

SIXTH JUDICIAL DISTRICT

Umatilla and Morrow Counties

LOCAL COURT RULES

Regular Cycle

February 1, 2016

Honorable Daniel J. Hill, Presiding Judge


Roy N. Blaine, Trial Court Administrator

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

I, Ronald J. Pahl, Presiding Judge of the Sixth Judicial District of the State of Oregon, hereby certify that attached hereto is a complete, true and correct copy of the proposed supplemental local rules of the Circuit Courts of the State of Oregon for Umatilla County and Morrow County that will go into effect the 1st day of February, 2016.

DATED this 4 day of December, 2015.





Ronald J. Pahl

Presiding Judge,

Sixth Judicial District

State of Oregon

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

Chapter 1 – General Provisions

1.005 DEFINITIONS

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

- (1) Definitions set out in UTCR 1.110 are incorporated by this reference and apply to these rules.
- (2) Confirmation cards are standard-sized, stamped, and addressed US postcards which are to be attached to any filing if signing or filing information is requested. They shall be filled out by the submitting party to allow the Court to provide the information the submitting party desires.

1.151 HOURS OF OPERATION

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

- (1) The Umatilla County Circuit Court in Pendleton is located in the Umatilla County Courthouse at 216 SE Fourth Street in Pendleton.
- (2) The Umatilla County Circuit Court in Hermiston is located in the Stafford Hansell Government Center, 915 SE Columbia Drive in Hermiston.
- (3) The Morrow County Circuit Court is located in the Morrow County Courthouse at 100 Court Street in Heppner.

1.161 FILING COURT DOCUMENTS

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

1.171 SIXTH JUDICIAL DISTRICT WEBSITE

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

Chapter 2 – Standards for Pleadings and Documents

2.005 FORM OF PLEADINGS

- (1) All multi-paged pleadings and documents shall be bound by paper clip or binder clip, and shall not contain staples; each pleading shall be separated from other pleadings and documents filed simultaneously.
- (2) All pleadings and other documents filed with a court shall be two-hole punched at the top.

2.015 RETURN OF DOCUMENTS TO A PARTY

In certain limited situations, a document may be returned to the party who attempted to file it. In addition to reasons listed in other statute or rule, those situations are:

- (1) A document with an existing case number and case caption from another jurisdiction;
- (2) A document without sufficient identifying information to determine in which case it should be filed or entered.

Chapter 3 – Courtroom Proceedings

3.180 PUBLIC ACCESS COVERAGE OF COURT EVENTS

In addition to the requirements of UTCR 3.180, prior permission is required before bringing an audio and/or visual recording device into the courtroom for the purpose of public access coverage. Parties interested in obtaining permission should contact the Trial Court Administrator.

3.181 PUBLIC ACCESS COVERAGE AREAS

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

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

Chapter 4 – Criminal Cases

4.005 DISCOVERY

Before any motion to compel discovery in a criminal case is filed, a demand shall be made on opposing counsel (upon a party if self-represented) for the materials. The motion shall be supported by declaration that such a demand was made and shall include a copy of the demand, the date the demand was served, and the information that has been furnished and if known, types of information that have not been furnished as of the date the motion is filed.

4.006 IN CAMERA INSPECTIONS AND ORDERS TO PRODUCE

Motions for in camera inspections shall be properly supported by points and authorities, a declaration reflecting the relevance of the material sought to be inspected, the time frame for relevant production, and a proposed order substantially reflecting that “the documents or copies thereof shall be produced to the court no later than _____, 20____ at _____ o'clock am in Courtroom _____, Umatilla or Morrow Circuit Court, Pendleton, Hermiston or Heppner, as the case may be, to the Judicial Assistant or Court Clerk.” This response date, time and place should be reflected clearly on the first page of the proposed order. If the motion is allowed, the moving party will serve a copy of the order on the party required to produce the discovery, and promptly file proof of service with the court. The requesting party shall be responsible for all costs of court reproduction of the documents for the file and for distribution to the parties.

4.015 POSTPONEMENTS; EX PARTE MATTERS

Motions to postpone felony and misdemeanor cases and motions to rescind bench warrants shall be accompanied by supporting declaration and proposed form of order. No motion for a continuance shall be submitted without contacting opposing counsel (or a party if unrepresented). Any such motion submitted without contacting opposing counsel will be returned without consideration or action by the court clerk or denied by the Judge. Motions to continue shall not be made to a Plan B or pro tem judge except in cases of emergency when the presiding judge or other judge of the Sixth Judicial District is not available.

4.025 SEARCH WARRANTS

Prior to presenting a request for search warrant, the applicant shall:

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

4.045 SECURITY FORFEITURES

- (1) A defendant or surety may apply to the court for a remission of a forfeiture of the security amount by:

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

4.075 REFUND PROCEDURES

All bail or security refunds will be made by mail.

4.081 APPEARANCE AT CRIMINAL PROCEEDINGS BY MEANS OF SIMULTANEOUS ELECTRONIC TRANSMISSION

For in-custody matters, it is presumed the defendant will appear by video pursuant to UTCR 4.080, otherwise it is the obligation of counsel to timely present a motion and declaration of necessity for transport, along with the proposed order available on the court's website listed in SLR 1.171, in all proceedings other than trial for which the District Attorney shall submit the order of transport.

4.101 POST-CONVICTION RELIEF - pleading when counsel is appointed upon filing of the petition

- (1) Counsel appointed for the petitioner shall have 120 days from the date of appointment to file an amended petition.
- (2) If counsel is unable to plead a viable claim for relief in an amended petition, counsel shall file an affidavit pursuant to ORS 138.590(5).
- (3) The defendant shall not file an answer, motion, or demurrer to the petition until the petitioner has filed a notice that the petitioner will proceed on the original petition, has filed an amended petition, or the 120 days to do so have expired.
- (4) Once counsel for the petitioner files an amended petition or notifies the court in writing that the petitioner will proceed on the original petition, or the 120 days has expired, the defendant shall have 30 days from such filing or notice to file an answer, motion, or demurrer.

4.102 POST-CONVICTION RELIEF - motions

- (1) The petitioner shall have 30 days to file a response to the defendant's motion or demurrer.
- (2) The defendant shall have 20 days to file a reply to the petitioner's response.
- (3) If the court denies defendant's motion or demurrer, the defendant shall have 20 days to

file an answer.

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

4.103 POST-CONVICTION RELIEF - exhibits

- (1) Only the portions of the trial transcript, medical records, or other voluminous documents that are directly relevant to plaintiff's claim shall be attached to the petition or amended petition as an exhibit or offered at trial.
- (2) All parties are encouraged to put lengthy transcripts, depositions, or other exhibits on CD or DVD in Word or PDF for filing with the court.

4.104 POST-CONVICTION RELIEF - additional briefing and exhibits

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

4.105 POST-CONVICTION RELIEF - filing of documents when petitioner is represented by counsel

- (1) Counsel's written notification to the court that the case will proceed on the original petition constitutes counsel's ORCP 17 C certifications of the original petition filed by the petitioner when self-represented.
- (2) All matters submitted to the court for filing shall be submitted only by counsel and, except for the petition or amended petition and any exhibits, signed exclusively by counsel. The only exception to this requirement is that the petitioner may file a motion or notice pursuant to *Church v. Gladden*, 244 Or. 308, 417 P. 2d 993 (1966), alleging ineffective assistance of currently assigned counsel.

4.106 POST-CONVICTION RELIEF - hearings on motions and demurrers

Unless the court orders otherwise, all oral argument will be conducted by telephone or video.

4.107 POST-CONVICTION RELIEF - trial

- (1) Unless otherwise ordered by the court, all post-conviction relief trials in which petitioner is in the custody of the Oregon Department of Corrections shall be held by video

- conference or, if video conference is not available, by telephone conference. The petitioner shall remain in and appear from the correctional facility in which the petitioner is being held.
- (2) Counsel may appear by video conference, by telephone conference, or in person before the trial judge. Counsel for the petitioner may appear apart from the petitioner only if the facility where counsel is located enables the petitioner to consult privately with the petitioner's counsel during the proceeding.
 - (3) Public access and viewing of proceedings shall be provided at the Umatilla County Courthouse in Pendleton, Oregon, and the proceeding shall be deemed to take place at that location. Unless otherwise ordered by the court, all witnesses, except original counsel and law enforcement officers, shall appear at that location.
 - (4) All motions, whether written or oral, to continue trial or other hearings shall be submitted to the administrative judge for post-conviction, or to the presiding judge or other judge of the Sixth Judicial District if the administrative judge is not available.
 - (5) Motions to continue shall not be made to the Plan B or pro tem trial judge except in cases of emergency when the presiding judge or other judge of the Sixth Judicial District is not available.
 - (6) If the trial of the matter will take longer than the time allotted in the trial notice, or if witnesses other than the petitioner will be called, the parties shall make arrangements for additional time through the Umatilla County Trial Court Administrator within 15 days of the date of the trial notice.
 - (7) If a party requires the services of a court interpreter, the party shall make the request to the Umatilla County Trial Court Administrator's office no later than 10 judicial days before the date set for trial.

Chapter 5 – Civil Cases

5.005 DEPOSITIONS

The parties should be able to resolve deposition disputes by referring to ORCP 38, 39, 40 & 41. If the parties have a problem that cannot be resolved without the assistance of the court, they should briefly suspend the deposition and contact the assigned court judge, the Presiding Judge, or designee, for hearing, either on or off the record, by phone or at the courthouse.

5.025 CIVIL TRIAL DOCUMENTS

- (1) In all civil cases that will be resolved by a trial, all trial memoranda, requested jury instructions and motions in limine shall be served by counsel with the court and opposing counsel at least 24 hours prior to commencement of trial.
- (2) In those cases where counsel are aware of pretrial motions that will take more than an hour to be heard, counsel shall file such motions not less than 30 days in advance of trial.

5.050 EVIDENTIARY HEARINGS ON MOTIONS IN CIVIL CASES

In addition to the requirements of UTCR 5.050, when a party requesting oral argument on a civil motion also desires an evidentiary hearing, the request for evidentiary hearing shall be reflected in the caption of the motion or response. The first paragraph of the motion or response shall also include an estimate of the time required for both the evidentiary hearing and oral argument.

Chapter 6 – Trials

****Note: Rules relating to domestic relations settlement conferences are found in SLR Chapter 8.**

6.012 PRETRIAL SETTLEMENT CONFERENCES – Civil cases

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

- (1) Neither the settlement judge nor any of the parties to the settlement will disclose or reveal any of the information from the settlement conference to the judge or jury who will thereafter try the case.
- (2) At the settlement conference, the court shall require the attendance of all parties and their trial attorneys. When a party is insured, a representative of the insurance company who has full authority to settle the case shall be in attendance.
- (3) Settlement conferences shall be held informally before a judge at a time and place provided by the settlement judge. Each case on the settlement conference calendar shall retain its place on the civil active list.
- (4) If the trial is continued, the settlement conference may also be continued, if appropriate.
- (5) For a meaningful settlement conference to take place, all attorneys and parties shall participate in good faith.
- (6) In the event settlement negotiations are not successful, counsel should expect and be prepared to proceed to trial on the date scheduled. Every effort will be made by the court to insure that the case proceeds to trial on the date scheduled.

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

In a civil case in which a settlement conference is scheduled, the parties shall submit a detailed settlement conference statement and copies for all opposing parties to the settlement judge not less than seven (7) days prior to the date of the settlement conference. Once settlement conference statements are received from all parties, the settlement judge will distribute copies to the parties as soon as practical. The date and time of hearing shall be typed on the face sheet of the settlement conference statement.

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

- (2) The respondent/defendant is directed to prepare a similar statement setting forth respondent's/defendant's version of the facts, the injuries, legal issues, settlement offer, and a copy of the most recent respondent/defendant medical report(s).
- (3) In other classifications of cases, each side shall prepare an appropriate settlement statement setting forth a summary of the facts, legal issues, damages and relief requested, together with the party's settlement offer.

6.045 CONTINUANCES

- (1) In addition to the requirements in UTCR 6.030 & 6.040, all motions for a continuance in criminal cases shall set forth all the information contained below:
 - (a) Custodial status of moving party;
 - (b) If a victim/witness has a conflict, the date the victim/witness was notified of the hearing/trial;
 - (c) A list of other qualified *attorneys* in the office of the attorney requesting this continuance, and their availability to substitute;
 - (d) Hearing/trial dates to which opposing counsel/parties/victim/witnesses are in agreement;
 - (e) Other suitable alternatives, e.g., video appearance, depositions, stipulated testimony, etc.
 - (f) If the defendant is in custody, whether or not a waiver of speedy trial has been filed.
- (2) No motion for a continuance shall be submitted without a declaration in support of the motion, or without contacting opposing counsel (or party if unrepresented). Any such motion submitted without opposing party's position or a detailed account of efforts to obtain opposing party's position may be returned or denied by the Judge without consideration.

Chapter 7 – Case Management and Calendaring

7.005 PLEAS AND NEGOTIATIONS IN CRIMINAL CASES

It is the intent of the Sixth Judicial District to effect resolution of criminal cases in conformance with UTCR 7.010.

(1) Changes of Plea After the End of Plea Negotiations

Any change of plea after the deadlines established in UTCR 7.010(2) may be subject to open sentencing.

(2) Forms/Plea Petitions

Counsel shall complete any and all forms required for change of plea prior to the hearing for change of plea including Blakely waivers and notices of sex offender registration if appropriate. Counsel shall deliver to court staff the original or an electronic copy of all change of plea documents a minimum of 24 hours prior to all change of plea hearings. Counsel shall use the Uniform Plea Petition that is available from the Court on request or from the Sixth Judicial District website listed in SLR 1.171.

7.015 VIDEO/TELEPHONE APPEARANCES

The Sixth Judicial District presently has telephonic conferencing & video conferencing at the courthouses in Pendleton, Hermiston and Heppner. Unless prohibited by statute, all in-custody matters will be heard by video or telephone conferencing unless transport is ordered prior to the scheduled hearing. Out-of-custody matters may be heard by video or telephone conferencing if authorized by the judge.

(1) Criminal Cases

A completed plea petition document shall be filed with the court prior to any change of plea.

(2) Habeas Corpus and Post-Conviction Relief Cases

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

(3) Civil Cases

Parties wishing to use video conferencing in civil cases shall, where available, make arrangements with the trial judge's assistant prior to trial and pay all expenses of the video.

(4) Mental Commitment Cases

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

(5) Exhibits

Parties not appearing in person shall submit all exhibits to the court no later than ten (10) days prior to the scheduled court proceeding. Any party presenting exhibits to the court will also provide a self-addressed, pre-paid postage mailing package to the court for the return of the exhibits.

Chapter 8 – Domestic Relations Proceedings

****Note: Rules relating to domestic relations mediation are found in SLR Chapter 12.**

8.005 FILING OF UTCR 8.010 DOCUMENTS

- (1) All documents required to be filed under UTCR 8.010(3), (4) and (5) including a detailed list of all personal and real property shall be filed with the clerk of the court with a copy to the trial judge and served on the opposing counsel (or party if self-represented) seven (7) days before the trial.
- (2) All pleadings shall specify “Subject to Mandatory Mediation” and “Subject to Mandatory Arbitration” in the case caption if appropriate.
- (3) Absent a showing of good cause, a party who fails to timely file all documents required by UTCR 8.010 may be deemed to have admitted values of property established by a filing party.

8.012 SETTLEMENT CONFERENCES – Domestic Relations Cases

- (1) The presiding judge shall appoint a panel of qualified attorneys who shall preside over settlement conferences in all contested domestic relations cases where both parties are represented by counsel. Attorneys shall be selected to preside over settlement conferences in a rotating order. Litigants may not disqualify settlement attorneys, except where there is a conflict of interest as defined by the Oregon Rules of Professional Conduct 1.7 to 1.9.
- (2) At the time set for trial readiness, the attorneys may request the case be assigned a settlement conference. The attorneys shall firmly believe the conference would be beneficial. The conference shall be held at the office of the settlement attorney unless the settlement attorney and the litigants otherwise agree, and shall be held at least 3 weeks prior to the trial date.
- (3) Each party shall participate in the settlement conference in good faith.
- (4) All information disclosed in the settlement conference shall be deemed privileged, settlement negotiations.
- (5) As soon as practical, the settlement attorney shall report in writing to the trial judge regarding the outcome of the settlement conference, including any violations of this rule. All agreements shall be reduced to writing and signed by the parties. In the event that settlement negotiations do not result in a complete settlement, counsel should be prepared to proceed to trial on the date scheduled.

8.013 SETTLEMENT CONFERENCE STATEMENT – Domestic Relations Cases

Not less than 48 hours prior to the commencement of the settlement conference, the parties shall submit to the settlement attorney two copies of a detailed settlement statement including a detailed list of all personal and real property, the proposed distribution of assets and liabilities

and, if support is involved, the proposal for and computation of support. In addition, the petitioner shall submit to the settlement attorney all orders and judgments filed in the case, including the mediator's report, if any. Once settlement conference statements are received from both parties, the settlement attorney will distribute copies to the parties as soon as practical.

8.015 CO-PARENTING PROGRAM

(1) Mandatory Co-Parenting Program

The Sixth Judicial District, Umatilla & Morrow Counties has established a parent education program authorized by ORS 3.425.

- (a) In all cases involving children under the age of 18, all parents/guardians shall complete the co-parenting program unless exempted by the court. A judgment will not be entered in the proceeding until each party not otherwise exempted by the court who has filed an appearance has completed the program, or appropriate sanctions have been applied.
- (b) The court may exempt one or more of the parties from the program if, after reviewing the requesting party's motion and supporting declaration, the court determines that participation is unnecessary or inappropriate. It will be very unusual where an exception is granted.
- (c) The court may allow one or more of the parties to participate in a comparable court-sanctioned program. Parties who participate in a comparable program are responsible for submitting proof of program completion to the court themselves.

(2) Sanctions

- (a) If a party fails to successfully complete the co-parenting program and later files a motion to modify any order of the court, the court will not consider the requested modification until that party successfully completes the co-parenting program or is exempted by the court.
- (b) A party who has completed the program shall have the right to:
 - i. Request that the pleadings of a party who has appeared be stricken if that party has not completed the program in a timely manner without good cause.
 - ii. Request entry of an order from the court to compel the non-complying party's completion of the program should the non-complying party not have completed the program in a timely manner without good reason. The court may enter an award of attorney fees in favor of the complying party who utilizes this option, to force the non-complying party's compliance with this rule.

8.025 PARENTING TIME ENFORCEMENT

Proceedings to enforce parenting time pursuant to ORS 107.434 shall be initiated by motion, declaration and order to show cause. The proposed order shall include an area where the court can indicate the date, time and location of the hearing. Unless otherwise ordered by the court, the moving party shall obtain a copy of the signed order from the court and serve the other party with the motion, declaration and order to show cause and supporting papers at least (21) days prior to the time set for hearing.

8.055 PRE AND POST-JUDGMENT RELIEF

The procedures of this rule are limited to domestic relations cases. A contempt proceeding arising out of a domestic relations case is not covered by this rule.

(1) Pre-Judgment Temporary Custody and Parenting Time

In addition to the requirements of UTCR 8.040, the proposed Order to Show Cause shall comply with the following requirements:

- (a) Shall not contain a date for hearing.
- (b) Shall provide notice that if a party wishes to object to any of the requested relief, that adverse party shall file and serve a written response or declaration in opposition within fourteen (14) days from the date of service of the order, or within such additional time as allowed by the court upon showing of good cause.
- (c) Shall provide notice that if such opposing response is not filed and served within the time allowed, the requested relief may be granted by the court.

(2) Pre-Judgment Temporary Financial

- (a) Motions for temporary financial relief may be filed separately from other pendent lite motions to facilitate timely resolution.
- (b) Temporary financial relief shall be determined without testimony based on the Uniform Support Declarations of the parties if filed separately.
- (c) Requests for temporary child support shall include a child support computation worksheet. If either party requests oral argument pursuant to UTCR 5.050, both parties shall file a Uniform Support Declaration prior to oral argument.
- (d) After the response deadline, the moving party shall notify the court by filing a Notice of Readiness for Decision.
- (e) With due regard for other pending matters, the court will attempt to issue a ruling within 14 days of the date the Notice of Readiness for Decision is filed.
- (f) If the opposing party fails to file an opposing written response within the time allowed, the moving party shall submit an order allowing the relief requested in

the order to show cause. The court reserves the right to require the taking of testimony of the moving party in such default matters. The court also reserves the right to enter the order requested if the opposing party does not file the required response and it may do so upon its own motion if the moving party fails to present for signature the order required above.

(3) Post-Judgment Relief

- (a) In addition to the requirements of UTCR 8.050, the proposed Order to Show Cause on post-judgment motions to modify any terms of the judgment shall provide notice that if a party wishes to object to any of the requested relief, that party shall file and serve a written response or declaration in opposition within thirty (30) days from the date of service of the order, or within such additional time as allowed by the court upon showing of good cause, and if none is filed, the requested relief may be granted by the court.
- (b) If the opposing party fails to file an opposing written response or declaration within the time allowed, the moving party shall submit a proposed order allowing the modification requested in the order to show cause. The court reserves the right to require the taking of testimony of the moving party in such default matters. The court also reserves the right to enter the order requested if the opposing party does not file the required response and it may do so upon its own motion if the moving party fails to present for signature the proposed order required above.

(4) Immediate Danger Temporary Custody

With due regard for other pending matters, the court will attempt to schedule an initial appearance to take testimony regarding the affidavit within one judicial day of the date of filing.

8.075 PARENTING SCHEDULE

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

Chapter 9 – Probate and Adoption

9.035 DELINQUENCIES OR DEFICIENCIES

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

9.045 REPRESENTATION

- (1) If a personal representative or conservator intends to appear on behalf of the estate or protected person without an attorney, the personal representative or conservator shall provide notice of that intent to the court and proof of competence to so appear. If the proof is not sufficient to assure the court the estate will be protected and properly administered, the court will take appropriate action.
- (2) A person other than a personal representative or conservator, or a corporation, may appear in person without counsel in any matter coming before the probate judge if otherwise allowed by law. The person appearing and counsel for the personal representative shall notify the probate judge if any party to a proceeding is appearing self-represented.

9.055 BONDS

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

9.065 NOTICE TO SURETY

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

9.075 GUARDIANS OF MINORS

Guardians for minors shall be required to annually make a guardians report. A sample form is available on the Sixth Judicial District website.

9.081 OBJECTIONS TO PETITION FOR APPOINTMENT OF GUARDIAN/CONSERVATOR

- (1) Any interested person, as described in ORS 125.075(1) wishing to object to a Petition in a protective proceeding should contact a court clerk at one of the following Sixth Judicial District locations:
 - (a) Circuit Court of Oregon for Umatilla County, Umatilla County Courthouse, Civil Records Office Room 230, Second Floor, 216 SE 4th Street, Pendleton, Oregon.
 - (b) Circuit Court of Oregon for Umatilla County, Stafford Hansell Government Center, Room 201, Second Floor, 915 SE Columbia Drive, Hermiston, Oregon.
 - (c) Circuit Court of Oregon for Morrow County, Morrow County Courthouse, Room 203, Second Floor, 100 Court Street, Heppner, Oregon.

In accordance with ORS 125.075(2), the court designates the probate counter as the place where oral objections shall be filed

- (2) An objection form is available on the Court's website or from the court clerk as a means to reduce any oral objection to a signed writing for the purpose of filing the objection.
- (3) Upon receipt of the objection, the Court will schedule a hearing and the Petition will be heard in the courtroom of the judge assigned to the case.

9.085 PERSONAL INJURY SETTLEMENT PETITIONS

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

- (1) A description of the incident causing the injury;
- (2) A description of the injuries;
- (3) The amount of the prayer and proposed settlement and if a structured settlement is proposed, the present value of the future payments of that settlement;
- (4) The amount of the attorney fees and costs;
- (5) The proposed distribution of the settlement proceeds;
- (6) A concise statement explaining the reasons for the settlement.

9.105 DISBURSEMENT VOUCHERS

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

Chapter 10 – Vehicle Laws and Driving Conditions

This chapter is reserved for future expansion.

Chapter 11 – Juvenile Court Proceedings

This chapter is reserved for future expansion.

Chapter 12 – Mediation

12.005 MEDIATION IN GENERAL

- (1) Purpose of Mediation. The purpose of mediation shall be to assist the parties in reaching a workable settlement of those issues before the court.
- (2) Mandatory Mediation. Any dispute involving custody and/or parenting time arising from any of the following types of cases shall be subject to mediation under this rule:
 - (a) Any domestic relations suit, as defined in ORS 107.510 (3).
 - (b) Any filiation proceeding pursuant to ORS 109.124 to 109.230.
 - (c) Proceedings to determine the custody or support of a child under ORS 109.103.
 - (d) Any proceeding to modify custody and/or parenting time previously determined in one of the above types of cases.

- (3) Authority of Circuit Court Not Affected by Mediation

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

- (4) Mediation Process

- (a) Commencement of Mediation by Judicial Order

When parenting time and/or custody is at issue, the court will schedule a status check hearing. At the hearing, the judge will determine whether or not the case is appropriate for mediation, and will either waive mediation or will appoint a mediator and schedule the first mediation date.

- (b) Commencement of Mediation by Stipulated Request for Mediation.

If there is a disagreement between the parties concerning custody and/or parenting time at any stage of a domestic relations proceeding, either both parties or their attorneys may sign and file with the court a stipulated request for mediation, or the attorneys may verbally request an Order for Mediation. A mediator will be available to the parties in accordance with these rules, or the parents may agree and stipulate to an independent mediator in their stipulated request for mediation. If the parties choose an independent mediator, the costs for the mediator will be paid by the parties jointly.

- (c) Mediation shall consist of a maximum of four (4) hours of sessions involving the parties and the mediator. Additional time may be provided at the parties' expense.

(5) Completion of Mediation.

It is the responsibility of the parties and their attorneys to see that mediation is completed within such time as to not delay the trial of the case. Failure to do so may result in dismissal of the case when called for trial or postponement under such conditions as the court may require. The mediator shall provide to the court and to counsel for the parties the outcome of the mediation, including the mediated agreement within 3 judicial days of the date the last party signs the agreement, or if all signatures cannot be obtained within 15 days following the conclusion of mediation, the mediator shall report that the mediation has not been successful.

(6) Unsuccessful Mediation.

The mediator shall notify the court and counsel for the parties within 3 judicial days following the conclusion of mediation that mediation has been unsuccessful. The court will then set the case for hearing or trial.

(7) Sanctions

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

Chapter 13 – Arbitration

13.005 MATTERS SUBJECT TO ARBITRATION

- (1) Any party to a case may file and serve notice of a request that the Court transfer a case to arbitration.
- (2) A court decision on an exemption filed pursuant to UTCR 13.070 will be rendered within ten judicial days following the filing of a motion for exemption from arbitration or the motion is deemed denied. If the motion is allowed, the case will be returned to the active trial docket for future disposition. If the motion is denied, the case will remain in arbitration in accordance with these rules and the UTCR.

13.015 COURT DETERMINES WHETHER CASE SUBJECT TO ARBITRATION

- (1) A case assigned to arbitration will not be removed without a declaration, motion, and order.
- (2) Only in extraordinary circumstances will the court order a case returned from arbitration to the court docket after a case has been assigned to an arbitrator.
- (3) In the event that amended pleadings are allowed by the arbitrator (e.g., amended complaint, third party complaint, etc.), in which a party or parties will be added to the case, or which causes the case not to be subject to mandatory arbitration, the party filing such an amended pleading shall notify the Arbitration Clerk in the Office of the Trial Court Administrator. These cases, when appropriate, may be returned to arbitration. In the event that the case is not thereafter subject to mandatory arbitration, the party requesting removal from arbitration shall file a motion to exempt the case from arbitration, or to remove it if it was previously referred to arbitration.

13.025 REFERRAL TO ARBITRATION

If the first appearance of a defendant is not an answer, but is a motion directed to the complaint or a dispositive motion, the motion shall be decided before the case is referred to arbitration. No case shall be referred to arbitration until all parties have appeared or have had a judgment of default entered against them.

13.045 INDIGENT PARTIES

- (1) In the event that funds are available under ORS 36.420 for the payment of fees that are waived, the arbitrator shall be reimbursed after completion of the arbitration, filing of the arbitration award, and submission of a request for payment to the Trial Court Administrator. Such request shall be in the form of a letter stating the identity of the case, the total hours of service the arbitrator provided, and the share of those hours chargeable to the indigent party. If funds are available, reimbursement will be provided for up to three (3) hours for each indigent party. The letter shall be accompanied by a copy of the order deferring or waiving fees of the indigent party.

- (2) In the event funds are not available under ORS 36.420 for the payment of fees that are waived by court order, a party may request that the clerk provide to the parties a list of arbitrators who have agreed to serve for no compensation, for compensation from one party only, or at a reduced rate.
- (3) The clerk shall provide names of available arbitrators, but no arbitrator is required to serve unless he or she has agreed to such alternate fee arrangement. The parties shall select an arbitrator from such list in the same manner as required in SLR 13.045.

13.055 ARBITRATORS

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

13.065 STIPULATIONS

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

13.075 AWARD, PROOF OF SERVICE

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

Chapter 14 – Reference Judges

This chapter is reserved for future expansion.

Chapter 15 – Small Claims

This chapter is reserved for future expansion.

Chapter 16 – Violations

16.015 VIOLATIONS BUREAU

- (1) The Sixth Judicial District has established a Violations Bureau.
- (2) A person may make a first appearance at the Violations Bureau or may pay the Violations Bureau fine and assessment by mail, phone, or on-line for all violations not requiring a mandatory physical appearance.
- (3) The fine and applicable assessment(s) shall be paid immediately and in full at the Violations Bureau, unless the court approves a deferred payment.

16.021 TRIAL BY AFFIDAVIT OR DECLARATION

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

16.025 POSTPONEMENTS

- (1) Court Trial
A request to postpone a court trial shall be made to the court prior to the day of trial.
- (2) Notice
When a postponement is granted, the court will notify all parties to the action. If the postponement is granted in open court, parties personally present are deemed notified.

Chapter 17 – Parking

This chapter is reserved for future expansion.

Chapter 18 – Forcible Entry and Detainer

This chapter is reserved for future expansion.

Chapter 19 – Contempt Proceedings

This chapter is reserved for future expansion.