

**SUPPLEMENTARY LOCAL TRIAL COURT RULES
OF THE CIRCUIT COURT
OF THE STATE OF OREGON
FOR THE FIFTEENTH JUDICIAL DISTRICT
(Coos and Curry)**

Effective February 1, 2003

1.151 Hours of Court Operation

(1) The Fifteenth Judicial District has three (3) court locations. In Coos County there are two locations: the Coos County Courthouse, Second and Baxter Street in Coquille and the North Bend Annex, 1975 McPherson Avenue in North Bend. In Curry County there is one location: the Curry County Courthouse, 29821 Ellensburg Avenue in Gold Beach.

(2) The courts in all three locations are open for the conduct of judicial proceedings from 8:00 am to noon and 1:00 pm to 5:00 pm Monday through Friday with the exception of judicial holidays. The courts may also hold judicial proceedings at other times and on other days when required by the court for the conduct of its business and upon notice to the parties required to attend.

(3) The court clerk's offices are open to the public for business and to receive filings Monday through Friday at each location as noted below:

(A) Coos County Courthouse and Curry County Courthouse

Monday: 8:00 am to noon and 1:00 pm to 5:00 pm
Tuesday: 8:00 am to noon and 1:00 pm to 3:30 pm
Wednesday: 8:00 am to noon and 1:00 pm to 3:30 pm
Thursday: 8:00 am to noon and 1:30 pm to 3:30 pm
Friday: 8:00 am to noon and 1:00 pm to 5:00 pm

(B) North Bend Annex:

Monday: 8:00 am to noon and 1:00 pm to 5:00 pm
Tuesday: 8:00 am to noon and 1:00 pm to 3:30 pm
Wednesday: 8:00 am to noon and 1:30 pm to 3:30 pm
Thursday: 8:00 am to noon and 1:30 pm to 3:30 pm
Friday: 8:00 am to noon and 1:30 pm to 3:30 pm

1.161 Filing of Documents

Except as noted below, documents for all circuit court cases in Coos and

Curry Counties are to be filed at the Coos County Courthouse and the Curry County Courthouse during clerk's public business hours.

(A) In Coos County, all Small Claims, Forcible Entry and Detainer, Probate, Mental, Stalking, Name Change and Violation cases are to be filed at the North Bend Annex during the clerk's public business hours.

1.171 Fifteenth Judicial District Website

The website address is: <http://www.cooscurrycourts.org>

2.085 Communication with the Court

All written communication to the court shall refer to the title of the cause and the case number.

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.

4.015 Incarcerated Defendants in Misdemeanor Cases

If a defendant is incarcerated pretrial in a misdemeanor case, the defendant's arraignment shall be conducted by video camera, if available.

5.055 Time for Hearing Motions

(1) All motions, except motions for summary judgment, shall be heard at 8:30

am, Monday through Friday, four weeks from the date on the certificate of mailing filed with the court. The original certificate of mailing shall be attached to the original motion filed with the court and a copy of the certificate shall be attached to the copy of the motion mailed to the opposing party. If the certificate shows it was mailed on a Saturday or Sunday, it shall be deemed to have been mailed on the following Monday. If the day on which the motion is to be heard falls on a nonjudicial day, it shall be heard the next judicial day.

(2) Subsection (1) shall also apply to motions for summary judgment except that the time period shall be five weeks.

(3) If a party requests an expedited hearing of a motion, the request must be made in the caption of the motion and the party making the request must make arrangements with the court and the opposing party for the motion to be heard.

5.061 Stipulated and Ex Parte Matters

All stipulated and ex parte matters shall be presented to the court for signing at 8:30 am. in accordance with UTCR 5.060 (3).

5.062 Trial Court File Presented with Ex Parte Matter

If a party presents an ex parte matter to the court, the party presenting the matter shall be responsible for notifying the administrator's office so the trial court file, if any, will be available to the court for inspection.

5.064 Time for Hearing Show Cause Matters

(1) In Coquille all show cause hearings, except custody cases, will be heard on the first Tuesday of the month beginning at 1:30 P.M. and the third Tuesday of the month at 9:00 A.M. Custody show cause hearings will be set on Tuesday - Thursday of each nonjury week of the month beginning at 9:00 A.M. Support enforcement hearings will be set on the third Friday of each month for the District Attorney beginning at 9:00

A.M. and for the Department of Justice at 11:00 A.M. Other show causes initiated by the state will normally be heard on the third Friday of each month beginning at 9:00 A.M. but may be set at other times due to scheduling conflicts.

(2) In North Bend show cause hearings will be set Tuesday - Thursday of each week beginning at 9:30 A.M.

(3) In Curry County all show cause hearings will be heard on Mondays at 9:30 am except those involving Support Enforcement. Support Enforcement hearings will be scheduled as needed through Judges' Judicial Assistant.

(4) If a show cause hearing will take more than ½ day, the motion must state the approximate time estimated for the hearing in the caption of the motion.

6.005 Trial Times

(1) Coos — In general, jury trials shall be heard Tuesday through Thursday, beginning at 9:30 am and nonjury trials will be heard Mondays and Fridays beginning at 9:30 am and 1:30 pm and Tuesday through Thursday beginning at 9:30 am.

(2) Curry — In general jury and nonjury trials shall be heard Tuesday through Friday beginning at 9:30 am.

(3) If parties have pretrial matters to discuss with the court prior to the start of a jury trial, the parties must appear at least ½ hour before the start of trial and inform the court that pretrial matters need to be heard.

(4) This rule applies to civil, criminal, domestic, juvenile, and all other types of matters requiring a trial or hearing.

6.012 Pretrial Settlement Conferences

(1) In all civil cases, when applicable, including dissolution of marriage and post-judgment modification proceedings, if one party requests a pretrial settlement conference, the settlement conference shall be held and shall be conducted according to the procedure set forth in this rule. However, the pretrial settlement conference will not be required if the opposing party demonstrates good cause why the settlement

conference should not be held.

(2) Each trial attorney and party or representative of the corporation or insurance company who has full authority to settle and compromise the litigation shall personally appear at the pretrial settlement conference; however, the judge may permit telephone appearances for good cause. If the judge allows a telephone appearance, the person appearing by telephone must be available at all times during the settlement conference.

(3) Each 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 settlement conferences shall not delay the trial scheduling.

(5) If the case does not settle, the settlement conference judge shall be permitted to act as trial judge only if all parties so stipulate.

(6) Before beginning of the settlement conference, each party shall submit to the settlement conference judge a pretrial statement. The pretrial statement shall contain:

(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 confidential and shall not be placed on the trial court file.

(8) Materials or notes prepared by the settlement conference judge 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 settlement conference judge.

6.075 Settlement and Call Day

(1) Every Friday shall be call day except if that Friday is a non-judicial day, the preceding Thursday shall be call day.

(2) Call day applies to civil, domestic, show cause, and other contested

proceedings, including termination of parental rights trials, but excluding other juvenile cases and all criminal cases.

(3) During the week before a trial, proceeding, or hearing is scheduled to be tried, but not later than 12:00 P.M. on call day, it shall be the responsibility of every attorney who has a trial, proceeding, or hearing scheduled to be tried to notify the office of the presiding judge for cases in Coquille, the office of the judge in North Bend for cases in North Bend, and the office of the judge in Gold Beach for cases in Curry County whether the matter will be tried. Fulfillment of this requirement can be accomplished by phone or in writing as long as such communication is received by the appropriate judge's office during the week before the matter is to be tried, but no later than 12:00 P.M. on call day.

(4) If a case is scheduled to be tried before a jury 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 at least one 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.

(5) In any trial, proceeding, or hearing scheduled to be tried or heard by the court alone, if a case settles, it will be necessary for the parties involved to either appear in person and put the settlement on the record or submit the appropriate dismissal or settlement papers to the court. This shall be done on or before the time set for trial, proceeding, or hearing. A conference call arranged and paid for by the parties is sufficient compliance with this rule.

(6) If the case does not settle as anticipated by the parties, they shall be prepared to try the case at the time scheduled or the case shall be dismissed.

6.085 Voir Dire

(1) In all jury trials the court shall inquire of the jurors initially called as a group and/or individually. After the court has finished its inquiries, each party shall have up to 25 minutes to inquire of the jurors initially called as a group and/or individually.

(2) When a juror is excused for cause or by peremptory challenge, the replacement juror shall be questioned by the court with each party following for up to 2 minutes each.

(3) Multiple parties must share the times allotted.

(4) The parties may submit typewritten questions for the court to ask before the start of trial.

(5) A request for voir dire other than as provided by this rule may be orally made on the day of trial before the jury is called.

7.006 All matters shall be scheduled by the presiding judge or designee.

7.015 Pleas in Misdemeanor Cases in Coos County

(1) In misdemeanor cases involving a defendant who is not in custody, the plea date shall be 49 days after arraignment.

(2) If the defendant enters a not guilty plea through an attorney, the attorney shall state on the record or in writing that the attorney has personally talked to the defendant about negotiating a plea before the entry of a not guilty plea and shall inform the court of his/her conflict dates.

(3) After the entry of a not guilty plea, a trial shall be held within 42 days of the entry of the plea.

Local Supplementary Rules for Probate Procedures

PROCEDURES IN GENERAL

9.001 Notices of Time for Filing Objections

Notices of time for filing objections must specify the date by the objections must be received. The mailing address for filing objections must be provided (Coos County: PO Box 865, North Bend, Oregon 97459; Curry County: PO Box 810, Gold Beach, Oregon 97444).

9.002 Letters of Fiduciary Authority

Court staff will prepare the appropriate letters if not provided by the petitioner. One certified copy of the letters will be provided at no cost. There will be a cost for additional certified copies which must be paid prior to issuance.

9.003 Filing Fees

When filing the inventory, any balance owing on the filing fee must be paid.

9.004 Extensions of Time

Upon written request, an extension of up to 30 days for filing any document will be automatically allowed. If any further extension is necessary, a motion must be filed with the court. A proposed order must accompany any motion.

9.005 Late Filing Notices

One delinquency notice will be sent for each failure to timely file a required document. The notice will specify the number of days to respond. Filing of the document or filing a motion explaining the reason for the delay and stating when the filing will be made is an acceptable response to the notice. If the court receives no response to the notice, an order will be issued for the fiduciary to show cause why he or she should not be removed. Filing the delinquent document can dismiss the show cause order.

9.006 Conferences and Hearings

Telephone conferences or court hearings may be scheduled by request through the judicial assistant to the probate judge. Requesting counsel shall confer with other counsel and advise of the estimated time required and mutually acceptable dates

before scheduling with the court.

PROBATE ISSUES

9.022 Bonds

If a bond is required and the petition does not specify the value of assets, a \$10,000 bond will be ordered by the court. The bond may be increased upon the filing of the inventory. The court may require a bond of a pro se personal representative, even if the bond is waived in the will or waived by the heirs and devisees. A bond may also be required for a personal representative who is the sole heir or devisee if there is a concern that the creditors may not be paid. A bond is not required for the initiation of an estate when the sole asset is a wrongful death claim; however, a bond may be required when the order approving settlement is signed.

9.023 Timely Closing of Estates

It is anticipated that a probate can normally be concluded within one year of the date of filing. The procedure in **9.004** must be followed for requesting any extension of time.

9.024 Decree of Distribution

The order approving the final account and decree must state with specificity the names of the heirs or devisees and the specific property, amount, or percentage each receives. It is not acceptable to order distribution “according to the will or final account.” Likewise, the order must specify the amount of fees approved.

9.025 Wrongful Death Estates

If the sole reason for probate is to prosecute a wrongful death action, this should be clearly stated in the petition. When the action is complete, dismissed, or the determination has been made to not pursue the claim, an order must be submitted discharging the personal representative and closing the file.

ACCOUNTINGS

9.062 Depository Statements

DO NOT ATTACH ALL BANK STATEMENTS FOR THE ACCOUNTING PERIOD. The accounting shall include an opening depository statement for each deposit account, unless submitted with a previous accounting, and a closing depository statement which shall show the balance in the account within thirty days of the close of the accounting period, or on the date of closing of an account closed during the accounting period.

9.063 General Procedures

The caption should designate the number of the accounting (e.g., First, Second) and also state if it is the *Final* Accounting.

The accounting must summarize the beginning balance, all receipts, all disbursements, and list all money and property on hand at the end of the accounting period with the total value calculated. The form of accounting must be as described in UTCR9.160, except as follows:

(1) The term “receipts and disbursements” as applied to a brokerage account for stocks, bonds, mutual funds, or other similar investments shall not apply to transactions within the account which do not constitute a withdrawal from or a deposit to the account by the fiduciary. In lieu thereof, the net change in value of the brokerage account from the beginning of the accounting period to the end of the accounting period, as a result of transactions within the account and changes in value of assets,

shall be provided.

(2) Any estate having a value of less than \$200,000 at both the beginning and the ending of an accounting period with income during the period less than \$40,000 may use the form of accounting allowed for a trust company under UTCR 9.160.

(3) An alternative form of accounting will be acceptable so long as the accounting includes the following:

(A) An asset schedule, included in the narrative or as a separate exhibit, which shall list each asset on hand at the beginning of the accounting period and each asset on hand at end of the period with:

(a) The specific balance at the end of the period in each deposit account (any account containing cash or cash equivalents), and

(b) The fiduciary's estimate of the current value as of the end of the accounting period of each asset that is not a deposit account, and

(c) A narrative explanation describing the nature of any transaction by which an asset (other than a cash receipt or disbursement) was acquired, disposed of, or substantially changed in value during the accounting period. In the case of securities held in a brokerage account, in which the only change is market fluctuation, this requirement may be satisfied by so stating.

(B) A schedule of receipts, included in the narrative or as a separate exhibit, which shall be a chronological listing of all receipts by date and amount, including the payor and explanation of purpose for the payment, for each deposit account. Receipts shall be totaled by deposit account. Dividends reinvested in a dividend reinvestment plan may be included in a single entry giving the total of such reinvested dividends for each security for the period, or may be included in a sub-schedule describing the reinvestment activity.

(C) A schedule of disbursements, included in the narrative or as a separate exhibit, which shall be a chronological listing of disbursements by date, check number, payee, amount and purpose for payment (if not obvious from the payee), for each deposit account. Disbursements shall be totaled by deposit account. If more than 20 disbursements were made during the period of the accounting, the accounting shall include a schedule in the narrative or as a separate exhibit, summarizing the

disbursements by category, with the totals expended in each category, for the period of the account.

9.064 Changes in Accounting Period

The court will allow a change in accounting period for the convenience of the fiduciary. A motion and order is required.

PROTECTIVE PROCEEDINGS

9.081 Oral Objections

When oral objections are allowed by law, the notice must state in Coos County cases that the person can appear at the probate clerk's office at the Courthouse Annex in north Bend (1975 McPherson) Room 216 to make oral objections. In Curry County cases, the place for oral objections is the State Court office on the main floor of the Curry County Courthouse in Gold Beach. Please refer to SLR 1.151 for daily hours of operation for the court clerk's offices.

9.082 In General

For proceedings involving minors, the petition must contain a statement whether the Indian Child Welfare Act ("ICWA") applies. If it does, then the petition must comply with the requirements of the Act. ORS 125.025(2).

(1) One protective proceeding may cover a husband and wife, if both meet the legal requirements for a protective order, or all minor siblings, as long as the same fiduciary or fiduciaries are to be appointed for all the protected people in the matter. Joint petitions for appointment of conservator and guardian or for temporary and permanent guardian are also allowed.

(2) An original and duplicate copy of all petitions seeking appointment of fiduciaries are required.

9.083 Visitors

Arrangements must be made for a visitor prior to filing the petition. The probate clerk can be contacted for the names of court-approved visitors. The petitioner can request appointment of the visitor in the petition, rather than by separate motion. The fee for the visitor is paid directly to the visitor by the petitioner.

9.084 Waiver of Annual Accounting

If all conservatorship assets are placed in a restricted account, with no disbursement without court approval, and a letter from the financial institution acknowledging the restrictions is filed with the court, then no annual accounting will be required as long as there is no disbursement of the funds, other than court-approved attorney or other fiduciary fees.

9.085 Mediation

Objections to appointment of a fiduciary, filed by persons other than the respondent, in Coos County cases shall be referred to mediation prior to hearing. Objections by the respondent, or objections to other proposed actions by the fiduciary, may be referred to mediation in Coos County Cases.

9.095 Other Protective Orders

ORS 125.650 can be used for the court to approve a settlement for which a conservator is not otherwise required, such as a personal injury settlement for a minor where the funds will be held in a restricted account or will be received after the minor

reaches 18.

LOCAL SUPPLEMENTARY RULES FOR ARBITRATION

13.005 Arbitration Program

(1) Coos and Curry courts have adopted a mandatory arbitration program for matters of less than \$25,000.

(2) Instead of referring a case to arbitration, the parties may stipulate that the court shall act in accordance with the applicable arbitration rules in UTCR chapter 13, but there shall be no trial de novo.

(3) Proceedings conducted pursuant to subsection 2 shall not be reported unless the parties prior to the start of the proceeding pay the trial and reporter fee for a nonjury case.

(4) If the parties enter into a stipulation provided for in subsection 2, the matter shall be tried to a judge in the Fifteenth Judicial District chosen by the parties. If the parties cannot agree upon the judge who is to try the case, a judge not otherwise properly disqualified shall be assigned by the presiding judge.

13.051 ARBITRATION WHEN CASE ALREADY SET FOR TRIAL

In all cases subject to mandatory arbitration a trial date will be set in accordance with the court's regular trial setting procedure and UTCR 7.020(5). All requests to reset a trial date must comply with UTCR 6.030.

13.121 COMPENSATION OF ARBITRATORS

(1) In all cases the arbitrators fee will be set by the arbitration commission.

(2) Each party shall pay one-half of the arbitrator's fee and it shall be paid in

accordance with UTCR 13.120(2).

(3) If a case settles before the date of the arbitration the arbitrator shall refund the preliminary payment except for an amount set by the arbitration commission.

(4) The parties and arbitrator may use the procedure in UTCR 13.120(1) to adjust or request a higher fee than set in subsections (2) and (3) above.

(*Note - The Arbitration Commission has set the arbitrator's fee at \$500.00.)

13.161 SCHEDULING OF HEARING

Refer to SLR 13.051.