

# **Supplemental Local Rules**

**The Circuit Court of the State of Oregon**

**The Seventh Judicial District**

**Effective February 1, 2014**

# Table of Contents

## **CHAPTER 1**

### **GENERAL PROVISIONS**

1.151 HOURS OF COURT OPERATION.....4

1.717 WEBSITE.....4

## **CHAPTER 4**

### **PROCEEDINGS IN CRIMINAL CASES**

4.011 TRIALS AND MOTIONS IN CRIMINAL CASES.....5

## **CHAPTER 5**

### **PROCEEDINGS IN CIVIL CASES**

5.011 TRIALS AND MOTIONS IN CIVIL CASES.....6

## **CHAPTER 8**

### **DOMESTIC RELATIONS PROCEEDINGS**

8.013 PARENT EDUCATION .....7

8.075 MODEL PARENTING PLAN .....7

## **CHAPTER 9**

### **PROBATE AND ADOPTION PROCEEDINGS**

9.081 ORAL OBJECTIONS IN PROTECTIVE PROCEEDINGS .....8

## **CHAPTER 12**

### **MEDIATION**

12.005 MATTERS SUBJECT TO ALTERNATIVE DISPUTE  
RESOLUTION (ADR).....9

12.035 ADR COMMISSION.....10

12.036 ADR PANEL ESTABLISHED.....11

12.037 APPOINTMENT TO ADR PANEL.....12

12.038 REMOVAL FROM THE ADR PANEL.....	12
12.062 REFERRAL TO ADR.....	13
12.085 ASSIGNMENT OF MEDIATOR OR ARBITRATOR AND SCHEDULING.....	13
12.125 COMPENSATION OF MEDIATORS AND ARBITRATORS.....	14
12.165 COMPLETING ADR.....	15
12.225 SETTLEMENT BY ADR.....	15
12.275 GOOD FAITH MEDIATION.....	16

**CHAPTER 16  
VIOLATIONS**

16.005 TESTIMONY BY AFFIDAVIT IN TRAFFIC VIOLATION TRIAL....	17
16.015 VIOLATIONS BUREAU.....	17

Appendix A: Model Parenting Plan.....	19
Appendix B: Form for Documenting Oral Objections in Protective Proceedings .....	27
Appendix C: Motion to be Excused from Compliance with SLR 12 .....	29
Appendix D: Arbitration Assignment and Payment Policy .....	30
Appendix E: Waiver and Affidavit in Traffic Violation Trials .....	32

**SUPPLEMENTAL LOCAL RULES (SLR)  
SEVENTH JUDICIAL DISTRICT**

**SLR 1.151 HOURS OF COURT OPERATION**

The Courts of the Seventh Judicial District are open to conduct business and to receive filings at the following times on judicial business days, meaning days that are not Court closure days pursuant to a legislative act or order of the Chief Justice of the Oregon Supreme Court:

- (1) Gilliam County Circuit Court, P.O. Box 622, 221 S. Oregon St., Condon, Or. 97823, from 1:00 to 5:00 p.m.
- (2) Hood River County Circuit Court, 309 State Street, Hood River, Or. 97031, from 8:00 a.m. until 12:00 p.m. and from 1:00 p.m. to 4:00 p.m. Filings can be made via a drop box between 4:00 p.m. and 5:00 p.m.
- (3) Sherman County Circuit Court, P.O. Box 402, 500 Court St., Moro, Or. 97039, from 1:00 p.m. to 5:00 p.m.
- (4) Wasco County Circuit Court, P.O. 821, 511 Washington, Street, The Dalles, Or. 97058, from 8:00 a.m. to 12:00 p.m. and from 1:00 p.m. to 4:00 p.m. Filings can be made via a drop box between 4:00 p.m. and 5:00 p.m.
- (5) Wheeler County Circuit Court, P.O. 308, 701 Adams Street, Fossil, Or. 97830, from 8:30 a.m. to 11:30 a.m.

**SLR 1.171 WEBSITE**

The Seventh Judicial District maintains a website for each of the counties in our district. The websites can be found at:

<http://courts.oregon.gov/Gilliam/>  
[http://courts.oregon.gov/Hood\\_River/](http://courts.oregon.gov/Hood_River/)  
<http://courts.oregon.gov/Sherman/>  
<http://courts.oregon.gov/Wasco/>  
<http://courts.oregon.gov/Wheeler/>

## **SLR 4.011 TRIALS AND MOTIONS IN CRIMINAL CASES**

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

## **SLR 5.011 TRIALS AND MOTIONS IN CIVIL CASES; SHOW CAUSE ORDERS**

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

### **SLR 8.013 PARENT EDUCATION**

In any case where custody or parenting is an issue before the Court, unless the Court finds good cause to order otherwise, the parties shall attend a parent education program approved by the court.

If the parent fails to attend or complete the parent education program, the court may exercise its authority under UTCR 1.090 to impose sanctions against the parent.

### **SLR 8.075 MODEL PARENTING PLAN SEE APPENDIX A**

Oregon law recognizes that children should have frequent and continuing contact with parents who have shown the ability to act in the child's best interest. Parents are encouraged to share in the rights and responsibilities of raising their children, and to consider the best interests of their children in developing a parenting plan. At the very least, a parenting plan must outline the minimum amount of time each parent is entitled to spend with the child. That time is called "parenting time."

The purpose of the Model Parenting Plan is to provide assistance to parents who have not otherwise developed a Parenting Plan. Parents are encouraged to be flexible and to consider their child's best interests in arranging additional parenting time.

**SLR 9.081 ORAL OBJECTIONS IN PROTECTIVE PROCEEDINGS  
SEE APPENDIX B**

Any interested person, as described in ORS 125.075(1), may present oral objections to a petition in a protective proceeding to the clerk of the court for that jurisdiction. When presented with an oral objection within the statutory time frame, the clerk of the court shall reduce the oral objection to writing by utilizing Appendix B, and upon waiver or receipt of the filing fee required by ORS 21.310(5), shall cause the written objection to be filed in the protective proceeding.

Please refer to SLR 1.151 for the location and daily hours of operation for the court clerk.



## **SLR 12.005 MATTERS SUBJECT TO ALTERNATIVE DISPUTE RESOLUTION (ADR)**

(1) The Seventh Judicial District has a mandatory Alternative Dispute Resolution (ADR) program pursuant to ORS Chapter 107 for matters involving disputes over child custody and parenting time, and pursuant to UTCR Chapter 13 and ORS Chapter 36 for other matters, except those excluded under section 12.005(3) of this rule. Litigants may satisfy this requirement by participating in a judicial settlement conference, mediation or arbitration.

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

(3) The following cases are excluded from the ADR requirement: FEDs; Probate; Small Claims; Adoptions; Filiation proceedings when the only question is paternity; Support Enforcement matters; Motions to modify child support orders; Juvenile Delinquency and Dependency cases; Criminal cases; Family Abuse Prevention Act restraining orders, issued under ORS 107.700 to 107.732; Elder Abuse Prevention Act restraining orders, issued under ORS 124.005 to ORS 124.040; Temporary Restraining Orders and Preliminary Injunctions under ORCP 79; Expedited Parenting Time Enforcement

matters under ORS 107.434; Challenges to Ballot Title Measures; Guardianships; Domestic Relations matters where the parties do not have minor children.

(4) A party may request that a case not exempt under 12.005(3) of this rule be excused from compliance with this rule. The motion must be substantially in the form illustrated in Appendix C and submitted to the judge to whom the case has been assigned, or if the case has not been assigned to a judge, to the presiding judge. If good cause exists, the judge may excuse the case from compliance with this rule.

#### **SLR 12.035 ADR COMMISSION**

1) The Seventh Judicial District shall maintain an ADR Commission pursuant to the functions and membership requirements of the Oregon Revised Statutes, Oregon Administrative Rules, the Uniform Trial Court Rules and this rule.

(2) In addition to its other duties, the Commission shall monitor the ADR program, advise the court regarding ADR services, review qualifications and training of arbitrators and mediators participating in, or seeking to participate in, the court annexed program, establish a compensation schedule applicable to the court annexed cases for arbitrators and mediators, prepare a notice of the availability of ADR, and hire staff or contract with an individual or organization as the Commission deems necessary to coordinate the ADR. The notice of the availability of ADR shall include, in addition to a description of the ADR

alternatives, the name and telephone number of the person whom the parties contact to initiate mediation or arbitration and the manner in which the parties select a mediator or arbitrator. (See Appendix B to the SLR's.)

(3) The ADR Commission shall include, at least, the following as members: the presiding judge (hereinafter, all references to "the presiding judge" mean the presiding judge or a judge designated by the Presiding Judge), the Trial Court Administrator, an attorney, a mediator, a court clerk and a lay member. No person who is providing mediation or arbitration services through the court annexed program may be a member of the commission.

(4) The term of appointment to the commission shall be two years. The presiding judge may reappoint a commission member. The presiding judge may remove a commission member at the judge's discretion.

#### **SLR 12.036 ADR PANEL ESTABLISHED**

(1) There shall be a panel of mediators comprised of mediators who satisfy qualifications and training standards prescribed in the OJD Court-Connected Mediator Qualification Rules and have been appointed by the presiding judge.

(2) There shall be a panel of arbitrators comprised of arbitrators who satisfy the requirements of UTCR 13 and have been appointed by the presiding judge.

### **SLR 12.037 APPOINTMENT TO ADR PANEL**

(1) To apply for inclusion on the ADR panel of mediators and arbitrators, a person must sign and file an application provided by the commission.

(2) The ADR commission shall review each application and make a recommendation to the presiding judge. The commission may require that applicants appear before the commission in person.

(3) The decision as to whether an individual is qualified to be on the panel and the number of panel members shall be made by the presiding judge, after considering the advice of the commission.

(4) The term of appointment to the panel shall not exceed two years. The presiding judge may reappoint a panel member.

### **SLR 12.038 REMOVAL FROM THE ADR PANEL**

(1) The ADR commission shall monitor the performance of ADR panel members and report to the presiding judge as appropriate.

(2) The presiding judge may remove an ADR panel member from the court panel at the presiding judge's discretion, after considering the advice of the commission.

## **SLR 12.062 REFERRAL TO ADR**

(1) When a party files a complaint, petition or answer, the court clerk receiving the filing shall provide the party a copy of the notice of the availability of ADR.

(2) When a case is at issue, it shall be the responsibility of the party who initiated the case to contact the court for the purpose of scheduling a judicial settlement conference or to contact the person designated by the commission to initiate mediation or arbitration.

## **SLR 12.085 ASSIGNMENT OF MEDIATOR OR ARBITRATOR AND SCHEDULING**

(1) Unless the parties hire a mediator, mediators shall be assigned from the court's panel on a rotating basis. The parties shall select an arbitrator in a manner to be set forth in the arbitration assignment and payment policy, Appendix D.

(2) The mediator or arbitrator shall notify the parties of the date, time, and meeting place of the initial mediation or arbitration session. Additional sessions shall be set at the discretion of the mediator or arbitrator.

(3) The parties may choose, at their option and expense, forms of ADR other than those provided by these rules. Parties entering into private mediation services shall be subject to the same provisions of ORS 36.180 to 36.210.

(4) If the parties elect a form of ADR other than those provided for by these rules, the parties must still comply with the timing and reporting requirements of these rules.

(5) If a party objects to the court annexed mediator or arbitrator, the party may request reassignment to another mediator or arbitrator by filing an affidavit with the presiding judge, or the judge assigned to the case, setting forth good cause for the request. The judge may grant the request if good cause is shown.

#### **SLR 12.125 COMPENSATION OF MEDIATORS AND ARBITRATORS**

(1) In cases under ORS 107, the commission shall establish a payment schedule. In all other cases, payment of the mediation or arbitration fee is due within 14 calendar days of notice of assignment of an arbitrator or mediator. In such cases, each party shall pay directly to the mediator or arbitrator one-half of the prescribed fee, unless the parties and arbitrator or mediator agree otherwise. In arbitration cases, the arbitrator shall advise the parties of the possibility of a waiver or deferral of the arbitration fee under ORS 36.420(2). Motions to waive or defer arbitration fees shall be submitted directly to the court and ruled upon by the presiding judge.

(2) Excepting cases where fees are waived or deferred pursuant to ORS 36.420(2), if either party fails to pay the prescribed mediation or arbitration fee within 14 calendar days of assignment, the mediator or arbitrator shall report the non-payment to the court

in writing to allow the court to determine whether it is appropriate to sanction the party under UTCR 1.090.

### **SLR 12.165 COMPLETING ADR**

Any case assigned to mediation or arbitration must complete the mediation or arbitration within 90 days of assignment, unless otherwise ordered by the court.

### **SLR 12.225 SETTLEMENT BY ADR**

(1) The results of mediation or arbitration shall be reported to the court by the mediator or arbitrator as "settled" or "not settled."

(2) Within ten judicial days of reporting a case as "settled," the mediator or arbitrator shall file any written agreement, signed by the parties, with the court and notify the court which party shall be responsible for filing the appropriate motion, order or judgment with the court.

(3) If the parties are not able to settle a case through mediation, the case will be set for trial and not be required to be arbitrated.

## SLR 12.275 GOOD FAITH ALTERNATIVE DISPUTE RESOLUTION

Under circumstances not limited to the following, the court may exercise its authority under UTCR 1.090 to impose sanctions against a party.

(1) The party or attorney fails to attend a scheduled mediation session, arbitration hearing or judicial settlement conference.

(2) The party or attorney fails to act in good faith during the mediation, arbitration or judicial settlement conference.

(3) The party or attorney fails to submit on a timely basis paperwork required as a part of the mediation, arbitration or judicial settlement conference.

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



## **SLR 16.005 TESTIMONY BY AFFIDAVIT IN TRAFFIC VIOLATION TRIAL**

With the express permission of the trial court, testimony in a traffic violation trial may be presented by affidavit pursuant to ORS 153.080. The defendant must complete and sign a waiver and affidavit form that substantially complies with Appendix E, and return it to the court in advance of trial. Once this waiver and affidavit have been received by the court, any other witness may have their testimony presented to the court by affidavit.

Copies of the affidavit shall be available to the opposing party prior to trial.

## **SLR 16.015 VIOLATIONS BUREAU**

(1) Pursuant to ORS 153.800, the Seventh Judicial District establishes a Violations Bureau.

(2) A person cited for a traffic violation may appear at the Violations Bureau to dispose of the citation or may pay the Violations Bureau fine and assessment for the traffic violation by mail or by signing the appearance, plea of guilty and waiver on the back of the UTC. Either of the above options must be exercised before the first appearance date.

(3) If the cited person appears personally, a form recording the person's appearance, advice of rights, waiver of trial and plea of guilty shall be signed, and filed with the Court.

(4) The fine and applicable assessment(s) shall be paid immediately and in full at the Violations Bureau, unless the Court approves a deferred payment.

(5) The Violations Bureau may dispose of violation citations involving animal control, marine, and fish and game offenses as well as traffic offenses.

## APPENDIX A: MODEL PARENTING PLAN

SEE SLR 8.075

### DEFINITIONS

“Child” includes all minor children of the parties.

“Custodial parent” refers to the party awarded sole custody; if joint custody is awarded, it refers to the person designated as providing the child’s primary physical residence.

“Non-custodial parent” refers to the party who is not the custodial parent as defined above.

### GENERAL PROVISIONS

**Personal plans and the child’s desires:** The child shall not be permitted to determine whether to follow the parenting plan. Personal plans of the custodial parent or child (for example, school or church activities) are not reasons for failing to follow the parenting plan. Only substantial medical reasons involving the child shall be considered sufficient to postpone the non-custodial parent’s parenting time.

If a child is ill and unable to be with the non-custodial parent, a make-up parenting time shall occur on the following weekend. If the non-custodial parent fails to exercise parenting time, the parenting time will not be made-up.

**Long distance parenting time:** A child under seven years of age shall not travel long distances for parenting time unless accompanied by a parent or mutually agreed upon adult. A child seven years of age or older may travel alone, provided appropriate travel arrangements have been made.

**Conflicts in parenting time schedule:** Specifically designated parenting time (such as Spring, Summer and Winter vacation parenting time) shall take precedence over weekend and weekday parenting time.

**Delivery and pick-up:** Parenting time shall be exercised in a prompt manner. Pick up and delivery shall occur no more than 15 minutes before or 15 minutes after the time specified for parenting time to begin and end. The non-custodial parent shall pick up the child at the start of that parent's parenting time period and the custodial parent shall pick up the child at the end of non-custodial parent's parenting time period.

**Meals and clothes:** The custodial parent shall have the child fed and ready to begin parenting time with the non-custodial parent, with sufficient clothing packed. The non-custodial parent shall have the child fed before returning the child from that parent's parenting time period and shall return with the child all clothing received from the custodial parent.

**Correspondence and telephone contact:** Each parent shall have the right to freely correspond with the child and to telephone the child at least three times per week during reasonable hours, for periods not exceeding 20 minutes, without monitoring by any person.

A child over the age of 12 shall have the right to initiate calls to the other parent during reasonable hours. Long distance calls initiated by the child are to be made collect, unless the parties agree otherwise.

**Mutual respect:** Both parents shall refrain from making comments in the presence of the child that are intended or likely to diminish the love, respect and affection that the child has for the other parent.

**Access to records and information:** The non-custodial parent has the right to the following:

- (1) To inspect and receive school records and to consult with school staff concerning the child's welfare and education, to the same extent as the custodial parent.
- (2) To inspect and receive governmental agency and law enforcement records concerning the child, to the same extent as the custodial parent.
- (3) To consult with any person who may provide care or medical treatment for

the child and to inspect and receive the child's medical, dental and psychological records, to the same extent as the custodial parent.

(4) To authorize emergency medical, dental, psychological, psychiatric or other health care for the child if the custodial parent is, for practical purposes, unavailable.

**Day care:** Each parent shall be responsible for arranging and paying for day care for the child when the child is with that parent. The term "with that parent" means that the parent has picked up the child and started a period of parenting time.

**Emergencies:** Each party shall immediately notify the other party of emergency circumstances or substantial changes in the health or safety of the child.

## **PARENTING TIME PROVISIONS**

### **WEEKEND PARENTING TIME SCHEDULE**

**Generally:** The non-custodial parent shall have the child every other weekend, beginning on Friday night at 6:00 p.m. and ending the following Sunday at 6:00 p.m.

**School closure days and bank holidays:** School closure days are days when school is not in session, excepting summer vacation, the winter school break and spring vacation.

The parents shall obtain a school calendar for the school district in which the child resides for the purpose of determining school closure days.

Bank holidays are days when most banks are closed, such as Memorial Day, Labor Day and the Fourth of July.

If the non-custodial parent's weekend parenting time is immediately preceded by a school closure day(s) or bank holiday, the weekend parenting time shall begin 6:00 p.m. on the day that the school or banks close for the week. If it is immediately followed by a school closure day(s) or bank holiday, the weekend parenting time will continue until 6:00 p.m. on Monday.

**Alternating weekends:** The alternate weekend parenting time schedule shall rotate each year as follows: In all even-numbered years, the non-custodial parent's first weekend visit shall begin at 6:00 p.m. on the first Friday after New Year's Day; In all odd-numbered years, the non-custodial parent's first weekend shall begin the second Friday following New Year's Day.

### **WEEKDAY PARENTING TIME SCHEDULE**

The non-custodial parent shall have parenting time with the child every other Wednesday, meaning a Wednesday that is not immediately followed by a weekend when the

non-custodial parent is scheduled to have parenting time. If the child is in school, the non-custodial parent shall visit the child on Wednesday from 5:00 p.m. until 8:00 p.m. If the child is not in school, the visit shall begin at 10:00 a.m. and end at 8:00 p.m.

### **WINTER VACATION SCHEDULE**

**Even-numbered years:** In all even-numbered years, the non-custodial parent shall have parenting time beginning at 6:00 p.m. on the day that school adjourns until 10:00 a.m. on December 26 and from 10:00 a.m. on January 1 until 5:00 p.m. the day before the child's winter vacation ends.

**Odd-numbered years:** In all odd-numbered years, the non-custodial parent shall have parenting time beginning at 10:00 a.m. on December 26 and ending at 6:00 p.m. the day before school is back in session.

### **SUMMER PARENTING TIME**

**Selecting the summer parenting time period(s):** The non-custodial parent shall provide custodial parent with written notice by April 15 of the time(s) that the noncustodial parent intends to exercise summer parenting time rights.



The custodial parent shall have the right to an uninterrupted two (2) week parenting period during the summer months as long as the custodial parent provides the noncustodial parent with written notice, by May 15, of the time that the custodial parent intends to exercise that period and the two (2) week period does not interfere with the non-custodial parent's summer parenting time schedule.

**Children under the age of 6:** When a child is under the age of 6, the noncustodial parent's summer parenting time with that child shall be divided into three (3) blocks of time; each block shall consist of a one(1) week parenting period. Each parenting period for the non-custodial parent is to be separated by at least a one (1) week period of parenting time for the custodial parent.

**Children age 6 or older:** When the child is age 6 or older, the non-custodial parent's summer parenting time shall be for sixty (60) consecutive days. During that period, if the parents live within 60 miles of each other, the custodial parent shall have the same weekend parenting time as would the non-custodial parent.

### **SPRING VACATION**

The non-custodial parent shall have the right to parenting time during the Spring vacation from school in odd-numbered years from 6:00 p.m. on the day school closes until 6:00 p.m. the Saturday before school resumes.

### **MOTHER'S AND FATHER'S DAYS**

The mother shall always have the right to parenting time with the child on Mother's Day; the father shall always have the right to parenting time with the child on Father's Day. In the event that Mother's/Father's Day falls on a weekend when the other parent would otherwise have the right to parenting time with the child, the child shall be returned to the parent for whom the day is in honor by 10:00 a.m.

### **BIRTHDAYS**

Each parent shall have the right to parenting time with the child on that parent's birthday as outlined below. In odd-numbered years, the non-custodial parent shall have the right to parenting time with the child on the child's birthday as outlined below.

On days when school is in session, from 6:00 p.m. to 9:00 p.m. On days when school is not in session, from 10:00 a.m. to 8:00 p.m.

**APPENDIX B: ORAL OBJECTIONS IN PROTECTIVE PROCEEDINGS**

**SEE SLR 9.081**

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF \_\_\_\_\_

In the Matter of the Guardianship	)	Case No. _____
and Conservatorship of	)	
	)	
	)	
	)	
	)	OBJECTION TO PETITION FOR
	)	APPOINTMENT OF A GUARDIAN/
_____	)	CONSERVATOR
(Protected Person)	)	

I, \_\_\_\_\_,

(Objecting Party's Name and Relationship to Protected Person)

hereby object to the petition for appointment of a guardian/conservator for the following  
reason(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature of Objecting Party

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
City                      State                      Zip

**APPENDIX C: MOTION TO BE EXCUSED FROM COMPLIANCE WITH SLR 12**

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF \_\_\_\_\_

Plaintiff,	)	Case No. _____
	)	
	)	
v.	)	MOTION TO BE EXCUSED
	)	FROM COMPLIANCE WITH
Defendant.	)	SLR 12

COMES NOW Plaintiff/Defendant[,] and moves the Court for and order excusing this matter from compliance with SLR 12.005.

THIS MOTION is based upon the following grounds:

The opposing party has/has not been notified of the filing of this motion.

The opposing party: Agrees/Disagrees with this motion; Their position is unknown.

DATED this \_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

\_\_\_\_\_  
Name of Party or Attorney

**ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED that the foregoing motion is:

\_\_\_\_\_ Granted.

\_\_\_\_\_ Denied.

\_\_\_\_\_ Set for hearing on the \_\_\_ day of \_\_\_\_\_, 201\_\_\_\_ at \_\_\_ a.m./p.m.

DATED this \_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

\_\_\_\_\_  
Circuit Judge

**APPENDIX D: ARBITRATION ASSIGNMENT AND PAYMENT POLICY  
(See SLR 12.035(2))**

**I. Referral to arbitration**

When a case is referred to arbitration, a list of four court-annexed arbitrators will be furnished to the parties by the court. The parties are encouraged to stipulate to an arbitrator. In the absence of the stipulation within 14 days after a case is referred to arbitration, an arbitrator shall be chosen in the manner defined below.

**II. Appointment of arbitrators**

Within 14 days after a list of court-annexed arbitrators is furnished to the parties, each party shall respond to the court by nominating two arbitrators. The parties should indicate which arbitrator is the parties' first choice. The parties need not serve their responses on the other party.

The failure of a party to respond shall be deemed to be a waiver of that party's right to participate in the arbitrator selection process.

**A. No response by any party**

If no party responds to the court within 14 days, an arbitrator will be appointed by the court from a rotating list. If the next arbitrator on the list is not qualified for the issues presented in a certain case, the arbitrator will be passed and the next qualified arbitrator on the list will be appointed.

**B. Response by only one party**

If only one party responds and that party nominates arbitrators in order of preference, that party's arbitrator of preference will be appointed.

**C. Two adverse and both respond**

**i)** If both parties respond and only one arbitrator is nominated, that shall be considered a stipulation and the arbitrator will be appointed.

**ii)** If both parties respond and nominate the same arbitrator as their first choice, that shall be considered a stipulation and the arbitrator will be appointed.

**iii)** If both parties respond and name the same two arbitrators in the same order of preference, that shall be considered a stipulation to the arbitrator

of first preference and that arbitrator will be appointed.

iv) If both parties respond, each nominating two arbitrators with only one arbitrator being nominated by both parties, but that arbitrator not receiving the same preference by each party, that arbitrator shall be appointed by the court.

v) If both parties respond and each nominates two arbitrators but no one arbitrator is nominated by both parties, the court shall appoint the arbitrator whose last appointment by the court is the least recent.

**D) More than two adverse parties and at least two respond**

If there are more than two adverse parties, each party shall nominate one arbitrator. An arbitrator who is nominated by a majority of the parties shall be appointed. If no arbitrator is nominated by a majority of the parties, an arbitrator shall be selected and then appointed by the court in the manner used when no party responds as is described above in paragraph II) A).

**III) Payment**

The court-annexed arbitrators shall presumptively charge the hourly rate set by the Arbitration Commission/Alternative Dispute Resolution Commission. The presumptively hourly rate and maximum hours shall apply unless the parties and arbitrator agree otherwise.

The arbitrator is to be paid by the parties as agreed by the parties or as determined through arbitration.

**APPENDIX E WAIVER AND AFFIDAVIT SEE SLR 16.005**

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

FOR THE COUNTY OF \_\_\_\_\_

STATE OF OREGON

) Case / Citation No. \_\_\_\_\_

vs.

) **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 other witnesses presented orally in court, and I agree that testimony may be presented by sworn affidavit. I understand that the Court may decide this case on the basis of affidavits or oral testimony presented to the Court in my absence.

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 enclosed *Testimony by Affidavit*, have it notarized, and return all documents to the Court in advance of trial. The judge will give your affidavit the same consideration as a personal appearance.






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

Date \_\_\_\_\_

Signature \_\_\_\_\_

Subscribed, and sworn to, before me this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_