER WHICH SHALL BECOME EFFECTIVE IMMEDIATELY.

(4) Any motion or counter affidavit regarding temporary support, debt payment, or attorney fees shall be accompanied by a Uniform Support Declaration in the form specified in the Appendix of Forms to the Uniform Trial Court Rules and a completed Division of Child Support computation worksheet as set forth in Administrative Rules 137-050-320 through 137-050-490 (Child Support Guidelines). In any case involving parties to which a Family Abuse Prevention Act Order (ORS 107.700-730) applies, a copy of said order shall be attached to any affidavit or counter affidavit. Except for the initiating motion, affidavit (and supporting matter) and the counter affidavit (and supporting matter), no other pleading shall be allowed or permitted, except as permitted by the court for good cause shown.

(5) To the extent relevant to the prejudgment relief requests, each Prejudgment Relief Affidavit and counter affidavit shall address the following matters in the following order using the following suggested subheadings:

(a) EMPLOYABILITY: If different than the present employment as set forth in the Uniform Support Affidavit, the past employment circumstances and employability of each party.

(b) FAMILY HOME: Circumstances concerning the family home and any request for exclusive use thereof. A party making a specific request for exclusive use, possession, or control of the family home shall address the factors set out in ORS

107.095(1)(d) and (1)(g).

(c) DEBTS/INSURANCE: Debt and liability repayment obligations and needs, and requests for maintenance of insurance.

(d) RESTRAINING ORDERS: Reasons for any requested restraining orders, except for a temporary protective order of restraint as allowed by ORS 107.097(2) and SLR 8.042.

(e) PERSONAL PROPERTY: Circumstances concerning a request by a party for exclusive use of a vehicle or other personal property.

(f) ATTORNEY FEES: Sources of and need for attorney and expert witness fees.

(g) OTHER: Any other matter(s) relevant to the Court's consideration. Provided, however, in accordance with ORS 107.036, no affidavit shall recite nor shall the Court consider any statement of alleged specific acts of misconduct by either party. Matters concerning child custody shall be considered under SLR Chapter 12 and SLR 8.042.

(6) If either party desires to contest the relief granted by the Court in the Temporary Relief Order, that party must file a motion requesting a hearing within 14 days of the date the order is entered specifying the modification requested. A copy of that request must be served upon the opposing attorney or if not represented, upon the party. Upon receipt of the request for hearing, the docket clerk shall promptly schedule a hearing. The Court will consider the evidence in the trial court file and any additional evidence relevant to the issues at the hearing.

(7) Except as allowed by the Abuse Prevention Act, ORS 107.700, et seq, no *ex parte* order denying access to the marital home will be granted by the Court. The Court may consider denying a party access to the marital home as otherwise allowed under the procedures prescribed in this rule, but only under the circumstances permitted by ORS 107.095(1)(d) and (1)(g).

(8) After an initial ruling on the record or a ruling resulting from a request for hearing under (6) above, except for a contempt proceeding, no further motion(s) for Prejudgment Relief by the same party may be allowed or considered by the Court except upon a showing of an emergency. As used in this subparagraph, the term "emergency" means unforeseen, extraordinary and extreme circumstances, or a substantial change of circumstances arising after the entry of the Court's last Prejudgment Relief Order.

8.042 EX PARTE TEMPORARY RESTRAINT, CUSTODY AND PARENTING TIME ORDERS

(1) Temporary Order of Restraint

Either party may apply to the court for an ex parte temporary order of restraint as allowed

by ORS 107.097(2). Only orders as set forth below will be entered pending mediation. The order shall provide as follows:

The parties are restrained and enjoined from changing the children's usual place of residence, from interfering with the present placement and daily schedule of the children, from hiding or secreting the children from either parent, from interfering with each parent's usual contact and parenting time with the children, from leaving the State of Oregon with the children without the written permission of the other parent or the permission of the Court, or from in any manner disturbing the current schedule and daily routine of the children until custody or parenting time has been determined by mediation or by further order of this court.

(2) Referral to Mediation

If custody and/or parenting time are at issue, the parties will immediately be ordered to mediation pursuant to SLR Chapter 12. In the event that mediation is unsuccessful, temporary custody and parenting time pursuant to ORS 107.095(1)(b) shall be determined pursuant to SLR 12.025(1)(e).

(3) Limitations on Ex Parte Orders

No ex parte order involving custody or parenting time will be entered in a case where either party has obtained a Family Abuse Prevention Act order pursuant to ORS 107.700 - 107.735.

8.051 POST-JUDGMENT MODIFICATION (ORS 107.139, 109.119 and 107.730)

(1) Motions for modification of orders or judgments described in subsection (2) shall be submitted to the court supported by affidavits, uniform support declaration and other documentation necessary to justify the requested relief. The motion shall be served upon the opposing party together with an order to show cause containing the notice described in subsection (3).

(2) Except as provided below, this rule shall apply to any and all modifications of custody or parenting time decisions, including (but not limited to) domestic relation's judgments (ORS 107.135, ORS 107.139); modifications of a judgment entered pursuant to ORS 109.119 (establishing emotional ties); and, modification of custody and parenting time provisions requested pursuant to or to be made under the authority of ORS 107.730 [FAPA proceedings]. This rule does not apply to temporary custody or parenting time decision, including temporary custody or parenting time decision made pursuant to ORS 107.095, ORS 107.710, 107.718. This rule does not apply to juvenile dependency proceedings.

(3) The notice to be given shall state:

"PURSUANT TO DOUGLAS COUNTY CIRCUIT COURT RULE 8.051, THE PETITIONER/RESPONDENT HEREIN SHOULD TAKE NOTICE THAT IF IT IS YOUR

INTENT TO CONTEST THE MATTERS INVOLVED HEREIN, A WRITTEN RESPONSE SPECIFYING THE MATTERS TO BE CONTESTED MUST BE FILED BY YOU WITH THE TRIAL COURT ADMINISTRATOR WITH PROOF OF SERVICE OF A COPY THEREOF ON PETITIONER'S/RESPONDENT'S ATTORNEY NOT LATER THAN THIRTY (30) DAYS FROM THE DATE OF SERVICE OF THIS ORDER UPON YOU. ABSENT GOOD CAUSE SHOWN, NO CONTEST TO A SHOW CAUSE SHALL BE PERMITTED UNLESS THE CONTESTANT HAS FILED A WRITTEN RESPONSE.

(4) The written response shall respond to the original affidavit. Upon the filing of a written response, the matter will be set for trial pursuant to UTCR 7.020. Further pleadings will not be permitted except for good cause shown. If the respondent is seeking affirmative relief rather than or in addition to opposing relief requested by the other party, respondent must file a separate motion pursuant to this rule.

(5) Where no written response is filed, the court may rule on the motion without a hearing upon the expiration of thirty (30) days from the date of service, or the court may request additional documents or may set the matter for hearing.

CHAPTER 9 -- PROBATE AND ADOPTION PROCEEDINGS

9.021 AMOUNT OF SURETY BONDS

In view of the personal representative's power of sale without court order, corporate surety bonds in the amount of the assets of the estate will be required unless otherwise ordered by the court. The amount of the bond must be increased to provide continuing coverage of all assets and may be decreased as the circumstances permit. Personal surety bonds are to be allowed only on approval by the court and then only for a period of six months.

9.081 OBJECTIONS IN PROTECTIVE PROCEEDINGS AND NOTICE OF INFORMATION

(1) Any person who wishes to file a oral or written objection to a petition in a protective proceeding under ORS 125.075 may contact a court clerk at Room 201, Douglas County Justice Building, 1036 SE Douglas Avenue, Roseburg, Oregon, telephone (541) 957-2451. Oral objections may be made with the court clerk. If the person wishes to file a written objection, the court clerk will provide the objection form found on Page 30 in the “Appendix of Forms”. Upon receipt of the objection and payment of the applicable fee under ORS 21.310, the Court will schedule a hearing and notify the parties.

(2) Information about free or low cost legal services may be obtained from the court clerk in Room 201, Douglas County Justice Building, 1036 SE Douglas Avenue, Roseburg, Oregon.

(3) All contested adult guardianship and/or adult conservatorship cases may be referred to mediation or settlement conference as described in SLR 12.105.

CHAPTER 11 – JUVENILE COURT PROCEEDINGS

11.005 APPEARANCE IN JUVENILE COURT FOR TERMINATION OF PARENTAL RIGHTS CASES

(1) A parent who is served with a summons for the first appearance in a petition to terminate parental rights case, shall appear personally in court at the time and place specified in the summons to admit or deny the allegations of the petition.

(2) A parent who fails to appear shall be subject to entry of a default order and/or judgment granting the relief sought by the petitioner.

CHAPTER 12 -- MEDIATION/ALTERNATIVE DISPUTE RESOLUTION

12.015 MATTERS SUBJECT TO MEDIATION

(1) Mandatory Mediation

Except as provided, any matter involving a controversy over custody or parenting time of minor children shall be subject to mediation. This rule applies to and mediation is required for all custody or parenting proceedings, including (but not limited to) proceedings pursuant to ORS 109.119 (emotional ties). Provided however, mediation shall not be required for custody or parenting time determinations made pursuant to ORS 107.700 to 107.735 (FAPA). See ORS 107.755(2). In addition, this rule does not apply to juvenile dependency proceedings.

(2) The court which refers a case to mediation may set in its referral order the limits of the mediator's scope of authority in the case. Any agreement of the parties reached as a result of mediation for which court enforcement may be sought must be presented to the court, and the court shall retain final authority to accept, modify or reject the agreement. In order to preserve and promote the integrity of mediation as a dispute-resolution technique, the court will endeavor to include all reasonable agreements reached by the parties in formulating its order in the case.

(3) Other Matters

The parties and mediator may agree that the mediator may deal additionally with any other matter, including (but not limited to) child support.

12.025 MEDIATION AND TEMPORARY SUPPORT

(1) Mediation

(a) Commencement of Mediation by Stipulated Request for Mediation

If there is a disagreement between the parties concerning custody or parenting time either prior to or after a judgment, both parties, or their attorneys, may sign and file with the Court a stipulated request for mediation, in substantially the form as of that attached to these rules. The parties will be referred by the court to the Douglas County Mental Health Division for mediation in accordance with these rules, or the parties may agree and stipulate to an independent mediator in their stipulated request for mediation. (Form found on page 31 in the “Appendix of Forms”).

(b) Custody or Parenting Time is at Issue & Mediation Orientation

Whenever a respondent appears in a domestic relations case by filing an answer and indicates on the pleading whether child custody or parenting time is at issue, the court shall refer the parties to the Mental Health Division for Mediation Orientation.

(Form found on pages 32-34 in the “Appendix of Forms”).

(c) Temporary Custody and Parenting Time Orders

At any point during the mediation, the court may approve a temporary custody and parenting time order reflecting the parents' agreement as to the issues.

(d) Good Faith Required

Mediation shall not be used by any party in bad faith for the purposes of delay of resolution of other issues. If the court finds at any time that the mediation process is being misused in violation of this rule, it may determine that mediation has been unsuccessful. The Court may consider a party’s bad faith and/or failure to cooperate when determining custody or parenting time.

(e) Unsuccessful Mediation

In the event the parents are not successful in mediating the custody or parenting time controversy, the mediator shall notify the court. Upon written request by either party, a temporary custody and parenting time hearing shall be scheduled as soon as possible. Any request by a party for a hearing shall identify the issues to be determined and the length of time required for the hearing.

(2) Temporary Support

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 custody and/or parenting time, the mediator may assist, upon the request of the parents and the consent of the mediator, in resolving the support issue as well.

12.035 INDEPENDENT MEDIATORS

(1) The parties may select by stipulation a mediator independent of the court system. The parties shall directly contract with the independent mediator and be responsible for payment of any agreed-upon fee for mediation service.

(2) If an independent mediator is selected, the parties or their attorneys shall file with the court a written stipulation indicating the name of the mediator and the date set for the first mediation session.

(3) If a stipulation for independent mediation is not filed by the time set for the hearing on any child custody or parenting time dispute, the parties will be ordered to the Mental Health Division for mediation pursuant to Rule 12.025.

(4) If the parties select an independent mediator pursuant to Rule 12.035(2), after a referral has been made to the Mental Health Division, they shall comply with Rule 12.035(2) and

send a copy of the stipulation to the Mental Health Division.

12.045 LITIGATION OF UNRESOLVED CONFLICT

If the court is notified by a mediator, in the case of mandatory mediation, that further attempts at mediation will prove unsuccessful or detrimental to the interests of any party, then the court shall notify the domestic relations docketing clerk that the matter shall be set for trial, unless a party advises the clerk that the matter is settled.

[12.055 CUSTODY EVALUATIONS transferred to chapter 8.017]

12.065 SMALL CLAIMS MEDIATION

(1) All contested small claims actions shall be referred to mediation orientation.

(2) Agreements reached while in mediation shall be signed by the parties and filed as stipulated orders.

(3) Failure of either party to abide by the stipulated order will be grounds for the opposing party to file an Affidavit of Non-Compliance and obtain a judgment on the mediated agreement.

12.075 FED MEDIATION

(1) All contested FED actions shall be referred for mediation orientation at first appearance.

(2) Agreements reached while in mediation shall be signed by the parties and filed as stipulated orders.

12.105 COURT ANNEXED MEDIATION/ARBITRATION/SETTLEMENT CONFERENCE PROGRAM

(1) The 16th Judicial District has a mediation referral program pursuant to ORS 36.185 to ORS 36.210.

(2) Any contested adult guardianship or adult conservatorship case may be referred to mandatory mediation or settlement conference. The court may provide a court-appointed mediator or person to conduct settlement conferences, or the parties may agree to a mediator or person to conduct the settlement conference of their own choice and at their own expense. If an agreement is not reached, the case will proceed to trial.

(3) Unless the context requires otherwise, as used in the Douglas County Supplemental Local Rules, terms and rules applicable to mediators and mediation also are applicable to settlement conferences and those person conducting settlement conferences. A settlement conference may be chosen by the parties or ordered by the Court, in lieu of mediation or arbitration.

(4) When ORS 36.400 (Mandatory Arbitration) applies, the parties shall be sent a Notice of Assignment to Alternative Dispute Resolution (ADR) wherein the available ADR programs will be described and the parties shall be required to choose among the then-available ADR programs.

12.125 ARBITRATION AND MEDIATION COMMISSION

(1) There is established an Arbitration and Mediation Commission which includes judges, attorneys, non-attorneys, and, as ex officio, the Trial Court Administrator, at least some of whom have experience as mediators. The Arbitration and Mediation Commission is the "determining authority" as this term is used in Section 1.3 of the Oregon Judicial Department's Court-Connected Mediator Qualifications Rules, adopted through Chief Justice Order No. 05-208 (see: http://www.ojd.state.or.us/web/OJDPublications.nsf/Files/05cER001sh.pdf/$File/05cER001sh.pdf).

(2) All members shall be appointed by, and serve at the pleasure of, the Presiding Judge for a period determined by the Presiding Judge.

(3) The function of the Arbitration and Mediation Commission is to:

(a) Monitor the mediation, arbitration and settlement conference program.

(b) Review the applications of mediators, arbitrators, and those conducting settlement conferences.

(c) Review the qualifications and training of mediators, arbitrators, and those conducting settlement conferences.

(d) Advise the court on the functioning of the mediation, arbitration and settlement conference programs.

(e) The Presiding Judge retains and shall have final authority over all matters described in subsections (a), (b), (c) and (d) above.

12.135 MEDIATION /ARBRITRATION/SETTLEMENT CONFERENCE PANEL ESTABLISHED

There shall be a panel of mediators, arbitrators and persons to conduct settlement conferences made up of persons appointed to serve for a period at the discretion of the Presiding Judge.

12.137 SETTLEMENT CONFERENCES LIABILITY/CONFIDENTIALITY

As settlement conferences are a form of alternative dispute resolution, the following provisions apply and are applicable to Settlement Conference and persons conducting Settlement Conferences, in the same way and with the same force and effect as applicable to mediators and mediation programs:

ORS 36.210 (Liability of mediators and programs); ORS 36.220 (Confidentiality of mediation

communications and agreements; exceptions); ORS 36.222 (Admissibility and disclosure of mediation communications and agreements in subsequent adjudicatory proceedings).

12.145 APPOINTMENT TO MEDIATION/ARBITRATION/SETTLEMENT CONFERENCE PANEL

(1) To apply to be listed on the panel of mediators, arbitrators or persons conducting settlement conferences, a person must sign and file an application as provided by the Court.

(2) The Arbitration and Mediation Commission shall review each applicant and make a recommendation to the Presiding Judge.

(3) The decision as to whether an individual is qualified to be on the panel of mediators, arbitrators and/or persons conducting settlement conferences shall be made by and in the discretion of the Presiding Judge in accordance with the Oregon Judicial Department's Court-Connected Mediator Qualifications Rules, adopted through Chief Justice Order No. 05-208 (see: http://www.ojd.state.or.us/web/OJDPublications.nsf/Files/05cER001sh.pdf/$File/05cER001sh.pdf).

12.155 REMOVAL FROM MEDIATION/ARBITRATION/SETTLEMENT CONFERENCE PANEL

(1) The Arbitration and Mediation Commission shall monitor the performance of mediators, arbitrators and persons conducting settlement conferences.

(2) The Presiding Judge may remove a mediator, arbitrator or person conducting settlement conferences at the Presiding Judge's discretion.

12.165 ASSIGNMENTS, SELECTION, AND COMPENSATION OF MEDIATOR/ ARBITRATOR/SETTLEMENT CONFERENCE PANEL

(1) A mediator, arbitrator or person to conduct settlement conferences shall be assigned by the court or selected by the parties within 21 days after the referral to mediation, arbitration or settlement conference.

(2) The Arbitration and Mediation Commission may establish a compensation schedule which shall apply when a mediator, arbitrator or person conducting a settlement conference is assigned by the court. If a mediator, arbitrator or person conducting a settlement conference is selected by the parties, then compensation shall be determined by the parties and the mediator, arbitrator or person conducting a settlement conference.

12.175 COMPLETING THE MEDIATION/ARBITRATION/SETTLEMENT CONFERENCE

Any mediation, arbitration or settlement conference under these Rules must be completed within 90 days after the entry of an order referring the case to mediation, arbitration or settlement conference, unless otherwise ordered by the court.

12.185 TOLLING OF TRIAL AND DISCOVERY TIME LINES AND REQUIREMENTS

(1) For purposes of ORS 36.190(3), tolling of trial and discovery time lines and requirements commences on the date of the entry of an order referring a case to mediation/settlement conference.

(2) For purposes of ORS 36.190(3), tolling of trial and discovery time lines and requirements ends on the earliest of the following:

(a) The date the court is notified in writing of the termination of the mediation/settlement conference.

(b) The date a party files a written objection to mediation/settlement conference together with proof of service on all other parties.

(c) 90 days after the entry of an order referring the case to mediation/settlement conference.

12.195 EFFECT ON MANDATORY ARBITRATION

In any case which otherwise is subject to mandatory arbitration:

(a) Arbitration shall not be required if all parties participate in a mediation session or a settlement conference.

(b) If one or more parties file a written objection to mediation or a settlement conference together with proof of service on all other parties, then the case shall be transferred to or continued in arbitration.

12.200 SANCTIONS

The court may impose sanctions pursuant to UTCR 1.090 against any attorney or party who fails to comply with the requirements of SLR Chapter 12 by:

(1) Failing to attend a scheduled mediation session, arbitration, settlement conference or judicial settlement conference; or,

(2) Failing to act in good faith during the mediation, arbitration, settlement conference or judicial settlement conference; or,

(3) Failing to submit on a timely basis paperwork required as a part of the mediation, arbitration, settlement conference or judicial settlement conference; or,

(4) Failing to have a principal necessary to approve the resolution of the case present or readily available, by telephone or other means, at the time of the mediation, arbitration, settlement conference, or judicial settlement conference, unless, in advance, the court grants the party or attorney leave from compliance with this subsection of the rule.

CHAPTER 13 -- ARBITRATION

13.015 OTHER APPLICABLE PROVISIONS

Other provisions regarding alternative dispute resolution, arbitration and arbitrators are found in SLR Chapter 12.

13.095 ARBITRATOR/MEDIATOR APPLICATION

To qualify as an arbitrator, mediator or a person to conduct settlement conferences, the applicant must complete and sign an application approved by the Arbitration and Mediation Commission.

CHAPTER 16 – VIOLATIONS

16.005 VIOLATIONS BUREAU

By local Presiding Judge's Order, a Violations Bureau is established pursuant to ORS 153.800. All Circuit Court employees of Douglas county are appointed to violation Clerks and are directed to enter judgment pursuant to ORS 153.090.

16.015 TRIAL BY AFFIDAVIT

If a signed waiver and testimony by affidavit (found in "Appendix of Forms", pages 35-36) is filed by the alleged violator, testimony in a traffic violation trial is allowable by affidavit pursuant to ORS 153.080. A copy of the witness' affidavit shall be provided to the alleged violator before trial.

APPENDIX OF FORMS

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF DOUGLAS

_____	)	
	)	
Plaintiff,	)	Case No. _____
	)	
v.	)	PRETRIAL CONFERENCE
	)	STATEMENT OF
_____	)	PLAINTIFF/DEFENDANT
	)	
Defendant.	)	(SLR 7.075(3))

1. A pretrial conference has been scheduled in this case on the _____ day of _____, _____ at _____ __m. I certify that I have reviewed the pleadings and that no further amendments have to be made. I cannot certify that all the necessary amendments to my client's pleadings have been made because:

_____

_____

_____

(Note: All pretrial amendments must be completed sufficiently in advance of the trial date to avoid any delay in the proceedings or the amendment will not be allowed.)

2. I certify that all discovery has been completed. I cannot certify that all discovery has been completed because:

_____

_____

_____

(Note: All discovery must be completed promptly to avoid a delay in the proceedings. Failure to complete discovery in a diligent manner will not be grounds for a postponement.

3. I certify that I have notified my clients and all of my material witnesses of the trial date. I cannot so certify because:

_____

_____

_____

4. I have made a good faith effort to confer with the opposing side concerning settlement. I have not done so because:

_____

_____

_____

5. I have asked the opposing side to stipulate to undisputed matters so that evidence will not have to be produced unnecessarily. I have not done so because:

_____

_____

_____

6. General comments: I wish to apprise the court of the following which will have to be discussed with the court and opposing counsel at the time of the pretrial conference.

_____

_____

_____

_____

7. NOTE: A copy of this statement must be furnished to the court and opposing counsel not less than seven (7) days before the date of the pretrial conference.

_____

Attorney for (Plaintiff) / (Defendant)

Appendix
(Per SLR 7.075(3))

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR DOUGLAS COUNTY
ROOM 201 JUSTICE BUILDING
ROSEBURG, OR 97470
PROBATE DEPARTMENT

In the Matter of _____ _____	Case No. _____ **OBJECTION TO PETITION/MOTION ON PROTECTED PERSON (SLR 9.081(1))**

I, _____ , am objecting to the Motion _____, Petition ____, in this protective proceeding. My reasons are as follows:

_____

_____

_____

Certificate of Document Preparation. You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

☐ I selected this document for myself, and I completed it without paid assistance.
☐ I paid or will pay money to _____ for assistance in preparing this form/document.

_____
Signature

Address/Mailing Address

_____

_____

Phone: _____

_____
Objector's Signature

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20___

_____
CLERK/NOTARY PUBLIC FOR OREGON
My Commission expires: _____

DOU*PB-26:11/00 - Objection to Petition/Motion on Protected Person

Appendix
(Per SLR 9.081(1))

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

In the Matter of the Marriage of	)	
	)	
_____,	)	Case No. _____
Petitioner,	)	
and	)	**STIPULATED REQUEST FOR**
	)	**MEDIATION AND ORDER**
_____,	)	(SLR 12.025(1)(a))
Respondent.	)	

Since it appears to both parents that custody and parenting time cannot be agreed upon:

( ) The parents request a referral to the Douglas County Mental Health Division for mediation.

( ) The parents request the use of an independent mediator. The mediator has been contacted and has agreed to mediate, and has also agreed to abide by the Mediation Rules of this Court.

The mediator's name is _____. The mediator's address and telephone number are:

_____

_____

The first mediation appointment is scheduled for: _____
(Month/Day/Year)

_____	_____
Wife's Signature	Husband's Signature
_____	_____
Address	Address
_____	_____
City State/Zip Phone	City State/Zip Phone
_____	_____
Wife's Attorney and Bar Number	Husband's Attorney and Bar Number

O R D E R

IT IS HEREBY ORDERED, that

( ) The parents are referred to the Douglas County Mental Health Division for mediation.

( ) The parents are to participate in mediation with the independent mediator set out above.

DATED this _____ day of _____, 200__.

_____
JUDGE

Appendix

(Per SLR 12.025(1)(a))

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

In the Matter of the Marriage of:	)	
	)	
_____,	)	Case No._____
Petitioner,	)	
and	)	REQUEST FOR MEDIATION BY ONE PARENT
	)	
_____,	)	(SLR 12.025(1)(b))
Respondent.	)	

I, _____, am the (mother) (father) of the child(ren) of this marriage. We cannot agree upon custody and/or parenting time, and I am requesting that the Court send us to a mediator. I am, therefore, filing this Request for Mediation by One Parent. I have kept a copy. I have taken the responsibility to see that my spouse receives a copy of this request as indicated in the "NOTICE" section below. The other parent's current address is: _____

_____.

DATED: _____ SIGNED: _____
(Mother) (Father), Pro se

_____
(Address)

_____
(City/State) (Zip)

_____
(Telephone)

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

In the Matter of the Marriage of:	)	
	)	
_____,	)	Case No._____
Petitioner,	)	
and	)	REQUEST FOR MEDIATION BY ONE PARENT
	)	ORDER
_____,	)	
Respondent.	)	(SLR 12.025 (1)(b))

ORDER:

[ ] The parents are referred to the Douglas County Mental Health for mediation.

[ ] Request for mediation is denied.

DATED this _____ day of _____, 200__.

_____ _____
JUDGE

NOTICE TO PARENT MAKING THIS MOTION: The Court also requires you to GIVE NOTICE TO THE OTHER PARENT, or his/her attorney. (See back for details.)

SERVICE

(Do not sign until you are in the presence of a Notary Public or Clerk of the Court.)

PERSONAL NOTICE: (The Mother, or the Father, or any other adult may give the copy to the other parent, and should then complete the section below and return it to the Clerk's office to be filed.)

STATE OF OREGON)
County of Douglas) ss.

I, _____, hereby swear that I gave an exact and true copy of this Request for Mediation by One Parent to the other parent, _____, who is the (mother) (father), by personally handing it to him/her.

DATE GIVEN TO OTHER PARENT: _____

SIGNED: _____
(Sign only before a Notary or Clerk)

MAIL NOTICE: (The Mother, or the Father, or any other adult may mail the copy to the other parent, and should then complete the section below.)

I, _____, hereby swear that I could not personally hand a copy of this Request for Mediation by One Parent to the other parent, so I mailed a true, exact and full copy of it to him/her as follows:

DATE MAILED: _____ TIME: _____ AT: _____
(City, State)

I mailed it to the other parent's last known mailing address, which is:

_____
Street

_____
City, State and Zip Code

SIGNED: _____
(Sign only before a Notary or Clerk)

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ day of _____, 200__.

_____
NOTARY PUBLIC/CLERK

My Commission Expires: _____

PAGE 3 - REQUEST FOR MEDIATION BY ONE PARENT

Appendix
(Per SLR 12.025(1)(b))

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

THE STATE OF OREGON,

Plaintiff,

Case Number: [Case Number]

vs.

WAIVER and TESTIMONY BY AFFIDAVIT

[Defendant's Name]
[Mailing Address]
[City,State and Zip] [Phone]

Defendant.

INSTRUCTIONS:

You must return this WAIVER and TESTIMONY BY AFFIDAVIT to the Court by [Return Date], if you wish to waive your presentation of oral testimony and the officer's appearance at trial.

You will be notified by the Court of your trial date. If you have returned this WAIVER and TESTIMONY BY AFFIDAVIT, your presence is not required. The Judge will give your affidavit the same consideration as a personal appearance before the Court.

If the WAIVER and TESTIMONY BY AFFIDAVIT are not returned (completed) to the Court by the above date, your presence will be required at the trial. On that date you and the officer will be required to appear, in person, to present your testimony.

WAIVER

I, _____, have plead Not Guilty and request a trial in the above-entitled case. Pursuant to ORS 153.080, I hereby waive my presentation of oral testimony and the police officer's presence at trial. I agree that all testimony may be presented to the Court by affidavit.

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

_____ _____
Defendant's Signature Date

(PROCEED TO AFFIDAVIT ON PAGE 2)

THE STATE OF OREGON v. _____, Defendant Case No. _____

TESTIMONY BY AFFIDAVIT

I, _____, state that I am the:

_____Police Officer _____Defendant _____Other: _____

in the above traffic offense. This affidavit represents my sworn testimony concerning the above traffic offense:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

(attach additional sheet if necessary)

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and that I am subject to penalty for perjury.

_____ _____
Signature Date

RETURN TO:
DOUGLAS COUNTY CIRCUIT COURT
1036 SE Douglas
Roseburg, OR. 97470

PAGE 2 – WAIVER and TESTIMONY BY AFFIDAVIT

Appendix
(Per SLR 16.015)

Request to Cover Courtroom Proceedings

Name of Radio/TV Station or Newspaper: _____

Address: _____

_____

Name of Contact Person: _____

Phone: _____

Names of Authorized Representatives: _____

_____

Type of Coverage: ___ Audio Recording
___ Photographic
___ Television

Case: _____

Judge: _____

Date(s) Coverage Requested: _____

I have read, understood and agree that any authorized representative of my station/newspaper will abide by the Uniform Trial Court Rules 3.180 & the Local Supplementary Rule 3.181 for Douglas County Circuit Court relating to media coverage in the courtroom.

_____
Signature

_____
Date

Approved: _____

Disapproved: ____

_____
Signature of Judge

_____
Date

Affidavit of Service

STATE OF OREGON)
) SS.
County of Douglas)

I, _____first duly sworn say that I am

_____I served
a true copy of Request to Cover Courtroom Proceedings on_____
(Date)

_____
(Case Name and Number)

_____
. (Name and address of attorneys or parties served)

☐ By enclosing said copy in an envelope addressed as above and depositing in the United State Post Office on _____
(Date)

☐ By handing said copy of the Request to Cover Courtroom proceedings to

_____ on _____
. (Name of attorney(s) or parties served) (Date)

_____
Signature

Subscribed and sworn to before me this _____ day of _____,
201___. _____
Notary Public of Oregon
My Commission Expires: _____