State of Oregon

26th Judicial District

Circuit Court for Lake County

SUPPLEMENTAL COURT RULES

EFFECTIVE FEBRUARY 1, **2012**

LAKE COUNTY CIRCUIT COURT
SUPPLEMENTARY RULES

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SUPPLEMENTAL LOCAL RULES

TWENTY SIXTH JUDICIAL DISTRICT

1.151 TIME AND PLACE OF COURT OPERATIONS

The Court shall accept papers for filing at the Lake County Courthouse, 513 Center Street, Lakeview, Oregon. Unless otherwise ordered due to emergency conditions, information regarding business hours for the Twenty-Sixth Judicial District may be found at **http://courts.oregon.gov/Lake/.** The occasional exception will be posted at the Courthouse as far in advance as possible.

1.171 Website

The court's website may be accessed at http://courts.oregon.gov/Lake/

3.181 PUBLIC ACCESS COVERAGE

Public access coverage is allowed in the common area located on the third floor of the Lake County Courthouse. Special effort should be made to reduce any disruption caused by media coverage on the public and/or Court proceedings.

4.011 **TRIALS AND MOTIONS IN CRIMINAL CASES**

Trials and hearings on motions in criminal cases will be set by the docket clerk. Counsel and unrepresented parties will be notified of the date and time of the hearing as follows: (1) in person or by telephone; or, (2) in writing. When the notification is done in person or by telephone, when time permits, written confirmation of the date and time will be sent to the attorney or unrepresented party. In all cases where written notification is sent, the notice will be mailed to the last address provided to the court by the attorney or unrepresented party.

4.081 **COMPLIANCE WITH UTCR 4.080**

(1) 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 (if done at arraignment)
(e) Sentencing

5.005 MOTION DAYS - CIVIL CASES

(1) Civil motions may be set with the court or may be set by written notice without

prior consultation with counsel. Civil motions may also be set in court or in chambers during a pre-trial conference with counsel being required to appear **with their calendars** in person or by conference call.

(2) Civil motions are reset by telephone with the court and the court may provide written confirmation of the new date, or may be set by written notice without prior consultation with counsel **if the court is unable to contact counsel after reasonable efforts have been made**. Civil motions may also be reset in court or in chambers with counsel being required to appear **with their calendars** either in person or by conference call.

5.007 SHOW CAUSE ORDERS AND HEARINGS

Show cause hearings are held on Tuesday of the second full week of each month, at 9:00 A.M., unless otherwise ordered by the Court. The time and date of the hearing **(**on criminal matters) shall be stated in the Order to Show Cause and served upon the opposing party. If the matter is to be contested, the attorney(s) or party(ies) shall notify the Court of the expected length of time for the hearing. Upon notification, the Court shall determine which case will be called. If the Court determines that a particular case shall be continued, then the Court, after consultation with the attorneys or party(ies), shall move that case and **s**end notices to the attorneys or party(s).

5.061 STIPULATED OR EX PARTE ORDERS

All stipulated or ex parte matters delivered to the clerk's office by 11:30 A.M., will be presented to the judge no later than 2:00 P.M. of the same day. If a judge is not available, they will be presented to the judge as soon as possible thereafter.

6.012 MANDATORY SETTLEMENT CONFERENCE

(1) All cases on the trial setting conference calendar assigned a time and place for trial shall be calendared for a mandatory settlement conference approximately four (4) weeks prior to the trial unless good cause is shown. 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) (a) At the mandatory settlement conference, the court shall require the attendance of all parties and their trial attorneys. When a party is insured, a representative of the insurance company who has full authority to settle the case shall be in attendance.

(b) An attorney, party, or representative of a corporation or insurance company may apply to be excused from appearing at the mandatory settlement conference by initiating a conference call to the assigned judge or presiding judge in advance of the scheduled settlement conference. The judge shall rule on said request and, if appropriate, excuse the party from appearing.

(3) (a) Settlement conferences shall be held informally before a judge at a time and place provided by the presiding judge. The conference may be continued as part of a continuing settlement conference to another day before trial by the judge. Each case on the settlement conference calendar shall retain its place on the civil active list. If the case does not settle at such conference, no reference shall thereafter be made to any settlement discussion had under this rule, except in subsequent settlement proceedings.

(b) In the event that a settlement is not reached at the settlement conference, a judge, other than the one who participated in the settlement proceeding, shall be assigned to try the case unless all parties agree to allow the settlement conference judge to try the case. Any notes or materials submitted by the settlement parties or prepared by the settlement judge shall be sealed and remain so except by order of the Court following the settlement conference.

(4) In any civil case, the Court may require the parties to file, not less than fourteen (14) days prior to the date of the settlement conference or the continuance thereof, a detailed settlement conference statement with the Court and serve a copy on opposing counsel. The date and time of hearing shall be typed on the face sheet of the statement.

(5) 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 ensure that the case proceeds to trial on the date scheduled.

(6) A voluntary settlement conference may be requested by any party to an action at any stage of the proceeding by filing a request for a voluntary settlement conference with the calendar clerk. The presiding judge, or designee, shall rule on said request and,
unless good cause is shown why such conference is not appropriate, calendar the matter for a voluntary settlement conference.

(7) When the parties report to the court that a civil case has been settled, the calendar clerk will remove the case from the trial calendar and cause a 63-day conditional notice of dismissal to be sent to all parties.

6.031 POSTPONEMENTS

Time for filing:

A Motion for Postponement of Trial shall be filed not later than 11:00 a.m. Tuesday of the week preceding the scheduled trial date. Exceptions to this rule will be made only for those matters not reasonably known to counsel exercising reasonable diligence in preparing for trial.

6.135 TRIAL FEES AND PRELIMINARY MATTERS

(1) Trial fees shall be paid prior to the trial setting conference. All civil matters for which a jury may be called and has not been waived will come on for trial at 9:00 a.m. The parties will notify the Court of any preliminary matters that need to be resolved, and the approximate time such matters will require. Trial memoranda and requested jury instructions will be submitted at that time. This appearance may be by telecommunication at the party's option.

(2) Preliminary matters will be resolved and jury selection will begin the next business day after the appearance in Paragraph (1) unless otherwise ordered by the Court.

7.005 MATTERS INVOLVING CHILDREN

(1) In all civil and criminal cases and juvenile fact-finding hearings involving a child victim, witness, or subject of custody, the Court and counsel shall take appropriate action to ensure a speedy trial. Such actions shall be given precedence over all others, except those in which a defendant in a criminal proceeding is being held in pretrial custody, or as may otherwise be required by law. In such actions, continuances shall be granted by the Court only after a hearing and a determination of the necessity thereof. In ruling on any motions or other request for a delay or continuation of a proceeding, the Court shall consider any adverse impact the delay or continuance may have on the child involved in the case.

(2) Counsel for any party shall, upon determining that a child is involved as a victim, material witness or subject of custody, file with the Court a document captioned "Notice--SLR 7.005 Applicable." Notice shall set forth the child's involvement in the case, and, if known, the age of the child.

7.011 PRETRIAL CONFERENCES IN CRIMINAL PROCEEDINGS

(1) At arraignment, if a guilty plea is not entered, the Court will set a further appearance, or Pre-trial, at which a negotiated settlement will be entered or the matter set for trial after the Court receives the report required by UTCR 7.010(3).

(2) All defendants must personally appear at the Pre-plea and Pre-trial unless specifically excused.

7.021 TRIAL SETTING CONFERENCES

(1) To facilitate trial date agreement under UTCR 7.020(6), a trial setting conference will be scheduled at the request of any party or as directed by the Assigned Judge.

(2) The trial setting conference shall be conducted by the Judge or designee. Insofar as feasible, the Court shall assign the same date for trial setting conferences to those cases in which the same attorney appears.

(3) Each party appearing in any case shall attend the trial setting conference in person or by counsel. A conference call to set a date for mandatory settlement conference and trial will be sufficient compliance with this rule. The attorneys so attending shall have full authority to act in all matters pertaining to setting the case for trial or settlement conference.

(4) At the trial setting conference, the Court shall determine the extent of discovery heretofore commenced or completed, what discovery proceedings remain to be performed, and whether the case is or will be ready for trial, and if so, shall set a time and place for trial and mandatory settlement conference, unless the Court is of the opinion a settlement conference would serve no useful purpose.

8.013 DISMISSAL OF DISSOLUTION OF MARRIAGE CASES

Dissolution of marriage cases will not be continued as active cases beyond their trial dates where the parties have reconciled. If no motion to dismiss is filed, the Court may, on its own motion, enter an order of dismissal.

8.041 SHOW CAUSE ORDER FOR TEMPORARY RELIEF

(1) An order to show cause will be allowed only upon the motion of a party supported by affidavit. The order to show cause will not contain a date for hearing. Except as otherwise provided in this paragraph, the order to show cause shall provide that the adverse party must file and serve an affidavit in opposition to the motion within 14 days from the date of service of the order and affidavit, or within such additional time as allowed by the Court upon a showing of good cause. The order must further advise the adverse party that if such opposing affidavit is not so filed and served within 14 days the order requested by the motion and show cause order will be granted and entered by the Court. In proceedings to set aside, alter or modify a judgment of dissolution filed pursuant to ORS 107.135, the adverse party shall have 30 days to respond.

(2) If the adverse party fails to file an opposing affidavit within the time allowed, the moving party shall forthwith submit an order allowing the relief in the order to show cause. The Court may require the taking of testimony of the moving party in such default matters. The Court may enter the order requested if the adverse party does not file the required affidavit and may do so upon its own motion if the moving party fails to present the required order.

(3) When the adverse party files an opposing affidavit, the clerk shall forthwith set a hearing date and provide notice to the parties.

(4) A Show Cause Order for temporary relief in domestic relations matters shall require the opposing party to file a written reply within fourteen (14) days of the date the order is served on the opposing party. The order must contain the following or a similar notice:

NOTICE
READ THESE PAPERS CAREFULLY

YOU ARE TO FILE A WRITTEN REPLY WITH THIS COURT WITHIN FOURTEEN (14) DAYS OF RECEIPT OF THESE PAPERS IF YOU DESIRE TO CONTEST THIS REQUEST. IF YOU DO NOT FILE A WRITTEN REPLY, THE REQUEST WILL BE GRANTED.

8.042 HEARINGS FOR PENDENTE LITE RELIEF

(1) The Court reserves the right, upon notice to the parties, to determine requests for temporary relief pendente lite without testimony, based upon affidavits filed by the parties. The Court also reserves the right, in those matters where it receives evidence in open Court, to limit the time for testimony. If the Court proceeds as set forth in this section, the Court will notify the parties of the time within which to file affidavits, or the time allocated for the presentation of evidence.

(2) Pre-judgment custody and parenting time orders are controlled by ORS 107.095 and ORS 107.097.

8.051 MANDATORY MEDIATION PROGRAM

Except for good cause shown, mediation shall be ordered in any civil case filed in Lake County and involving a dispute over custody or parenting time of a minor child or children. However, mediation is not required in any case arising under the Family Abuse Act, ORS 107.700 -.730, or Stalking protective order, ORS 163.738.

8.052 PARENT EDUCATION CLASSES REQUIRED

All individuals who are parties to a case involving child custody or parenting time, whether or not contested, must attend a parent education class unless otherwise ordered by the court. Requests to waive this requirement must be submitted as a separate document and not as a part of any other pleading. This rule does not apply to juvenile dependency

8.055 MODIFICATION OF DOMESTIC RELATIONS PROCEEDINGS -- INITIATING DOCUMENTS

In any matter wherein a party seeks a modification of a domestic relations judgment, the initiating document shall set forth immediately below the case number, on the first page,

the date of the original judgment, and substantially conform to the following: "Date of original judgment:_____."

8.075 UNIFORM PARENTING SCHEDULE

The Court will, from time to time, establish a "standard" or "long distance" parenting time schedule. Copies of the current schedules will be available free of charge from the Court clerk. (541) 947-6051 and shall be posted on the Court's website The schedules will be adjusted to the needs of the parties and children in each case.

9.011 PROBATE INVENTORY REQUIREMENTS

The inventory filed pursuant to ORS 113.165, shall list real property by legal description and with the county's tax account number and lot number in the same manner as required in a deed. All other assets shall be described with sufficient specificity to identify the asset(s).

9.041 ADULT GUARDIANSHIPS; APPOINTMENT OF VISITOR

(1) The court will appoint a visitor when required by ORS 125.150. A petition for guardianship shall designate in the caption that it is for guardianship of an adult, whether it is for a temporary or an indefinite time (or both), and whether a conservatorship is also being requested.

(2) After the proof of service has been filed, copies of the petition, marked "VISITOR'S COPY," and with supporting documentation and the proof of service attached, should be deposited with the clerk of the Court. After receipt of the copies, the Court will prepare and enter an order appointing the visitor.

(3) The visitor shall not be appointed, nor undertake an investigation pursuant to ORS 125.155 or an interview as required for a temporary guardianship, until proof of service of the notice has been filed.

(4) When a petition seeks appointment of a guardian for an incapacitated person, a copy of the petition marked "visitor's copy" with supporting documentation and proof of service attached, shall be provided to the clerk and the visitor fee shall be tendered to the Court.

9.042 TEMPORARY GUARDIANSHIP/CONSERVATORSHIP

Whether or not objections are filed, the order appointing a temporary fiduciary shall set a date and time for a hearing within ten (10) days of the appointment for the purpose of determining whether the temporary appointment shall continue. Notice of the hearing must be given to all persons specified in ORS 125.060(2) in the manner provided by ORS 125.605. Nothing in this subsection shall obviate the need for compliance with ORS

125.605(2).

9.051 SETTLEMENT OF PERSONAL INJURY OR WRONGFUL DEATH CLAIMS: REQUIREMENTS

A petition for approval of a settlement of a personal injury claim or wrongful death claim shall be accompanied by an affidavit which sets forth the following:

(1). A description of the incident causing the injury or death;

(2) A description of the injury;

(3) The amount of the prayer and settlement (if a structured settlement is requested, the present value of the future payments should be indicated);

(4) The amount of the attorney fees and costs;

(5) The proposed disposition of the settlement proceeds, if known; and

(6) A concise statement (not more than 50 words) explaining the reasons for the settlement.

9.061 DELINQUENT FILING: COURTESY NOTICES

In the event of a delinquent or deficiency in filing any document by statute or court order, the attorney of record shall be sent a courtesy notice. If there is no attorney of record, then the courtesy notice shall be sent to the personal representative, conservator, or guardian. The personal representative, conservator or guardian is expected to promptly cure the defect or delinquency. If the deficiency is not addressed within 30 days, an order to appear and show cause why the personal representative, conservator, or guardian, and counsel of record should not be removed or held in contempt shall be issued. The personal representative, conservator, or guardian, together with counsel of record must appear – whether or not the delinquency or defect has been subsequently corrected, unless otherwise ordered by the court. If the delinquency or defect has not been corrected by the time of the hearing, sanctions may be imposed.

9.081 OBJECTION TO PETITION FOR APPOINTMENT OF GUARDIAN/ CONSERVATOR

Any interested person, as described in ORS 125.075(1), who has an objection to a Petition in a protective proceeding should either submit a written objection or go to the office of the court clerk at the Courthouse at 513 Center Street, Lakeview, Oregon, or by calling (541) 947-6051. The clerk's office will make the form set forth as **APPENDIX A** available to those wishing to file objections so the objection(s) can be reduced to writing and filed. Upon receipt of the objection

and payment of any applicable fee required by ORS 21.310, the Court will schedule a hearing and notify the appropriate parties.

9.082 ALLEGED INCAPACITATED PERSONS – NOTICE REGARDING FREE OR LOW COST LEGAL AND OTHER RELEVANT SERVICES

In a proceeding for the appointment of a fiduciary for a respondent who is not a minor, then the notice required under ORS 125.070(2)(c) shall include the following language or its equivalent:

Free legal services for persons who are subject to a protective proceeding may be obtained by calling Legal Aid at 1-800-480-9160.
Low cost legal consultation may be obtained by calling the Oregon State Bar, Attorney Referral and Information Service, at 1-800-452-7636.

11.005 APPEARANCE IN JUVENILE DEPENDENCY CASES

1) Pursuant to ORS 419B.819, parents shall respond to a summons for a petition for guardianship or termination of parental rights by filing a written answer to the petition within 30 days from the date on which the parent was served with the summons.

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.

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.

12.005 MANDATORY MEDIATION PROGRAM

Except for good cause shown, mediation shall be ordered in any civil case filed in Lake County and involving a dispute over custody or visitation of a minor child or children. However, mediation is not required in any case arising under the Family Abuse Prevention Act, ORS 107.700 – 730.

12.045 DOMESTIC RELATIONS MEDIATORS

To qualify as a court approved domestic mediator, a person must:

(1) Meet all applicable requirements for domestic relations mediators established by the Oregon Judicial Department.
(2) Sign and submit to the Trial Court Administrator an original application setting forth the information required by the Oregon Judicial Department.
(3) Receive approval by the presiding judge.

12.085 DOMESTIC RELATIONS MEDIATION FEES

(1) For issues subject to mandatory mediation under this Chapter 12, Lake County shall compensate the mediator at an hourly rate set by the presiding judge for up to a maximum of six (6) hours per case. The funding source shall be limited to fees collected pursuant to ORS 21.112 and maintained by the county for that purpose.

(2) For issues for which mandatory mediation is not required under these rules, the parties may agree to mediate with the court appointed mediator. In that case, compensation arrangements shall be determined in writing between the mediator and the parties, and mediation fees will be negotiated and paid by the parties.

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, and must be presented to the Presiding judge for approval.

(2) In the event funds are available under ORS 36.420(3) 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 purposes.

16.005 TESTIMONY BY AFFIDAVIT

If a signed waiver (APPENDIX B) is filed by the alleged violator, testimony in a 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 A
IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LAKE
(Pursuant to SLR 9.081)

Guardianship/Conservatorship of:	)	Case No. _____
	)	
	)	OBJECTION TO PETITION
_____,)		FOR APPOINTMENT OF
(Protected Person)	)	GUARDIANSHIP/CONSERVATORHSIP
_____)		

I,
_____,
(Objecting party's name and relationship to the Protected Person)
hereby object to the Protective proceeding or the proposed guardian or conservator for the following reasons *(state reasons below and use additional sheet if necessary):*

_____

_____

_____

_____

_____

_____
Signature of Objecting Party

_____
Printed or Typed Name of Objecting Party

_____
Address or Contact Address

_____
City State Zip

_____
Telephone or Contact Telephone Number(s)

"APPENDIX B"
(Pursuant to SLR 16.005)

RETURN TO: **DUE:_____**
LAKE COUNTY CIRCUIT COURT
513 Center Street
Lakeview, OR 97630

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

STATE OF OREGON,	)	
Plaintiff,	)	
vs.	)	**CASE NO._____**
	)	
_____,	)	
Defendant.	)	
_____	)	

W A I V E R

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 officer 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 _____	)

T E S T I M O N Y B Y A F F I D A V I T

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.

PLEASE WRITE OR TYPE BELOW

(You may attach additional pages if necessary)

I HEREBY SWEAR that the information contained in this affidavit is the truth.

_____ _____

DATE **SIGNATURE**

SUBSCRIBED AND SWORN to before me this _____ day of _____, _____.

_____

NOTARY PUBLIC/COURT CLERK

My commission expires:_____