

Supplemental Local Court Rules
for the
Circuit Court of the State of Oregon for
Benton County
21st Judicial District

February 1, 2010 – January 31, 2011

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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.

1.171 COURT WEBSITE

- (1) Benton County Circuit Court maintains a website which lists information about our court. The address is <http://courts.oregon.gov/Benton/>

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 SLR 7.025, infra)

6.012 SETTLEMENT CONFERENCE PROCEDURES

The Circuit Court, on its own motion or upon the request of any party, may set a settlement conference in any pending civil case. Settlement conferences may be mandatory in certain types of domestic relations cases as set forth in SLR 6.202. The following procedures shall apply to all settlement conferences:

- (1) If one party requests a settlement conference, the settlement conference shall be held. Except in the case where the Court orders a settlement conference, the 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 settlement 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 settlement conference. However, the assigned judge may permit telephone appearances in lieu of personal appearance for good cause.
- (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 settlement conference shall not delay the trial or scheduling.
- (5) The settlement conference judge will not preside at the trial unless all parties agree otherwise. 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 statement that contains, at 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 settlement conference 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 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.

6.051 DELIVERY OF TRIAL MEMORANDA AND OTHER DOCUMENTS

In civil cases, trial memoranda, requested jury instructions, witness lists, motions in limine and exhibit lists shall be delivered to the Court and opposing counsel at least 24 hours prior to the commencement of the trial.

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.

6.202 MANDATORY SETTLEMENT CONFERENCE PROCEDURES

All domestic relations cases designated as “expedited” by the Court shall be calendared for a mandatory settlement conference unless good cause is shown. The purpose of the mandatory settlement conference is to provide a forum to resolve disputes before trial through the active participation of the parties, their counsel and the Court.

CHAPTER 7 – CASE MANAGEMENT AND CALENDARING

Calendar Clerk, (541) 766-6651
Criminal Clerk, (541) 766-6674
Hon. David Connell, 541-766-6830
Hon. Janet Holcomb, 541-766-6843
Hon. Locke Williams, 541-766-6827

7.15 CRIMINAL CASE SCHEDULING

- (1) The Benton County Circuit Court uses a hybrid centralized/individual case scheduling system. A copy of the current procedure is available from the court's website at <http://courts.oregon.gov/Benton/>, or by calling the trial court administrator at 541-766-6859.
- (2) Guilty or No Contest Pleas. Dates for entry of guilty or no contest pleas will be scheduled by the Calendar Clerk for those cases that are not assigned to a trial judge. If a trial judge is assigned, the assigned judge's judicial assistant will schedule a date for entry of guilty or no contest pleas. 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 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 procedures set forth in SLR 6.012 shall apply.

7.025 CIVIL CASE SCHEDULING

- (1) The Court maintains an individual case assignment system wherein the assigned Judges are responsible for management of their assigned cases from time of assignment to ultimate conclusion, including post-judgment matters. Except as otherwise provided herein, all issues relating to case scheduling are to be directed to the assigned judge.
- (2) Hearings on Motions to Hold a Party in Contempt. The adverse party should be cited to appear at 9:30 a.m. Tuesday, Wednesday, Thursday or Friday. The party requesting the contempt order does not have to appear at the time set in the show cause order. The responding party may appear by written response in lieu of this first appearance. When the responding party appears, the Court will set a contempt hearing for a later date. The Court will send a written notice when the later hearing date is set.
- (3) Settlement Conferences. A settlement conference will be set at the request of any party. The procedures set forth in SLR 6.012 shall apply.

Civil Clerk, (541) 766-6825
Small Claims Clerk, (541) 766-6829
Hon. David Connell, 541-766-6830
Hon. Janet Holcomb, 541-766-6843
Hon. Locke Williams, 541-766-6827

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, Thursday, 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. 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.
- (3) Unless otherwise directed by the Court, long distance calls being placed by the party shall be placed to the Calendar Office, 541-766-6651.
- (4) Unless otherwise arranged and approved by the Court, telephone appearances by counsel shall be conducted in counsel’s office.
- (5) 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 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 information regarding settlement conferences, see SLR 6.012. For information regarding mandatory mediation and arbitration, please see SLR chapters 12 and 13.

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 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'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 <http://courts.oregon.gov/Benton/> 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.

8.012 DOMESTIC RELATIONS CASE SCHEDULING

- (1) Temporary Relief Hearings. Requests for temporary relief in annulment, dissolution or separation proceedings not otherwise resolved via SLR 8.041 will be specially set for hearing.
- (2) Trial Settings. Cases deemed appropriate and ready for trial will be set for trial pursuant to a fast-track procedure
- (3) Settlement Conferences. A settlement conference for a dissolution case may be set upon request of either party. The procedures set forth in SLR 6.012 shall apply.
- (4) The Court maintains an individual case assignment system wherein the assigned Judges are responsible for management of their assigned cases from time of assignment to ultimate conclusion, including post-judgment matters. Except as otherwise provided herein, all issues relating to case scheduling are to be directed to the assigned judge.}

Hon. David Connell, 541-766-6830
Hon. Janet Holcomb, 541-766-6843
Hon. Locke Williams, 541-766-6827

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

- (1) In lieu of the filing of separate statements of assets and liabilities, values and proposed distribution as required by UTCR 8.010(4), the Court prefers counsel for the parties 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 should 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.
- (2) The statement(s) must be submitted to the Court or the Arbitrator at least one week prior to any scheduled settlement conference, arbitration or trial.

- (3) Statements of assets and liabilities, whether filed jointly or separately, shall, to the extent possible, also reflect the following:
 - (a) Assets and liabilities 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 should **be** numbered and should list the source(s) utilized in determining that value, such as "Blue Book", private appraisal, institution statement, or estimate.

Domestic Relations Clerk, (541) 766-6705

8.041 TEMPORARY RELIEF HEARINGS

All temporary relief motions shall be show cause motions, except as provided by ORS 107.097, and shall be handled as follows:

- (1) Motions for temporary relief shall be accompanied by an affidavit setting forth the justification for the requested relief. The Order to Show Cause shall require the filing of a response within fourteen (14) days following service, if the adverse party wishes to contest the relief sought, except that no respondent shall be required to respond before the time required by law to respond on the summons in the case.
- (2) A copy of this SLR shall be served on the adverse party along with true copies of the Motion, Affidavit, and Order to Show Cause.
- (3) Any motion regarding temporary support must be accompanied by a Uniform Support Affidavit.
- (4) The Response shall admit and/or deny the relief sought and shall set forth any additional motions for temporary relief. The Response shall be accompanied by an Affidavit setting forth the justification for the relief opposed or sought by the responding party. If temporary support is to be an issue, the Response must be accompanied by a Uniform Support Affidavit.
- (5) Within ten (10) days following service of the Response and Responding Affidavit on the moving party or their attorney, the moving party or their attorney may file a Supplemental Affidavit in reply to the Responding Affidavit. If the moving party's Supplemental Affidavit raises new issues, the responding party may file a Supplemental Response Affidavit in reply within ten (10) days following service of the Supplemental Affidavit. If service is made by mailing, the date of service shall be considered to be three (3) days after the date of mailing. Except for good cause shown, no further pleadings are required or permitted.

(6) Temporary relief shall be determined without testimony, based upon the affidavits submitted. Failure to submit an affidavit or Uniform Support Affidavit where required may result in an adverse ruling or denial of relief. There is no requirement, however, to file supplemental affidavits. On matters of exclusive use of a family residence, custody or parenting time only, a hearing will be scheduled to review the Court's ruling upon written motion filed within ten (10) days after mailing of the Court's ruling.

8.043 REQUESTS FOR IMMEDIATE EX PARTE RELIEF

Ex parte temporary relief motions and orders may be presented to the Court as set forth in SLR 6.085.

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

“NOTICE, READ THESE PAPERS CAREFULLY – YOU ARE ORDERED TO PERSONALLY APPEAR IN THE ABOVE-ENTITLED COURT AT THE DATE AND TIME SPECIFIED IN THIS ORDER OR FILE WRITTEN RESPONSE BEFORE SAID DATE AND TIME. IF YOU FAIL TO APPEAR IN COURT ON THIS DATE AND TIME, OR FAIL TO FILE WRITTEN RESPONSE BEFORE SAID 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) Hearings on Motions to Hold a Party in Contempt. The adverse party must be cited to appear at 9:30 a.m. Tuesday, Wednesday, Thursday, or Friday. The party requesting the contempt order does not have to appear at the time set in the show cause order. The responding party may appear by written response in lieu of this first appearance, except for support enforcement hearings where the respondent is required to make a personal appearance. 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.

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 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.

8.075 PARENTING TIME

A copy of the Benton County Standard Parenting Plan may be obtained from the court's website at <http://courts.oregon.gov/Benton/> 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 Service’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) Domestic relations mediation orientation will be held at the Benton Courthouse at times as scheduled by the Family Law Department. A party appearing for mediation orientation shall contact the Domestic Relations Clerk. A party may arrange another time for orientation with the Domestic Relations Clerk. A party may also satisfy the mediation orientation requirement by watching an orientation video at his or her attorney's office if the attorney certifies to the court in writing of the client's participation. Mediation orientation shall be completed within 14 days of filing a petition or 14 days of filing responding documents. Failure to complete mediation orientation may result in the sanctions set out in UTCR 1.090.
- (3) If parties reach full agreement in domestic relation mediation, the mediator shall reduce the agreement to writing, shall file the same with the court, and provide copies to the parties and their attorneys no more than fourteen (14) days after the agreement is reached. The agreement shall become final, binding and enforceable upon the expiration of fourteen (14) days from its filing with the Court unless prior to the expiration of the fourteen (14) day period either party provides the Court and the other party with simultaneous written objections to the parenting plan. The Court may refer the matter back to the mediator at its discretion.
- (4) 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.

12.007 SCHEDULING OF DOMESTIC RELATIONS MEDIATION SESSIONS

Upon receipt of a mediation assignment, each party shall immediately contact the mediator to schedule a date and time for the initial mediation session. The initial mediation session shall occur within fourteen (14) days of notice of the assignment to the mediator.

CHAPTER 13 – ARBITRATION

Arbitration Coordinator, (541)766-6825

13.005 MANDATORY ARBITRATION PROGRAM

Except as otherwise specified in these supplemental local rules, domestic relations arbitration shall be governed by the rules and regulations set forth in UTCR Chapter 13.

- (1) The Court may require arbitration in any domestic relations case where the sole issues in controversy involve the division of property and debt unless the Court finds good and compelling cause to exempt such a case from arbitration. An exemption shall be granted only upon the filing of a motion and affidavit setting forth good cause for the exemption sought.
- (2) This rule does not prohibit the parties from stipulating to arbitration of property and debt issues where there are other issues to be resolved by the court.

13.055 REFERRING CASES TO ARBITRATION

- (1) 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.
- (2) Once a case is referred to arbitration, all motions against the pleadings, all motions for discovery, and all similar pretrial motions not yet resolved will be determined by the arbitrator. The arbitrator's determination, however, will only apply during the arbitration proceeding. If an appeal is filed, those issues may be raised again in the trial court. If a party feels that the arbitrator's decision on a pretrial motion will prejudice the parties if an appeal from the arbitrator's decision is filed, the party may file an appropriate motion with the Presiding Judge of the Court.

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 Districts 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

{Unless otherwise allowed by the Court,} 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 15 – SMALL CLAIMS

15.015 SETTING TRIALS IN SMALL CLAIMS CASES

Small claims cases shall be managed according to the following timelines.

- (1) If no proof of service has been filed by the 28th day after the filing of the complaint, written notice may be given to plaintiff that the case will be dismissed for want of prosecution 15 days from the date of the mailing of the notice unless:
 - (a) Proof of service is filed within the time period;
 - (b) Good cause to continue the case is shown to the court in writing; or
 - (c) The defendant has appeared.

- (2) If proof of service has been filed and any defendant has not filed an appearance 15 days from the date of service, written notice may be given to plaintiff that the case will be dismissed 15 days from the date of mailing the notice unless:
 - (a) A request for a default judgment is filed;
 - (b) Good cause to continue the case is shown to the court in writing; or
 - (c) The defendant has appeared.

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 161.568, 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.
 - (d) If you are cited for MIP pursuant to ORS 471.430, you may enter a plea of guilty or no contest and if eligible, apply for the court diversion program.
 - (e) If you are cited for Possession of Less Than 1 oz of Marijuana you may apply, if eligible, for the court diversion program.
- (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.

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

STATE OF OREGON

vs.

)
)
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)
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Case No. _____

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.
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 _____, 20__.

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

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 Supplemental Local Rules of the Circuit Court of the State of Oregon for Benton County.

Dated this _____ day of _____, _____.

Linda Hukari, Trial Court Administrator