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 the Ninth Judicial District, Malheur County.

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J. BURDETTE PRATT
Presiding Judge

TABLE OF CONTENTS

CHAPTER 1
General Provisions

1.002 Addresses and Telephone Numbers.....6
1.151 Hours of Court Operation 6
1.155 Request for Digital Recording of Court Proceedings..... 6
1.171 Court Website 7

CHAPTER 3
Decorum in Proceedings

3.011 Proper Apparel for Malheur County Circuit Court Non-Lawyers.....7
3.125 Jury Selection.....8
3.181 Media or Other Public Access Coverage of Court Events.....8

CHAPTER 4
Proceedings in Criminal Cases

4.001 Scheduling of Criminal Matters.....8
4.031 Motions to Transport Inmate Witnesses 9
4.081 Appearance at Criminal Proceeding by Simultaneous Electronic Transmission.....9
4.101 Post Conviction Relief –Pleading When Counsel is Appointed Upon Filing… 10
4.102 Post Conviction Relief-Motions…… 10
4.103 Post Conviction Relief-Exhibits…… ....……...……...10
4.104 Post Conviction Relief-Additional Briefing and Exhibits……..... 11
4.105 Post Conviction Relief-Filing of Documents When Petitioner is Represented by Counsel……..……...11
4.106 Post Conviction Relief-Hearing on Motions and Demurrers…….....11
4.107 Post Conviction Relief-Trial…….....11

CHAPTER 5
Proceedings in Civil Cases

5.017 Service of Motion at or Before Delivery of Copy to Judge.....12
5.035 Order by Prevailing Party; Presenting Judgment and Order for Judicial Signature 12
5.055 Stamped, Self-Addressed Confirmation Cards Required ……..……..…….. 13
5.095 Way of Necessity .....…….13

CHAPTER 6
Trials

6.011 Habeas Corpus and Post-Conviction Relief Proceedings Before the Court
by Video or Telephonic Conferencing.....14
6.012 Settlement Conferences 14
6.025 Payment of Trial Fees and Hearing Fees 16
6.026 Trial Conferences.....16
6.027 Personal Communication Devices 16
6.031 Motion to Postpone 16
6.061 Computer Disk with the Requested Jury Instructions.....17
6.081 Exhibit Marking for Trials and/or Hearings 17
6.082 Exhibits or Testimony Submitted in an Electronic Format… 17
6.151 Regarding the Possession of Firearms and Other Weapons in Court
Facilities in Malheur County ORS 166.360-166.370 18

CHAPTER 7
Case Management and Calendaring

7.011 Plea Negotiations 18
7.012 Set Overs/Continuances in Civil and Criminal Matters.....19
7.013 Absence of Judge 19
7.014 Request for Services of an Interpreter 19
7.015 *In Camera* Review of Records 19
7.016 Attorneys Unavailable Dates 20
7.021 Scheduling of Criminal Trials/Civil Trials and Related Matters 20
7.041 Settlement of Cases.....22
7.055 Appearance by Telephone.....22

CHAPTER 8
Domestic Relations Proceedings

8.011 Education for Divorcing Parents....23
8.013 Mandatory Parent Education Plan....23
8.015 Parenting Time Enforcement Forms....23
8.016 Filing of an Answer....24
8.017 Dismissal of Family Abuse Prevention Act Orders....24
8.045 Pre-Judgment Temporary Orders….....24
8.055 Post-Judgment Motions…....25
8.075 Standard Parenting Plan....25

CHAPTER 11
Juvenile Court Proceedings

11.051 Personal Appearance Required....26
11.052 DHS or CASA Appearing by Electronic Means....26
11.053 Exhibits in Juvenile Dependency Cases....26

CHAPTER 12
Mediation

12.008 Domestic Relations Mediation Completed....27
12.015 Mandatory Mediation....27
12.016 Mediation Where Power Imbalance Exists....30
12.017 Mediation Commission....30
12.025 Alternate Mediation Procedure in Civil Actions....31
12.040 Mediation in Criminal Cases....33

CHAPTER 13
Arbitration

13.025 Request and Objections to Arbitration....33
13.035 Court Shall Determine Whether Case is Subject to Arbitration....33
13.042 Referral to Arbitration....34
13.048 Indigent Parties....34
13.055 Arbitrators....35
13.061 Domestic Relation Suits to Arbitration....35
13.062 Civil Contract Cases....35

13.065 Stipulations 35
13.071Prehearing Statement of Proof 35
13.075 Alternate Mediation Procedure 36
13.085 No Award Filed Without Proof of Notice 36
13.125 Arbitrator's Compensation.....36

CHAPTER 16
Violations

16.005 Violation Bureau 36
16.015 Trial by Affidavit 37

APPENDIX OF FORMS

Appendix A – SLR 4.031 Motion and Order to Transport and Provide Security
Appendix B – SLR 16.015 Waiver and Affidavit

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://courts.oregon.gov/OJD/

1.155 REQUEST FOR DIGITAL RECORDING OF COURT PROCEEDINGS

Request for Digital Recording of Court Proceedings

(1) A request for a copy of a digital recording of a court proceeding must be made in writing. A request form can be found on the court's website at http://www.ojd.state.or.us/malheur. Allow 10 – 14 days for the request to be processed.

(2) The request must include all of the following information:
   a. The case number;
   b. The case name;
   c. The date of the proceeding;
   d. The name of the judge who heard the matter;
   e. The name, address, and telephone number of the person making the request; and
   f. Instructions on whether, once the recording becomes available, to call the requestor or mail the recording, if the postage fee is paid in advance.

(3) The request must be delivered:
   a. By mail to FTR Coordinator, P.O. Box 670, Vale, OR 97918; or
   b. By hand to the court clerk's office, 251 B Street, West, Vale, OR 97918

(4) Payment must be made prior to staff duplicating the digital recording.

1.171 COURT WEBSITE

The website for the Malheur County Circuit Court is located at: http://courts.oregon.gov/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;

(j) Garments meant to be worn as undergarments, worn as outer garments and sagging, bagging or dragging pants

(3) Attorneys are responsible for making their clients and witnesses aware of the decorum requirements.

(4) 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

4.001 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 and stalking protective 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

(1) 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:

(a) actually spoken to the witness;

(b) the witness is willing to testify or will testify if compelled by the Court to do so;

(c) 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

(d) the testimony of the witness is necessary to the presentation of the case of the party seeking the order.

(2) Such motion shall be filed with the Court a minimum of fourteen (14) days prior to the trial date.

(3) When a Motion and Order to transport a person held in custody pursuant to UTCR 4.030 and an inmate witness pursuant to SLR 4.031 has been entered, it is the responsibility of the attorney's office requesting the transport to file a motion and order with the Court cancelling the particular transport order when it is no longer needed.}

(See Appendix A)

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 sentencing 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.

4.101 POST-CONVICTION RELIEF - PLEADING WHEN COUNSEL IS APPOINTED UPON FILING OF THE PETITION

(1) Counsel appointed for the petitioner shall have 120 days from the date of appointment to file an amended petition.

(2) If counsel is unable to plead a viable claim for relief in an amended petition, counsel shall file an affidavit pursuant to ORS 138.590(5).

(3) The defendant shall not file an answer, motion, or demurrer to the petition until the petitioner has filed a notice that the petitioner will proceed on the original petition, has filed an amended petition, or the 120 days to do so has expired.

(4) Once counsel for the petitioner files an amended petition or notifies the court in writing that the petitioner will proceed on the original petition, or the 120 days has expired, the defendant shall have 30 days from such filing or notice to file an answer, motion, or demurrer.

4.102 POST-CONVICTION RELIEF - MOTIONS

(1) The petitioner shall have 30 days to file a response to the defendant's motion or demurrer.

(2) The defendant shall have 20 days to file a reply to the petitioner's response.

(3) If the court denies defendant's motion or demurrer, the defendant shall have 20 days to file an answer.

(4) If the court grants the defendant's motion or demurrer and if it appears to the court that there is a reasonable expectation that the petitioner will be able to cure the defect, the petitioner shall be granted 30 days to file an amended petition. Upon a showing of good cause, the court may, in its discretion, grant the petitioner additional time to file an amended petition.

4.103 POST-CONVICTION RELIEF - EXHIBITS

(1) Only the portions of the trial transcript, medical records, or other voluminous documents that are directly relevant to plaintiff's claim shall be attached to the petition or amended petition as an exhibit or offered at trial.

(2) All parties are encouraged to put lengthy transcripts, depositions, or other exhibits on CD or DVD in Word or PDF for filing with the court.

4.104 POST-CONVICTION RELIEF - ADDITIONAL BRIEFING AND EXHIBIT

(1) The petitioner shall file with the court any legal memoranda and all additional trial exhibits not already attached to the petition or amended petition no later than 30 days before trial.

(2) The defendant shall file with the court any memorandum of law and all trial exhibits no later than 20 days before trial.

(3) The petitioner may respond to the defendant's memorandum of law and exhibits with a further memorandum and additional exhibits, which must be filed with the court no later than 10 days before trial.

4.105 POST-CONVICTION RELIEF - FILING OF DOCUMENTS WHEN PETITIONER IS REPRESENTED BY COUNSEL

(1) Counsel's written notification to the court that the case will proceed on the original petition constitutes counsel's ORCP 17 C certifications of the original petition filed by the petitioner pro se.

(2) All matters submitted to the court for filing shall be submitted only by counsel and, except for the petition or amended petition and any exhibits, signed exclusively by counsel. The only exception to this requirement is for a *Church v. Gladden*, 244 Or. 308, 417 P. 2d 993 (1966), notice filed by the petitioner.

4.106 POST-CONVICTION RELIEF - HEARINGS ON MOTIONS AND DEMURRERS

(1) Unless the court orders otherwise, all oral argument will be conducted by telephone.

(2) If the court grants oral argument for a motion or demurrer and the petitioner is in custody, the petitioner, if represented by counsel, will not be brought before the court, in person, by video or by telephone, unless counsel for the petitioner notifies the court not less than 10 days before the hearing that the issues to be heard involve more than solely issues of law.

4.107 POST-CONVICTION RELIEF - TRIAL

(1) Unless otherwise ordered by the court, all post-conviction relief trials in which petitioner is in the custody of the Oregon Department of Corrections shall be held by video conference or, if video conference is not available, by telephone conference. The petitioner shall remain in and appear from the correctional facility in which the petitioner is being held.

(2) Counsel may appear by video conference, by telephone conference, or in person before the trial judge. Counsel for the petitioner may appear apart from the petitioner only if the facility where counsel is located enables the petitioner to consult privately with the petitioner's counsel during the proceeding.

(3) Public access and viewing of proceedings shall be provided at the Malheur County Courthouse in Vale, Oregon, and the proceeding shall be deemed to take place at that location. Unless otherwise ordered by the court, all witnesses, except original counsel and law enforcement officers, shall appear at that location.

(4) All motions, whether written or oral, to continue trial or other hearings 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.

(5) 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 is not available.

(6) If the trial of the matter will take longer than the time allotted in the trial notice, or if witnesses other than the petitioner will be called, the parties must make arrangements for additional time through the Malheur County Trial Court Administrator within 15 days of the date of the trial notice.

(7) If a party requires the services of a court interpreter, the party must make the request to the Malheur County Trial Court Administrator's office no later than 4 judicial days before the date set for trial.

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, except where otherwise authorized by statute, 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 Trial Court Administrator's office, 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. 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 the Trial Court Administrator's office.

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.

(2) An ex-parte motion for trial set-over shall have confirmation cards attached by the moving party for all parties.

5.095 WAY OF NECESSITY

In way of necessity cases filed under ORS Chapter 367, the following procedure shall be followed:

(1) In addition to the service of the petition as required by law, petitioner shall cause a copy of the petition to be served on the county engineer by certified mail, return receipt requested.

(2) Upon receipt of the petition, the county engineer (or any licensed civil engineer or registered surveyor designated by him) shall within thirty (30) days prepare and file with the clerk of the court the report required by ORS 376.160.

(3) Upon receipt of the engineer's report, the clerk shall cause copies thereof to be forthwith mailed to petitioner and any persons upon whom the original petition was served. If the engineer's report includes any alternative route over land owned by person other than those served by the original petition, petitioner shall forthwith cause a copy of the petition, a summons, and the engineer's report to be served upon such owner in the manner provided for the service of the original petition.

(4) Petitioner shall at the time of filing the original petition deposit with the County such sum as required by the County as a deposit on expenses to be incurred by the county or other persons as the result of the petition and action thereon.

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 is not available.

6.012 SETTLEMENT CONFERENCES

(1) The 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) Any mandatory mediation must be completed prior to the date set for the settlement conference.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) Upon a settlement being reached, the Court will enter a Judgment 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.

(9) 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

(1) A fee receipt, fee waiver, or fee deferral must be presented to the courtroom clerk prior to commencement of a trial where a fee is required to be paid by 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 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 party 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.

(3) No motion for continuance shall be submitted without contacting opposing counsel (or party if not represented); or in the event you are unable to make contact provide the Court with a written explanation of what efforts have been made. Any such motion submitted without contacting opposing counsel or the other side if not represented, or providing an explanation, will be denied.

6.061 COMPUTER DISK WITH REQUESTED JURY INSTRUCTIONS

(1) In addition to the requirements of UTCR 6.060 concerning providing the trial court with requested jury instructions and verdict forms in writing, an attorney or party requesting any of the instructions described in subsection (2) below, shall provide the trial court with a computer disk, or an email with attachment, containing the requested instructions.

(2) The following instructions and verdict forms shall be included on the computer disk or in the email attachment.

(a) any uniform instruction which has been modified;
(b) any proposed uniform instruction submitted in complete written form using the available options described in the uniform instruction. Compliance with UTCR 6.060(3) is all that is required, however, if a party submits a uniform instruction in complete written form, that complete instruction must be included on the computer disk;
(c) any proposed non-uniform instruction; and,
(d) any proposed interrogatory verdict form.

(3) Uniform jury instructions requested by number only in accordance with UTCR 6.060(3) and which do not require material or information to be completed do not need to be supplied as described in subsection 1 above.

6.081 EXHIBIT MARKING FOR TRIALS AND/OR HEARINGS

In addition to marking the exhibits pursuant to UTCR 6.080 Marking Exhibits, the case number shall also be noted on the exhibit label.

6.082 EXHIBITS OR TESTIMONY SUBMITTED IN AN ELECTRONIC FORMAT

(1) Any exhibit or testimony being presented to the Court in an electronic format shall be in a format that is compatible with the Court's electronic equipment.

(2) Prior to the trial or hearing, the party wishing to offer the electronic evidence must make sure it is in a format compatible with the Court's equipment. Offered evidence in a format not compatible with the Court's equipment, may not be admitted.

(3) Parties will not be allowed to bring in their own equipment to present the electronic evidence without prior approval of the Court and the provision that the equipment will be allowed in the jury room.

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.

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 once a case is set for 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 *IN CAMERA* REVIEW OF RECORDS

Unless otherwise ordered by the court, a motion for the *in camera* review of records by the court shall be presented to the court as follows:

(1) Parties seeking an *in camera* review of documents shall file a motion supported by an affidavit which includes the following: a brief factual and legal summary of the case to enable the reviewing judge to understand the factual and legal issues in the case as related to the records request; a list of witnesses to allow the reviewer to look for witness statements; a brief description of the information sought with as much specificity as possible; and the legal basis for the request.

(2) Disclosure of records released will be limited to the attorneys, attorney staff and expert witnesses employed by the attorney. There will be a protective order, as set forth in these rules, issued in each case, prohibiting disclosure of the records to or copying of the records, including copies to clients and other witnesses without

further order of the court. This includes clients and expert witnesses. Pro se litigants will be required to sign the protective order prior to receiving any copies of the documents disclosed by the court.

(3) In cases involving medical records, school records, or other personal records of a person other than a party to the case, the party seeking disclosure of the records, must provide notice to the person to which the records pertain to allow the effected person to appear and object to disclosure.

(4) The request for in camera review must be raised by motion with opportunity for opposing party to be heard if requested. The requesting party should not simply issue a subpoena for records to be delivered to the Court. If this occurs, the Court will not review the records.

(5) The request for in camera review should be made as soon as practical, but not later than three weeks prior to trial, contested adjudication, or other hearing where the documents may be used, without leave of the Court.

(6) At the end of the case, all copies of records shall be returned to the Court for destruction.

7.016 ATTORNEY'S UNAVAILABLE DATES

(1) 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.

(2) When a hearing or trial is scheduled in open court in a criminal or juvenile matter pursuant to SLR 7.021 (2) and an attorney requests a continuance, a formal motion to continue with supporting affidavit and order shall be submitted to the Court; the attorney's unavailable dates for the next six (6) months shall accompany said filings.

7.021 SCHEDULING OF CRIMINAL TRIALS/CIVIL TRIALS JUVENILE HEARINGS AND TRIALS AND RELATED MATTERS

(1) Trial/Hearing Settings:

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

(a) As per UTCR 7.020 (6); or
(b) 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 Court 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.

(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) Pre-trial Matters

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.

7.041 SETTLEMENT OF CASES

(1) If a case is scheduled to be tried before a jury and has been settled, it will be necessary for the parties settling the case to either appear and put the settlement on the record or submit the appropriate dismissal or settlement papers to the court. This shall be done no later than 12:00 p.m. noon the judicial day before the date set for trial. A conference call to put the settlement on the record will be sufficient compliance with this rule. It will be the responsibility of the parties involved to arrange and pay for such call.

(2) In any trial, proceeding or hearing scheduled to be tried or heard by the court alone, if a case settles, it will be necessary for the parties involved to either appear in person and put the settlement on the record or submit the appropriate dismissal or settlement papers to the court. This shall be done on or before the time set for trial, proceeding, or hearing. A conference call arranged and paid for by the parties is sufficient compliance with this rule.

7.055 APPEARANCE BY TELEPHONE

In any matter in which counsel, a party, or a witness (collectively “the party”) is permitted by the court to appear by telephone, and it is that party’s responsibility to ensure that the call is made from an appropriate phone system:

(1) The cost of such telephone call shall be borne by the party requesting the telephonic appearance.

(2) If the party fails to appear by telephone because the party fails to telephone the Court or the Court is unable to reach the party at the number provided or in counsel's office, the party may be deemed not to have appeared and the matter may be decided upon the evidence before the Court, and/or the matter may be dismissed.

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.

(4) All Motions to Postpone hearings in all matters shall include whether any parties in the proceeding object to the requested postponement.

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

Forms can be found on the Oregon Judicial Department website located at http://courts.oregon.gov/OJD. Select Court Forms, then next the drop down box Family Law; on left-hand side click on Parenting Plan Enforcement and then select Malheur.

8.016 FILING OF A RESPONSE

When a response is filed in a domestic relations matter placing the case at issue, the response 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.

8.045 PRE-JUDGMENT TEMPORARY ORDERS

(1) The procedures of this rule are limited to domestic relations cases. Domestic relations cases shall mean dissolution of marriage, legal separation cases including pre-trial motions and post-judgment motions, filiations and interstate support proceedings. A contempt proceeding arising out of a domestic relations case is not covered by this rule.

(2) A pre-judgment 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. It shall provide that the adverse party must file a written response in opposition within twenty-one (21) 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 written response in opposition is not so filed and served within the twenty-one (21) days, the order requested by the motion and show cause order will be granted and entered by the Court.

(3) If the opposing party fails to file the written response in opposition within the time allowed, the moving party shall forthwith submit an order allowing the relief requested in the order to show cause. The Court reserves the right to require the taking of testimony of the moving party in such default matters.

(4) Except for cases in which mandatory mediation applies, upon the opposing party filing a written response in opposition, the court will cause a hearing date to be set to determine the issues raised by the order to show cause and affidavit.

The above guidelines may be modified by order of the court for good cause shown.

8.055 POST-JUDGMENT MOTIONS

(1) The procedures of this rule are limited to domestic relations cases. Domestic relations cases shall mean dissolution of marriage, legal separation cases including pre-trial motions and post-judgment motions, filiations and interstate support proceedings. A contempt proceeding arising out of a domestic relations case is not covered by this rule.

(2) Post-judgment motions to set aside, alter or modify any terms of the judgment, or enforce parenting time, shall provide that the adverse party must file and serve a written response in opposition to the motion within thirty (30) days from the date of the service of the order and affidavit. The order must further advise the adverse party that if such written response in opposition is not so filed and served within thirty (30) days, the order requested by the motion and show cause order will be granted and entered by the Court.

(3) If the opposing party fails to file the written response in opposition within the time allowed, the moving party shall forthwith submit an order allowing the relief requested in the order to show cause. The Court reserves the right to require the taking of testimony of the moving party in such default matters.

(4) Except for cases in which mandatory mediation applies, upon the opposing party filing a written response in opposition, the court will cause a hearing date to be set to determine the issues raised by the order to show cause and affidavit.

(5) Unless otherwise stipulated to by all parties, any motion filed pursuant to ORS 107.434 to enforce parenting time, shall be set for hearing no later than 45 days after the motion is filed, and will not be referred to mediation.

The above guidelines may be modified by order of the court for good cause shown.

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 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 Judgment. The standard parenting plan can be accessed at the OJD website at http://courts.oregon.gov/OJD under forms and family law.

CHAPTER 11
Juvenile Court Proceedings

11.051 Personal Appearance Required

(1) In all termination and dependency cases, parent (s) and any guardian(s) shall be served 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. If a parent or guardian wishes to appear by phone, the party or Juvenile Department shall obtain permission from the Court in advance. Said request shall be in writing and filed two days in advance unless such notice is not practical. 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.

(2) 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 Court, 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.

11.052 DHS OR CASA APPEARING BY ELECTRONIC MEANS

With Prior approval of the Judge handling the matter, the DHS Caseworker or CASA worker may appear by electronic means in dependency matters.

11.053 EXHIBITS IN JUVENILE DEPENDENCY CASES

In all cases proceeding under ORS Chapter 419B, exhibits shall be marked pursuant to UTCR 6.080 and when an exhibit is marked and given an exhibit number, that exhibit shall retain the same exhibit number when offered in any subsequent hearing in the same case. Each case shall have a running exhibit list and when any new exhibit is offered, it shall be given the next number on the exhibit list for that party.

CHAPTER 12
Mediation

12.008 DOMESTIC RELATIONS MEDIATION COMPLETION

The mediator shall notify the court immediately when mediation is concluded.

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 12.015(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.

(c) The parties must complete mediation orientation, parent education and one mediation session prior to the court signing a judgment of dissolution unless the court waives attendance for good cause shown by motion and affidavit. Sanctions as provided in UTCR 1.090 may be imposed by the court if a party fails to comply.

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

(a) A Mediation Commission shall be formulated.

Duties

(b) 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

(c) 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

(d) 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 an arbitrator pursuant to UTCR 13.080, except that the mediator shall be chosen from among those on the court-maintained list who have agreed to serve as mediators. The parties shall notify the arbitration clerk of their desire to select the mediator from such a list prior to the issuance of a list of potential arbitrators, if possible.

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 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 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 retains 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 and file the amended pleadings, together with the Arbitrator's order allowing such amended pleadings, with the Court. Amendment of the pleadings in the forgoing manner does not, by itself, remove a case from arbitration.

(4) If a party seeks to exempt a case from arbitration, in accordance with subsection (3) of the rule, or on any other basis, or seeks an order exempting from arbitration a case that would otherwise be referred to arbitration, that party shall file a motion, supported by affidavit, declaration or certification with the court and serve the motion:

(a) on the other party or parties in the case;
(b) on the arbitrator, if an arbitrator has been assigned to the case; and
(c) on the Trial Court Administrator.

(5) A party that moves for an order under subsection (4) of this rule shall promptly advise the arbitrator in the case, if one has been assigned, of the resolution of the motion.

(6) Cases exempted from arbitration under this rule may, when again appropriate, be reinstated into 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 an 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

In 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 shall 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).

13.062 CIVIL CONTRACT CASES

In civil contract cases involving a pro se defendant(s), the case may be set for a status conference in front of a judge to determine if the case should be referred to arbitration, or exempt from arbitration pursuant to ORS 36.405(2)(a).

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 fail 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 ABITRATOR'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, on its own motion or that of a party after opportunity for a hearing, impose any sanction listed in UTCR 1.090(2)

(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 C);

(2) Defendant may also waive the right to an oral hearing by submitting a signed waiver (Appendix C).

APPENDIX A
(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 AND PROVIDE COURT SECURITY
vs.	)	
	)	
_____	)	
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).

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 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

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) ss.
Malheur County)

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,	)	
	)	LIMITED/SUPPLEMENTAL
vs.	)	JUDGMENT RE: ENFORCEMENT
_____	)	OF PARENTING PLAN
Respondent.	)	

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 present:
(Date)

☐ 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 cost 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, 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 B

(Supplemental Local Rule 16.015)

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

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

STATE OF OREGON,	)	
	)	
_____	)	
Plaintiff,	)	
vs.	)	**Case No. _____**
_____	)	**Waiver and Affidavit**
Defendant.	)	

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.)***

(You may attach additional pages if necessary.)

I swear that the information contained in this affidavit is the truth.

_____ _____

Date Signature

Subscribed and sworn to before me this _____day of _____, 20____.

_____

Notary Public/Trial Court Administrator

My commission expires; _____