



NINTH JUDICIAL DISTRICT
CIRCUIT COURTS

This will certify pursuant to UTCR 1.040 that appended hereto is a true
and correct copy of Supplemental Local Rules of the Circuit
Courts for the Ninth Judicial District, Malheur County.

Lung S. Hung
Presiding Judge

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CHAPTER 1

General Provisions

1.002 ADDRESSES AND TELEPHONE NUMBERS

- (1) Defendants in criminal and violation cases.

During the pendency of any case charging an offense, during any period of probation, or while any monetary or other obligation imposed by the court in such case remains unsatisfied, defendant must keep the court advised in writing of defendant's current name, mailing address and telephone or message telephone number.

- (2) Unrepresented parties in civil and small claims cases.

During the pendency of any civil or small claims case, any party who is not represented by an attorney of record must keep the court advised in writing of the party's current name, mailing address and any telephone or message telephone number.

1.155 REQUEST FOR DIGITAL RECORDING OF COURT PROCEEDINGS

- (1) A request for a copy of a digital recording of a court proceeding must be made in writing. A request form can be found on the court's website at www.courts.oregon.gov/Malheur. Allow 10 – 14 days for the request to be processed.
- (2) The request must include all of the following information:
- a. The case number;
 - b. The case name;
 - c. The date of the proceeding;
 - d. The name of the judge who heard the matter;
 - e. The name, address, and telephone number of the person making the request; and
 - f. Instructions on whether, once the recording becomes available, to call the requestor or mail the recording, if the postage fee is paid in advance.
- (3) The request must be delivered:
- a. By mail to FTR Coordinator, 251 B St W #3, Vale, OR 97918; or
 - b. By hand to the court clerk's office, 251 B Street West, Vale, OR 97918
- (4) Payment must be made prior to staff duplicating the digital recording.

1.171 COURT WEBSITE

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

CHAPTER 3 Decorum in Proceedings

3.011 PROPER APPAREL FOR MALHEUR COUNTY CIRCUIT COURT FOR NON-LAWYERS

- (1) Proper attire is required by everyone entering the Malheur County Circuit Court and will be strictly enforced. Anyone not properly dressed upon arriving in the courtroom may be sent away until properly dressed.
- (2) The following items are unacceptable attire;
 - a. Tube tops, tank tops, halter tops, bare midriff tops, see-through tops;
 - b. Shorts;
 - c. Dresses shorter than the fingertips of extended arms;
 - d. Skirts or pants with waists that allow undergarments to be seen;
 - e. Clothing with large holes;
 - f. Hats;
 - g. Clothing which display controlled substances (tobacco, alcohol, drugs), double meanings, hate motivated behavior, illegal activities, obscene gestures or language, profanity, sexual references, or violence;
 - h. Bare feet;
 - i. Chains which could be used as weapons;
 - j. Garments meant to be worn as undergarments worn as outer garments and sagging, bagging or dragging pants.
- (3) Attorneys are responsible for making their clients and witnesses aware of the decorum requirements.
- (4) Please remember, your choice of clothing reflects an attitude when appearing before the court. The following attire is suggested for all non-lawyers appearing in court.
 - a. MALE – Long or short sleeve shirts with collars. Slacks or dress denim trousers.
 - b. FEMALE - Dresses, skirts, or slacks and blouse.

3.181 MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT EVENTS

Media or Public Access Coverage is prohibited in the hallways outside of any courtroom or court office. Upon request, on a case-by-case basis, the court will consider designating

an area outside of the courtrooms and prohibited court areas for media and public access coverage.

3.182 PERSONAL COMMUNICATION DEVICES

- (1) For the purposes of this rule, personal communication devices include, but are not limited to, cellular telephone, smart phones, pagers, laptop computers, and personal digital assistance (PDAs).
- (2) Personal communication devices must be turned off upon entering the courtroom and shall remain off until after the person has departed from the courtroom. Attorneys shall be permitted to leave their personal communication devices on provided said devices are placed in silence mode or in a mode where the personal communication device cannot produce an audio sound. The court may make exceptions to this prohibition upon request.
- (3) Jurors shall not be allowed to have personal communication devices, whether on or off, once empaneled until the conclusion of trial except during lunch and overnight recesses.
- (4) At no time, except by order of the court, may any person make any type of audio, video, photographic or any other type of electronic recording while in the courtroom or other court facilities.
- (5) Violations of this rule may result in a finding of contempt, an order that the violation personal communication device be turned over to the court to seize and hold such device pending the completion of the hearing, an order that any recording made be deleted from the personal communication device or any other sanctions the court deems appropriate.

CHAPTER 4

Proceedings in Criminal Cases

4.001 SCHEDULING CRIMINAL MATTERS

During the week, in custody criminal arraignments, including initial appearances for alleged probation violations and alleged violations of restraining orders, and requests for restraining orders and stalking protective orders, will be conducted by a Judge on a daily basis at 1:00 p.m. The arraignments for out-of-custody defendants will be handled every Tuesday at 1:00 p.m., unless notified otherwise by the court.

4.031 MOTIONS TO TRANSPORT INMATE WITNESSES

- (1) Motions to transport inmate witnesses for court proceedings pursuant to UTCR

4.030 must be accompanied by supporting affidavit certifying that the attorney or his representative, or, in the case of pro se litigants, the party seeking the order, has:

- a. actually spoken to the witness
- b. the witness is willing to testify or will testify if compelled by the court to do so;
- c. the attorney or party seeking the order has a good faith belief that the testimony is admissible, relevant and material to the issues expected to be raised at trial; and
- d. the testimony of the witness is necessary to the presentation of the case of the party seeking the order. [Appendix A]

(2) Such motion shall be filed with the court a minimum of fourteen (14) days prior to the trial date. [Appendix A]

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

4.081 APPEARANCE AT CRIMINAL PROCEEDING BY SIMULTANEOUS ELECTRONIC TRANSMISSION

(1) Unless otherwise ordered by the court, all arraignments, pre-trial conferences, pleas, pre-trial motions, and sentencing involving a defendant incarcerated at an Oregon Department of Corrections Institution shall be held by simultaneous electronic transmission as defined in UTCR 4.080.

(2) Unless otherwise ordered by the court all arraignments involving defendants incarcerated in the Malheur County Jail Facility shall be held by simultaneous electronic transmission as defined in UTCR 4.080.

(3) Upon the motion of either party and the approval of the court, other defendants may appear in criminal proceedings by simultaneous electronic transmission as defined in UTCR 4.080 and subject to the provisions of UTCR 4.080.

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

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

(2) If counsel is unable to plead a viable claim for relief in an amended petition,

counsel shall file an affidavit pursuant to ORS 138.590(5).

- (3) Counsel shall attach to the filing of an amended petition or affidavit pursuant to ORS 138.590(5) proof of mailing demonstrating said filing was mailed to the petitioner prior to or concurrently with filing of the amended petition.
- (4) The defendant shall not file an answer, motion, or demurrer to the petition until the petitioner's appointed counsel has filed a notice that the petitioner will proceed on the original petition, has filed an amended petition, or the 120 days to do so has expired.
- (5) Once counsel for the petitioner files an amended petition, 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 demur.
- (6) Counsel's written notification to the court that the case will proceed on the original petition constitutes counsel's ORCP 17 C certification of the original petition filed by petitioner when self-represented.

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 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) Unless otherwise ordered by the presiding judge or another judge of the Ninth Judicial District, all exhibits must be submitted electronically. If electronic files

are larger than the filing limits imposed by Odyssey, exhibits shall be submitted as a CD or DVD.

4.104 POST-CONVICTION RELIEF - ADDITIONAL BRIEFING AND EXHIBIT

- (1) The petitioner shall file with the court any legal memoranda and all additional trial exhibits not already attached to the petition or amended petition no later than 30 days before trial.
- (2) The defendant shall file with the court any memorandum of law and all trial exhibits no later than 20 days before trial.
- (3) The petitioner may respond to the defendant's memorandum of law and exhibits with a further memorandum and additional exhibits, which must be filed with the court no later than 10 days before trial.

4.105 POST-CONVICTION RELIEF – CHURCH V. GLADDEN

- (1) So long as petitioner is represented by counsel, all matters submitted to the court for filing shall be submitted only by counsel and, except for any exhibits, signed exclusively by counsel. The only exception to this requirement is for a *Church v. Gladden*, 244 Or. 308, 417 P. 2d 992 (1966), notice filed by the petitioner if the petitioner believes that counsel has failed to raise all meritorious claims on his or her behalf.
- (2) No later than forty-five (45) days after receipt of the amended petition or notice of intent to proceed on the original petition, the petitioner shall file with the court any *Church* claims, together with supporting evidence as required by ORS 138.580. Each of the petitioner's *Church* claims shall include appropriate reference by citation to the evidence in support of that claim.
- (3) Upon receipt of a timely notice pursuant to *Church*, the court shall set a hearing whereby the petitioner shall demonstrate to the court why each claim in the *Church* notice should be filed. Petitioner's counsel must be prepared to address the court on the reason why each claim was not filed.

4.106 POST CONVICTION RELIEF – APPEARANCE

- (1) Unless the court orders otherwise, a petitioner in the custody of the Oregon Department of Corrections shall appear by telephone or video.
- (2) Unless the court orders otherwise, if a petitioner is not in custody or released from custody, the petitioner shall immediately notify the court and the petitioner shall appear in person at the Malheur County Courthouse in Vale, Oregon.

- (3) Counsel may appear by video conference, by telephone conference, or in person.
- (4) Public access and viewing of the proceeding shall be provided at the Malheur County Courthouse in Vale, Oregon, and the proceeding shall be deemed to take place at the location. Unless otherwise ordered by the court, all witnesses, except the underlying trial counsel, the underlying appellate counsel and law enforcement officers, shall appear at that location.

4.107 POST-CONVICTION RELIEF – PRETRIAL MOTIONS

- (1) All motions, whether written or oral, to continue trial or other hearings shall be submitted to the presiding judge of the Ninth Judicial District or to another judge of the Ninth Judicial District, if the presiding judge is not available.
- (2) Modifications to the time limitations set forth in this order must be by prior approval of the court and will only be approved upon good cause shown. Such modifications shall be requested by Motion supported by Affidavit. The court also reserves the right to dismiss a proceeding for failure to prosecute or proceed if petitioner fails to comply with the time limitations set forth above.
- (3) Any motion for continuance or extension of time by a represented party shall include a certification by the moving counsel:
 - a. That counsel has conferred with the opposing counsel and whether opposing counsel objects or agrees to the motion.
 - b. If the motion is beyond one year from the filing of the original petition, the certification shall also include a statement that counsel has conferred with his/her client and has authorization to request said continuance or extension or, in the alternative, counsel shall note their client's objections together with counsel's reason for such request despite the objections of the client.

4.108 POST-CONVICTION RELIEF – TRIAL SCHEDULING AND PROCEDURE

- (1) Trial (or hearing on the issues raised) will be set as soon as the docket allows after the date set forth above for the filing of an Answer, but in any event no sooner than 90 days from the date set for filing an Answer and not later than 180 days from the date set for filing of an Answer.
- (2) Trial on a change of venue is to be set within ninety (90) days or thereafter as the docket may allow.
- (3) Any depositions that need to be completed by the parties will be completed so as to accommodate and comply with the above-noted time parameters.

- (4) If a party requires the services of a court interpreter, that party is responsible for requesting interpreter services through the Malheur County Trial Court Administrator's Office as soon as practical after a proceeding is set.
- (5) If a party fails to request a court interpreter 30 calendar days prior to trial or 4 judicial days prior to any other hearing, then such party will be responsible for making independent arrangements for a certified interpreter's services.
- (6) Trials are scheduled for 30 minutes and without expectation of live witness testimony other than the petitioner. If the trial of the matter will take longer than the time allotted in the trial notice, or if witnesses other than the petitioner will be called, the parties must make arrangements for additional time through the Malheur County Trial Court Administrator's office within 60 days from the date of the trial notice.

CHAPTER 5

Proceedings in Civil Cases

5.017 SERVICE OF MOTION AT OR BEFORE DELIVERY OF COPY TO JUDGE

In any civil action, the service of a motion, response, proposed order, request for postponement, or reply, on opposing parties must, except where otherwise authorized by statute, occur before or simultaneously with the delivery of a copy of the document to the judge assigned to hear the matter and must comply with UTCR 5.100.

5.035 ORDER BY PREVAILING PARTY; PRESENTING JUDGMENT AND ORDER FOR JUDICIAL SIGNATURE

After a ruling requiring an order or judgment, unless otherwise ordered, it is the responsibility of the prevailing party to draft an order incorporating the ruling and to submit it to the Trial Court Administrator's office, accompanied by proof of compliance with UTCR 5.100.

5.095 WAY OF NECESSITY

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

- (1) In addition to the service of the petition as required by law, petitioner shall cause a copy of the petition to be served on the county engineer by certified mail, return receipt requested.
- (2) Upon receipt of the petition, the county engineer (or any licensed civil engineer or registered surveyor designated by him) shall within thirty (30)

days prepare and file with the clerk of the court the report required by ORS 376.160.

- (3) Upon receipt of the engineer's report, the clerk shall cause copies thereof to be mailed forthwith to petitioner and any persons upon whom the original petition was served. If the engineer's report includes any alternative route over land owned by person other than those served by the original petition, petitioner shall forthwith cause a copy of the petition, a summons, and the engineer's report to be served upon such owner in the manner provided for the service of the original petition.
- (4) Petitioner shall, at the time of filing the original petition, deposit with the County such sum as required by the County as a deposit on expenses to be incurred by the county or other persons as the result of the petition and action thereon.

CHAPTER 6

Trials

6.011 HABEAS CORPUS PROCEEDINGS BEFORE THE COURT BY VIDEO OR TELEPHONIC CONFERENCING

- (1) Unless otherwise ordered by the court, all hearings and trials in which inmates in the custody of the Oregon Department of Corrections are seeking habeas corpus relief pursuant to ORS 34.310-34.730 shall be held by video conferencing or, if video conferencing is not available, by telephonic conferencing.
- (2) The inmates shall remain at and appear from the Snake River Correctional Institution or other institution in which they are being held.
- (3) The inmate's attorney, the attorney for the Oregon Attorney General's office or an attorney representing any other party to the proceeding, may appear by video or telephone conferencing or may appear in person before the Court.
- (4) Regardless of the physical location of the judge hearing the matter, any proceeding shall be recorded by the Ninth Judicial District.
- (5) Public access and viewing of the proceeding shall be provided at the Malheur County Courthouse in Vale, Oregon, and the proceeding shall be deemed to be taking place at said courthouse and city.
- (6) All motions to continue trial/hearings, whether written or verbal, shall be submitted to the Presiding Judge of the Ninth Judicial District, or to another judge of the Ninth Judicial District if the Presiding Judge is not available.

- (7) Motions to continue shall not be made to the Plan B or Pro-Tem trial judge except in cases of emergency when the Presiding Judge or other judge of the Ninth Judicial District is not available.

6.012 SETTLEMENT CONFERENCES -CIVIL

- (1) The court on its own motion or upon the request of any party may set a mandatory settlement conference. Scheduling of a settlement conference is subject to judicial availability and a settlement conference shall not be scheduled so as to delay trial of the case. The pretrial judicial settlement conference will not be required if either party demonstrates good cause why the judicial settlement conference should not be held.
- (2) The purpose of the judicial settlement conference is to provide a forum to resolve disputes before trial through the active participation of counsel and the court. The attendance of all parties and their trial attorneys is required. When a party is insured, a representative of the insurance company with authority to settle the case shall be in attendance or readily available by telephone. Upon a showing of good cause, the judge conducting the judicial settlement conference may excuse a party from personally appearing, but the party may be required to participate by telecommunication.
- (3) Any mandatory mediation must be completed prior to the date set for the judicial settlement conference.
- (4) Pretrial judicial settlement conferences shall be conducted by a judge other than the assigned trial judge, unless all parties stipulate in writing that the trial judge may also conduct the judicial settlement conference.
- (5) For a meaningful judicial settlement conference to occur, all attorneys and parties must participate in good faith. The failure of any person to comply with these rules, appear at, or participate in a judicial settlement conference, unless good cause is shown for any such failure, may result in the court imposing appropriate sanctions as described in UTCR 1.090. Cases for a judicial settlement conference shall retain their place on the trial docket.
- (6) If settlement negotiations are not successful, counsel should be prepared to proceed to trial on the date scheduled. The court will make every effort to ensure the case proceeds to trial on the date scheduled.
- (7) If a settlement is reached, the parties shall place notice of the settlement on the record before the scheduled trial date, in accordance with UTCR 6.020.
- (8) Upon a settlement being reached, the court will enter a Judgment of Dismissal on settlement giving the parties thirty (30) days in which to submit the final

judgment. A longer period may be allowed if requested by the parties.

- (9) Statements and other documents submitted to the judge by the Parties and materials or notes prepared by the judicial settlement conference judge are confidential and will not be placed in the trial court file in the event that the case does not settle or upon request of either party, and in that event, the materials or notes shall be destroyed by the judicial settlement conference judge.

6.013 SETTLEMENT CONFERENCES - CRIMINAL

Judicial Settlement Conferences will be available as a settlement tool under the following circumstances:

- (1) The parties have failed to reach settlement through the normal pre-trial process.
- (2) The parties agree and request that a Judge become involved.
- (3) There is a good faith belief by the parties that a negotiated settlement can be achieved.

The following rules will apply:

- (1) Unless otherwise agreed by the parties, the length of time allotted will be one hour.
- (2) Upon request of the parties, the conference will be scheduled with the Judge not assigned to try the case.
- (3) When settlement is achieved, it will be reduced to writing and plea entered immediately. Judicial settlement agreements will be binding on the court.

6.025 PAYMENT OF TRIAL FEES

- (1) A fee receipt, fee waiver, or fee deferral must be presented to the courtroom clerk prior to commencement of a trial where a fee is required to be paid by Statute.
- (2) The trial judge may elect to delay commencement of the case until the fees are paid, but failure to pay the fees as stated in SLR 6.025(1) shall not be grounds for postponement.
- (3) If trial fees are not paid as required when the case is set for trial, a grace period of fifteen (15) days will be allowed. If the fees are not paid at the end of the grace period, the court will send a notice to the attorney or party, advising them that they have ten (10) days to pay the trial fees. If the fees are not paid at the end of

ten (10) days, the case will be removed from the trial docket and not returned to the trial docket until the trial fees are paid. In that event, the trial date may not be the same one as previously set and removed due to the non-payment of the trial fee. The attorney or party will be sent a notice that unless the trial fees are paid within thirty (30) days, the case will be dismissed for lack of prosecution.

6.026 CRIMINAL TRIALS

- (1) All criminal trials will be set for two days unless the parties notify the court otherwise. The first day of trial will begin at 8:15 a.m. and all attorneys and the defendant must appear. Jury selection will begin at 9:00 a.m. Any subsequent trial dates will begin at 9:00 a.m., unless otherwise ordered by the court.
- (2) More than one trial may be scheduled on a trial date. The cases will not be prioritized or considered alternates. If more than one trial is set and the matters are not resolved by plea prior to the final call before trial, the court will decide at the final call which case will proceed to trial and reset any others at that time for the next available trial day, directing witnesses to appear for the new setting on the record. New call dates will be set.
- (3) Continuances will be only granted upon a showing of compelling circumstances and due diligence prior to trial upon written motion. An oral motion to continue at call will not be considered.
- (4) The court will set trial calls for three consecutive Fridays immediately preceding the trial date, each at 1:30 p.m. When a Friday is a holiday or no judge is available, call may be scheduled at another date and time by the court. At call, the parties should expect detailed questioning regarding the status of negotiations and trial readiness by the court and be prepared to answer. The court can also handle any other matters at call not requiring a written motion, such as a change of plea or jury waivers. Attorneys and parties are required to appear in person, unless granted otherwise by the court for good cause shown.
- (5) The parties may continue to negotiate and are not limited in this regard by the court in any way in any case up to the last scheduled call prior to trial. The only pleas accepted after the last call session is completed will be guilty as charged. The parties may choose to continue or cut off plea negotiations as they see fit.

6.031 MOTION TO POSTPONE CIVIL TRIAL

- (1) No motion for postponement filed less than 7 days prior to the first day of trial shall be considered unless the court is satisfied that the cause for postponement came to the knowledge of the party and counsel too late to be timely presented.
- (2) The first sentence of the motion must state the current trial date.

- (3) No motion for continuance shall be submitted without contacting opposing counsel (or party if not represented) or, in the event the moving party is unable to make contact, a written explanation of what efforts have been made must be provided to the court. Any such motion submitted without contacting opposing counsel, party, or providing an explanation why contact could not be made, will be denied. If contact with the opposing counsel or party is made, the position of opposing counsel to the continuance shall be included in the motion.

6.081 EXHIBIT MARKING FOR TRIALS AND/OR HEARINGS

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

6.082 EXHIBITS OR TESTIMONY SUBMITTED IN AN ELECTRONIC FORMAT

- (1) Any exhibit or testimony being presented to the court in an electronic format shall be in a format that is compatible with the court's electronic equipment.
- (2) Prior to the trial or hearing, the party wishing to offer the electronic evidence must make sure it is in a format compatible with the court's equipment or the party must bring in their own equipment, subject to the limitation of section (3) below, to which to present their evidence. Offered evidence in a format not compatible with the Court's equipment, may not be admitted.
- (3) Except for laptops and standard audio players, all other outside equipment must receive court approval for use prior to the date of the hearing or trial. In addition, parties will not be allowed to bring in their own equipment to present the electronic evidence unless the equipment is available for use by the trier of fact during deliberations.

6.151 REGARDING THE POSSESSION OF FIREARMS AND OTHER WEAPONS IN COURT FACILITIES IN MALHEUR COUNTY ORS. 166.360 - 166.370

- (1) A sheriff, police officer, parole and probation officer, other duly appointed peace officer, a district attorney, deputy district attorney (if approved by the district attorney), or a corrections officer, while acting within the scope of employment, may possess a firearm or other weapon in the Malheur County Court facilities, except if such person is serving as a juror.
- (2) A firearm or weapon which is evidence or an exhibit in a court proceeding may be possessed by attorneys, court staff, evidence technicians, forensic lab personnel and others while in the performance of their duty and to the extent that is necessary for any grand jury or court proceedings.

CHAPTER 7
Case Management and Calendaring

7.013 ABSENCE OF JUDGE

The Trial Court Administrator, and/or Court Operations Supervisor, subject to the supervision of the Presiding Judge, shall be responsible for scheduling around planned absences and rescheduling during an absence due to illness or other emergency involving the Judges.

7.014 REQUEST FOR SERVICES OF AN INTERPRETER

Attorneys and parties must notify the court when an interpreter is required for parties appearing before the court and/or for witnesses, as provided in UTCR 7.070. Such notice must be in writing. If after notification to the court the services of the interpreter are no longer needed, the court must be notified immediately.

7.015 *IN CAMERA* REVIEW OF RECORDS

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

- (1) Parties seeking an *in camera* review of documents shall file a motion supported by an affidavit which includes the following: a factual and legal summary of the case to enable the reviewing judge to understand the factual and legal issues in the case as related to the records request; a description of the information sought with as much specificity as possible; and the legal basis for the request.
- (2) Disclosure of records released will be limited to the attorneys, attorney staff and expert witnesses employed by the attorney. There will be a protective order, as set forth in these rules, issued in each case, prohibiting disclosure of the records to or copying of the records, including copies to clients and all other persons without further order of the court. Pro se litigants will be required to sign the protective order prior to receiving any copies of the documents disclosed by the court.
- (3) The party seeking disclosure of the records must provide notice to the person to whom the records pertain to allow the effected person to appear and object to disclosure. Proof of applicable notice must be provided to the court prior to the order being allowed.
- (4) The request for *in camera* review must be raised by motion with opportunity for opposing party to be heard if requested. The requesting party should not simply issue a subpoena for records to be delivered to the court. If this occurs, the court will not review the records.

- (5) The request for in camera review should be made as soon as practical, but not later than three weeks prior to trial, contested adjudication, or other hearing where the documents may be used, without leave of the court.
- (6) The court requests that whenever possible the records be submitted to court in electronic format, i.e. CD; the release records will be submitted to the attorneys in electronic format through a secure means. At the end of the case, all copies of records shall be returned to the court for destruction. If the court provided the records in a secure format, then an affidavit of destruction indicating that the electronic version of the records has been destroyed shall be filed with the court.

7.016 ATTORNEY'S UNAVAILABLE DATES IN CIVIL CASES

- (1) In all civil cases, when an answer or other pleading is filed placing the case "at issue", the attorneys unavailable dates for the next six (6) months, shall accompany said filing.
- (2) Any motion to continue shall include the attorney's unavailable dates for the next six (6) months.

7.021 SCHEDULING OF TRIALS AND RELATED MATTERS

- (1) Civil Trial Settings:

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

- a. As per UTCR 7.020 (6); or
- b. In the event that trial is not set as per UTCR 7.020 (6), the trial date(s) and settlement hearings on civil cases will be set by the Court based on the available dates submitted by the attorneys. If no available dates are submitted by the attorneys, then the judicial settlement conference and trial dates will be as assigned. An attorney, who fails to provide the Court with their available dates in a timely manner, will not be granted a continuance absent a showing of good cause.

- (2) Criminal Trial Settings:

Criminal trial dates will be set in open court with the attorneys and defendant present. The defendant shall sign a Trial Certification and times will be set by the Court for filing of pretrial motions.

- (3) Notification:

Upon any trial or other hearing being scheduled, unless the matter is scheduled in open Court with the attorneys and/or parties present, in which case notices will

not be sent, the Trial Court Administrator or designee, will be responsible for disseminating written notice of such setting to the attorney(s) involved, or, in the event that a party is not represented, then to such party. The Parties and their counsel will be advised in trial or hearing notices as to the judge who will be assigned to the case. The parties and attorneys will be notified promptly when the case is assigned to a different judge.

(4) Pre-trial Matters:

When there are decisions made on pre-trial matters which will affect the procedural handling of a trial or the substantive law to be applied in a trial, every attempt will be made to assign the judge who heard such pre-trial matters associated with a case as the trial judge except the judge who conducts any pre-trial settlement conference on a case will not be assigned as the trial judge unless the Parties agree in writing to such assignment.

(5) Trial Times:

Trials will normally be conducted from 9:00 a.m. through 12:00 noon and from 1:00 p.m. through 5:00 p.m. or until a case is concluded. On the first day of a criminal trial, parties will be required to be at the courthouse at 8:15 a.m. to deal with any pretrial matters. Jury selection will not be until 9:00 a.m.

(6) Resetting Due to Holiday:

In the event that a holiday or the unavailability of both judges occur with regard to any assigned day, the normal Judicial assignments for such day shall simply be considered canceled.

7.041 SETTLEMENT OF CIVIL CASES

If a case is scheduled to be tried and has been settled, it will be necessary for the parties settling the case to either appear and put the settlement on the record or submit the appropriate dismissal or settlement papers to the court. This shall be done no later than 2:00 p.m. the judicial day before the date set for trial. A conference call to put the settlement on the record will be sufficient compliance with this rule. It will be the responsibility of the parties involved to arrange and pay for such call.

7.055 APPEARANCE BY TELEPHONE

In any matter in which counsel, a party, or a witness are permitted by the court to appear by telephone, it is that party's responsibility to ensure that the call is made from an appropriate phone system:

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

telephonic appearance.

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

CHAPTER 8

Domestic Relations Proceedings

8.013 MANDATORY PARENT EDUCATION PLAN

All cases as specified in ORS 3.425(1) in which minor children are involved, both parents shall attend a court approved parenting class as provided in ORS 3.425, and the certificate of completion of the parenting class shall be filed with the court prior to the issuance of the final Judgment of Dissolution, or Order on Judgment, unless such provision is waived by the court.

8.015 PARENTING TIME ENFORCEMENT FORMS

Forms can be found on the Oregon Judicial Department website located at <http://courts.oregon.gov/OJD>.

8.016 FILING OF AN ANSWER OR RESPONSE

When a response is filed in a domestic relations matter placing the case at issue, the response must set out what issues are being contested, and the attorney's or parties, unavailable dates for the next six (6) months must be also be submitted.

8.017 DISMISSAL OF FAMILY ABUSE PREVENTION ACT ORDERS

Unless this provision is waived by the court, a Restraining Order to Prevent Abuse issued pursuant to ORS 107.700 to 107.732 shall not be dismissed at the request of the Petitioner until the Restraining Order has been in effect for six (6) months, or the Petitioner has completed an approved counseling program for victims of domestic violence. This provision is automatically waived if a counseling program for domestic violence victims is not available.

8.045 PRE-JUDGMENT TEMPORARY ORDERS

- (1) The procedures of this rule are limited to domestic relations cases. Domestic relations cases shall mean dissolution of marriage, legal separation cases including pre-trial motions and post-judgment motions, filiations and interstate

support proceedings. A contempt proceeding arising out of a domestic relations case is not covered by this rule.

- (2) A pre-judgment order to show cause will be allowed only upon the motion of a party supported by affidavit. The order to show cause will not contain a date for hearing. It shall provide that the adverse party must file a written response in opposition within twenty-one (21) days from the date of service of the order and affidavit, or within such additional time as allowed by the court upon a showing of good cause. The order must further advise the adverse party that if such written response in opposition is not so filed and served within the twenty-one (21) days, the order requested by the motion and show cause order will be granted and entered by the court.
- (3) If the opposing party fails to file the written response in opposition within the time allowed, the moving party shall forthwith submit an order allowing the relief requested in the order to show cause. The court reserves the right to require the taking of testimony of the moving party in such default matters.
- (4) Except for cases in which mandatory mediation applies, upon the opposing party filing a written response in opposition, the court will cause a hearing date to be set to determine the issues raised by the order to show cause and affidavit.

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

8.055 POST-JUDGMENT MOTIONS

- (1) The procedures of this rule are limited to domestic relations cases. Domestic relations cases shall mean dissolution of marriage, legal separation cases including pre-trial motions and post-judgment motions, filiations and interstate support proceedings. A contempt proceeding arising out of a domestic relations case is not covered by this rule.
- (2) Post-judgment motions to set aside, alter or modify any terms of the judgment, or enforce parenting time, shall provide that the adverse party must file and serve a written response in opposition to the motion within thirty (30) days from the date of the service of the order and affidavit. The order must further advise the adverse party that if such written response in opposition is not so filed and served within thirty (30) days, the order requested by the motion and show cause order will be granted and entered by the court.
- (3) If the opposing party fails to file the written response in opposition within the time allowed, the moving party shall forthwith submit an order allowing the relief requested in the order to show cause. The court reserves the right to require the taking of testimony of the moving party in such default matters.

- (4) Except for cases in which mandatory mediation applies, upon the opposing party filing a written response in opposition, the court will cause a hearing date to be set to determine the issues raised by the order to show cause and affidavit.
- (5) Unless otherwise stipulated to by all parties, any motion filed pursuant to ORS 107.434 to enforce parenting time, shall be set for hearing no later than 45 days after the motion is filed, and will not be referred to mediation.

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

8.075 STANDARD PARENTING PLAN

In the absence of a parenting plan agreed upon by the Parties involved, or another plan being ordered by the court, the Standard Parenting Plan shall be the approved Parenting Plan in any annulment or dissolution of marriage action, legal separation action, petition to establish custody, or parenting time, and post-judgment litigation involving custody, or parenting time. Such Parenting Plan shall be filed with the court in conjunction with the entry of Judgment. The standard parenting plan can be accessed at the OJD website at <http://courts.oregon.gov/OJD>

CHAPTER 9

Protective Proceedings

9.081 ORAL OBJECTIONS TO PROTECTIVE PROCEEDINGS

- (1) Probate jurisdiction is in the county court in Malheur County. This SLR only applies to cases that have been transferred to Circuit Court from the county courts.
- (2) Any interested person, as described in ORS 125.075(1), who has an oral objection to a Petition in a protective proceeding should contact the Trial Court Administrator in Malheur County at (541)473-5178. The objecting party should advise the Trial Court Administrator that the objecting party wishes to make oral objections to the Petition.
- (3) The court clerk will provide the Objection form. [Appendix C]

CHAPTER 11

Juvenile Court Proceedings

11.005 PERSONAL APPEARANCE REQUIRED

- (1) In all termination and dependency cases, parent (s) and any guardian(s) shall be served Summons to personally appear at a time and place specified to answer the

Petition. The parent(s) and any guardian(s) must personally appear in court at the time and date specified in the Summons. A written appearance shall not be permitted. If a party wishes to appear by phone or other electronic means, the party's attorney or the party, if they do not have an attorney, shall obtain permission from the court in advance.

- (2) Upon any trial or other hearing being scheduled, unless the matter is scheduled in open court with the attorneys and/or parties present, in which case notices will not be sent, the court, will be responsible for disseminating written notice of such setting to the attorney(s) involved, or, in the event that a party is not represented, then to such party.

11.052 DHS OR CASA APPEARING BY ELECTRONIC MEANS

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

11.054 DEPENDENCY MATTERS

- (1) Admissions to allegations in a dependency petition shall only be accepted if in writing. Model forms created by the Juvenile Court Improvement Project can be found at courts.oregon.gov.
- (2) After disposition of a dependency petition, the Department of Human Services shall provide a paper review to the court and all parties. A paper review shall include, at minimum, a written update of a youth's placement, progress in the case plan by parents or guardians and efforts made by the Department of Human Services toward the current and concurrent plan.

A paper review shall be due when there has been an absence of court hearings and paper review for a period of 90 days, unless a court hearing has already been scheduled within 30 days of the due date of the paper review.

The court shall show cause the Department of Human Services to court if a paper review deadline is not met. Personal appearance by the Department of Human Services will be required for the show cause hearing. The show cause will be vacated if a paper review is submitted to the court and all parties within 5 days of the show cause notice.

- (3) A party may request a hearing for court review at any time. Unless requested in open court, the review shall be submitted in writing with service to all parties. The written request shall include the caption of the case, the party requesting the review and the issue the party seeks to have reviewed. Unless the court determines there is a more appropriate method to resolve the issue brought forth in the request, the court shall set a review hearing.

- (4) In all cases where the current plan is adoption, the court shall set a permanency hearing every 6 months until the adoption is finalized. No other reviews shall be set unless otherwise ordered by the court or requested by the party.
- (5) An attorney representing a youth in a dependency matter, shall assure the court has an opportunity to consult with the youth at permanency hearings in compliance with 42 U.S.C. § 675. The primary consideration in determining the method of consultation to be used, subject to the limitations below, shall be the preference of the youth as related to his or her attorney. Acceptable methods of consultation are:
 - (a) Personal appearance by the youth at the permanency hearing.
 - (b) Video or telephonic appearance at the permanency hearing.
 - (c) A written letter to the court by the youth.
 - (d) Questioning of the youth by his or her attorney with a recitation of the conversation by the attorney on the record at the permanency hearing.

If a youth is 14 years or older on the date of the permanency hearing, option (d) alone will not be an acceptable form of consultation.

For youths under 6 years of age on the date of the permanency hearing, attorneys are encouraged to consult using option (d), but consultation is not required.

For option (c) and (d), the court seeks, at minimum, recitation of three issues: (1) how is the current placement going; (2) the youths thoughts on what should happen moving forward; and (3) does the youth have any other issue he or she would like the court to know about.

It will be the responsibility of the youth's attorney to make arrangements under any option chosen. If the youth's attorney requires the Department of Human Services' assistance in coordinating option (a) or (b) above, such request shall be made no later than 5 judicial days prior to the permanency hearing to the caseworker assigned to the case.

Failure by an attorney in assuring the court's consultation with a youth, shall necessitate a set over of the permanency hearing. The court reserves the right to use its contempt powers for repeated violations.

CHAPTER 12

Mediation

12.015 MEDIATION IN DOMESTIC RELATIONS CASES

Mandatory Mediation

- (1) Any action filed in Circuit Court involving a controversy over custody, visitation or parenting time with minor children shall be subject to mediation. The court may decline to hear a custody, visitation, or parenting time dispute until and unless the parties have participated in mediation which has not resolved the issues between them. The court may order mediation even in the absence of a party's request.
- (2) Except as outlined in paragraph 12.015(3) of this rule, all cases are subject to this rule when the case is at issue. "At issue" means that the case is ready to be set for trial, or, if a party seeks to modify the parenting time or custody provisions of a dissolution of marriage judgment or a judgment establishing paternity, when the case is ready to be set for hearing.
- (3) If a party willfully fails to complete mediation within 60 days of the date that the case is at issue, that party's pleadings may be struck pursuant to UTCR 1.090 (2). A party's unexcused failure to appear at two or more scheduled mediations will be sufficient to establish a willful failure to complete mediation.
- (4) A party may seek waiver of mandatory mediation on the grounds that such requirement will seriously jeopardize the rights of a party the child or children involved. Such waivers will be allowed only after a showing of extraordinary circumstances.
- (5) The parties must complete mediation orientation, parent education and one mediation session prior to the court signing a judgment of dissolution unless the court waives attendance for good cause shown by motion and affidavit. Sanctions as provided in UTCR 1.090 may be imposed by the court if a party fails to comply.
- (6) If the parents cannot agree on the amount of support to be paid by one to the other, and they are also in dispute as to the custody and/or parenting time, upon the request of the parents, the mediator may assist in resolving the support issue as well.
- (7) Mediation shall not be used by any parent in bad faith for the purposes of delay or resolution of other issues. If the court finds at any time that the mediation process is being misused, it may determine that mediation has been unsuccessful

and have the case removed from the mediation process.

- (8) In the event the mediator does not believe further mediation will result in a resolution, the mediator shall notify the court.

Mediation Where Power Imbalance Exists

- (1) Where there is a restraining order between the parties, a history of domestic violence or abuse, an extreme imbalance in the power relationship between the parties or other reason to believe that mediation may be inappropriate, a party may contact the assigned mediator to request that the parties meet with the mediator separately, the presence of a support person during mediation, telephonic mediator or another remedy. A mediator may exclude a support person from a session if the support person disrupts the process of mediation.
- (2) The mediator may arrange separate sessions, require telephonic mediator or terminate mediation at any time if the mediator believes that issue of violence, abuse, threatening behavior, manipulation or power imbalance make further mediation inappropriate. In any telephonic mediation, both parties will participate by telephone.

Commission

- (1) A Mediation Commission shall be formulated.
- (2) The Commission's function shall be to supervise the mediation program, to render advisory opinions at the request of the court, and to recommend rule changes to the Judges.
- (3) The composition of the Commission shall be:
 - a. a Malheur County Circuit Court Judge;
 - b. two (2) members of the Malheur County Bar Association appointed by the Presiding Judge; and
 - b. the Director of the court-approved mediation program.
- (4) Three (3) members of the Commission, including at least one of whom must be a judge, shall constitute a quorum.

12.025 ALTERNATE MEDIATION PROCEDURE IN CIVIL ACTIONS

Mediation Defined

Mediation, as used in these rules, is a facilitated negotiation process in which a neutral third-party assists the parties in attempting to reach a resolution of their controversy. The mediator has no authority to make a decision or to impose a solution.

Selecting Mediation Rather Than Arbitration

On the parties' written stipulation filed with the court at any time prior to the commencement of the arbitration hearing, the parties may elect to mediate rather than arbitrate any civil or domestic relations matter, subject to mandatory arbitration. Such mediation shall be accomplished within the same time period required for court-annexed arbitration under these rules. If the parties mediate in good faith, they shall be deemed to have met the requirements for mandatory arbitration, whether or not the mediation results in resolution of all claims, and shall not thereafter be required to submit to arbitration. Nothing in this rule, however, precludes the parties from entering into arbitration in the event that mediation is unsuccessful in resolving the controversy. Any such request to arbitrate after mediation shall be governed by Malheur County Supplementary Local Rules 13.025 and 13.045.

Mediator Selection

If no arbitrator has been selected or assigned at the time of the stipulation to mediate, the parties may:

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

Mediator Qualifications

Mediators whose names are maintained on the court-maintained list shall have the same qualifications of arbitrators as set by the Dispute Resolution Commission.

Selection of Mediator After Arbitrator Assigned

If an arbitrator has already been assigned at the time of the stipulation to mediate, the parties may select a mediator by either of the following methods:

- (1) Request the arbitrator to serve as a mediator. Execution of the oath of arbitrator shall not preclude the arbitrator from agreeing to act as mediator pursuant to this rule. If the arbitrator agrees to so serve, UTCR 13.130 shall be applicable.
- (2) Stipulate to another mediator. If another mediator is selected, the arbitrator shall be informed immediately, and shall be compensated, pursuant to UTCR 13.120 and the Supplemental Local Rules, for any time already invested in the case.

Mediator Compensation

The mediator is to be compensated pursuant to UTCR 13.120, the Supplemental Court Rules, and the hourly rate established by the arbitration commission.

Required Information

If requested by the mediator, the parties shall supply to the mediator a statement of the nature of the case, the status of settlement negotiations, and any other information requested by the mediator or deemed helpful by any party for resolution of the dispute. This shall be supplied to the mediator at least one (1) day prior to the scheduled mediation.

Mediation Results

The results of mediation shall be reported by the mediator to the court as either “settled” or “not settled.” If settled, the terms of the settlement shall be stated on the report, unless the parties have agreed that the terms shall be kept confidential and not entered as a judgment. The report shall be filed and the reported settlement entered as a judgment in the same manner as the filing of an award from arbitration that has not been appealed. If the parties have agreed to keep the statement confidential, a written statement of the terms of the settlement, signed by the parties and/or their attorneys shall be retained by the mediator and not made a part of the court file or entered as a judgment. Such a confidential statement held by the mediator or the report to the court including the terms of the settlement shall be admissible to prove the settlement, but shall not otherwise be admissible.

Failure to Mediate in Good Faith

In the event any party fails to mediate in good faith after signing a stipulation for mediation, pursuant to this rule, the court may assess as costs under UTCR 1.090.

Nature of Mediation Proceedings

The mediation proceedings described by this rule are compromise negotiations for purposes of ORE 408 (ORS 40.190) and are confidential under ORS 36.205.

CHAPTER 13

Arbitration

13.025 REQUEST FOR AND OBJECTIONS TO ARBITRATION

- (1) Any party may file and serve a request that the court transfer a case to arbitration.

- (2) A court decision on an exemption filed pursuant to UTCR 13.070 will be rendered within 5 days following the filing of a motion for exemption from arbitration. If the court does not act on the motion for an exemption within five days it shall be deemed denied. If the motion is allowed, the case will be returned to the active trial docket for future disposition. If the motion is denied, the case will remain in arbitration in accordance with these rules and the UTCR.

13.035 COURT SHALL DETERMINE WHETHER CASE IS SUBJECT TO ARBITRATION

- (1) A case will be assigned to arbitration unless it is excluded as provided in UTCR 13.060(1). A case assigned to arbitration will not be removed, except as might occur under (2) of this Rule, without an affidavit, motion, and order.
- (2) Only in extraordinary circumstances will the court order a case returned from arbitration to the court docket after a case has been assigned to an arbitrator. The Presiding Judge of the Judicial District in which the case was filed retains the authority to remove a case from arbitration any time the presiding judge is of the opinion that such extraordinary circumstances exist.
- (3) In the event that amended pleadings are allowed by the arbitrator (e.g., amended complaint, third party complaint, etc.), in which a party or parties will be added to the case, or which causes the case not to be subject to mandatory arbitration, the party filing such an amended pleading must notify the Trial Court Administrator and file the amended pleadings, together with the Arbitrator's order allowing such amended pleadings, with the court. Amendment of the pleadings in the forgoing manner does not, by itself, remove a case from arbitration.
- (4) If a party seeks to exempt a case from arbitration, in accordance with subsection (3) of the rule, or on any other basis, or seeks an order exempting from arbitration a case that would otherwise be referred to arbitration, that party shall file a motion, supported by affidavit, declaration or certification with the court and serve the motion:
 - a. on the other party or parties in the case;
 - b. on the arbitrator, if an arbitrator has been assigned to the case; and
 - c. on the Trial Court Administrator.
- (5) A party that moves for an order under subsection (4) of this rule shall promptly advise the arbitrator in the case, if one has been assigned, of the resolution of the motion.
- (6) Cases exempted from arbitration under this rule may, when again appropriate, be reinstated into arbitration.

13.042 REFERRAL TO ARBITRATION

If the first appearance of a defendant is not an answer, but is a motion directed to the complaint or a dispositive motion, the motion shall be decided before the case is referred to arbitration. No case shall be referred to arbitration unless all parties have appeared or have had an order of default entered against them. If a case has been referred to arbitration prior to the filing of a motion directed to the complaint or a dispositive motion, the motion shall be heard and decided by the arbitrator pursuant to UTCR 13.100.

13.048 INDIGENT PARTIES

- (1) Indigent parties must seek waiver of the arbitrator's fee within 14 days from the date the case is transferred to arbitration. The request must be submitted by motion and order, supported by an affidavit setting forth with specificity the party's income, assets, and expenses, and presented to the Presiding Judge for approval.
- (2) In the event funds are available under ORS 36.420 for the payment of fees that are waived, the arbitrator shall be reimbursed after completion of the arbitration, filing of the arbitration award, and submission of the form approved by the State Court Administrator for such purpose.

13.055 ARBITRATORS

- (1) There shall be a panel of arbitrators in such number as the Arbitration Commission may from time to time determine. Persons desiring to serve as an arbitrator shall submit in writing their desire to be placed on the arbitration panel, with the date they were admitted to the Bar, their name, address and phone number, and if they have any preference against certain types of cases. A list showing the names of arbitrators available to hear cases will be available for public inspection in the Trial Court Administrator (or the Trial Court Administrator's designee) for each individual County.
- (2) The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator must notify the Trial Court Administrator (or the Trial Court Administrator's designee) immediately if refusing to serve, or if any cause exists for the arbitrator's disqualification from the case upon any of the grounds of interest, relationship, bias, or prejudice governing the disqualification of judges. No arbitrator shall have pending at any given time more than three arbitration cases, subject to the discretion of the Presiding Judge.
- (3) If such disqualification or refusal occurs, the arbitrator must notify all parties and immediately return all appointment materials in the case to the Trial Court Administrator (or the Trial Court Administrator's designee).

13.061 DOMESTIC RELATIONS TO ARBITRATION

In all domestic relation suits as defined in ORS 107.510 in which the only contested issue is the division or other disposition of property, the parties shall be referred to mandatory arbitration, unless the matter is referred to mediation as provided in ORS 36.405(3), or unless waived by the court, as provided in ORS 36.405(2).

13.062 CIVIL CONTRACT CASES

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

13.065 STIPULATIONS

No agreement or consent between parties or lawyers relating to the conduct of the arbitration proceedings, the purport of which is disputed, will be regarded by the arbitrator unless the agreement or consent is made at the arbitration hearing or is in writing and signed by the lawyers and parties.

13.071 PREHEARING STATEMENT OF PROOF

If one or more parties in the case fail to submit the Prehearing Statement of Proof required by UTCR 13.170, or fails to submit the preliminary payment to the arbitrator required by UTCR 13.120 within the time provided by those rules, the arbitrator may refer the matter back to the court for further proceedings. If the matter is referred back to the court, any party who timely complied with UTCR 13.170 and UTCR 13.120 may move the court for appropriate sanctions.

13.075 ALTERNATE MEDIATION PROCEDURE

On the parties' written stipulation, filed with the court at any time prior to the commencement of the arbitration hearing, the parties may elect to mediate under UTCR Chapter 12 rather than arbitrate any civil or domestic relations matter subject to mandatory arbitration.

13.085 NO AWARD FILED WITHOUT PROOF OF NOTICE

At the conclusion of arbitration, if the arbitrator attempts to file the award with the court without the proof of service of a copy of the decision and award upon each party as required by ORS 36.425(1), the award will not be filed and will be returned to the arbitrator.

13.125 ARBITRATOR'S COMPENSATION

- (1) The arbitrator shall be compensated at the rate of \$150.00 per hour for hearings and related work. Each party shall pay a \$400.00 deposit directly to the arbitrator prior to the arbitrator beginning work on the case. The arbitrator shall be compensated at the rate of \$75.00 per hour for travel time.
- (2) If either fails to pay their share of the deposit within 14 days of assignment to the arbitrator, the court may, on its own motion or that of a party after opportunity for a hearing, impose any sanction listed in UTCR 1.090(2)
- (3) The parties shall pay the arbitrator's fee in full before the arbitrator files the award with the court. This requirement is waived for any portion of the fee payable under ORS 36.420.

CHAPTER 16

Violations

16.005 VIOLATIONS BUREAU

- (1) A Violations Bureau is established pursuant to ORS 153.800.
- (2) The Trial Court Administrator is appointed as Violations Clerk, and duly appointed deputies of the Administrator are further appointed as Deputy Violations Clerks.
- (3) The Violations Bureau may exercise authority over all offenses authorized by ORS 153.800.
- (4) Appearances before the Violations Bureau shall be permitted on any authorized offenses to a maximum of two (2) occurrences within any 12 month period.

16.015 TRIAL BY DECLARATION

- (1) Testimony in violation cases may be allowed by declaration after a defendant has filed a waiver signed by defendant [Appendix B];
- (2) Defendant may also waive the right to an oral hearing by submitting a signed waiver [Appendix B].

UTCR 9.010 does not apply to an electronically filed document.

APPENDIX A

(Supplemental Local Rule 4.031)

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

STATE OF OREGON,

Case No. _____

Plaintiff,

vs.

MOTION AND ORDER TO TRANSPORT
AND PROVIDE COURT SECURITY

Defendant.

COMES NOW, (inmate's name) by and through his attorney, (name), and respectfully moves the Court for an Order to transport (inmate's name & SID #).

This matter came before the Court on the ___ day of _____, 20_____, before The Honorable (name of judge) and said case was set for (type of proceeding that was set), and the appearance of (inmate's name & SID #) is needed.

(State reason why the inmate testimony is needed for the proceeding.) My investigator, (investigator name) has interviewed (inmate's name and SID#).

(Inmate's name) will testify he witnessed the defendant (set out based on the charges).

Said inmate is currently in the custody of the (name of Institution and address).

Therefore, we respectfully request an Order allowing the transport of (inmate's name and SID # to the Malheur County Circuit Court, Vale, Oregon, on (date of proceeding inmate is needed for).

//

Further, the Defendant respectfully requests an Order for the State of Oregon, Department of Corrections to provide adequate security at all times while said inmate is at the Malheur County Circuit Court.

Dated this _____.

(Name of attorney)

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

STATE OF OREGON

Case No. _____

Plaintiff,

vs.

ORDER TO TRANSPORT
AND PROVIDE COURT SECURITY

Defendant.

This matter having come before the Court on the ___ day of _____, 20_____,
before

The Honorable _____ and said case having been set for (type of proceeding) and the
appearance of (inmate's name and SID #) is needed, and said inmate is currently in the custody
of the (Institution and address).

The Court having reviewed the files and records herein;

NOW, THEREFORE, THIS COURT HEREBY ORDERS the temporary release of
(inmate's name and SID #), from the (name of Institution), (or any other correctional facility
the inmate may be transferred to prior to said hearing), for the pending (type of proceeding)
against the above-named Defendant, with the State of Oregon, Department of Corrections
retaining
jurisdiction.

IT IS FURTHER ORDERED that the inmate shall be transported or made available to
testify via simultaneous television (video) by the State of Oregon, Department of Corrections,

to the Malheur County Circuit Court, Vale, Oregon, on (date of proceeding), and returned to the custody of the (name of Institution) immediately thereafter.

IT IS FURTHER ORDERED that the State of Oregon, Department of Corrections, shall provide adequate security at all times while said inmate is at the Malheur County Circuit Court.

DATED this _____ day of _____, 20____.

Judge

APPENDIX B

(Supplemental Local Rule 16.015)

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

DUE: _____

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

Plaintiff,

vs.

Case No. _____
Waiver and Declaration
Under Penalty of Perjury

Defendant.

WAIVER

I, _____, have plead NOT GUILTY and requested a trial in the above-captioned case.

Pursuant to ORS 153.080, I hereby waive my right to have my testimony and the testimony of the officer presented orally in Court, and I agree that testimony may be presented by sworn affidavit or by declaration under penalty of perjury. I understand that, if I do choose to appear in person for trial after signing this declaration under penalty of perjury, a copy of the police officer's written testimony will be presented to me at that time. The police officer may not be present.

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

INSTRUCTIONS: If you waive your right to have testimony presented orally in court, please fill out the below Testimony by Declaration Under Penalty of Perjury and return all documents to the court at least two weeks prior to the trial date. The judge will give your declaration the same consideration as a personal appearance.

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TESTIMONY BY DECLARATION UNDER PENALTY OF PERJURY

I, _____, state that I am the

Police Officer Defendant

in the above violation offense. Pursuant to ORS 153.080, this declaration represents my testimony concerning the above violation offense. (Continued on reverse side.)

(You may attach additional pages if necessary.)

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

Date

Signature

APPENDIX C

(Supplemental Local Rule 9.081)

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

Guardian/Conservatorship of

Case No. _____

OBJECTION TO PETITION
FOR APPOINTMENT OF
GUARDIAN/CONSERVATOR

(Protected Person)

I, _____,
(Objecting party's name and relationship to the Protected Person)

Hereby object to the Protective proceeding or the proposed guardian or conservator for the following reason *(state reason below and use additional sheet if necessary)*:

Signature of Objecting Party

Printed or Typed Name of Objecting Party

City State Zip

Telephone or Contact Telephone Number(s)