

# **SIXTH JUDICIAL DISTRICT**

## **Umatilla and Morrow Counties**

### **LOCAL COURT RULES**

**February 1, 2012**

**Honorable Ronald J. Pahl, Presiding Judge**

**Roy N. Blaine, Trial Court Administrator**

**CERTIFICATE OF SUPPLEMENTARY LOCAL COURT RULES  
OF THE CIRCUIT COURT  
OF THE SIXTH JUDICIAL DISTRICT**

I, Ronald J. Pahl, Presiding Judge of the Sixth Judicial District of the State of Oregon, hereby certify that attached hereto is a complete, true and correct copy of the supplemental local rules of the Circuit Courts of the State of Oregon for Umatilla County and Morrow County that will go into effect the 1st day of February, 2012.

DATED this \_\_\_\_\_ day of December, 2011.

\_\_\_\_\_  
Honorable Ronald J. Pahl  
Presiding Judge, Sixth Judicial District  
State of Oregon

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Sample forms for the Sixth Judicial District may be found on the Court's website identified in Supplementary Local Rule 1.171.

## Chapter 1 – General Provisions

### **1.005 DEFINITIONS**

These definitions are intended to clarify terms used in these rules.

(1) Definitions set out in UTCR 1.110 are incorporated by this reference and apply to these rules.

(2) Confirmation cards are standard-sized, stamped, and addressed US postcards which are to be attached to any filing if signing or filing information is requested. They shall be filled out by the submitting party to allow the Court to provide the information the submitting party desires.

### **1.151 HOURS OF OPERATION**

The Sixth Judicial District presently holds court in three (3) locations: Pendleton, Hermiston and Heppner. Information regarding business hours for the Sixth Judicial District may be found on the Court's website identified in Supplementary Local Rule 1.171.

(1) The Umatilla County Circuit Courts in Pendleton are located in the Umatilla County Courthouse at 216 SE Fourth Street in Pendleton.

<http://courts.oregon.gov/Umatilla/Pendleton.page?>

(2) The Umatilla County Circuit Court in Hermiston is located at the Stafford Hansel Government Center, 915 SE Columbia Drive in Hermiston.

<http://courts.oregon.gov/Umatilla/Hermiston.page?>

(3) The Morrow County Circuit Court is located in the Morrow County Courthouse at 100 Court Street in Heppner. <http://courts.oregon.gov/Umatilla/Morrow.page?>

(4) The Sixth Judicial District has more courtrooms than judges and at times judges may not be available in one of the courts for immediate signature of papers. Litigants should make arrangements as necessary with the Trial Court Administrator by telephone, e-mail, fax, or other appropriate form of communication.

### **1.161 FILING COURT DOCUMENTS**

For Umatilla County filings, attorneys and litigants may file documents for any case, at either the Pendleton or the Hermiston court locations during normal hours of operation. For Morrow County filings, attorneys and litigants may file documents at the Morrow County Circuit Court Office in Heppner during normal hours of operation.

***1.171 SIXTH JUDICIAL DISTRICT WEBSITE***

The Sixth Judicial District, maintains an informational website on the Internet. The address of this website is: <http://courts.oregon.gov/Umatilla/>.

## **Chapter 2 – Standards for Pleadings and Documents**

### ***2.005 FORM OF PLEADINGS***

(1) All multi-paged pleadings and documents shall be stapled together, but separated from other pleadings and documents filed simultaneously.

(2) All pleadings and other documents filed with a court shall be two-hole punched at the top.

### ***2.015 RETURN OF DOCUMENTS TO A PARTY***

In certain limited situations, a document may be returned to the party who attempted to file it. Those situations are:

(1) A document with an existing case number and case caption from another jurisdiction;

(2) A document which requires a filing fee but the filing fee is not attached;

(3) A document without sufficient identifying information to determine in which case it should be filed or entered.

## **Chapter 3 - Courtroom Proceedings**

### ***3.011 PROPER APPAREL***

Male counsel will wear conservative coat and tie with appropriate shirt, slacks and shoes. Female counsel will wear appropriate conservative business clothing. Clothing for counsel should be such as they would wear to an important business meeting.

### ***3.181 PUBLIC ACCESS COVERAGE***

In accordance with UTCR 3.180(5) the presiding judge has designated the following areas outside the courtrooms as the proper places for public access coverage:

- (1) For courtrooms 1, 2 and 3 in the Umatilla County Courthouse, the landing at the top of the stairs on the second floor;
- (2) For courtrooms 4 and 5 in Hermiston, the waiting area just inside the front entrance;
- (3) For the courtroom in the Morrow County Courthouse, the landing at the top of the stairs on the second floor.

## **Chapter 4 – Criminal Cases**

### **4.005 DISCOVERY**

Before any motion to compel discovery in a criminal case is filed, a demand must be made on opposing counsel (upon a party if pro se) for the materials. The motion shall be supported by affidavit that such a demand was made, a copy of the demand, the date served, the information furnished and the information not furnished.

### **4.006 IN CAMERA INSPECTIONS AND ORDERS TO PRODUCE**

Motions for in camera inspections must be properly supported by points and authorities, an affidavit reflecting the relevance of the material sought to be inspected, the time frame for relevant production, and a proposed order substantially reflecting that “the documents or copies thereof shall be produced to the court no later than \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ o’clock am in Courtroom \_\_\_\_\_, Umatilla or Morrow Circuit Court, Pendleton, Hermiston or Heppner, as the case may be, to the Judicial Assistant or Court Reporter.” This response date, time and place should be reflected clearly on the first page of the appropriate form of the order upon the party to produce, and the order will so reflect. The moving party will file with the court proof of service promptly upon obtaining service.

### **4.015 POSTPONEMENTS; EX PARTE MATTERS**

Postponements of felony and misdemeanor cases and motions to rescind bench warrants, accompanied by a supporting affidavit, shall be presented only to the trial court clerk. No motion for a continuance shall be submitted without contacting opposing counsel (or a party if unrepresented). Any such motion submitted without contacting opposing counsel will be returned without consideration or action. In the case of a visiting judge, such motions shall only be considered and acted upon by the presiding judge.

### **4.025 SEARCH WARRANTS**

- (1) A request for a search warrant shall be made to a Circuit Court Judge.
- (2) Prior to presenting a request for search warrant, the applicant shall:
  - (1) Obtain prior approval from a District Attorney (or one of his/her deputies) who has personally reviewed the facts underlying the application;
  - (2) Provide the name of the reviewing District Attorney; and
  - (3) Verify that the search warrant application has not been presented to any other judge.

### **4.035 EXHIBITS**

In recognition of the need to ensure the security of criminal exhibits, viewing shall be limited to the attorney of record unless otherwise directed by the Court.

**4.045 SECURITY FORFEITURES**

- (1) A defendant or surety may apply to the court for a remission of a forfeiture of the security amount by:
  - a) Filing with the court, and serving upon the District Attorney, a written motion for remission of the judgment or forfeiture, accompanied by an affidavit stating good cause for the remission;
  - b) If necessary, appearing at a hearing to further inform the court why the judgment of forfeiture should be rescinded.
- (2) If a hearing is necessary, the court will notify the applicant of the date and time of the hearing. In any case, the court may decide to grant or deny the motion without any appearance by the applicant. The court will notify the applicant by mail of its decision.

**4.075 REFUND PROCEDURES**

All bail or security refunds will be made by mail.

**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 have 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 exhibits**

(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 Umatilla County Courthouse in Pendleton, 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 6th Judicial District, or to another judge of the 6th 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 6th 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 Umatilla 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 Umatilla County Trial Court Administrator's office no later than 4 judicial days before the date set for trial.

## Chapter 5 – Civil Cases

### 5.005 DEPOSITIONS

#### (1) Scope of Deposition

ORCP 36B(1) provides that any matter not privileged may be inquired into during a deposition if reasonably calculated to lead to admissible evidence. This standard will be interpreted broadly by the Sixth Judicial District bench. If unreasonable or bad faith deposition techniques are being used, the deposition may be suspended briefly and a motion to limit pursuant to ORCP 39E may be made and heard by a judge.

#### (2) Objections

Most objections are typically reserved until trial. Under ORCP 41C, only errors that can be obviated, removed, or cured are waived unless a reasonable objection is made during the deposition. ORCP 39D creates a mechanism so that the attorney whose question is objected to may accept the objection as an invitation to correct an alleged defect in the question. Rejection of the invitation may result in exclusion of the question and answer at trial. Attorneys should not state anything more than the legal grounds for an objection to preserve the record. Objections should be made without comment to avoid contamination of the answers of the witness. Argument in response to the objection is neither necessary nor desirable.

#### (3) Instructions Not to Answer

The only basis for an instruction not to answer a question reasonably calculated to lead to the discovery of admissible evidence is in response to an attempt by the attorney taking the deposition to inquire into an area of privacy, right, privilege, an area protected by the constitution, statute, work product, or questioning amounting to harassment of the witness. Any objection to the form of the question or responsiveness of the answer can be prevented with a brief objection.

#### (4) Deposition Disputes

The parties should be able to resolve deposition disputes. If the parties have a problem that cannot be resolved without the assistance of the court, they should briefly suspend the deposition and contact the Presiding Judge, or designee, for hearing, either on or off the record, by phone or at the courthouse.

#### (5) Pending Questions

If a question is pending, it shall be answered before a break is taken, unless the question involves a matter of privacy right, privilege, an area protected by the Constitution, statute, or work product.

#### (6) Persons Present

Any party may attend a deposition. Non-party witnesses are excluded at the request of any party.

**5.015 MOTIONS IN CIVIL CASES**

(1) Civil motions may be set by telephone with the trial judge's judicial assistant, in court, or in chambers during a settlement conference. When being set, counsel are required to appear with their calendars either in person or by conference call. On occasion, a date will be set at the convenience of the court and counsel advised only by written notice.

(2) Civil motions may be reset by following the procedures for postponement of trial dates contained in UTCR 6.030.

(3) When counsel participates in the setting of the date in court or by telephone, a continuance will not be granted if the ground relied upon is that the court failed to provide written confirmation.

**5.025 CIVIL TRIAL DOCUMENTS**

(1) In all civil cases that will be resolved by a trial, all trial memoranda, requested jury instructions and motions in limine shall be served by counsel with the court and opposing counsel at least 24 hours prior to commencement of trial.

(2) In those cases where counsel are aware of pretrial motions that will take more than an hour to be heard, counsel shall file such motions not less than 30 days in advance of trial.

**5.075 WARRANTS OF DETENTION**

(1) A request for a warrant of detention in a mental health proceeding shall be made to a Circuit Court Judge.

(2) Prior to presenting a request for a warrant of detention, the applicant shall:

- a) Obtain prior approval from a District Attorney (or one of his/her deputies) who has personally reviewed the facts underlying the application;
- b) Provide the name of the reviewing District Attorney; and
- c) Verify that the warrant of detention application has not been presented to any other judge.

## Chapter 6 – Trials

### **6.012 PRETRIAL SETTLEMENT CONFERENCES – Civil cases**

The Circuit Court, on its own motion or upon request of any party, may set a settlement conference. Parties are encouraged to request a settlement conference in civil cases. The settlement conference judge will not preside at the trial unless all parties agree that the judge may preside. At the settlement conference:

(1) No information disclosed will be revealed by the settlement judge or by any of the parties to the settlement to the judge or jury who will thereafter try the case.

(2) At the 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.

(3) Settlement conferences shall be held informally before a judge at a time and place provided by the settlement judge. The conference may be continued as part of a 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 a conference, no reference shall thereafter be made to any such settlement discussion had under this rule except in subsequent settlement proceedings.

(4) For a meaningful settlement conference to take place, all attorneys and parties must participate in good faith.

(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 insure that the case proceeds to trial on the date scheduled.

(6) Each party shall submit two copies of his UTCR 8.010 statement to the settlement judge at least 48 hours prior to the commencement of the settlement conference.

### **6.013 SETTLEMENT CONFERENCE STATEMENT – Civil cases, excluding domestic relations cases**

In a civil case in which a settlement conference is scheduled, the parties shall file, not less than seven (7) days prior to the date of the settlement conference, 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 settlement conference statement.

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

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

(3) In other classifications of cases, each side shall prepare an appropriate settlement statement setting forth a summary of the facts, legal issues, damages and relief demanded, together with plaintiff's settlement demand or defendant's settlement offer.

(4) In domestic relations cases, counsel shall include their settlement statement, a copy of the proposed distribution of assets and liabilities and, if support is involved, the proposal for and computation of support.

#### **6.014 SETTLEMENT CONFERENCES – Domestic Relations Cases**

(1) The Presiding judge shall appoint a panel of qualified attorneys who shall preside over settlement conferences in all contested domestic relations cases where both parties are represented by counsel. Attorneys shall be selected to preside over settlement conferences in a rotating order. Litigants may not disqualify settlement attorneys, except where there is a conflict of interest as defined by the Oregon Rules of Professional Conduct 1.7 to 1.9.

(2) At the time set for trial readiness, the attorneys may request the case be assigned a settlement conference. The attorneys must firmly believe the conference would be beneficial. The conference shall be held at the office of the settlement attorney unless the settlement attorney and the litigants otherwise agree, and shall be held at least 3 weeks prior to the trial date.

(3) Each party shall submit two copies of his UTCR 8.010 statement to the settlement attorney at least 48 hours prior to the commencement of the settlement conference.

(4) When the settlement attorney receives both Rule 8.010 statements, he shall distribute copies of the statements to the parties as soon as practical. In addition, the petitioner shall submit to the settlement attorney all orders and judgments filed in the case, including the mediator's report.

(5) Each party shall participate in the settlement conference in good faith.

(6) As soon as practical, the settlement attorney shall report in writing to the trial judge regarding the outcome of the settlement conference, including any violations of this rule. All agreements shall be reduced to writing and signed by the parties. In the event that settlement negotiations do not result in a complete settlement, counsel should be prepared to proceed to trial on the date scheduled.

(7) All information disclosed in the settlement conference shall be deemed privileged, settlement negotiations.

(8) Any litigant who violates these rules may be subject to sanctions as provided by UTCR 1.090(2).

#### **6.045 CONTINUANCES**

All motions for a continuance shall set forth all the information contained below:

- Custodial status of moving party (including defendant);

- Date case was filed;
- Date court set the case;
- Relative complexity of the case;
- If a victim/witness has a conflict, the date the victim/witness was notified of the trial;
- A list of other attorneys in the office of the attorney requesting this continuance, and their availability;
- The relative inconvenience to the parties;
- The relative inconvenience to the witnesses;
- The relative inconvenience to the court;
- Trial dates to which opposing counsel/parties/victim/witnesses are in agreement;
- Other suitable alternatives, e.g., video appearance, depositions, stipulated testimony, etc.

No motion for a continuance shall be submitted without an affidavit in support of the motion, or without contacting opposing counsel (or party if unrepresented). Any such motion submitted without contacting opposing counsel will be returned without consideration or action.

## **Chapter 7 – Case Management and Calendaring**

### ***7.005 CRIMINAL PLEAS, NEGOTIATIONS, DISCOVERY AND TRIAL DATES IN CRIMINAL CASES***

It is the intent of the 6<sup>th</sup> Judicial District to effect resolution of criminal cases in conformance with UTCR 7.010.

#### **(1) In Custody Measure 11 Cases.**

For all in custody cases involving a Measure 11 charge the court may accept a not guilty plea and set a trial date at the time of arraignment. The court will also set a status conference not less than 21 days prior to trial for trial council to report to the court the status of trial matters including but not limited to those matters enumerated in UTCR 4.010 and 7.010(3). Pursuant to UTCR 7.010(2) all plea agreements, negotiations, discovery and investigations must be concluded not later than 21 days prior to the trial date.

#### **(2) All Other In Custody Cases**

For all other in custody cases, at the time of arraignment the court may accept a not guilty plea and set a status conference for not less than 21 days following arraignment for trial council to report to the court the status of trial matters including but not limited to those matters enumerated in UTCR 7.010(3). Pursuant to UTCR 7.010(2) all plea agreements, negotiations, discovery and investigations must be concluded by the date set for the status conference.

If defendant is released from custody or waives his 60 day right to trial prior to the status conference the court will set a second status conference for approximately 24 additional days to allow defendant the same time to negotiate, obtain discovery and investigate as is allowed in non-custody cases described in (3) of this rule. If defendant is not prepared to enter a negotiated plea at that time all negotiations will be ended and the court will set a trial date.

#### **(3) All Cases Where Defendant Is Not In Custody**

For all defendants who are not in custody at the time of arraignment the court may accept a not guilty plea and set a status conference for approximately 45 days following arraignment for trial council to report to the court the status of trial matters including but not limited to those matters enumerated in UTCR 7.010(3). Pursuant to UTCR 7.010(2) all plea agreements, negotiations, discovery and investigations must be concluded by the date set for the status conference. If defendant is not prepared to enter a negotiated plea at that time all negotiations will be ended and the court will set a trial date.

#### **(4) Changes Of Plea After The End Of Plea Agreements And Negotiations**

After the dates set for the end of plea agreements and negotiations set forth above all changes of plea shall be open sentencing.

#### **(5) Forms/Plea Petitions**

Counsel shall complete any and all forms required for change of plea prior to the hearing for change of plea including Blakely waivers and notices of sex offender registration if appropriate. Counsel shall

deliver to court staff a photocopy or a faxed copy of all change of plea documents a minimum of 24 hours prior to all change of plea hearings. A sample Standard Plea Petition is available from the Court on request.

### **7.015 VIDEO/TELEPHONE APPEARANCES**

The Sixth Judicial District presently has telephonic conferencing & video conferencing at the courthouses in Pendleton, Hermiston and Heppner. All matters not prohibited by statute are authorized to be heard by video or telephone conferencing in the locations available.

(1) Criminal Cases

When handled by video conferencing, a completed plea petition document must be filed with the court prior to any change of plea.

(2) Habeas Corpus and Post-Conviction Relief Cases

If a defendant is in the custody of a correctional institution, the defendant's pretrial motions, pretrial hearings, and court trial shall be conducted by video conferencing if available, and at the expense of the Department of Corrections.

(3) Civil Cases

Parties wishing to use video conferencing in civil cases shall, where available, make arrangements with the Trial Court Administrator prior to trial and pay all expenses of the video.

(4) Mental Commitment Cases

If an alleged mentally ill person is in a mental health facility, the motions, hearings, and trial shall be conducted by video conferencing, if available, at the expense of the Mental Health Division.

(5) Exhibits

All exhibits will be presented to the court no later than ten (10) judicial days prior to the scheduled court proceeding. Any party presenting exhibits to the court will also provide a self-addressed, pre-paid postage mailing package to the court for the return of the exhibits.

## Chapter 8 – Domestic Relations Proceedings

**\*\*Note: Additional rules relating to domestic relations mediation are found in SLR Chapter 12.**

### ***8.005 FILING OF UTCR 8.010 DOCUMENTS***

(1) All documents required to be filed under UTCR 8.010 (4) and (5) shall be filed with the clerk of the court with a copy to the trial judge and served on the opposing counsel (or party if pro se) seven (7) days before the trial.

(2) All pleadings shall specify “Subject to Mandatory Mediation” and “Parenting Time at Issue” or “Parenting Time Not at Issue” in the caption. The pleadings will also specify “Subject to Mandatory Arbitration” if appropriate.

(3) Sanctions

Sanctions may be imposed by the Court for failure to file 8.010 statements. These sanctions include:

- a) As provided in UTCR 1.090, the court may enter an appropriate award of attorney fees in favor of the complying party against the non-complying party’s attorney (individually and personally) or the non-complying party if pro se, of a party/attorney not complying with Chapter 8 of this Local Trial Court Rule.
- b) Except for good cause shown, a non-filing party may be deemed to have admitted values of property established by a filing party.
- c) The court may impose a fine on an attorney failing to file 8.010 statements in a timely fashion.

### ***8.015 PARENT EDUCATION PROGRAM***

(1) Mandatory Parent Education Program

- a) The Sixth Judicial District, Umatilla & Morrow Counties has established a parent education program authorized by ORS 3.425. This program will provide information on the impact of family restructuring on children when the proceeding involves minor children. This program will apply to the following types of cases:
  - i. Annulment or dissolution of marriage;
  - ii. Legal separation;
  - iii. Petition to establish custody or visitation (including paternity); and
  - iv. Post-judgment litigation involving custody or visitation.

- b) In all cases involving children under the age of 18, all parties shall complete the parent education program unless exempted by the court. A judgment will not be entered in the proceeding until each party not otherwise exempted by the court has filed an appearance or has completed the program, or appropriate sanctions have been applied.
- c) The party initiating the proceeding shall register for the program within 15 days after filing the initiating pleading with the court. A copy of this local rule and instructions on how to register for the program shall be served by the initiating party on all parties against whom relief is sought. Service shall be completed in the manner provided in ORCP 7 at the time the initiating documents are served. All other parties shall have 30 days after service of notice upon them to register for the program. Petitioners shall have 45 days from the date of filing the initial pleadings to complete the parenting class. The other party shall have 45 days from the date of service of notice to complete the parenting class.
- d) The program provider shall issue a certificate of completion to the participants when they have completed the program. This certificate must be presented to the mediation coordinator. The mediation coordinator shall report in writing to the court notification of participant completion.
- e) The court may exempt one or more of the parties from the program if, after reviewing the requesting party's motion and supporting affidavit, the court determines that participation is unnecessary or inappropriate. It will be very unusual where an exception is granted.
- f) The court may allow one or more of the parties to participate in a comparable court-sanctioned education program.

(2) Sanctions

- a) Failure or refusal to complete the program within the time limits contained in 8.015 (1) may be considered by the court in making its ruling on issues which are in dispute.
- b) A party that fails to successfully complete the parent education program shall not be permitted to file a motion to modify any order of the court.
- c) A party who has completed the program shall have the right to:
  - i. Request that the pleadings of a party who has appeared be stricken if that party has not completed the program in a timely manner without good cause.
  - ii. Request entry of an order from the court to compel the non-complying party's completion of the program should the non-complying party not

have completed the program in a timely manner without good reason. The court may enter an award of attorney fees in favor of the complying party who utilizes this option, to force the non-complying party's compliance with this rule.

- (3) Fees
  - a) Each party shall pay a fee, set by order of the Presiding Judge, to the program provider upon registering for the program.
  - b) The program registration may be waived or deferred by the court. The procedure for requesting a fee waiver or deferral shall be the same as that used to request a waiver or deferral of the fee when filing a petition for dissolution.
  - c) Application for fee waiver or deferral, if any, must be made prior to registering for the program. When registering, either the fee must be paid or the order waiving or deferring the fee must be given to the program provider.

#### ***8.025 PARENTING TIME ENFORCEMENT***

(1) Proceedings to enforce parenting time pursuant to ORS 107.434 shall be initiated by motion and order to show cause. Unless another time is ordered by the court, the moving party shall serve the other party with the motion and order to show cause and supporting papers at least (21) days prior to the time set for hearing. If timely service is not affected, the moving party shall be deemed to have agreed to a hearing date beyond the 45-day limit.

(2) Generally, unless good cause is shown, the parties will be referred to mediation if modification of parenting time or custody order is sought by the moving party. Upon being referred to mediation, the parties will conform to the Sixth Judicial District, Umatilla & Morrow Counties' Supplementary Local Rules for Mediation. However, the parties may not be referred to mediation if the existing parenting time order was entered in a Family Abuse Prevention Act proceeding.

(3) If the court refers the matter to mediation, the mediator may decline mediation if, for good cause shown, the trial judge, upon written recommendation of the mediator, determines that the proceeding is either inappropriate for mediation, or if mediation cannot reasonable take place before the hearing date. If mediation is so declined, the court shall advise the parties in writing.

#### ***8.045 PROPERTY LISTS***

(1) If there are any disputes regarding the value or disposition of items of personal property, the parties may confer and jointly prepare a list of all personal property the court will be asked to distribute and indicate each party's opinion regarding the market value of each item listed and each party's proposed distribution of the property.

(2) Except for good cause shown, property lists must be filed with each party's Rule 8.010 Statement by 5:00pm the day prior to the settlement conference as provided by SLR 6.014 (3).

(3) Sanctions

As provided in UTCR 1.090, the court may enter an appropriate award of attorney fees in favor of the complying party against the non-complying party's attorney (individually and personally) or the non-complying party if pro se.

**8.055 ORDERS TO SHOW CAUSE**

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

(2) An order to show cause will be allowed only upon motion of a party supported by a written affidavit. The order to show cause will not contain a date for hearing. It shall provide that the adverse party must file and serve a written response in opposition to the motion within fourteen (14) days from the date of service of the order, or within such additional time as allowed by the court upon showing of good cause. The order must further advise the adverse party that if such opposing response is not filed and served within the fourteen (14) days, the order requested by the motion and show cause order will be granted and entered by the court. Post-judgment motions to set aside, alter or modify any terms of the judgment 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. The order must further advise the adverse party that if such opposing response is not 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 an opposing written response within the time allowed, the moving party shall 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. The court also reserves the right to enter the order requested if the opposing party does not file the required response and it may do so upon its own motion if the moving party fails to present for signature the order required above.

(4) *Pendente lite* motions for temporary child and/or spousal support filed pursuant to ORS 107.095 (1)(a) and (b) and other motions for temporary financial orders filed pursuant to ORS 107.095(1)(f), may be determined without testimony based on the affidavits of the parties and their Uniform Support Affidavits, unless a third party requests oral argument pursuant to UTCR 5.050. Such motions shall be filed separately from other *pendente lite* motions. In any case involving temporary child support, the affidavits filed by the parties shall include a child support computation worksheet. Absent good cause, agreement by the parties or court order to the contrary, the court shall order the Standard Parenting Plan pending further order of the court

and the court shall compute child support accordingly. After the due date for the response of the nonmoving party, the moving party shall notify the court by filing a Notice of Readiness for Decision. With due regard for other pending matters, the court will attempt to issue a ruling within 14 days of the Notice of Readiness.

### ***8.075 PARENTING SCHEDULE***

It is the policy of the court to encourage the parties to work out their own parenting time schedule, either between themselves or through mediation. The court will generally approve any schedule agreed upon by the parties. However, if the parties are unable to agree, the Standard Parenting Plan Less Than 225 Miles or Standard Parenting Plan Over 225 Miles provided on the court website will be used as the basis for establishing parenting time. Because each family's circumstances are different, the parenting time schedule established by the court may make a provision for more or less parenting time than desired by the parties. Every parenting plan shall specify the percentage of overnights which each parent has with the children.

## **Chapter 9 – Probate and Adoption**

### ***9.005 FILING PROBATE MATTERS***

Probate matters requiring authorization, approval, or signature of the probate judge or designee shall be filed with the Clerk's Office.

### ***9.015 EX PARTE ORDERS IN DECEDENTS' ESTATES, GUARDIANSHIPS AND CONSERVATORSHIPS***

All ex parte orders in decedents' estates, guardianships and conservatorships may be submitted to the court through the Clerk's Office at any time, without the necessity of the appearance of attorney for the fiduciary.

### ***9.025 SCHEDULING***

Conferences and hearings may be scheduled by request to the judge's judicial assistant. Before requesting a conference or hearing, requesting counsel shall confer with other counsel and advise the judicial assistant of the estimated time required and mutually acceptable dates.

### ***9.035 DELINQUENCIES OR DEFICIENCIES***

In the event of a delinquency or deficiency in filing any document required by statute, court rule, or court order, the attorney of record, or litigants if there is no attorney of record, shall be sent a courtesy notice. The personal representative, conservator, or guardian, is expected to promptly cure the defect or delinquency. If the deficiency is not corrected within the time specified by the court in its notice, an order to appear and show cause why the personal representative, conservator, guardian, and counsel of record should not be removed shall be issued. The personal representative, conservator, or guardian, together with counsel of record, must appear whether or not the delinquency or deficiency has been subsequently corrected. If the delinquency or deficiency has not been corrected by the time of the hearing, appropriate sanctions, including contempt, may be imposed.

### ***9.045 REPRESENTATION***

(1) If a personal representative or conservator intends to appear on behalf of the estate or protected person without an attorney, the personal representative or conservator shall provide notice of that intent to the court and proof of competence to so appear. If the proof is not sufficient to assure the court the estate will be protected and properly administered, the court will take appropriate action.

(2) A person other than a personal representative or conservator, or a corporation, may appear in person without counsel in any matter coming before the probate judge if otherwise allowed by law. The person appearing and counsel for the personal representative shall notify the probate judge if any party to a proceeding is appearing pro se.

**9.055 BONDS**

Notwithstanding ORS 113.105, the personal representative of an intestate estate may be required to file a bond even if he or she is the sole heir or devisee of the estate, if the court is not satisfied that the creditors will be paid.

**9.065 NOTICE TO SURETY**

If a bond has been posted, the surety must be notified of the resignation or substitution of counsel, with appropriate proof provided to the court by counsel.

**9.075 GUARDIANS OF MINORS**

Guardians for minors shall be required to annually make a guardians report in conformance with the provision of ORS 125.325.

**9.081 OBJECTIONS TO PETITION FOR APPOINTMENT OF GUARDIAN/CONSERVATOR**

(1) Any interested person, as described in ORS 125.075(1), who has an oral objection to a Petition in a protective proceeding should contact a court clerk at (541) 278-0341. In accordance with ORS 125.075(2), the court designates the probate counter as the place where oral objections shall be filed. The objecting party should advise the court clerk that the objecting party wishes to make oral objections to the Petition and would like to speak to the judicial assistant of the judge assigned to the case. Upon receipt of the objection and payment of the applicable fee required by ORS 21.310, the Court will schedule a hearing and the Petition will be heard in the courtroom of the judge assigned to the case.

(2) If the objecting party wishes to file a written objection, the court clerk will provide an Objection form if requested.

**9.082 PROBATE AND PROTECTIVE PROCEEDINGS**

(1) The probate counter is designated as the place where notice of free or low cost legal services is posted.

(2) When a petition seeks appointment of a guardian for an incapacitated person, the petitioner shall also nominate a visitor. When a visitor is appointed, the petitioner shall also pay the visitor's fee.

**9.085 PERSONAL INJURY SETTLEMENT PETITIONS**

A petition for approval of a settlement of a personal injury claim involving minors and/or incapacitated persons shall be accompanied by an affidavit which sets forth the following:

- (1) A description of the incident causing the injury;
- (2) A description of the injuries;
- (3) The amount of the prayer and proposed settlement and if a structured settlement is proposed, the present value of the future payments of that settlement;

- (4) The amount of the attorney fees and costs;
- (5) The proposed distribution of the settlement proceeds;
- (6) A concise statement explaining the reasons for the settlement.

**9.095 ATTORNEY AND CORPORATE FIDUCIARY FEES**

(1) Requests for approval of attorney fee expenses required under ORS 116.183 and 125.095 must be approved by the court.

(a) Such requests must be accompanied by an affidavit that complies with the requirements of UTCR 5.080 showing the number of hours expended, the hourly rate charged and a designation of title for each person performing work.

(b) When attorney fee requests are submitted for approval to the court, the accompanying affidavit must include a description of normal attorney tasks with hours expended. For extraordinary activities, the affidavit must also concisely address the following issues to be resolved and the process and time spent on each.

- i. For establishing and funding trusts, a brief narrative must identify the complexities involved;
- ii. For tax planning, describe objectives and activities required;
- iii. For tax returns, indicate the number filed and the nature of the returns;
- iv. For tax audits and hearings, describe the issues addressed;
- v. For disclaimers, describe the circumstances and complexities;
- vi. For real estate management problems, include issues regarding compliance with local, state and federal authorities;
- vii. Discuss sales of real property;
- viii. Discuss operation or sale of business interests;
- ix. Discuss management of a family-owned corporation or closely held stock;
- x. For contested matters, indicate whether they were of benefit to or in defense of the estate;
- xi. Discuss election of spouse/marital share;
- xii. Discuss disputed creditor's claims.

(c) If tasks performed appear to be the duties of a personal representative, the court will question and possibly reduce attorney fee payments for such activities.

(2) Consent by the parties to the attorney fee requests shall not waive the requirements of this rule.

(3) Any request for approval of corporate fiduciary fees in addition to the basic percentage fee allowed pursuant to applicable statute must be accompanied by an affidavit in compliance with 9.095(1)(a) above.

**9.105 DISBURSEMENT VOUCHERS**

As provided by ORS 116.083(2), each accounting must contain the information provided for therein, except that original checks or vouchers used to make disbursements during the accounting period need not be included in the accounting file, but may be held by the fiduciary or his/her attorney.

## **Chapter 10 – Vehicle Laws and Driving Conditions**

*This chapter is reserved for future expansion.*

## **Chapter 11 – Juvenile Court Proceedings**

*This chapter is reserved for future expansion.*

## Chapter 12 – Mediation

**\*\* NOTE: Rules specifically relating to Temporary Custody Orders during Mediation are found in SLR Chapter 8.025(2).**

### ***12.005 MEDIATION IN GENERAL***

#### (1) Matters Subject to Mediation

- (a) Purpose of Mediation. The purpose of mediation shall be to assist the parties in reaching a workable settlement of those issues before the court.
- (b) Mandatory Mediation. Any dispute involving custody and/or visitation/parenting time arising from any of the following types of cases shall be subject to mediation under this rule:
  - i. Any domestic relations suit, as defined in ORS 107.510 (3).
  - ii. Any filiation proceeding pursuant to ORS 109.124 to 109.230.
  - iii. Proceedings to determine the custody or support of a child under ORS 109.103.
  - iv. Any proceeding to modify custody and/or visitation/parenting time previously determined in one of the above types of cases.
  - v. Any other matter involving a dispute over custody and/or visitation/parenting time upon referral by the court.
  - vi. Other Matters. The mediator may consider issues of property division or spousal or child support with the written approval of both parties or their counsel.
- (c) Pleadings. All pleadings shall specify “Subject to Mandatory Mediation” or “Not Subject to Mandatory Mediation” in the title.

#### (2) Authority of Circuit Court Not Affected by Mediation

The authority of a Circuit Court of the Sixth Judicial District, Umatilla & Morrow Counties over a domestic relations case filed in that Circuit Court is not affected by referral to mediation. Any agreement of the parties reached as a result of mediation for which court enforcement may be sought, must be presented to the court and the court shall retain final authority to accept, modify, or reject the agreement.

#### (3) Mediation Process

- (a) Commencement of Mediation by Stipulated Request for Mediation. If there is a disagreement between the parties concerning custody and/or visitation/parenting time at any stage of a domestic relations proceeding, both parties or their attorneys, may sign and file with the court a stipulated request for mediation. A mediator will be available to the parties in accordance with these rules, or the

parents may agree and stipulate to an independent mediator in their stipulated request for mediation. If the parties choose an independent mediator, the costs for the mediator will be paid by the parties jointly.

- (b) Commencement of Mediation by Request for Mediation by One Parent. If there is a disagreement between the parents concerning custody or visitation/parenting time at any stage of a domestic relations proceeding, any party seeking to resolve the matter may file with the court and serve upon the other party or his or her attorney a request for mediation.
  - (c) Commencement of Mediation When Custody or Visitation/Parenting Time Appears at Issue. Whenever a respondent generally appears in a domestic relations suit by filing an answer such as “Respondent Appears” or the like, the respondent shall in addition state whether there is any disagreement over child custody and/or visitation/parenting time in the case or, alternatively, whether child custody or visitation/parenting time is not an issue in the case. In the event no such statement is made, it will be assumed that custody and/or visitation/parenting time is in dispute and the matter shall be referred to mediation.
  - (d) Commencement of Mediation by Judicial Order. When parenting time and/or custody is at issue and when either party or both parties fail to register for the parenting education class within the time limits set by 8.015(1)(c), the court may order the party or parties to attend the parenting education class and then to proceed to mediation.
- (4) Mediation.
- (a) Whenever mediation is requested as in paragraphs (1) and (2) above, or whenever any pleadings indicate that child custody or visitation/parenting time is at issue, the parties shall be ordered to appear for mediation. The parties shall register for mediation within fifteen (15) days of the court’s Order.
  - (b) The parties will be given an opportunity to choose a mediator from those under contract with Umatilla County, or consult with their counsel and report their choice of mediator within ten (10) days. If the parties cannot agree on a mediator, the court will appoint a mediator and notify the parties of the appointment.
  - (c) Mediation shall consist of a maximum of six (6) hours of sessions involving the parties and the mediator. Additional sessions may be provided at the parties’ expense or upon approval of the court on recommendation of the mediator. Parties may, upon written request of the parties, be allowed at any state of the proceeding or post-judgment, to reenter mediation to use the balance of session time not previously used.

(5) Temporary Custody and Visitation/Parenting Time Orders.

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

(6) Completion of Mediation.

It is the responsibility of the parties and their attorneys to see that mediation is completed within such time as to not delay the trial of the case. Failure to do so may result in dismissal of the case when called for trial or postponement under such conditions as the court may require. The mediator shall provide to the court the mediated agreement within 20 days of the agreement.

(7) Unsuccessful Mediation.

The mediator shall notify the court within 20 days following the conclusion of mediation that mediation has been unsuccessful. In that case the court may refer the case to a settlement attorney or decide the proceeding will be scheduled for hearing in the same course and with the same priority as if there had been no mediation. The mediator may determine that the mediation has been unsuccessful if the parents are unable to resolve the custody or visitation/parenting time controversy, if one or both parties are unwilling to participate in mediation, or if the mediator determines that either party is using the mediation process in bad faith for delay in resolution of other issues.

(8) Sanctions

- (a) Failure or refusal to comply with the mediation program in a timely manner may be considered by the court in making its ruling on issues which are in dispute.
- (b) A party who has complied with the mediation process shall have the right to:
  - i. Request that the pleading of a party who has appeared be stricken, if that party has not completed the program in a timely manner without good cause;
  - ii. Request entry of an order from the court to compel the non-complying party's completion of the program should the non-complying party not have completed the program in a timely manner without good reason. The court may enter an award of attorney fees in favor of the complying party who utilizes this option to force the non-complying party's compliance with this rule.

(9) Custody Studies.

- (a) If the parties are unable, after a good faith effort, to resolve custody and/or visitation/parenting time issues in mediation, the parties may agree to a custody study. The study must be performed by a duly qualified person, but must not be the mediator assigned to the case.

- (b) If the parties agree in advance that the report of the custody study will be admissible at trial or other proceedings without appearance of the person who performed the study, the report is admissible. The person who performed the study may, however, be subpoenaed at the expense of the person calling the person a witness.
- (c) When the study report had been received by the parties, the parties may, if both parties agree, resume mediation after the report is made available to the mediator.
- (d) The expense of the study shall be the responsibility of the parties in such proportion as the parties may agree or as ordered by the court.

### ***12.015 MEDIATION OF CIVIL DISPUTES***

The Sixth Judicial District, Umatilla & Morrow Counties has a mediation referral program pursuant to ORS 36.180 to 36.210. The rules are effective upon the Presiding Judges' approval of a mediation panel consistent with SLR 12.065. On the effective date, the rules apply to new cases and pending cases which are subject to mandatory arbitration but have not yet been referred to arbitration.

### ***12.025 APPOINTMENT TO MEDIATION PANEL***

- (1) To apply to be listed on the panel of mediators, a person must sign and file an application as provided by the court.
- (2) The decision whether an individual is qualified to be on the panel of mediators shall be made by the Presiding Judge.

### ***12.035 REMOVAL FROM MEDIATION PANEL***

The Presiding Judge, in his discretion, may remove a mediator from the mediation panel.

### ***12.045 ASSIGNMENT, SELECTION AND COMPENSATION OF MEDIATOR***

- (1) A mediator shall be assigned by the Presiding Judge if not selected by the parties within twenty-one (21) days after the referral to mediation.
- (2) The Presiding Judge may establish a compensation schedule which shall apply only when a mediator is assigned by the court. If a mediator is selected by the parties, the compensation shall be determined by the parties and the mediator.

## **Chapter 13 – Arbitration**

### ***13.005 MATTERS SUBJECT TO ARBITRATION***

(1) Any party to a case may file and serve notice of a request that the Court transfer a case to arbitration.

(2) A court decision on an exemption filed pursuant to UTCR 13.070 will be rendered within ten judicial days following the filing of a motion for exemption from arbitration or the motion is 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.

### ***13.015 COURT DETERMINES WHETHER CASE SUBJECT TO ARBITRATION***

(1) A case assigned to arbitration will not be removed 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.

(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 Arbitration Clerk in the Office of the Trial Court Administrator. These cases, when appropriate, may be returned to arbitration. In the event that the case is not thereafter subject to mandatory arbitration, the party requesting removal from arbitration shall file a motion to exempt the case from arbitration, or to remove it if it was previously referred to arbitration.

### ***13.025 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 until all parties have appeared or have had a judgment 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 13.040(3).

### ***13.045 INDIGENT PARTIES***

(1) In the event that 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 a request for payment to the Trial Court Administrator. Such request shall be in the form of a letter stating the identity of the case, the total hours of service the arbitrator provided, and the share of those hours chargeable to the indigent party. If funds are available, reimbursement will be provided for up to three (3) hours for each indigent

party. The letter must be accompanied by a copy of the order deferring or waiving fees of the indigent party.

(2) In the event funds are not available under ORS 36.420 for the payment of fees that are waived by court order, a party may request that the clerk provide to the parties a list of arbitrators who have agreed to serve for no compensation, for compensation from one party only, or at a reduced rate.

(3) The clerk shall provide names of available arbitrators, but no arbitrator is required to serve unless he or she has agreed to such alternate fee arrangement. The parties shall select an arbitrator from such list in the same manner as required in SLR 13.045.

### ***13.055 ARBITRATORS***

(1) There shall be a panel of arbitrators in such number as the Presiding Judge 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 (e.g., no family law). A list showing the names of arbitrators available to hear cases will be available for public inspection at the office of the Trial Court Administrator.

(2) The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator must notify the clerk 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 (3) 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 on the case to the Arbitration Clerk in the Office of the Trial Court Administrator.

### ***13.065 STIPULATIONS***

No agreement or consent between parties or lawyers relating to the conduct of the arbitration proceedings 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 or parties.

### ***13.075 AWARD, PROOF OF SERVICE***

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.

## **Chapter 14 – Reserved**

*This chapter is reserved for future expansion.*

## **Chapter 15 -- Small Claims**

*This chapter is reserved for future expansion.*

## **Chapter 16 – Violations**

### **16.015 VIOLATIONS BUREAU**

- (1) The Sixth Judicial District has established a Violations Bureau.
- (2) A person may appear at the Violations Bureau or may pay the Violations Bureau fine and assessment by mail.
- (3) The fine and applicable assessment(s) shall be paid immediately and in full at the Violations Bureau, unless the court approves a deferred payment.

### **16.021 TRIAL BY AFFIDAVIT**

Trial by affidavit, as provided in ORS 153.080 is authorized for all violations unless consolidated with another pending charge. For trial by affidavit, the defendant's submission must clearly waive the right to submit oral testimony in court in favor of written statement by affidavit, and for waiver of personal appearance at trial, specifically waiving trial. Upon submitting matters for trial by affidavit, the state is authorized to also submit matters by affidavit. Unless specifically requested the trial will be by the judge without hearing being set for any further appearance. At the trial, any witness, including the defendant, may have the witness' testimony presented to the Court by affidavit and need not appear personally. (Sample [Waiver and Affidavit](#) is provided on the court website.)

### **16.025 POSTPONEMENTS**

#### ***Arraignment***

A request for postponement of an arraignment appearance must be made in court or in a written request, which is accompanied by a check or money order for the base fine set on the face of the summons if the alleged offense is a noncriminal offense. If the request is made in writing, the request must be received by the court at least two (2) court days prior to the original arraignment date.

#### ***Court Trial***

A request for a postponement of a court trial must be made to the court in writing.

#### ***Notice***

When the court grants a postponement, the court will notify all parties to the action. If the postponement is granted in open court, parties personally present are deemed notified.

## **Chapter 17 – Parking**

*This chapter is reserved for future expansion.*

## **Chapter 18 – Forcible Entry and Detainer**

*This chapter is reserved for future expansion.*

## **Chapter 19 – Contempt Proceedings**

*This chapter is reserved for future expansion.*