

**CLATSOP COUNTY CIRCUIT COURT - EIGHTEENTH JUDICIAL DISTRICT  
SUPPLEMENTAL LOCAL RULES EFFECTIVE ON FEBRUARY 01, 2011**

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## **2011 Supplemental Local Rules for the Clatsop County Circuit Court**

### **Chapter 1 - General Provisions**

#### 1.151 HOURS OF OPERATION

Unless otherwise ordered due to emergency conditions, information regarding business hours for the Eighteenth Judicial District can be found at:

<http://courts.oregon.gov/clatsop>.

#### 1.171 WEBSITE ADDRESS

The Clatsop County Circuit Court website address is: <http://courts.oregon.gov/clatsop>.

#### 1.173 PHYSICAL/MAILING ADDRESSES

The street address of Clatsop County Circuit Court is 749 Commercial Street, Astoria, Oregon 97103. All physical appearances required by these rules shall occur at that location unless otherwise specified by the court. The mailing address is P. O. Box 835, Astoria, OR 97103.

### **Chapter 3 - Decorum in Proceedings**

#### 3.181 PUBLIC ACCESS COVERAGE

Public access coverage is allowed in the lobby areas of the basement, first floor and second floor of the Courthouse unless the court designates another area. Public access coverage shall not disrupt court proceedings or interfere with normal court activities. Access to other areas of the courthouse or courtrooms must be approved in advance either a judge or the trial court administrator.

#### 3.182 ELECTRONIC DEVICES

Unless otherwise allowed by a judge presiding over the proceeding, cell phones, pagers, and PDAs taken into a courtroom by any person shall be turned off upon entering the courtroom and shall remain off until after the person has departed the courtroom. Attorneys may use laptop computers in courtrooms unless a judge determines that the computer noise is disruptive to the proceedings.

### **Chapter 4 - Proceedings in Criminal Cases**

#### 4.005 MOTIONS TO DISMISS

Motions to dismiss a criminal action made by the prosecutor shall be in writing, signed by the attorney, and include facts supporting the motion.

#### 4.015 TIME FOR FILING PRETRIAL MOTIONS

Pretrial motions, including discovery motions and motions filed pursuant to ORS 135.037, shall be filed no more than 30 days after the early resolution conference if the defendant is out of custody and no more than 48 hours after the early resolution conference if the defendant is in custody. In any case, pretrial motions shall be filed no later than the time allowed in UTCR 4.010.

#### 4.081 APPEARANCE AT CRIMINAL PROCEEDINGS BY SIMULTANEOUS ELECTRONIC TRANSMISSION

- (1) Unless otherwise ordered by the court, in-custody arraignments shall be by simultaneous electronic transmission as defined in UTCR 4.080.
- (2) With approval of the court, in-custody defendants may appear by simultaneous electronic transmission as defined in UTCR 4.080 for plea and sentencing hearings, probation violation hearings and other criminal proceedings.
- (3) Probation officers may appear by simultaneous electronic transmission for probation violation hearings

### **Chapter 5 - Proceedings in Civil Cases**

#### 5.061 EX-PARTE AND STIPULATED ORDERS

Ex-parte and stipulated orders shall be presented to the court clerk to be forwarded to the judge with the applicable court file. Ex-parte matters requiring a hearing shall be scheduled by docketing staff.

### **Chapter 6 - Trials**

#### 6.005 GENERAL TRIAL SCHEDULING

- (1) Jury trials generally will be scheduled at 9:00 a.m. Tuesday and Wednesday.
- (2) Court trials generally will be scheduled Monday through Friday as time allows.

#### 6.011 PRETRIAL CONFERENCES IN CIVIL CASES

- (1) The court may set a pretrial conference in any civil case pursuant to UTCR 6.010. If the court does not schedule a pretrial conference, a party may request a setting.

- (2) The trial attorney or an attorney familiar with all aspects of the case shall appear at the

pretrial conference, and self-represented litigants shall appear at the pretrial conference unless the court allows participation by telecommunication.

- (3) At the pretrial conference, the court may set deadlines and/or enter orders regarding:
- (a) amendments to the pleadings
  - (b) motions
  - (c) discovery
  - (d) trial memoranda
  - (e) exhibits
  - (f) jury instructions
  - (g) a neutral summary of the pleadings
  - (h) any other matter that may aid in the disposition of the action.

#### 6.012 SETTLEMENT CONFERENCES

A settlement conference may be set in a civil case at the request of the court or a party. Parties and others with settlement authority, including insurance claims representatives, must appear in person unless personal appearance is waived in advance by the settlement judge, in which case they must be available by telephone. The court will consider imposition of sanctions set forth in UTCR 1.090(2) for failure to comply with this section.

#### 6.031 SCHEDULING CONFLICTS

Requests to reschedule a court proceeding, including trials and hearings, must be in writing and received by the court not later than ten (10) days after the proceeding is set. The written request shall be provided to attorneys of record and unrepresented parties and shall include a list of dates on which the parties and counsel are available to try the matter. After ten days, continuances shall not be allowed except for substantial cause. Requests to reschedule a case that is older than nine (9) months must be made by motion which complies with UTCR 6.030 (1); UTCR 6.030 (2)(a),(b) and (e); UTCR 6.030(3)(a-e) and UTCR 6.030(4).

#### 6.051 DELIVERY OF TRIAL MEMORANDA AND OTHER DOCUMENTS

In civil cases, trial memoranda, requested jury instructions, witness lists, motions in limine, a proposed neutral statement of the case and exhibit lists shall be received by the Court and opposing counsel at least one day prior to the commencement of the trial.

#### 6.061 COMPUTER DISK WITH REQUESTED JURY INSTRUCTIONS

- (1) In addition to the requirements of UTCR 6.060 an attorney or party requesting instructions described in subsection 2 below shall provide the trial court with a computer disk containing the requested instructions.
- (2) The following documents shall be included on the computer disk: (a) any uniform instruction that has been modified; (b) any uniform instruction submitted if the instruction fills in the blanks or includes alternative choices; (c) any proposed special instruction; and, (d) any proposed special verdict form.
- (3) Uniform jury instructions requested by number only which do not require information to be filled in do not need to be supplied on a computer disk.

#### 6.081 EXHIBITS

- (1) All trial exhibits will be assigned a value of zero unless the submitting party supplies the court clerk with a written opinion as to value.
- (2) The proponent of any audio or video exhibit shall be responsible for arranging any playback equipment, with footage counter when required, for use during a trial or other proceeding.

#### 6.082 TRIAL FEES PAYABLE BEFORE TRIAL

No court or jury trial will proceed until the fees under this rule are paid to the Trial Court Administrator. The receipt given for payment of said fees shall be shown to the courtroom clerk at the time of trial before said trial will proceed.

### **Chapter 7 - Case Management and Calendaring**

#### 7.005 ARRAIGNMENTS

- (1) Generally, in-custody arraignments will be heard at 1:15 p.m. each judicial day.
- (2) Out-of-custody arraignments will be heard between 8:30 a.m. and 9:30 a.m. each judicial day.
- (3) The court will accept not guilty pleas at arraignment pursuant to UTCR 7.010 and may accept guilty pleas at arraignment as allowed by law.
- (4) After arraignment, most criminal cases will be set for early resolution conference.

#### 7.007 EARLY RESOLUTION CONFERENCE

- (1) In criminal cases, an early resolution conference will be set at arraignment, not less than 21 days out for in-custody defendants and not less than 35 days out for out-of-custody defendants. At the early resolution conference, attorneys and unrepresented parties shall meet with the judge and report on the progress of negotiations, discovery, and pretrial motions, attempt to resolve the case, and advise whether a trial is needed. Unless a final resolution conference is set, the early resolution conference is the deadline for negotiated pleas unless good cause is shown for a later date.
- (2) The court may hold a final resolution conference if the defendant is out of custody and the case does not settle at the early resolution conference. The final resolution conference is the deadline for negotiated pleas unless a party can show good cause for a later date.
- (3) Defendants in criminal cases must attend all resolution conferences unless the court authorizes a waiver of appearance in advance.

#### 7.011 SETTING TRIALS IN CRIMINAL CASES

- (1) Absent good cause, all criminal cases in which the victim is under 18 years of age at the time the charging instrument is filed shall be tried within 90 days of arraignment.
- (2) Counsel may jointly request a date-certain trial at a conference with the judge in cases with special witness problems, speedy trial requests, or other considerations. A date-certain trial shall receive priority over other cases scheduled to be tried the same day. Motions to continue date-certain trials shall be denied absent extraordinary circumstances.

#### 7.021 SETTING TRIALS IN CIVIL CASES

To facilitate agreement on trial dates pursuant to UTCR 7.020(6), the court will send “at issue” notices to parties when a civil case is at issue. Parties should respond with available trial dates within the period designated by the notice. If a party fails to respond as provided in the notice, the court shall set the case for trial on a date convenient to the court.

#### 7.023 SCHEDULING OF SHOW CAUSE PROCEEDINGS

- (1) Show cause matters may be set at any time the court schedule permits.
- (2) Except as provided in ORS 107.135(13) or SLR 8.045, an applicant for an order to show cause shall obtain a time and date for a first appearance hearing from the docket clerk and insert that date in the Order to Show Cause prior to delivering the order to the clerk for



judge's signature. Service of the order upon the adverse party shall constitute notice to such party of the time and place of the hearing.

#### 7.031 DOCKET CALL

- (1) Criminal docket call shall be held at 11:00 a.m. on the Thursday before the scheduled trial. Dependency case docket call will be held at 11:15 a.m.
  - (a) Attorneys of record and unrepresented parties shall appear in person for docket call. Attorneys may appear by telephone or in writing if arrangements are made with the docket clerk prior to docket call.
  - (b) Defendants shall appear in person at docket call unless the court authorizes a waiver of appearance in advance. In misdemeanor cases, the defendant waives appearance if the defendant has been in personal contact with the attorney within ten days prior to docket call.
  - (c) If the court finds good cause to allow a negotiated plea after the last resolution conference, docket call is the final deadline for negotiated pleas. Parties shall appear in court during or immediately after docket call for change of plea.
- (2) Civil docket call is in writing. Parties shall complete the form marked Appendix I of the Supplemental Local Rules and submit it to the Court and all attorneys of record and unrepresented parties prior to 10:00 a.m. on the Thursday before the scheduled trial date. Failure to file a written report may result in sanctions pursuant to UTCR 1.090.
- (3) Diversion agreements, civil compromise documents, and jury waivers shall be filed by docket call.

### **Chapter 8 - Domestic Relations Proceedings**

#### 8.015 PARENTING TIME RULES

In any domestic relations proceeding, dissolution of marriage, annulment, separation or custody case, paternity, filiation or similar proceeding, unless otherwise ordered by the court or the parties agree to a different parenting plan which is approved by the court, a non-custodial parent shall have the right to parenting time with the minor children of the parties according to the schedule in Appendix II to these rules.

#### 8.045 PRE-JUDGMENT RELIEF

- (1) All applications for pre-judgment relief in domestic relations cases must be made by motion for a show cause order and include a supporting affidavit(s). The motion and

show cause order must state separately each item of relief requested. Such motions and orders may not state the requested relief by reference to a supporting affidavit.

- (2) All show cause orders for pre-judgment relief shall specify a response time not less than 14 days from the date of service upon the opposing party. When the show cause order is served outside the state of Oregon or by publication, the order shall require the opposing party to file an answer in writing not less than 20 days from the date of service. Such orders shall require the opposing party to respond by filing an answer in writing, together with opposing affidavits and cross motions, if any, and serving a copy of the answer and affidavits on the moving party within the response time. The motion, order and supporting affidavits must be served upon the opposing party. The order must include a notice as set forth in Appendix III to these rules if the opposing party is unrepresented.
- (3) If the opposing party fails to respond to the show cause order within the time set forth in the order, the moving party may present an order granting the relief sought, provided that proof of service has been filed.
- (4) If the opposing party responds to the show cause order, the moving party shall have five days from the date of service to file a reply affidavit. No further pleadings will be considered. Either party may notify the court in writing when the matter is ready for determination, and the court shall decide the matter and promptly notify the parties of any decision.
- (5) For good cause shown or upon its own motion, the court may set show cause proceedings for hearing.
- (6) Motions for pre-judgment relief or responses to motions for pre-judgment relief shall be considered by the Court to be general appearances pursuant to ORS 107.055, thereby placing the case at issue and ready for referral to mediation and/or a trial setting.

#### 8.046 PARENT EDUCATION PROGRAM

- (1) Parent education is required in any matter described in ORS 107.765 unless the court approves a waiver. A party residing outside Clatsop County may attend a comparable class in another location. The party shall receive approval from the Family Court Specialist or Domestic Relations Clerk to substitute a class.
- (2) The court shall provide petitioner with notice and instructions regarding parent education when the petition is filed. Petitioner shall serve respondent with a copy of the notice pursuant to ORCP 7 and file proof of service with the court.
- (3) Each party shall pay a fee to cover program costs. The fee may be waived upon written motion in cases of indigency.

- (4) The program provider shall issue a certificate of completion when the participant has completed the program. The participant must file the certificate of completion with the court. A certificate of completion is valid for two (2) years; if custody, parenting time or visitation proceedings are initiated after a certificate has expired, the participant must retake the class.

#### 8.047 CUSTODY EVALUATION PANEL

- (1) The court has established a panel of trained custody evaluators. To qualify as a panelist, a person must complete court-approved training, file an application with the court, and be approved by the court and local Family Law Advisory Committee.
- (2) Unless otherwise ordered by the court, evaluators shall meet with the mediator, parties and attorneys to discuss the recommendations at the conclusion of the evaluation.
- (3) Motions for custody evaluations shall include a representation that the custody evaluator can complete the evaluation at least two weeks prior to the scheduled trial date and the parties can comply with 8.047(2) prior to trial.
- (4) The court may appoint an evaluator from the court panel or another qualified evaluator for investigations pursuant to ORS 107.425 unless otherwise agreed by the parties.

#### 8.051 POST JUDGMENT EX-PARTE TEMPORARY CUSTODY OR PARENTING TIME ORDERS

A party who files a motion for an ex-parte temporary custody or parenting time order pursuant to ORS 107.139 must also request permanent modification of custody or parenting time.

### **Chapter 9 - Probate, Guardianships, Conservatorships, and Adoption Proceedings**

#### 9.035 DELINQUENT FILINGS

In the event of a delinquency in filing any document required by statute, rule or court order, the fiduciary and attorney of record shall be notified. The personal representative, guardian or conservator shall promptly cure the delinquency. If the delinquency is not cured within 30 days after mailing of the notice or other time limitation set by the court, an Order to Show Cause may be issued which requires the personal representative, conservator or guardian and attorney of record to appear before the court.

#### 9.045 GUARDIANSHIPS AND CONSERVATORSHIPS

- (1) When a petition seeks appointment of a guardian for an adult respondent or requests appointment of a visitor, a copy of the petition marked "visitor's copy," shall be delivered to the probate clerk and the visitor's fee shall be tendered to the court. Upon receipt of

the visitor's copy, supporting documentation and visitor's fee, the probate clerk shall prepare an order appointing visitor.

- (2) The visitor shall be compensated as provided in ORS 125.170 and the court's order. The visitor is not required to begin an investigation until the fee has been paid or waived by the court.
- (3) Within 30 days after each anniversary of appointment of all guardians, including those for minors, the guardian or the guardian's attorney of record shall file a guardian's report in substantially the same form as provided in ORS 125.325.

#### 9.081 PLACE FOR OBJECTIONS

Pursuant to ORS 125.075(2), the court designates the court's public civil counter as the place where oral objections shall be made. The telephone number is 503-325-8555 ext. 0. Written objections shall be mailed or delivered to Clatsop County Circuit Court, 749 Commercial Street, P. O. Box 835, Astoria, OR 97103. See Appendix IV.

#### 9.082 PROTECTIVE PROCEEDINGS - NOTICE OF SERVICES

In a proceeding for the appointment of a guardian for an adult respondent, the notice required under ORS 125.060 shall include the following language or its equivalent:

Free legal services for people at least 60 years of age who are subject to guardianship proceedings may be obtained by calling Oregon Legal Services' Senior Law Program at 1-888-245-4091. Free or low cost services for people at least 60 years of age may be obtained by calling Senior and Disabled Services at 503-325-4543, including help to maintain maximum independence, remain at home as long as possible, select an appropriate foster or nursing home, obtain necessary personal and/or medical care, and prevent or stop physical or financial abuse.

Help finding a lawyer and a low-cost one-time legal consultation may be obtained by calling the Lawyer Referral Service of the Oregon State Bar at 1-800-452-7636.

#### 9.161 FORM OF ACCOUNTINGS

Accountings in estate and conservatorship cases shall be submitted in the format specified in UTCR 9.160.

#### 9.185 VOUCHERS AND DEPOSITORY STATEMENTS

- (1) In lieu of vouchers, a list of expenditures as reflected by the vouchers shall accompany all accountings.

- (2) All accountings shall include the opening and closing depository statements for each account for the accounting period.

## **Chapter 11 - Juvenile Court Proceedings**

### 11.015 PRE-TRIAL MOTIONS

The schedule for filing pre-trial motions provided in UTCR 4.010 shall govern the filing of pretrial motions in delinquency cases.

### 11.045 JUDICIAL REVIEW HEARINGS

Requests for judicial review hearings shall be in writing, set forth the reason for the request, and be served on all parties.

### 11.057 MANDATORY SETTLEMENT CONFERENCES

Unless waived by a judge and with the exception of violations, all contested delinquency and dependency cases shall be set for settlement conference.

- (1) In dependency cases, the settlement conference shall be 30 to 45 days after the petition is filed.
- (2) In delinquency cases, the settlement conference shall be 21 to 42 days after the first appearance. Youths shall appear in person at settlement conferences unless otherwise authorized by the judge before whom the settlement conference is set.

### 11.087 APPEARANCE IN DEPENDENCY CASES

Parents served with summons in a child dependency case, including permanent guardianship and termination of parental rights cases, shall appear personally in court at the time and place specified in the summons.

## **CHAPTER 12 - Mediation in Domestic Relations, Civil, Juvenile Dependency, and Small Claims cases**

### 12.001 DOMESTIC RELATIONS MEDIATION

- (1) Mediation is mandatory in all proceedings in which child custody, parenting time or visitation is contested except:
  - (a) Pre-judgment custody and parenting time proceedings pursuant to ORS 107.095.

- (b) Family Abuse Prevention Act proceedings pursuant to ORS 107.700 to 107.732.
  - (c) Elder Abuse Prevention Act proceedings pursuant to ORS 124.005 et seq.
  - (d) Expedited parenting time enforcement proceedings pursuant to ORS 107.434.
  - (e) Juvenile dependency and delinquency proceedings.
  - (f) Proceedings in which the court has found good cause to waive mediation.
- (2) Other Matters: A mediator qualified to mediate financial issues may consider issues of property division or spousal or child support in connection with the mediation of a dispute concerning child custody, parenting time or visitation with the consent of both parties.

#### 12.002 DOMESTIC RELATIONS MEDIATION: COURT CONTROL

Cases remain subject to the control of the court during mediation. Mediators shall report to the court and counsel the outcome of mediation. Mediation agreements shall be presented to the court, and the court shall retain final authority to accept, modify or reject agreements.

#### 12.003 COMMENCEMENT OF DOMESTIC RELATIONS MEDIATION

- (1) Commencement of Mediation: Mediation will be commenced by stipulation of the parties, request of a party or court referral.
- (2) The court may remove a case from mediation at any time.

#### 12.004 DOMESTIC RELATIONS MEDIATION: LAWYERS AND MEDIATORS

- (1) Unless otherwise agreed in writing by the parties, the parties' legal counsel shall not be present at mediation sessions.
- (2) A mediator shall encourage disputing parties to obtain independent legal advice and review of any mediated agreement before signing any agreement.
- (3) A mediator shall not act as a lawyer for either party.

#### 12.005 DOMESTIC RELATIONS MEDIATION

- (1) Standard mediation shall consist of an orientation session and up to eight hours of mediation per referral at \$75.00 per hour of mediation. Additional mediation, up to an additional two (2) hours per case, may be scheduled by the mediator with prior approval of the court.

- (2) The court may exempt a party from orientation for good cause.
- (3) Mediation orientation shall be done by video. Mediation orientation will be held at the Clatsop Courthouse or at the office of a local attorney. Mediation orientation shall be completed within 30 days of filing a petition or 30 days of filing responding documents. Failure to complete mediation orientation may result in the sanctions set out in UTCR 1.090.

#### 12.006 ASSIGNMENT TO DOMESTIC RELATIONS MEDIATORS

- (1) The parties may select a mediator of their own choosing, but if the mediator is not on the list of mediators approved by the court, the expense of the mediator shall be the responsibility of the parties.
- (2) The parties shall choose a mediator prior to or at orientation and notify the court. If the parties have not selected a mediator by the end of orientation, the mediation clerk will select a mediator from the court's list of mediators.

#### 12.007 SCHEDULING OF DOMESTIC RELATIONS MEDIATION SESSIONS

Upon receipt of a mediation assignment, a mediator shall immediately notify the parties of 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.

#### 12.008 DOMESTIC RELATIONS MEDIATION COMPLETION

- (1) Mediation shall be completed promptly without causing unnecessary delay of court proceedings and in no event later than any deadline set by the judge.
- (2) The mediator shall notify the court immediately when mediation is concluded.

#### 12.101 MEDIATION PROCEDURE IN CIVIL ACTIONS

On the parties' written stipulation filed with the court at any time prior to the commencement of an arbitration hearing, the parties may elect to mediate (pursuant to ORS 36.185 to 36.210) rather than arbitrate any civil or domestic relations matter subject to mandatory arbitration. Such mediation shall be accomplished within the same time period required for court-annexed arbitration under these rules. If the parties mediate in good faith, they shall be deemed to have met the requirements for mandatory arbitration, whether or not the mediation results in resolution of all claims, and shall not thereafter be required to submit to arbitration. Nothing in this rule, however, precludes the parties from entering into arbitration in the event that mediation is unsuccessful in resolving the controversy. Any such request to arbitrate after mediation shall be governed by SLR 13.005 to 13.161.

## 12.103 ASSIGNMENT OF MEDIATOR IN CIVIL ACTIONS

- (1) If no arbitrator has been selected or assigned at the time of the stipulation to mediate, the parties may:
  - (a) Select a mediator by stipulation; or
  - (b) Follow the procedures for assignment of an arbitrator pursuant to UTCR 13.080, except that the mediator shall be chosen from among those on the court-maintained list who have agreed to serve as mediators. The parties shall notify the arbitration clerk of their desire to select the mediator from such a list prior to the issuance of a list of potential arbitrators, if possible.
- (2) Mediators whose names are maintained on the court-maintained list shall have the qualifications of arbitrators under UTCR 13.090(1).
- (3) If an arbitrator has already been assigned at the time of the stipulation to mediate, the parties may select a mediator in either of the following methods:
  - (a) Request the arbitrator to serve as a mediator. Execution of the oath of arbitrator shall not preclude the arbitrator from agreeing to act as mediator pursuant to this rule. If the arbitrator agrees so to serve, UTCR 13.130 shall be inapplicable.
  - (b) Stipulate to another mediator. If another mediator is selected, the arbitrator shall be informed immediately, and shall be compensated, pursuant to UTCR 13.120 and the Supplementary Local Rules, for any time already invested in the case.

## 12.107 MEDIATION PROCESS IN CIVIL ACTIONS

- (1) If requested by the mediator, each party shall supply to the mediator, at least five days prior to the scheduled mediation, a copy of the pleadings, a confidential statement of the nature of the case, the status of settlement negotiations, and any other information requested by the mediator or deemed helpful by any party for resolution of the dispute.
- (2) The mediator shall report the results of mediation on such forms as the court may direct, as either "settled" or "not settled." If settled, the terms of the settlement shall be stated on the report form and signed by the parties and attorneys, unless the parties have agreed that the terms shall be kept confidential and not entered as a judgment. The report form shall be filed and the reported settlement entered as a judgment in the same manner as the filing of an award from arbitration that has not been appealed. If the parties have agreed to keep the statement confidential, a written statement of the terms of the settlement signed by the parties or the attorneys shall be filed under seal and shall not be made a part of the court file or entered as a judgment. This confidential statement shall be admissible to prove the settlement, but shall not otherwise be admissible.



- (3) In the event any party fails to mediate in good faith after signing a stipulation for mediation, the Court may assess as costs any other party's costs necessarily incurred in the mediation.

#### 12.301 SMALL CLAIMS MEDIATION GENERALLY

Mediation in small claims cases is mandatory unless waived by the court for good cause. After a demand for hearing is filed, both parties shall be notified by mail of the date they are to appear for mediation. Any counterclaims shall be heard at the same time. Requests for a change in the mediation date must be in writing and received by the court no later than seven (7) days before the scheduled mediation date.

#### 12.303 SMALL CLAIMS MEDIATION PROCEDURES

- (1) The Small Claims Clerk shall assign cases to a mediator. Each party shall come to mediation with full authority to make and accept offers for settlement.
- (2) All parties shall appear for mediation. A party not appearing for mediation may have a judgment entered against him or her. An authorized representative may appear on behalf of a business but must be familiar with the facts of the case with full authority to settle. Unless a party to the case, attorneys shall not attend small claims mediation.
- (3) If mediation is not successful, a trial will take place. The court will set a trial on the same day of mediation if a judge is available. If a judge is not available a trial will be set for a future date. If mediation is successful, the parties shall appear before an available judge or the agreement will be forwarded to a judge for approval.
- (4) If the agreement does not constitute a judgment, the signed agreement shall be entered in the case as a stipulated order. If one party fails to comply with the terms of the agreement, the other party may file an affidavit of non-compliance which, if approved by a judge, will convert the stipulated order into a judgment for the original claim, less what the debtor has already paid. The creditor's filing fees, service costs, and a prevailing party fee will be added.

#### 12.401 GOOD FAITH MEDIATION

All parties shall comply with the mediation rules and procedures and with the directions of the Court and mediator.

## **CHAPTER 13 - Arbitration**

### **13.009 MEDIATION IN LIEU OF ARBITRATION**

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 (pursuant to ORS 36.185 to 36.210) rather than arbitrate any civil or domestic relations matter subject to mandatory arbitration. Such mediation shall be accomplished within the same time period required for court-annexed arbitration under these rules. If the parties mediate in good faith, they shall be deemed to have met the requirements for mandatory arbitration, whether or not the mediation results in resolution of all claims, and shall not thereafter be required to submit to arbitration. Nothing in this rule, however, precludes the parties from entering into arbitration in the event that mediation is unsuccessful in resolving the controversy.

### **13.011 REFERRAL TO ARBITRATION**

- (1) A case subject to arbitration shall be transferred to arbitration when the case is at issue or 90 days have elapsed since its filing, whichever occurs first.
- (2) In the event a motion to file an amended pleading is allowed by the arbitrator which causes the case to no longer be subject to mandatory arbitration, the party filing such a pleading must notify the Arbitration Clerk. Unless the parties stipulate otherwise, the clerk shall then remove the case from arbitration.
- (3) The Court may remove a case from arbitration at any time.

### **13.035 ARBITRATION COMMISSION**

The arbitration program shall function under the direction of an Arbitration Commission, which shall consist of a judge and at least two attorneys. The Trial Court Administrator is an ex officio member of the Commission.

### **13.101 GOOD FAITH ARBITRATION**

All parties and attorneys shall comply with the arbitration rules and procedures and with the directions of the Court and arbitrator.

### **13.161 LOCATION OF ARBITRATION PROCEEDINGS**

Unless otherwise stipulated by all parties, arbitration and mediation proceedings shall be scheduled at a location in Clatsop County, Oregon. The arbitrator may schedule telephone conference calls to deal with scheduling and procedural issues.

## **CHAPTER 15 - Small Claims**

### **15.015 DISMISSAL FOR WANT OF PROSECUTION**

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 21 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 21 days from the date of service, written notice may be given to plaintiff that the case will be dismissed 21 days from the date of mailing of 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.

### **15.025 MANDATORY MEDIATION**

Mediation in small claims cases is mandatory and shall proceed as set forth in SLR Chapter 12 unless the Court waives mediation for good cause.

APPENDIX I  
SEE SLR 7.031(2)

DOCKET CALL - CIVIL CASE  
APPEARANCE IN WRITING

CASE NAME AND NUMBER: \_\_\_\_\_

TRIAL DATE: \_\_\_\_\_

DOCKET CALL DATE: \_\_\_\_\_

ATTORNEY NAME (or Party Name if unrepresented):

**TRIAL ATTORNEY IF DIFFERENT:**

I make the following representations regarding this case:

ARE YOU READY FOR TRIAL WITH ALL WITNESSES SUBPOENAED?  Yes  No

IF NO, WHY NOT?

\_\_\_\_\_  
\_\_\_\_\_

IF YES,      Number of Witnesses \_\_\_\_\_  
                 Estimated Length of Your Portion of the Trial \_\_\_\_\_  
                 Motion in Limine to be Filed:  Yes  No **MUST BE FILED 24 HOURS BEFORE TRIAL**  
                 Jury trial?  Yes  No If yes,  12-person jury  6-person jury

ANTICIPATED PROBLEMS OR PRETRIAL ISSUES: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

ISSUES AT TRIAL: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**SUBMIT WITNESS AND EXHIBIT LIST TO THE COURT 24 HOURS PRIOR TO TRIAL.**

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

**Note:            Please review SLR 6.061 Regarding Jury Instructions on Computer Disk**

## APPENDIX II

See SLR 8.015

### RULES FOR PARENTING TIME WITH MINOR CHILDREN IN DOMESTIC RELATIONS CASES

For the purposes of this schedule, a weekend is defined as commencing at 7:00 p.m. on Friday and ending at 7:00 p.m. on Sunday. The first weekend of the month is defined as the first one that has both a Saturday and a Sunday within that month.

The noncustodial parent shall have parenting time with the minor child(ren) as follows:

- (1) Except when a specific period is set forth hereafter, the first and third weekends of each month; and
- (2) Whether or not the child(ren) are in school, during the period of Christmas school vacation from the day after school adjourns until 10:00 a.m. on Christmas morning in even-numbered years, and from 10:00 a.m. on Christmas morning until 7:00 p.m. on the day before school resumes in odd-numbered years; and
- (3) Whether or not the child(ren) are in school, for a period of thirty-five days during the period of school summer vacation. Before May 1 of each year, the non-custodial parent shall select and notify the custodial parent in writing of the inclusive dates of the thirty-five day parenting time period with the child(ren). If the non-custodial parent fails to give such notice to the custodial parent before May 1 of the year of the summer parenting time, the non-custodial parent nevertheless shall have the right to such parenting time with the child(ren) after giving two (2) weeks written notice to the custodial parent, if and to the extent that the time remains for such time; provided, however, that the custodial parent shall have the right to choose the inclusive dates for such parenting time. When the non-custodial parent exercises his or her right to parenting time of more than nineteen consecutive days with the child(ren), the custodial parent shall have the right to a weekend with the child(ren) on the third weekend after commencement of the extended parenting time by the non-custodial parent. Such interim parenting time by the custodial parent shall not lengthen the thirty-five days of parenting time allowed to the non-custodial parent; and
- (4) Parenting time in even-numbered years on the following holidays or during the following holiday periods:
  - (a) The birthdays of the child(ren) from 9:00 a.m. to 7:00 p.m. if the birthday falls on a weekend, or from 5:00 p.m. to 8:30 p.m. if the birthday falls on a weekday;
  - (b) Thanksgiving holiday, commencing on Wednesday at 7:00 p.m. and ending on the following Sunday at 7:00 p.m.;

- (c). The Fourth of July. If this holiday does not fall on Friday, Saturday, Sunday, or Monday, visitation shall commence at 9:00 a.m. and shall end at 10:00 p.m. on July 4. If this holiday falls on a Saturday, Sunday, or Monday, parenting time shall commence at 7:00 p.m. on the Friday preceding July 4, and shall end on Sunday the 4th or Monday the 4th, as the case may be, at 7:00 p.m. If the holiday falls on a Friday, parenting time shall commence at 7:00 p.m. on Thursday and shall end at 7:00 p.m. on the following Sunday; and
  - (d) Whether or not the child(ren) are in school, during the period of school spring vacation (measured from the day after school adjourns through the day before school resumes), commencing at 9:00 a.m. and ending at 7:00 p.m.
- (5) Parenting time in odd-numbered years on the following holidays or during the following holiday periods:
- (a) The day before the child(ren)'s birthday from 9:00 a.m. to 7:00 p.m. if the birthday falls on a weekend or from 5:00 p.m. to 8:30 p.m. if the birthday falls on a weekday.
  - (b) Memorial Day weekend, commencing on the Friday preceding Memorial Day at 7:00 p.m. and ending on the following Monday at 7:00 p.m.; and
  - (c) Labor Day weekend, commencing on the Friday preceding Labor Day at 7:00 p.m. and ending on Monday, Labor Day, at 7:00 p.m.

In each year, the mother shall have the child(ren) on Mother's Day and her birthday, and the father shall have the child(ren) on Father's Day and his birthday, from 9:00 a.m. to 7:00 p.m.

The custodial parent shall have the right to designate one weekend each summer when the non-custodial parent's weekend parenting time will not occur in order that the custodial parent can have the child(ren) for an uninterrupted two (2) week period. Before May 15th of each year, the custodial parent shall inform the non-custodial parent of which weekend has been selected. The weekend shall not be on a holiday, birthday or during the non-custodial parent's 35 days of summer parenting time.

All parenting time shall be exercised in a prompt manner so that both parties can make their plans accordingly. The non-custodial parent shall pick the child(ren) up from the front steps of the custodial parent's residence no earlier than 15 minutes before and not later than 15 minutes after the parenting time commences. Return of the child(ren) to the front of the custodial parent's residence shall also be subject to the 15 minute rule. The custodial parent shall have the child(ren) fed and ready on time, with sufficient and proper clothing packed and ready. In the event the child(ren) is ill and unable to visit, the non-custodial parent may have parenting time with the child(ren) on the next succeeding weekend. However, if the non-custodial parent fails

to exercise his or her parenting time for any reason, there will be no makeup time. The child(ren) will not be permitted to determine whether they wish to spend time with the non-custodial parent.

Personal plans of the custodial parent or child(ren), school activities, church activities and other considerations will not be reasons for failing to adhere to this parenting time schedule. Only substantial medical reasons will be considered sufficient for postponement of a parent's parenting time. Both parties will provide addresses and contact telephone numbers to the other party and advise of any emergency circumstances or substantial changes in the health of any child(ren).

The non-custodial parent shall, in addition to the parenting time set forth in this order, have the unlimited right to correspond with the minor child(ren) of the parties, and to telephone the minor child(ren) during reasonable hours without interference or monitoring by the custodial parent or anyone else in any way. Unless otherwise agreed to between the parties, telephone conferences between the non-custodial parent and the child(ren) shall be limited to no more than three (3) per week and shall be limited, each call, to ten (10) minutes or less in duration.

Both parties are restrained and enjoined from making derogatory comments about the other party or in any way diminishing the love, respect and affection that the child(ren) have for the other party.

In addition to the parenting time specified above, the non-custodial parent shall have the right to spend time with the child(ren) at school, attend the child(ren)'s schools activities and have full access to school teachers and administrators for complete information about the child(ren) in school.

APPENDIX III  
See SLR 8.045(2)

NOTICE

You must file an answer in writing to this Order within the time allowed by the Order. If you do not file a written answer within such time, the other side may be given whatever he or she is requesting in the motion. If you have any questions, you should see an attorney immediately.

In order to file an answer in writing, you must do the following things:

- (1) Your written answer must contain the title and number of this case.
- (2) Your written answer must specify the item or items of relief requested by the other side which you oppose. Although you do not need to state the reasons why you oppose the requested relief, your answer will be more easily understood if you do. Your answer will have more authority if it is in the form of a sworn affidavit but this also is not required.
- (3) Your written answer must be signed by you and must contain your current mailing address. All future notices and documents in this case will be sent to you at the address listed on your written answer unless and until you file in this case a written notice of a change of such address, and the Court will proceed on the assumption that you have received all communications and documents mailed to you at your most current address on file in this case.
- (4) Your written answer must be mailed or presented to the clerk of the Court so as to actually reach the clerk of the Court within the time allowed.
- (5) Your written answer must be accompanied by payment of any filing fee required by law for the filing of the answer, or you must obtain a Court order waiving or deferring such filing fee (you should contact the clerk of the Court if you have any questions concerning a filing fee).
- (6) At or before the time you file your written answer with the clerk of the Court, you must mail a copy of the answer to the attorney for the other side or to the other side personally if he or she is not represented by an attorney. You must attach a certificate showing proof of mailing to the answer which you file with the clerk. If you properly file a written answer, the Court will decide whether or not to grant the relief requested by the other side, and you will be notified by mail of the Court's decision. If you do not file an answer within the time allowed, the relief requested may be granted. If you wish to seek affirmative relief for yourself against the other side, you must file an appropriate motion with an affidavit, and you must mail a copy of the motion and affidavit to the attorney for the other side or to the other side personally if he or she is not represented by an attorney.



APPENDIX IV  
See SLR 9.081

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

In the Guardianship/Conservatorship of \_\_\_\_\_ ) Case No. \_\_\_\_\_  
 )  
 ) **RESPONDENT’S OBJECTIONS**  
 )  
 )  
 )  
 Respondent. \_\_\_\_\_ )  
 )

I object to the petition for the following reasons:

- I do not want anyone else making any of my decisions for me.
- I do not want \_\_\_\_\_ making any decisions for me.
- I do not want \_\_\_\_\_ to make the following decisions for me:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Respondent

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed/Typed Name of Objecting Party