

SUPPLEMENTARY LOCAL COURT RULES
for the
CIRCUIT COURT OF THE STATE OF OREGON FOR BENTON COUNTY
21st JUDICIAL DISTRICT
February 1, 2007 - January 31, 2008

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CHAPTER 1 GENERAL PROVISIONS

1.151 COURT BUSINESS HOURS

The Circuit Court in Benton County (21st Judicial District), located in the Benton County Courthouse, 120 NW 4th Street, Corvallis, Oregon, is open to conduct business between the hours of 8:00 a.m. to 12:00 p.m. and 1:00 to 5:00 p.m., Monday through Friday, excluding legal holidays. Our cashier window is also open between 12:00 and 1:00 p.m. for the receipt of payments.

1.171 COURT WEBSITE

Benton County Circuit Court maintains a website which lists information about our court. The address is www.ojd.state.or.us/ben.

CHAPTER 3
DECORUM IN PROCEEDINGS

3.181 MEDIA OR OTHER PUBLIC ACCESS COVERAGE OF COURT EVENTS

- (1) All news media personnel must request permission in advance to take photographs, films, or audio or video recordings in areas in the Benton County Courthouse under the Court's control and supervision.
- (2) Requests for media access shall be made to the Trial Judge's court staff at least 30 minutes prior to routine trials or hearings and by 3:00 PM of the preceding day for major trials.
- (3) The following areas are under the control and supervision of Benton County Circuit Court:
 - (a) The first floor Circuit Court courtroom, Judge's chambers, and Judicial Assistant's office.
 - (b) The entire first floor hallway.
 - (c) The first floor jury room (room 114).
 - (d) The entire second floor of the Courthouse.
 - (e) The Judges' chambers and Judicial Assistants' offices on the third floor of the Courthouse.
- (4) Persons who are not members of the news media may not take films, photographs, or audio or video recordings of Court proceedings without special approval from a judge. Members and non-members of the press may obtain copies of the records of Court proceedings by purchasing a copy of the tape recording at the normal Court charge.
- (5) A defendant may not be filmed or photographed in any area under the control and supervision of the Court in such a manner that the film or photographs shown to the public depict the defendant in handcuffs or shackles.
- (6) Nothing in this rule is intended to preempt or contradict any provision of UTCR 3.180.

CHAPTER 6 TRIALS

(For scheduling and notification of parties for trial, show cause hearings and motions, see B-SLR 7.025, *infra*)

6.012 PRETRIAL SETTLEMENT CONFERENCE PROCEDURES

The Circuit Court, on its own motion or upon request of any party, may set a settlement conference in any pending civil or domestic relations case. The following procedures shall apply:

- (1) If one party requests a pre-trial settlement conference, the settlement conference shall be held. Except in the case where the Court orders a conference, the pretrial settlement conference will not be required if the opposing party demonstrates good cause why the settlement conference should not be held. A party requesting a conference shall certify that reasonable efforts to achieve settlement have been attempted by the parties, and that they have been unable to resolve the controversy without the Court's assistance.
- (2) Each trial attorney and party or representative of a corporation or insurance company who has full authority to settle and compromise the litigation shall personally appear at the pretrial settlement conference. However, the assigned judge may permit telephone appearances in lieu of personal appearance for good cause.
- (3) Each pretrial settlement conference shall be scheduled to allow adequate time for meaningful settlement discussions. Additional settlement conferences may be scheduled by the judge or by agreement of all attorneys and parties.
- (4) The pretrial conference shall not delay the trial or scheduling.
- (5) The settlement conference judge will not preside at the trial unless all parties agree. No information disclosed at the settlement conference will be revealed by the settlement conference judge or by any of the parties to the judge who will thereafter try the case.
- (6) Before the settlement conference, each party shall submit to the settlement conference judge a pretrial statement that contains, at a minimum:
 - (a) A brief summary and analysis of the key issues involved in the litigation; and
 - (b) The status of any settlement negotiation.
- (7) The pretrial statements shall be presumed confidential and shall not be placed in the court file, nor shall any notes prepared by the judge be filed or otherwise disclosed, except by permission of the attorneys or by Court order.

- (8) Except by order of the Court, a settlement shall be placed on the record immediately following a pretrial settlement conference.
- (9) The settlement conference judge shall report the outcome of the settlement conference to the calendar clerk and indicate any future conference or hearing dates that may be required.

6.085 EX PARTE MATTERS

Ex parte matters may be presented at 11:30 a.m. Monday through Friday. The judge designated to receive ex parte matters will be listed on the docket posted in numerous locations in the courthouse.

CHAPTER 7
CASE MANAGEMENT AND CALENDARING

Calendar Clerk, (541)766-6651
Criminal Clerk, (541)766-6674

7.015 CRIMINAL CASE SCHEDULING

- (1) The Benton County Circuit Court uses a consolidated criminal appearance procedure. A copy of the current omnibus procedures may be obtained from the court's website at www.ojd.state.or.us/ben/index.htm or by calling the Criminal and Traffic Unit at (541) 766-6029 or requesting by letter to:

Trial Court Administrator
Benton County Courthouse, Room 104
PO Box 1870
Corvallis, OR 97339

- (2) Guilty or No Contest Pleas. Dates for guilty or no contest pleas will be scheduled by the Calendar Clerk. The Court will not accept a guilty or no contest plea unless the defendant has first read and completed a Petition to Enter a Plea of Guilty or No Contest and a Notice and Advice of Rights on Appeal form.
- (3) Preparation of Judgment When Defendant is Found Not Guilty or Where the Charge is Dismissed. Defense counsel shall prepare and submit the judgment in any case where the defendant is found not guilty or where the charge is ordered dismissed by the Court over the State's objections.
- (4) Settlement Conferences. A settlement conference will be set at the stipulated request of both parties. The Court will send written notice of the settlement conference to the attorneys of record.

Civil Clerk, (541)766-6825

7.025 CIVIL CASE SCHEDULING

- (1) Hearings on Motions requiring oral argument will be set by the calendaring clerk at any available time.
- (2) Hearings on Motions to Hold a Party in Contempt. The adverse party should be cited to appear at 9:00 a.m., Monday, Tuesday, Wednesday, or Friday. The party requesting the contempt order does not have to appear at the time set in the show cause order. When the responding party appears, the Court will set a contempt

hearing for a later date. The Court will send a written notice when that later hearing date is set.

- (3) Settlement Conferences. A settlement conference will be set at the request of any party. The Court will send a written notice.

Domestic Relations Clerk, (541)766-6705

7.035 DOMESTIC RELATIONS CASE SCHEDULING (for additional supplementary local rules on domestic relations matters, see Chapter 8, *infra*)

- (1) Temporary Relief Hearings. Dissolution, separation, or modification of judgment cases requiring hearings for temporary relief will be specially set for hearing. The Court will send a written notice.
- (2) Hearings on Motions to Hold a Party in Contempt. The adverse party should be cited to appear at 9:00 a.m., Monday, Tuesday, Wednesday, or Friday. The party requesting the contempt order does not have to appear at the time set in the show cause order. When the responding party appears, the Court will set a contempt hearing for a later date. The Court will send a written notice when that later hearing date is set.
- (3) Pretrial Conferences and Trial Settings. Contested dissolution, separation, and modification cases will be set, pursuant to a fast-track procedure, for trial. The Court will send a written notice.
- (4) Settlement Conferences. A settlement conference for a dissolution case will be set upon request of either party.

Civil Clerk, (541)766-6825
Small Claims Clerk, (541)766-6829

7.045 JUDGMENT DEBTOR EXAM SCHEDULING

- (1) The party requesting the debtor's exam may select the time for the examination provided:
 - (a) the examination is set at 9:00 a.m. Monday, Tuesday, Wednesday or Friday; and
 - (b) the debtor is allowed at least ten (10) days between date of service and the date of examination.
- (2) The debtor should be cited to appear as follows:
 - (a) Circuit Civil - Benton County Courthouse, 120 NW 4th Street, Room 106, Corvallis, Oregon
 - (b) Small Claims - Benton County Courthouse, 120 NW 4th Street, Room 106, Corvallis, Oregon

7.055 APPEARANCES BY TELEPHONE

In any matter in which counsel, a party, or a witness (collectively "the party") is permitted by the Court to appear by telephone:

- (1) The cost of such telephone call shall be borne by the party requesting the telephonic appearance.
- (2) Local calls shall be placed by the Court when telephonic appearances have been approved by the Court for two or fewer parties. Because of technological limitations in the courtrooms, telephonic appearances by three or more parties, once approved by the Court, must be arranged cooperatively among the parties through telephone conferencing or other means and the parties must place the call to the Court as specified in paragraph 4 of this Rule.
- (3) Long distance or other calls for which a toll or fee is charged shall be placed by the party at the time scheduled for the appearance.
- (4) Long distance calls being placed by the party shall be placed to the office of the judge assigned to hear the matter. The party is responsible for determining in advance of the proceeding which judge shall hear the matter and for directing the call appropriately.

- (5) Unless otherwise arranged and approved by the Court, telephone appearances by counsel shall be conducted in counsel's office.
- (6) If the party fails to appear by telephone because the party fails to telephone the Court or the Court is unable to reach the party at the number provided or in counsel's office, the party may be deemed not to have appeared and the matter may be decided upon the evidence before the Court.

CHAPTER 8
DOMESTIC RELATIONS

(For scheduling and notification of parties for trial, show cause hearings and motions, see B-SLR 7.035, supra)

Domestic Relations Clerk, (541)766-6705

8.011 PARENT EDUCATION

(1) Mandatory Parent Education Program

- (a) The Benton County Circuit Court has established a parent education program authorized by ORS 3.425.
- (b) Parties to a dissolution of marriage, separation or other proceeding where custody or parenting time is at issue shall attend the Benton County Circuit Court-mandated Co-Parenting Education Seminar, or an equivalent parent education program offered by another court in another county or State within forty-five (45) days of receiving the Court's notice of requirement to attend. The notice of requirement to attend will be given by the Court to the petitioner at the time of filing and mailed to the other parties within ten (10) court business days after the initiating petition or motion is filed.
- (c) The Court may extend the time within which a party must attend a parent education program or waive the requirement after reviewing the requesting party's motion and supporting affidavit.
- (d) The parent education program provider shall issue a certificate of completion to the participants when they have completed the program. This certificate must be presented to the Court.
- (e) A copy of the current Co-Parenting Education Seminar schedule may be obtained from the court's website at www.ojd.state.or.us/ben or by calling the Domestic Relations Clerk at (541) 766-6705 or requesting by letter to:

Trial Court Administrator
Benton County Courthouse, Room 101
PO Box 1870
Corvallis, OR 97339

(2) Sanctions

- (a) The Court shall actively promote each party's completion of a parent education program. Failure or refusal to complete a 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 completed a parent education program may request that the Court strike the pleadings of a party who has not completed the program in a timely manner without good cause.

(3) Fees

Each party shall pay a fee to the parent education program provider upon registering for the program.

(4) Effective Date

This rule shall apply to all cases and modifications filed after January 1, 2000.

8.013. STATEMENTS OF ASSETS AND LIABILITIES IN CONTESTED DISSOLUTIONS, SEPARATE MAINTENANCE AND ANNULMENT ACTIONS

- (1) Unless otherwise ordered by the Court, in lieu of the filing of separate statements of assets and liabilities, values and proposed distribution as provided by UTCR 8.010(4), counsel for the parties shall file a joint statement containing a list of those assets and liabilities which either or both parties claim to be subject to distribution by the Court. Such joint statements shall set forth, opposite a description of each listed asset and liability, each party's valuation and proposal for distribution of such asset or liability or a statement that such asset or liability is not subject to distribution by the Court, or that the value of the asset or liability should not be taken into account by the Court in the division and distribution of the parties' assets and liabilities. The statement must be filed at least two days prior to the scheduled trial date.
- (2) Statements of assets and liabilities, whether filed jointly or separately, shall, to the extent possible, also reflect the following:
 - (a) assets and liabilities shall be grouped by category and divided or highlighted so as to distinguish property that is disputed as to possession or value from property that is not disputed as to possession or value.
 - (b) each line listing a value shall list the source(s) utilized in determining that value, such as "Blue Book", private appraisal, institution statement, or estimate.

8.043 REQUESTS FOR IMMEDIATE EX PARTE RELIEF

Ex parte temporary relief motions and orders may be presented to the Court at 11:30 a.m. Monday through Friday. The judge designated to receive ex parte matters will be listed on the docket posted in numerous locations in the courthouse.

8.045 MOTIONS TO HOLD A PARTY IN CONTEMPT

(1) Contempt Show Cause Motions and Orders. A contempt show cause motion and order must be submitted in documents separate from other motions and orders filed in the case. A contempt motion and order may not be included, even as a separate paragraph, in a motion and order for temporary relief or in a motion and order to modify. However, the same affidavit may be used to support the motion for contempt and the other motions.

(a) The contempt show cause order shall require the responding party to personally appear in court at 9:00 a.m., Monday, Tuesday, Wednesday, or Friday.

(b) Every show cause order for contempt of court shall contain the following or a similar notice:

"N O T I C E, READ THESE PAPERS CAREFULLY -- YOU ARE ORDERED TO PERSONALLY APPEAR IN THE ABOVE-ENTITLED COURT AT THE DATE AND TIME SPECIFIED IN THIS ORDER. IF YOU FAIL TO APPEAR IN COURT ON THIS DATE AND TIME, YOU MAY BE ARRESTED, HELD IN CUSTODY AND BROUGHT BEFORE THE COURT TO ANSWER THE CONTEMPT CHARGES WHICH HAVE BEEN MADE AGAINST YOU."

(2) First Appearances on Contempt Matters. The party requesting the contempt order does not have to appear at the time set in the show cause order for the responding party to appear. The responding party may appear by written response in lieu of this first appearance. A status hearing will be set within twenty-one (21) days of the responding party's appearance. The Calendar Clerk will send a written notice of this later hearing date to all parties.

8.051 MOTIONS TO MODIFY EXISTING ORDERS OR JUDGMENTS

Modifications to existing orders or judgments have the same requirements for mediation as set forth in B-SLR 12.005.

The show cause order will require the opposing party to file a written response within thirty (30) days from the date the order is served.

8.071 SETTLEMENT CONFERENCE

The Court, on its own motion or upon request of any party, may set a settlement conference. The procedures set forth in B-SLR 6.012 shall apply.

8.075 PARENTING TIME

A copy of the Benton County Standard Parenting Plan may be obtained from the court's website at www.ojd.state.or.us/ben or by calling the Domestic Relations Clerk at (541) 766-6705 or requesting by letter to:

Trial Court Administrator
Benton County Courthouse, Room 101
PO Box 1870
Corvallis, OR 97339

CHAPTER 9
PROBATE AND ADOPTION PROCEEDINGS

Probate Clerk, (541)766-6825

9.081 ALLEGED INCAPACITATED PERSONS -- NOTICE REGARDING FREE OR LOW COST LEGAL AND OTHER RELEVANT SERVICES

- (1) In a proceeding for the appointment of a guardian for an alleged incapacitated person, the notice required under ORS 125.070(3), shall include the following language or its equivalent:

“Free legal services for persons at least 60 years of age who are subject to a guardianship proceeding may be obtained by calling Oregon Legal Services's Senior Law Program at (541)926-8678 or (toll-free) 1-800-817-4605. Free or low cost services may be obtained by calling Senior Services at (541)967-2090 or (toll-free) 1-800-638-0510. Senior Services provides services to help people maintain maximum independence, remain in their homes as long as possible, select an appropriate adult foster care home or nursing home, obtain necessary personal and/or medical care, and stop or prevent physical or financial abuse.”

- (2) Place for making oral objections: Oral objections pursuant to ORS 125.075 may be made in Room 106 of the Benton County Courthouse, 120 NW 4th Street, Corvallis, Oregon 97339, during regular office hours.

CHAPTER 12
MEDIATION

Domestic Relations Clerk/Mediation Coordinator (541)766-6705

12.005 MANDATORY MEDIATION PROGRAM

- (1) Except for good cause, mandatory mediation shall be ordered in all domestic relations, dissolution, annulment, or separation cases involving issues of child custody and/or parenting time. Mediation fees are set by the Benton County Board of Commissioners. The mediation program policies and procedures are governed by the Benton County Mediation/Arbitration Commission.
- (2) Unless excused by the Court, parties in contested small claims cases shall be required to attend a mediation orientation session, after which parties may elect to participate in mediating the case.

CHAPTER 13
ARBITRATION

Arbitration Coordinator, (541)766-6825

13.055 REFERRING CASES TO ARBITRATION

Cases which are otherwise subject to arbitration will be referred to arbitration as follows:

- (a) Within twenty (20) days of the date on which the Answer is filed.
- (b) At any time as specifically directed by the Presiding Judge.

13.095 ARBITRATION PANEL

- (1) The Twenty-first Judicial District Arbitration Panel will consist of a panel of attorneys practicing in Benton and/or Linn Counties, selected by the Benton County Mediation/Arbitration Commission and having the following qualifications:
 - (a) Five years continuous practice including significant experience in civil litigation, with a present emphasis in his or her practice of law on civil litigation.
 - (b) A retired, senior, or pro tem judge.
- (2) The parties may stipulate to any arbitrator, including a non-lawyer arbitrator or a lawyer arbitrator who practices outside Benton and Linn counties.
- (3) The panel will be selected by the Benton County Mediation/Arbitration Commission subject to approval of this Judicial District's Presiding Judge.
- (4) The Arbitration Clerk will assign arbitrators to cases in a manner to ensure random selection.
- (5) A person desiring to serve as an arbitrator shall complete an information sheet on the form prescribed by the Court. A list showing the names of the members of the Arbitration Panel will be available for public inspection in the Arbitration Clerk's office. Execution of the form, oath, and agreement to serve must be completed and filed before an applicant is eligible to arbitrate a case.
- (6) Refusal and Disqualification. The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator must notify the Arbitration Clerk immediately if refusing to serve, or if any cause exists for the arbitrator's

disqualification from the case upon any grounds of interest, relationship, bias or prejudice governing the disqualification of judges.

- (7) If disqualified, the arbitrator must immediately return all materials in the case to the Arbitration Clerk.

13.285 TRIAL SETTINGS ON ARBITRATION CASES WHERE A REQUEST FOR DE NOVO TRIAL IS FILED

Every case in which a request for a trial de novo is filed will be set for trial within sixty (60) days of the date that the request for a trial de novo is filed.

CHAPTER 16
VIOLATIONS

16.005 PRE-ARRAIGNMENT, ARRAIGNMENT AND APPEARANCE

(1) This section governs any case initiated as a traffic violation under the Oregon Vehicle Code, or any other offense or violation issued on a uniform citation, or any misdemeanor treated as a violation pursuant to ORS 161.566 or 161.568, and for which the only penalty is a fine or forfeiture of a base fine.

(2) Prior to any arraignment date or at the date and time of arraignment specified on the summons, the defendant may exercise one of the following options to dispose of the case:

(a) The defendant may plead guilty and pay the fine specified as the base fine amount on the summons, or, if available, the reduced Violations Bureau fine, by entering a written plea of guilty and mailing the written plea and a check or money order for the fine to the court.

(b) The defendant may enter a written plea of guilty or no contest and submit a

written explanation of the incident in mitigation of the penalty. A defendant electing this option must submit the base fine with the written explanation.

(c) The defendant may enter a written plea of not guilty and request that the

matter be set for a court trial. Any defendant electing to proceed under this subsection must verify his or her residence address, current mailing address, and telephone number. A defendant must also provide a list of witnesses he or she plans to call at trial. Defendants may enter the not guilty plea and request a court trial in person or by mail.

(3) A defendant electing to proceed in accordance with subsection (2)(c) of this rule may request that the Court admit as evidence the testimony of a witness by affidavit in lieu of taking the testimony of the witness orally in court. Such requests shall be submitted in writing on a form provided by the Court for this purpose (Appendix 1).

(a) Any request by a defendant to admit defendant's own testimony by affidavit

shall be deemed a waiver of any right defendant may have to directly confront witnesses for the state. A request by defendant to admit by affidavit any defense witness testimony other than defendant's own shall not be deemed a waiver by the defendant of his/her right to confront state's witnesses.

(b) Absent a waiver pursuant to subparagraph 3(a) above, the Court's approval of any request by a witness for the State for the Court to admit testimony by affidavit of its witness is subject to receipt by the Court of a signed statement from the defendant waiving the right to have the testimony presented orally in court. The Court shall provide a waiver form to the defendant at the defendant's last known address.

(c) Affidavits submitted as testimony in lieu of the taking of testimony orally in

court must be submitted on a form provided by the Court (Appendix 2) and must be notarized. Affidavits must be received by the Court within ten (10) days of the Court's approval of testimony by affidavit to submit affidavits.

(4) The options described in subsections (2)(a), (2)(b) and section (3) of this rule do not apply to persons under the age of 21 years charged with attempting to purchase or purchasing or acquiring alcoholic liquor pursuant to ORS 471.430.

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

STATE OF OREGON)	
)	Case No. _____
vs.)	
)	ENTRY OF PLEA; REQUEST
_____)	TO SUBMIT TESTIMONY BY
)	AFFIDAVIT; ORDER

NOTICE: THIS ENTRY OF PLEA AND REQUEST MUST BE RECEIVED BY THE COURT ON OR BEFORE THE DATE LISTED ON THE SUMMONS.

1. I, _____, plead NOT GUILTY and request a Court trial in the above-entitled case.
2. I intend to present the testimony of the following witnesses at my Court trial (*include yourself, if you plan to testify*): _____

3. If otherwise admissible, I am requesting that the Court admit the testimony of the following witnesses by affidavit (*include yourself if you are requesting to appear by affidavit*): _____

4. I understand that if I am requesting to offer my own testimony by affidavit, the state's testimony will also be admitted by affidavit, if otherwise admissible.
5. If you plan to appear in person and offer oral testimony, do you nonetheless agree to have testimony for the state's witnesses admitted by affidavit if that testimony is otherwise admissible?

_____ Yes _____ No
6. I understand that if I offer testimony by affidavit, the judge will give that testimony the same consideration as oral testimony at a personal appearance.
7. I currently reside at _____

//
//
//

8. My current mailing address and telephone number are _____

RESPECTFULLY SUBMITTED this _____ day of _____, 200__.

Signature

Defendant's request for the Court to admit testimony of the above witnesses by affidavit,
if otherwise admissible, is hereby: _____ Approved _____ Denied

BY: _____
Violations Bureau Clerk

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

STATE OF OREGON)
) Case No. _____
 vs.)
) TESTIMONY BY AFFIDAVIT
)
 _____)

NOTICE: AFFIDAVITS MUST BE RECEIVED BY THE COURT WITHIN TEN (10) DAYS OF THE COURT'S APPROVAL OF A REQUEST TO HAVE TESTIMONY ADMITTED BY AFFIDAVIT.

I, _____, (print legibly) being first duly sworn, state
that I am the (check one)
_____ Defendant _____ Other witness for the Defense
_____ Police Officer _____ Other witness for the State

in the above-captioned case. This affidavit represents my sworn testimony in this matter.

(Attach additional pages if necessary. All additional pages must be signed by the witness and notarized.)

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

Dated this _____ day of _____, 200__.

Witness

SUBSCRIBED AND SWORN to me this _____ day of _____, 200__.

NOTARY PUBLIC/COURT CLERK
My commission expires: _____

CIRCUIT COURT OF THE STATE OF OREGON FOR BENTON COUNTY
21ST JUDICIAL DISTRICT

This will certify pursuant to UTCR 1.040 that appended hereto is a true and correct copy of proposed Supplementary Local Rules of the Circuit Court of the State of Oregon for Benton County.

Dated this _____ day of _____, _____.

Locke A. Williams, Presiding Judge