

SUPPLEMENTARY LOCAL RULES

CIRCUIT COURT
OF THE STATE OF OREGON

TENTH JUDICIAL DISTRICT
UNION AND WALLOWA COUNTIES

Effective
February 1, 2005

CHAPTER 1 - GENERAL PROVISIONS

1.151 HOURS OF COURT OPERATION

The Circuit Court office in La Grande is open to conduct business from 8:00 a.m. to 5:00 p.m. Some public service counters may be closed between Noon and 1:00 p.m. The Circuit Court office in Enterprise is open to conduct business from 8:00 a.m. to Noon and 1:00 p.m. to 5:00 p.m.

In La Grande the entry to the courtrooms, the traffic and accounting offices, and the criminal records office is at 1007 4th Street. The entry to the civil records office is at 1008 K Avenue. In Enterprise the courtroom and the court operations office are located on the second floor of the Wallowa County Courthouse, 101 S. River Street.

1.171 COURT WEBSITES

Website addresses for the Circuit Court of Oregon, Tenth Judicial District, are:
www.unioncountycourt.org and www.wallowacountycourt.org.

CHAPTER 2 - STANDARDS FOR PLEADINGS AND DOCUMENTS

2.012 ADDRESSES AND TELEPHONE NUMBERS

(1) Defendants in criminal, violation and infraction cases. During the pendency of any case charging an offense, including traffic, boating, game, infraction, violation, and criminal cases, or while any monetary or other obligations imposed by the Court in such case remain unsatisfied, defendant must keep the Court advised in writing of defendant's current name, mailing address, and telephone or message telephone number.

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

2.014 FORM OF DOCUMENTS

(1) All documents filed with the Court shall be two-hole punched in advance at the top of each page, by the party submitting the document. Documents shall be stapled in the upper left corner.

(2) Exhibits appended to filed documents shall be affixed to the document with

staples or binder clamps.

(3) Documents filed with the court or submitted for signature by a judge shall not be stamped or marked “original”.

CHAPTER 3 - DECORUM IN PROCEEDINGS

3.051 PARTICIPATION IN HEARING BY TELEPHONE

When counsel, parties, or witnesses are granted permission to appear by telephone, they may participate by mobile or cell telephone only:

- (1) When the call is made from a location affording good quality communication and
- (2) The caller is not operating or a passenger in a moving vehicle.

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.

CHAPTER 6 - TRIALS

6.012 MANDATORY SETTLEMENT CONFERENCE

(1) Cases on the trial calendar assigned a time and a place for trial may be calendared for a mandatory settlement conference approximately twenty-one (21) days before trial. The purpose of the mandatory settlement conference is to provide a forum to resolve disputes before trial through the active participation of counsel and the Court. A pretrial settlement conference will not be required if a party demonstrates good cause why the settlement conference should not be held.

(2) At the mandatory settlement conference, the Court requires 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 or readily available by telephone. An out-of-state party may apply to be excused from appearing at the mandatory settlement conference by initiating a conference call to the Presiding Judge in advance of the scheduled settlement conference. The Presiding Judge or his designee shall rule on the request.

(3) Settlement conferences shall be held informally before a judge at a time and

place provided by the Presiding Judge. The conference may be continued by the judge as part of a continuing settlement conference to another day before trial. Each case on settlement conference calendar shall retain its place on the trial calendar. If the case does not settle at such conference, no reference shall thereafter be made to any settlement discussion had under this rule, except in subsequent settlement proceedings.

(4) In the event that a settlement is not reached at the settlement conference, the settlement judge shall not try the case.

(5) In the event settlement negotiations are not successful, counsel should expect and be prepared to proceed to trial on the scheduled date. Every effort will be made by the Court to insure that the case proceeds to trial as scheduled. This Court will deny all requests for continuance except in case of emergency or highly unusual circumstances.

6.013 SETTLEMENT CONFERENCE STATEMENT

(1) In every case, the party shall present directly to the settlement judge, not less than fourteen (14) days prior to the date of the settlement conference, a detailed settlement conference statement and serve a copy on opposing counsel. The date and time of hearing shall be typed on the face sheet of the statement.

(2) In the case of personal injury/property damage litigation, the plaintiff shall include in the settlement conference statement a summary of facts, the injuries and/or damages, any special legal issues involved, and a settlement demand, and shall attach a copy of the most recent medical report(s).

(3) The defendant shall prepare a similar statement setting forth a summary of the facts, the injuries, legal issues, defendant's settlement offer, and a copy of the most recent defense medical report(s).

(4) In actions for dissolution, annulment, or separation, and actions for modification of judgments therein, the parties shall present directly to the settlement judge fourteen (14) days prior to the date of the settlement conference, all documents otherwise required by UTCR Chapter 8 pertaining to domestic relations proceedings.

(5) In other cases, each party shall prepare an appropriate settlement statement setting forth a summary of the facts, legal issues, damages and relief demanded, together with all demands and offers.

(6) To facilitate settlement conferences, in all cases, all parties to the action shall, no later than fourteen (14) days prior to the conference, present to the settlement judge separate informal memoranda, briefly explaining the nature of the action, key

unresolved issues which are impeding settlement, offers and monetary value of the case and factors supporting the same, the strengths and weaknesses of the case, statements of witnesses and exhibits and any other relevant statements.

(7) All settlement conference materials shall be hand delivered to the settlement judge. The envelope containing the data shall bear the name of the attorney submitting it, the part on whose behalf it is submitted, the caption of the case, the case number, the date and time the conference is set for hearing and a clear indication that the statement is to be confidential.

(8) The contents of settlement materials shall not be divulged in any part by the settlement judge unless authorized by the party submitting it. At the conclusion of the conference, all materials shall be returned to the presenter, unless all parties agree otherwise.

6.014 VOLUNTARY SETTLEMENT CONFERENCE

A voluntary settlement conference may be requested by any party to an action at any stage of the proceeding by filing a request for a voluntary settlement conference with the Clerk. The Presiding Judge or designee shall consider the request and, if appropriate, calendar the matter for a voluntary settlement conference to be conducted pursuant to SLR 6.013.

6.016 SETTLEMENT AGREEMENT

Unless a settlement agreement signed by all parties is filed before the time set for trial, all parties are required to appear for trial. Appearance may be in person or by telephone. The terms of the settlement agreement shall be read into the record and the parties will announce their agreement with the terms of settlement.

6.081 COPIES OF EXHIBITS

One photo-copy of every documentary exhibit required to be marked pursuant to UTCR 6.080 shall be delivered to opposing counsel and one copy to the Court before the commencement of trial.

6.082 STIPULATION TO EXHIBITS

All exhibits marked pursuant to UTCR 6.080 shall be shown to opposing counsel before the commencement of trial. Counsel shall stipulate to those exhibits to which there are no objections and shall deliver the stipulated exhibits to the clerk. At the commencement of the trial the judge shall state on the record that the stipulated exhibits have been received into evidence.

6.135 TRIAL REPORTER AND JURY FEES

Pursuant to ORS 21.270 and 21.275, in all civil cases, the trial fee, hearing fee and jury fee shall be paid to the Court Administrator prior to the scheduled trial. Failure to pay the fees as set forth in this rule shall be deemed waiver of reporter and jury. No court or jury trial shall proceed to trial until fees under this rule are paid to the Court Administrator.

CHAPTER 7 - CASE MANAGEMENT AND CALENDARING

7.215 SCHEDULING COURT APPEARANCES

Trials, motions and show cause hearings shall be scheduled in writing to the parties, except that short-notice hearings may be arranged telephonically. Trials commence daily at 9:00 a.m. and continue through 5:00 p.m. Non-custodial matters are scheduled every Tuesday at 9:00 a.m. Custodial matters are scheduled daily at 1:15 p.m.

CHAPTER 8 - DOMESTIC RELATIONS PROCEEDINGS

8.005 SETTLEMENT CONFERENCES

In actions for dissolution, annulment, or separation, and actions for modification of judgments therein, the parties shall present directly to the settlement judge fourteen (14) days before a SLR 6.012 and 6.014 settlement conference, all documents otherwise required by UTCR Chapter 8.

8.006 COORDINATION OF CASES

(1) Neither counsel nor parties shall bring an action for custody or parenting time in any civil action without disclosing the existence and status of any other pending or closed case relating to those issues, whether the other case is a governmental action (such as a child support or juvenile matter), a probate action (such as a guardianship), or an out of state action.

(2) Where more than one case filed in this Judicial District relates to the same parties, every attempt will be made to calendar all related cases before the same judge and, where appropriate, at the same time.

8.012 PARENT EDUCATION CLASS AND MEDIATION ORIENTATION

(1) In any domestic relations action involving the custody or parenting time of

minor children, including enforcement or modification proceedings and proceedings involving parties who are non-parents, all parties shall attend a parent education class and mediation orientation session provided by the Court prior to a judicial determination of the issues. For purposes of this rule, domestic relations actions include dissolution of marriage, separation, annulment, filiation, dissolution of domestic partnership, guardianship and such other cases as shall be designated by the Presiding Judge.

(2) Attendance at a parent education class and mediation orientation shall not be required in any case arising under the Family Abuse Prevention Act, ORS 107.700-107.730, or the stalking act, ORS 163.730-163.755.

(3) The parent education class shall include information about parenting children during the process of separation or divorce, and shall be designed to assist parents and other adults in meeting children's needs during this period. Mediation orientation shall include information about the mediation process, other dispute resolution processes, including litigation, and circumstances in which mediation may not be appropriate. The classes shall be open to the public.

(4) Parties may attend a similar parent education session in another Oregon county and file a certificate of attendance with the Court. With prior Court approval parties may attend a similar parent education session in another state.

(5) The court, upon the motion of any party or upon its own motion, may order parties in any action identified in subparagraph (1), above, to attend such supplemental education programs as the court deems to be in the best interest of the minor children.

8.013 MEDIATION OF CHILD CUSTODY AND PARENTING TIME DISPUTES

(1) It is the Court's policy that resolution of family issues through good faith participation in competent, professional mediation is in the interest of both the family and the public.

(2) Mediation of custody/parenting time disputes may be commenced at any stage in a civil action by the stipulation of the parties or by the order of the Court. The Court may order mediation on the motion of either party or on the Court's own motion. For purposes of this rule, civil actions include dissolution of marriage, separation, annulment, filiation, dissolution of domestic partnership, guardianship and such other cases as shall be assigned by the Presiding Judge.

(3) The Court may decline to hear a contested custody or parenting time issue until and unless the parties have participated in mediation in a good-faith attempt to resolve the issues between themselves. A notice from the assigned mediator must be filed

with the Court stating that the parties have cooperated and that mediation has nevertheless not resulted in an agreement before trial or hearing on the merits will be calendared.

(4) Parties ordered to mediation shall be referred to the Court's Family Mediation Program.

(5) Parties may select, by stipulation, a private mediator. The parties shall directly contract with the private mediator and be responsible for payment of the mediator's fees. If private mediation is selected, a written stipulation indicating the name of the mediator shall be filed with the Court. Private mediators should have education and experience equivalent to the minimum requirements for membership in the Court's family mediation panel.

(6) If the parents cannot agree on the amount of support to be paid by one to the other, and they are also in dispute as to custody or parenting time, upon the request of both parents, the mediator may assist in resolving the support issue as well.

(7) If the parties cannot agree on the division of their assets and debts or other economic issues, and they are also in dispute as to custody or parenting time, upon the request of both parties the mediator may assist in resolving the additional issues as well.

(8) At any point during mediation, the Court may approve a custody and parenting time order reflecting the parents' full or partial agreement as to the issues. If the agreement is reached through the Court's Family Mediation Program and prepared by one of the Court mediators, the mediator shall hold the signed agreement for seven calendar days from the date of the last signature and mail notice of the agreement to the parties and their attorneys, if known to the Program. The mediator shall forward the signed agreement to the Court for approval unless, within that time period, the mediator receives written notice of a party's repudiation of the agreement.

(9) Mediation shall not be used by any party in bad faith for the purposes of delay or undue influence on other issues. If the Court finds at any time that the mediation process is being misused, it may determine that further mediation is inappropriate, have the case removed from the mediation process and impose sanctions, as appropriate.

(10) In the event the parties are not successful in mediating the custody or parenting time controversy, the mediator shall notify the Court. The matter will be scheduled for hearing as to the remaining unresolved issues, to be held in the same course and with the same priority on the docket as though there had been no mediation.

(11) In the following cases, notice of mediation must be filed in the other appropriate court files and provided to all other interested parties:

- (a) Where there is a pending Juvenile Court petition regarding the child or children in question; or
- (b) Where temporary or permanent custody or wardship of the child or children in question has been granted to the Oregon Department of Human Services or the Oregon Youth Authority; or
- (c) Where the Juvenile Court has assumed temporary or permanent jurisdiction over the child or children in question.

8.014 COURT'S AUTHORITY

(1) A civil case filed in the Circuit Court remains under the control of the Court in all phases of the proceedings, including mediation. The Court referring a case to mediation may set, in its referral order, the limits of the mediator's scope of authority in the case. Absent an order to the contrary:

- (a) The mediator has authority and control over the mediation process but has no authority over the parties or over their decisions in the case;
- (b) Unless otherwise agreed in writing by the parties and mediator, the parties' legal counsel shall not be present at mediation sessions;
- (c) The mediator shall encourage disputing parties to obtain individual legal advice at any time during the process and individual legal review of any mediated agreement before signing any agreement;
- (d) The mediator shall not act as a lawyer for either party or the children of the parties in the current or any related matter absent the written consent of both parties.

8.015 CONFIDENTIALITY OF MEDIATION

(1) All communications occurring in the course of mediation are confidential pursuant to ORS 107.785. Mediators are mandated reporters regarding any allegation of child abuse or neglect and shall so advise each party prior to commencement of mediation.

(2) Except as provided by rule 12.020(1), above, or as agreed to by both parties after mediation ends, the mediator shall not communicate to any third party regarding the mediation, other than to inform the Court of the terms of the parties' agreement or, if full agreement was not reached, of that fact. The mediator shall not make any recommendation. The mediator may not be subpoenaed or called as a witness regarding

any aspect of the mediation other than whether the mediation resulted in agreement and, if so, the specific terms of the agreement as communicated to the Court.

8.016 MEDIATION WHERE A POWER IMBALANCE EXISTS

(1) Where there is a restraining order between the parties, a history of domestic violence or abuse, an extreme imbalance in the power relationship between the parties or other reason to believe that mediation may be inappropriate, a party may contact the assigned mediator to request that the parties meet with the mediator separately, the presence of a support person during mediation, telephonic mediation or another remedy. A mediator may exclude a support person from a session if the support person disrupts the process of mediation.

(2) The mediator may arrange separate sessions, require telephonic mediation or terminate mediation at any time if the mediator believes that issues of violence, abuse, threatening behavior, manipulation or power imbalance make further mediation inappropriate. In any telephonic mediation, both parties will participate by telephone.

8.017 NON-RESIDENT PARTICIPANTS

If one of the parties is not a resident of the county in which mediation is scheduled, that party may request that mediation occur by telephone. If the needs of both parties would be better served by telephonic mediation, they may agree to such mediation. If telephonic mediation occurs, both parties will appear by telephone and will arrange to be available in a quiet place, not in the presence of the parties' children. All others present at the time of telephone mediation must be identified. Costs of telephonic mediation will be paid proportionately by the party(ies) appearing by telephone.

8.018 DISPUTED PARENTAGE

If parentage is disputed, the issue need not be resolved by the Court prior to mediation. Mediation shall not be denied to the parties on the basis that parentage is an issue in the proceeding before the Court. The Court may make a temporary order granting parenting time to a non-custodial parent absent a parentage determination upon a finding that the granting of such visitation would be in the best interest of the child.

8.019 APPOINTMENT OF COUNSEL FOR THE MINOR CHILD

Where appropriate, the mediator may recommend that the Court appoint counsel to represent the minor child.

8.020 [Not used - See UTCR 1.080(3)]

8.021 MEDIATOR QUALIFICATIONS

To qualify as a Court Family Mediation Program panel member, person must:

(1) Meet the requirements of OAR 718-30-0 through 718-30-100 and of the Oregon Dispute Resolution Commission for mediation of custody-parenting disputes; if the mediator is assigned additional responsibility per rules 8.013(6) and 8.013(7), the mediator shall meet the minimum requirements set by the Oregon Dispute Resolution Commission for those additional responsibilities.

(2) Sign and file an application with the Court; and

(3) Be approved by the Presiding Judge.

8.022 OBJECTION TO MEDIATOR

Within 5 days of notice of the identify of the appointed mediator and prior to the conduct of the first mediation session, a party may, one time only, object in writing to the assignment of the mediator, without giving a reason, and request assignment of another mediator. Thereafter, any objection must be for cause and must be resolved by the Court.

8.031 MOTIONS FOR TEMPORARY CHILD SUPPORT AND SPOUSAL SUPPORT

Pendente lite motions for temporary child and/or spousal support filed pursuant to ORS 107.095(1)(b) may be determined without testimony based on the affidavits of the parties and their Uniform Support Affidavits. Such motions shall be filed separately from other pendente lite motions. The due date for filing a response to such motions shall be not later than fourteen days from the date of service of the motion. In cases involving temporary child support, the affidavits filed by the parties shall include a child support computation worksheet. After the due date for the reponse of the nonmoving party, the moving party shall notify the court, in writing, that the motion is ready for decision. With due regard for other pending matters, the court will attempt to issue a ruling within 14 days of such notice. The court reserves the right to schedule oral argument before issuing its decision, on the court's own motion or for good cause shown.

8.041 TIME FOR FILING UNIFORM SUPPORT AFFIDAVITS

Pursuant to UTCR 8.010(6)(1)(a), the moving party seeking child support or spousal support shall file the Uniform Support Affidavit required by UTCR 8.010(5), UTCR 8.040(3), or UTCR 8.050(1) with their initial pleading seeking such support. The responding party shall file their Uniform Support Affidavit within 14 days of service of a

motion for temporary support, and within 30 days of service of a petition or other pleading which seeks support on other than a temporary basis.

CHAPTER 9 - PROBATE AND ADOPTION PROCEEDINGS

9.052 WRONGFUL DEATH AND PERSONAL INJURY PROCEEDS

When wrongful death and/or personal injury proceeds are assets in probate, conservatorship and guardianship proceedings, that fact shall be alleged by a separate titled paragraph in the initial petition filed with the Court.

9.081 ORAL OBJECTIONS IN PROTECTIVE PROCEEDINGS

Oral objections to petitions in protective proceedings may be made in the following places:

Circuit Court of Oregon for Union County: Civil Records Office, 1008 K Avenue, Third Floor, La Grande, Oregon

Circuit Court of Oregon for Wallowa County: Circuit Court Office, Second Floor, Room 204, Wallowa County Courthouse, 101 South River Street, Enterprise, Oregon.

9.135 PROBATE COMMISSIONERS

(1) As provided by law, these rules, and where not inconsistent with the Uniform Trial Court Rules, a Probate Commissioner appointed by this Court shall assist in the administration of decedents' estates, guardianships, conservatorships, and other similar proceedings, and is empowered:

(a) To act upon uncontested petitions for appointment of special administrators, for probate of wills, and for appointment of personal administrators, guardians and conservators.

(b) To make and enter orders on behalf of the Court admitting wills to probate and appointing special administrators, personal representatives, guardians and conservators.

(c) To set the amount of the bond for special administrators, personal representatives, guardians and conservators; and to approve such bonds.

9.145 COURT VISITORS

A court visitor for any alleged incapacitated person (ORS 125.005, 125.125 et seq) is a designee of the Court. The petitioner shall serve the visitor with all applications,

proposed orders and correspondence. The petitioner is responsible for the payment of the visitor's fees in the amount established by the Presiding Judge by General Order. Any request for fees in excess of this amount, or for extraordinary expenses, must be submitted to the Presiding Judge for consideration. The visitor's fee shall be paid to the Court at the time the order appointing visitor is submitted for approval. The fee will be disbursed to the visitor when the visitor's report is received.

9.155 REPORTS

In addition to other matters, the fiduciary of any incapacitated person and the guardian of any minor ward shall file and serve annually the report required by ORS 125.325.

9.165 DECEDENTS' ESTATE CASES PENDING FOR ONE YEAR OR LONGER

When one year has elapsed after the initial filing of a decedents' estate, the Personal Representative shall file, in the annual accounting, a statement advising the Court of the status of the estate. The statement shall indicate the date the Personal Representative anticipates closing the estate.

CHAPTER 11 - JUVENILE COURT PROCEEDINGS

11.005 APPEARANCE IN JUVENILE COURT DEPENDENCY CASES

(1) A parent who is served with a summons in a child dependency case shall appear personally in court at the time and place specified in the summons for a hearing on the allegations of the petition.

(2) A parent who fails to appear shall be subject to entry of a default order and/or judgment granting the relief sought by the petitioner.

CHAPTER 12 - MEDIATION

12.005 MEDIATION OF CHILD CUSTODY AND PARENTING TIME DISPUTES

See Supplementary Local Rules 8.013 *et seq.* above.

12.015 SMALL CLAIMS MEDIATIONS

See Supplementary Local Rule 15.015 below.

CHAPTER 13 - ARBITRATION

13.005 MATTERS SUBJECT TO ARBITRATION

The Tenth Judicial District has established a Mandatory Arbitration Program pursuant to ORS 36.400 to 36.425 and this Chapter. A case for which the relief sought is less than \$25,000 will be assigned to arbitration. All domestic relations actions, as defined in ORS 107.510, in which the only contested issue is the division or other disposition of property between the parties will be assigned to arbitration.

13.015 ACTION TRIED TO COURT EXEMPTED

Civil cases may be exempted or removed from arbitration in accordance with ORS 36.405(2). Punitive damages are not included within the sum under which a case qualifies for mandatory arbitration.

13.025 REQUEST FOR AND OBJECTIONS TO ARBITRATION

(1) Any party 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 ORS 36.405(2) will be rendered within 5 days following the filing of a motion for exemption from arbitration. If the motion is allowed, the case will be returned to the active trial docket for future disposition. If the motion is denied, the case will remain in arbitration in accordance with these rules and the UTCR.

13.035 COURT SHALL DETERMINE WHETHER CASE IS SUBJECT TO ARBITRATION

(1) A case assigned to arbitration will not be removed, except as might occur under (2) of this Rule, without an affidavit, motion and order.

(2) Only in extraordinary circumstances will the Court order a case returned from arbitration to the Court docket after a case has been assigned to an arbitrator. The Presiding Judge of the judicial district in which the case was filed does retain the authority to remove a case from arbitration any time the Presiding Judge is of the opinion that such extraordinary circumstances exist.

(3) In the event that amended pleadings are allowed by the arbitrator (e.g. amended complaint, third party complaint, etc.) in which a party or parties will be added to the case, or which causes the case not to be subject to mandatory arbitration, the party filing such an amended pleading must notify the Trial Court Administrator. Such a case, when again appropriate, may be reinstated into arbitration. In the event 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.

13.042 REFERRAL TO ARBITRATION

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

13.048 WAIVER OR DEFERRAL OF FEE

(1) Indigent parties must seek waiver or deferral of the arbitrator's fee within 14 days from the date the case is transferred to arbitration. The request must be submitted by motion and order, supported by an affidavit setting forth with specificity the party's income, assets, and expenses, and presented to the Presiding Judge for approval.

(2) In the event funds are available under ORS 36.420 for the payment of fees that are waived or deferred, the arbitrator shall be reimbursed after completion of the arbitration, filing of the arbitration award, and submission of the form approved by the State Court Administrator for such purpose.

13.055 ARBITRATORS

(1) To qualify as an arbitrator, a person must sign and file an application as arbitrator and, if not a retired or senior judge or stipulated non-lawyer arbitrator, be an active member of the Oregon State Bar at the time of each appointment. During any period of suspension or disbarment from the practice of law by the Oregon State Bar or the Supreme Court, an arbitrator will be removed from the Court's list of arbitrators and may re-apply when the attorney is reinstated or readmitted to the Bar.

(2) There shall be a panel of arbitrators in such number as the Arbitration Commission may from time to time determine. Persons desiring to serve as an arbitrator shall submit in writing their desire to be placed on the arbitration panel, with the date

they were admitted to the Bar, their name, address and phone number, and if they have any preference against certain types of cases. A list showing the names of arbitrators to hear cases will be available for public inspection with the Trial Court Administrator for each individual county.

(3) The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator must notify the Court immediately if refusing to serve, or if any cause exists for the arbitrator's disqualification from the case upon any of the grounds of interest, relationship, bias, or prejudice governing the disqualification of judges. No arbitrator shall have pending at any given time more than three arbitration cases, subject to the discretion of the Presiding Judge.

(4) If such disqualification or refusal occurs, the arbitrator must notify all parties and immediately return all appointment materials in the case to the Court.

13.065 STIPULATIONS

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

13.066 MOTIONS

Motion practice is discouraged in cases assigned to arbitration.

13.075 ALTERNATE MEDIATION PROCEDURE

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

13.085 NO AWARD FILED WITHOUT PROOF OF NOTICE

At the conclusion of arbitration, if the arbitrator attempts to file the award with the Court without the proof of service of a copy of the decision and award upon each party as required by ORS 35.425(1), the award will not be filed and will be returned to the arbitrator.

13.125 ARBITRATOR'S COMPENSATION

(1) Plaintiff(s) shall be responsible for one-half of arbitrator's fee. Defendant(s) shall be responsible for one-half of the arbitrator's fee. [Note: The Arbitration

Commission has set an arbitrator's compensation at \$100 per hour (or any greater sum agreed upon by the parties) with a maximum of ten hours per case except for good cause shown and approved by the Presiding Judge. Travel time shall not be compensated unless an arbitrator must travel from one county to another county for hearing, in which case the arbitrator will be paid \$50 per hour while traveling, with a maximum payment for travel time of \$200.]

(2) The parties shall pay the arbitrator a fee deposit of \$500 before the arbitrator begins work on a case. If the plaintiff fails to pay plaintiff's share of the deposit within fourteen (14) calendar days of assignment to the arbitrator, the Court may exercise its authority to strike plaintiff's complaint. If the defendant fails to pay defendant's share of the deposit within fourteen (14) calendar days of assignment to the arbitrator, the Court may exercise its authority under UTCR 1.090 and impose an appropriate sanction, including striking the answer and entering a default judgment against the defendant.

(3) The parties must pay the arbitrator's fee in full before the arbitrator files the award with the Court. This requirement is waived for any portion of the fee payable under ORS 36.420.

CHAPTER 15 - SMALL CLAIMS

15.015 APPLICABLE SUPPLEMENTARY LOCAL RULES

Supplementary Local Rules 2.012(2) and 2.014 apply in small claims cases.

15.025 SMALL CLAIMS MEDIATION

(1) All contested small claims cases shall be subject to mediation, pursuant to ORS 36.185. A case will be removed from mediation and proceed in the normal fashion if either party files a written objection to mediation.

(2) These mediation services shall be provided by the Court without cost to the litigants through the use of volunteer mediators.

(3) Agreements reached while in mediation shall be signed by the parties and filed as stipulated orders.

(4) Failure to either party to abide by the stipulated order will be grounds for the opposing party to file an Affidavit of Non-Compliance and obtain a judgment on the original claim.

CHAPTER 16 - VIOLATION OFFENSES

16.005 VIOLATIONS BUREAU

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

16.015 TRIAL BY AFFIDAVIT

If a signed waiver is filed by the alleged violator, testimony in a violation trial is allowable by affidavit. ORS 153.080. Copies of affidavits by either party will be available if requested in writing at least five days before trial.