

MULTNOMAH COUNTY ATTORNEY REFERENCE MANUAL

2008

Jean Kerr Maurer, Presiding Judge
Fourth Judicial District
Circuit Court of the State of Oregon
for Multnomah County

1021 SW Fourth Avenue
Portland, Oregon 97204

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This manual is provided as an aid to attorneys practicing before the Circuit Court in Multnomah County. It is intended only to provide assistance regarding some local internal practices, primarily in the area of civil practice¹, which are determined by common law, rules and statutory authority (including the Oregon Rules of Civil Procedure, Uniform Trial Court Rules and Supplementary Local Rules). **This manual is not an authority; it should never be cited.** The practices described herein may change from time to time as required by changes in the underlying authority or changes in court policy. To the extent possible, notice of any changes will be provided in advance of their effect to the members of the Bar through the Circuit Court's Web Site (<http://courts.oregon.gov/Multnomah/>) and the News from the Courthouse Column published monthly by the MBA. Any changes will be included in subsequent editions of this manual.

Douglas M. Bray
Trial Court Administrator

¹ This manual deals primarily with procedures and practices in Presiding Court for civil cases. For procedures and information regarding criminal, family court matters, you should contact the appropriate section or department. (See page 2)

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ATTORNEY REFERENCE MANUAL

I. COURT ORGANIZATION

A. COURT STRUCTURE

By ORS 3.012, the circuit court is authorized 38 judges for the 2007-2009 Biennium. The court is also served by 12.5 referee positions. Some referees sit, by appointment from the Oregon Supreme Court, as judges pro tempore of the circuit court. The circuit court is also served by senior judges and several members of the local bar who serve as volunteer judges pro tempore (for whose assistance the court is always grateful).

The Chief Justice is required by law, ORS 1.003, to appoint the presiding judges of the judicial districts every two years. The Hon. Jean Kerr Maurer is appointed by the Chief Justice to be the Presiding Judge through December 31, 2009.

The circuit court is a division of the Oregon Judicial Department. The Oregon Judicial Department is the third branch of Oregon's state government by Article III, Section 1, Oregon Constitution. Since 1983, all funding of the Oregon Judicial Department, including the circuit courts, has been the obligation of the state, except for the funding of circuit court facilities. ORS 1.001. Circuit court facility funding is an obligation of county government. ORS 1.185.

The circuit court is a court of general jurisdiction. By statute, ORS 3.136, the circuit court is the municipal court for the City of Portland. The circuit court also serves as the municipal court for the City of Gresham and other municipal governments in Multnomah County, with the exceptions of the City of Troutdale and the City of Fairview.

B. LOCATIONS FOR CIRCUIT COURT PROCEEDINGS

The circuit court serves the people of Multnomah County from four locations: Juvenile Justice Center, the Gresham Branch, the adult Justice Center, and the main courthouse in downtown Portland. In 2001, the court opened a Dispute Resolution Center, a fifth site, in the Portland Building. This site is presided over by Judge Kristena LaMar.

The mailing address for the downtown courthouse is:

Multnomah County Courthouse
1021 SW Fourth Avenue
Portland, OR 97204-1123

Addresses for other court locations are as follows:

Justice Center
Third Floor
1120 SW Third Avenue
Portland, Oregon*

Dispute Resolution Center
Portland Building
1120 SW Fifth Avenue, Suite 1520
Portland, Oregon*

Juvenile Justice Center
1401 NE 68th Avenue
Portland, OR 97213

Gresham Justice Center
150 W Powell
Gresham, OR 97030

*Mail for judges or referees assigned to these facilities should not be sent to the address for the facility, but rather to the main courthouse.

Most civil, criminal and domestic relations actions are heard in the downtown courthouse, located at 1021 SW Fourth Avenue. The downtown courthouse was built in stages between 1911 and 1914 as the seat of county government. A 1991 study of the courthouse had this to say about the structure:

“While the Multnomah County Court House (MCCH) is powerful and distinguished in it’s appearance, it is not constructed so as to endure the vibrations associated with significant earthquakes.

We calculate the present code would require the building to resist an earthquake force of about 5.1 million pounds, and the present proposed code change would increase this requirement to about 8 million pounds. These figures would rise to 6.4 and 10 if the Court House is to be considered an essential facility. The building’s capacity for earthquake force resistance is estimated to be between 0.5 and 2.0 million pounds. This deficiency establishes the MCCH as a “Dangerous Building” according to standards adopted by the City of Portland.

The building may be at risk of collapse, and of portions of the building falling from their proper positions, in the event of a damaging earthquake. The extent of damage would depend on the severity, timing and location of the earthquake.” *Preliminary Structural Evaluation, June 1991, Multnomah County Courthouse, Portland, Oregon*. The study was prepared for Multnomah County by Van Domelen, Looigenga, McGarrigle & Knauf, Consulting Structural Engineers.

In 1993, the Board of County Commissioners removed their offices from the downtown courthouse to more modern facilities. The courthouse now houses the Circuit Court, it’s judges, most of the circuit court’s operations, the Office of the District Attorney, and court-related Sheriff’s operations.

In 2002, the Board of County Commissioners commissioned a study on the feasibility of re-modeling the Courthouse for future use by the circuit court. In 2003, County Chair Diane Linn formed a Blue Ribbon Task Force to study the available information and make a

recommendation to the Board of County Commissioners on circuit court facilities. Based on the report of the Blue Ribbon Task Force, the Board of County Commissioners, formed three committees to recommend further action to the Board in the following areas: (1) recommend potential site locations for a new downtown courthouse; (2) recommend financing strategies for a new downtown courthouse; and, (3) recommend site proposals, financing strategies and partnership potentials for a new court facility to serve East County.

In 2007, the Board of County Commissioners approved the construction of a four courtroom justice center in Gresham, Oregon (complying with ORS 3.014) to replace the single courtroom facility. Also in 2007, the Board approved a site for a new downtown courthouse - the western bridgehead for the Hawthorn Bridge, a block bounded by Main, Madison, First and Naito Parkway. Funding for the Gresham Justice Center has been accomplished through the sale of surplus county-owned property. Funding to the downtown court facility will require the voters to authorize the issuance of general obligation bonds; there is no time certain set for this vote.

C. HOLIDAYS ON WHICH THE COURT WILL BE CLOSED

The circuit court will be closed on the holidays set out in ORS 187.010. That statute provides as follows for holiday closings and the effect of a holiday closing:

“187.010 Legal holidays; acts deferred to next business day;. . . .

(1) The following days are legal holidays in this state:

- (a) Each Sunday
- (b) New Year’s Day on January 1
- (c) Martin Luther King, Jr.’s Birthday on the third Monday in January
- (d) Presidents Day, for the purpose of commemorating Presidents Washington and Lincoln, on the third Monday in February
- (e) Memorial Day on the last Monday in May
- (f) Independence Day on July 4
- (g) Labor Day on the first Monday in September
- (h) Veterans Day on November 11
- (I) Thanksgiving Day on the fourth Thursday in November
- (j) Christmas Day on December 25

(2) Each time a holiday, other than Sunday, listed in subsection (1) of this section falls on Sunday, the succeeding Monday shall be a legal holiday. Each

time a holiday listed in subsection (1) of this section falls on Saturday, the preceding Friday shall be a legal holiday.

(3) Any act authorized, required or permitted to be performed on a holiday as designated in this section may be performed on the next succeeding business day; and no liability or loss of rights of any kind shall result from such delay. . . .”

D. OREGON JUDICIAL CONFERENCE STANDARDS FOR TIMELY DISPOSITION

The court manages pre-judgment actions to meet the Standards for Timely Disposition adopted by the Oregon Judicial Conference. The Oregon Judicial Conference is a plenary body of all state judges. The standards adopted apply to all circuit courts, and have been in effect since 1990. When requesting a postponement of any proceeding, bear in mind that the court’s obligation is to meet these standards. To do so, it monitors constantly the age of pending cases, and parties should be able to rely on these time lines for the disposition of filed actions.

General Civil—90 percent of all civil cases should be settled, tried or otherwise concluded within 12 months of the date of case filing, 98 percent within 18 months of such filing, and the remainder within 24 months of such filing, except for individual cases in which the court determines exceptional circumstances exist and for which a continuing review should occur.

Domestic Relations—90 percent of all domestic relations matters should be settled, tried or otherwise concluded within 9 months of the date of case filing, and 100 percent within one year, except for exceptional cases in which continuing review should occur.

Summary Civil—Proceedings using summary hearing procedures, as in small claims, landlord-tenant and replevin actions, should be concluded within 75 days after filing.

Criminal: Felony—90 percent of all felony cases should be adjudicated or otherwise concluded within 120 days from the date of arraignment, 98 percent within 180 days, and 100 percent within one year, except for exceptional cases in which continuing review should occur.

Criminal: Misdemeanor—90 percent of all misdemeanors, infractions and other non-felony cases should be adjudicated or otherwise concluded within 90 days from the date of arraignment, 98 percent within 180 days, and 100 percent within one year, except for exceptional cases in which continuing review should occur.

Persons in Pretrial Custody— Persons detained should have a determination of custodial status or bail set within 36 hours of arrest. Persons incarcerated before trial should be afforded priority for trial.

E. JUDICIAL ASSIGNMENTS AND RESPONSIBILITY

As provided by ORS 1.003, the Chief Justice appoints a Presiding Judge. Under ORS 1.171 the Presiding Judge has the following powers and responsibilities:

“(1) A presiding judge appointed under ORS 1.003 is presiding judge for the circuit court of a judicial district established under ORS 3.012.

(2) The presiding judge, to facilitate exercise of administrative authority and supervision over the circuit court of the district and consistent with applicable provisions of law and the Oregon Rules of Civil Procedure, may:

(a) Apportion and otherwise regulate the disposition of the judicial business of the circuit court of the judicial district; and

(b) Make rules, issue orders and take other action appropriate to that exercise.

(3) The presiding judge may assign actions and proceedings pending before a court to other judges of the judicial district for hearing and disposition. A judge who is assigned an action or proceeding under this subsection shall hear and dispose of the assigned action or proceeding unless the presiding judge withdraws the assignment for good cause shown.”

The Presiding Judge has retained direct case management and trial assignment responsibility for civil actions and trial assignment responsibility for felony level criminal cases. The Presiding Judge has delegated to other judges, by appointment, case management responsibility in the following areas:

Criminal Law Matters (including Criminal Procedure Court)

Hon. Julie E. Frantz, Chief Criminal Judge

Family Law, Juvenile & Probate Matters (The Family Court)

Hon. Nan Waller, Chief Family Court Judge and the Hon. Katherine Tennyson to preside as Chief Probate Judge.

Alternative Dispute Resolution Matters

Hon. Kristena A. LaMar, Chief Judge for Alternative Dispute Resolution

F. OFFICE OF THE PRESIDING JUDGE

There are four staff positions assigned directly to the Presiding Judge: the Judge’s judicial assistant maintains the Judge’s calendar and handles the scheduling of any conferences before the presiding judge; the calendaring secretary handles trial docket assignment and scheduling; the two presiding court clerks handle the administrative paperwork processed through the Presiding Judge’s office, including default orders and judgments, staff the courtroom during proceedings, and answer questions about presiding court procedures for the members of

the Bar and public.

G. WHERE TO CALL FOR INFORMATION

The case management policies shaped by the Presiding Judge, or the judges assigned to the various chief judge positions, are given effect by the Office of the Trial Court Administrator and its staff. Often questions regarding usual practices before the Court can be answered by a phone call to the appropriate section of the Presiding Judge's Office or the Court Administrator's Office. During the current budgetary conditions, phone hours are less than business hours for operations divisions including the circuit court file room. These hours are subject to change as the circuit court is required to cut staff positions to comply with declining funding for its daily operations. The following list of sections and numbers may be helpful in securing information:

Presiding Judge's Office

Judicial Assistant and Clerks	503.988.3846
Calendar Secretary	503.988.3171

Judicial Settlement Conferences and Civil Trial Postponement Conferences (1520 Portland Building)

Judge Kristena LaMar	503.988.3204
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Interpreter Services	503.988.3515
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Witness TeleVideo Appearance	503.988.5416
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Reserve a VCR/TV	503.988.3187
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This equipment is available only for **court proceedings in the courthouse.**

File Room

Files, Recordings & Copies	503.988.3003
Transcript Coordinator	503.988.6716
Exhibits	503.988.3012

Civil

Calendaring	503.988.3022, option 3
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Arbitration	503.988.3022, option 3
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Motions and Summary Judgments	503.988.3022, option 3
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Filing and Entering Documents	503.988.3022, option 3
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Small Claims and FEDs,	503.988.3022
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Family Law

Calendaring	503.988.3185
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Filing and Entering Documents	503.988.3022, option 2
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Facilitation Center for Pro Se	503.988.4003
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Mental Commitments	503.988.3022, option 2
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Probate

Copies & Filing	503.988.3022, option 4
Estate Auditing/Calendar	503.988.3545
Citations & Notices	503.988.3022, option 4

Criminal

Calendar Court	503.988.3235, option 3
Calendar Justice Center	503.988.3641
Traffic	503.988.3235, option 1
Parking	503.988.3235, option 2
Indigent Defense	503.988.3987

The goal of the Office of the Trial Court Administrator is to provide service, within the limits of its resources, to the members of the court, the bar and the public. If you wish to discuss any matter regarding the level of services provided, please call the Court Administrator at 503.988.3957.

H. OREGON JUDICIAL INFORMATION NETWORK (OJIN)

All circuit courts in Oregon maintain the register (ORS 7.020) and the judgment lien record (ORS 18.075) on the Oregon Judicial Information Network (OJIN). All filed documents, orders and judgments are entered into OJIN; usually entry is within five days of filing of the document with the clerk of the court. Once a document, order or judgment is filed and entered, it is then placed in the physical file of the case. Most court proceedings are scheduled in OJIN.

Public access to on-line OJIN is available currently only to subscribers through the Information Systems Division, Office of the State Court Administrator, in Salem. Public access is limited to case registers which are not by statute confidential. Obtaining OJIN access in your office is recommended since it permits you to monitor the status of all cases not made confidential by law. Access may be obtained by calling OJIN OnLine at 1.800.858.9658 or by e-mail at ojin.online@state.or.us.

I. COURT FORMS

For the convenience of the Bar and public, the court provides various forms for the processing of routine requests. Use of these forms also expedites the handling of such requests. The Appendix of Forms at the end of this Manual contains copies of those forms routinely processed through the Presiding Judge's office. These forms may be photocopied or reproduced in your own word processing system. If you reproduce a form in your own computer system, please be sure to include all information requested. The Praecipe form should be copied on blue paper.

J. VIDEO CAPABILITY IN DOWNTOWN COURTHOUSE

The court has installed updated video technology which enables the use of live video in

every courtroom in the courthouse. The system is compatible with most other video conferencing systems. With this system, the capability of running two such systems at the same time is available. Contact the court's technical staff at 503.988.5416 to learn more about the availability of the system, its capability, and scheduling equipment for a hearing or trial.

K. DAILY CALENDARS ON THE WEB

Daily calendars for Presiding Court Call are published to the web on the day prior to the scheduled Call proceeding. The calendars are located on the OJD web site at the following URL:

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

This site contains most circuit court civil and criminal calendars.

L. JUDICIAL OFFICES AND STAFF

Use the following link to find the most current list of judges, a judge's courtroom location, staff, and telephone and fax numbers:

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

and click on the Judges' Phone List option.

M. PROCEDURE TO REQUEST INTERPRETERS FOR CIRCUIT COURT HEARINGS

If you need an interpreter for an in-court proceeding to interpret hearing testimony for a non-English speaking or hearing impaired party or for interpreting testimony into English for the court and the record, call Interpreter Services at 503.988.3515. Please give the office at least four business days notice whenever possible. UTCR 7.060 (sign interpreters for the hearing impaired) and 7.070 (language interpreters). The more notice the office has, the more probability of securing the services of an interpreter. Requests made with less than the required four days' notice run the risk of the hearing being delayed due to the unavailability of an interpreter on such short notice.

If you have made arrangements for an interpreter for a trial or hearing and the case is set over or settled, before the hearing, please notify Interpreter Services as soon as possible so the interpreter can be canceled or reassigned. If a case is continued, and the new date is set in open court, it is still the attorney's responsibility to inform Interpreter Services of the new date. Do not expect the interpreter to convey the message or to be assigned to the next hearing. Interpreter Services won't schedule an interpreter until there is notice from the attorney's office that an interpreter is needed for a future hearing.

If you have any questions, please call Interpreter Services at 503.988.3515. See also ORS 45.272 to 45.297.

N. REPORTING PROCEEDINGS

The circuit court has only one trial department served by a stenographic reporter. Judge Janice Wilson continues to have stenographic, real time, reporters in her trial department. All other

trial departments and proceedings are served by electronic recording for the report of the proceedings.

In every other courtroom, there is installed an audio, digital recording system. This new, computer based audio system is the reporting system now used by the judges in trial departments in the Multnomah County Courthouse and it is the backup system in Judge Wilson's courtroom. The digital system is used also in the other court facilities. The presiding judge's courtroom uses a video digital recording system to record all call and ex parte proceedings.

An alternative to the audio record is provided by ORS 8.340 (7). It provides:

“(7)(a) In any circuit court proceeding in which the court uses audio recording or video recording, any party may, with reasonable notice to the trial court, arrange for the reporting of the proceeding by stenographic means. A reporter providing stenographic reporting services under this paragraph shall be certified in shorthand reporting under ORS 8.415 to 8.455 or by a nationally recognized certification program. The party arranging for reporting of the proceeding by stenographic means must provide the court with the name of the reporter and an address and telephone number where the reporter may be contacted.

(b) If all parties to the proceedings agree, the stenographic reporting of the proceedings by a reporter arranged for by a party may be used by the parties during the proceedings.

(c) If all parties to the proceedings agree, the stenographic reporting of the proceedings by a reporter arranged for by a party is the official record of the proceedings for the purpose of a transcript on appeal. For all other purposes, the official record of the proceedings shall be the record produced by the reporting technique used by the court, unless otherwise ordered by the court.

(d) Unless other parties agree to pay all or part of the cost of the reporter, the party arranging for the reporting of the proceeding by stenographic means under this subsection must pay all costs of the reporter and the cost of providing copies of the transcript to the court.”

The statute leaves it discretionary with the party whether to arrange for an outside stenographer (at that party's expense) subject only to reasonable notice to the trial court.

Under the statutory language, even if an outside stenographer is used, the official record of the court's proceeding will be the record made using the audio reporting equipment, unless the parties stipulate to using the stenographic record as the “official record” for purposes of a transcript on appeal, or the court enters an order making the stenographic record the “official record” of the proceedings for all purposes. The stipulation of the parties to make a stenographic transcript the official record for purposes of the transcript on appeal should be filed with the court.

If a privately retained stenographic court reporter is to report the proceedings and the proceeding is a hearing rather than a trial, the question arises whether a party is required to pay the required hearing fee for a reported hearing. ORS 21.275 provides, in part,:

“(3) The clerk of the circuit court shall collect the hearing fees. The fee for a reported hearing is \$30 if the hearing period is not more than three hours or \$70 if the hearing period is more than three hours. The fee does not include the preparation of transcripts of a report.”

There is no exception to the fee requirement in ORS 21.275 (3), or elsewhere, for the use of a privately retained stenographic reporter under ORS 8.340 (7) to report a hearing. If the hearing is to be “reported,” for purposes of appeal or for purposes of making an official record of the oral proceeding, the hearing fee required by ORS 21.275 must be paid.

II. FILING PROCEDURE

A. FILING A CIVIL CASE

Circuit civil, family law, small claims and FED cases are filed at the cashier's window in Room 210 of the Multnomah County Courthouse. Probate and Trust Administration cases are filed in Room 224 of the Multnomah County Courthouse.

Small claims cases can be filed at the Circuit Court for Multnomah County in Gresham at 150 West Powell if one of the parties resides, or the cause of action arose, east of 122nd Avenue. SLR 15.015

Business hours for the cashier's window are from 8:30 am to 5:00 pm Monday through Friday, excluding holidays. The cashiers close their windows promptly at 5:00 pm. No filings will be accepted after 5:00 pm. SLR 1.151 and 1.161 A document tendered to the clerk for filing may be refused as provided in ORCP 9E, UTCR 2.010, and SLR 2.015.

Forms for Complaints and Summons in F.E.D. cases and claims in small claims cases are available for a fee at the counter in Room 210 of the courthouse. The UTCR 15.010 forms for Small Claims are available with those rules at:

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

and, select the "Rules" tab at the top of the page; select Uniform Trial Court Rules from the drop down menu; go to Chapter 15 - Small Claims.

B. FEES

Fees, when required by law, unless deferred or waived, must be paid before a case number will be assigned or before the pleading or document is deemed to be filed. Cash, money orders, VISA or Master Card credit cards and personal checks are acceptable forms of payment. Checks should be made payable to the State of Oregon. If multiple cases are filed, a separate check or credit card transaction is requested for each case. Documents that are not accompanied by the appropriate fee will be returned. The current schedule for all fees is found at the following link:

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

and select the Multnomah Fee Schedule option. See also, SLR 2.015 and 6.025; ORS 21.110(4), 21.275(8), 21.310 (6) and 46.570 (3).

C. FEE WAIVERS OR DEFERRALS

An application for fee deferral is required by Chief Justice Order 07-056 and ORS 21.682. Forms are available at the courthouse in Rooms 210 and 204.

The completed application for a fee waiver or deferral in a circuit court civil case should be presented by the requesting party to the clerk in Room 210. Fee deferral or waiver applications for Family Law cases may be presented to the Family Law clerks in Room 211.

Unless otherwise ordered by the court, deferred fees become due 30 days after judgment or final disposition of the case, including dismissal. Unless the judgment specifies otherwise, the fees are payable by the person for whom the fees were deferred. The court will, without further notice, make the deferred amount a part of the judgment or enter a supplemental judgment for the fee amounts owing, and collection fees will be added automatically as required by ORS 1.202. See ORS 21.692 regarding judgments for deferred fees.

Approximately 45 days after the fees are due, if the deferred amount has not been paid, the court will send a letter to the person by whom the fees are to be paid indicating that the fees must be paid within 10 days. If the fees are not paid as required, the court will turn the account over to the Department of Revenue or a private collection agency for collection; all further contact regarding the payment of the deferred fees should be made through the Department of Revenue or collection agency and not the Court.

D. FEE REFUNDS

Filing fees are not refundable. ORS 21.110(5), 21.111(5), 46.570 and 105.130(7).

Trial fees may be refunded if they are overpaid. A formal order is not necessary. The trial judge may note on the receipt for trial fees the amount to be refunded, and sign and date it. By Oregon Judicial Department policy, all refunds are made by mail. In addition, no refund will be mailed if the underlying payment was made by check until at least three weeks have passed since the date of receipt.

Court policy is to refund an inadvertent overpayment of filing fees without a request if the amount of overpayment is \$5.00 or more.

III. CASE MANAGEMENT - PRETRIAL

A. ATTORNEY WITHDRAWAL OR SUBSTITUTION IN A CIVIL ACTION

(1) Withdrawal or change of counsel must be accomplished as provided by ORS 9.380, ORS 9.390, and UTCR 3.140.

(2) OJIN provides for only one attorney to be “active” for each party to an action. The active attorney will receive all OJIN generated notices and is the attorney we consider the attorney of record. At the first appearance by a party, the attorney who signs the pleading or document will be entered in OJIN as the attorney of record (“active”) unless that document lists a different attorney as the trial attorney for the case, as provided by UTCR 2.010 (7) and 3.140 (2). If a trial attorney is indicated in the initial pleading, then the trial attorney will be entered in OJIN as the attorney of record in the action. Thereafter, the attorney of record will not be changed unless there is a substitution of attorney filed. Just changing the attorney information on subsequent filed documents is not sufficient. Computer generated notices will be addressed only to the active attorney of record indicated at the first appearance or indicated in subsequent substitutions of counsel filed with the court.

(3) Resignation or substitution of attorney is not cause to allow a set-over of the trial date beyond the established guidelines for case age.

B. EX PARTE MATTERS IN GENERAL

The Presiding Judge has retained direct case assignment responsibility for civil and some felony criminal cases. Civil and criminal ex parte matters are heard Monday through Friday at approximately 9:30 am (immediately following call) and again at 1:30 pm in Courtroom 208. SLR 5.025

Except for civil trial set-over requests, civil show cause matters and requests for temporary restraining orders, contested civil or criminal matters should not be presented at ex parte. SLR 5.025

Requests for an expedited setting of a civil motion must be made at a separate ex parte proceeding before a judge assigned to consider only these requests. This daily ex parte proceeding rotates among the judges. Check with the Presiding Court or the Civil Division if you need to know where and when the proceedings are being held for the request of an expedited hearing date on a civil motion (the Expedited Motion Docket).

Family Law Ex Parte matters are heard Monday through Friday at 8:30 am and 1:30 pm by the family law judges on a rotating basis. Check in Room 211 for daily location. Probate Ex Parte matters are heard on Monday through Friday at 8:45 am and must be scheduled through the Probate Department at 503.988.3016. SLR 9.025 (3) and (4).

C. CIVIL MOTIONS

Motions can be presented in several ways: set on the motion docket and heard by one of the judges on the motion panel; presented to the presiding judge at ex parte; or submitted through the mail to be reviewed by the Presiding Judge or designee. The method for submitting motions

depends on the type of motion and whether the motion is contested.

The following lists apply to civil action which are not specially assigned to a judge for all pretrial matters. For cases not specially assigned, matters may be presented as follows.

1. By Mail

The following motions, if uncontested, may be submitted by mail to the Presiding Judge's office:

- a. Alternative Form of Service
- b. Amendment of Pleadings (by stipulation only)
- c. Association of Foreign Counsel Pro Hac Vice
- d. Assurance of Voluntary Compliance
- e. Confession of Judgment and Judgment
- f. Confirming Sale of Real Property
- g. Continuance Under UTCR 7.020 (first request only)
- h. Default Judgment (if no prima facie required)
- I. Default Order
- j. Garnishee Examination
- k. Judgment Debtor Examination
- l. Judgment Debtor Show Cause
- m. Stipulated Judgments and Stipulated Orders
- n. Strict Foreclosure, Interlocutory Decree
- o. Substitution of Attorney
- p. Supplemental Judgment for Attorney Fees in Collection Activity
- q. Trial Date Postponement (more than 30 days before assignment call and unopposed)
- r. Two-Year Abatement Order (only for bankruptcy or independent, binding arbitration)
- s. Voluntary Dismissal
- t. Withdrawal of Attorney (with written client consent)

2. Presented in Person at Ex Parte and the Opposing Party given Notice SLR 5.025(3)

- a. The following motions, if uncontested, must be presented at civil ex parte:
 1. Commission for Out-of-State Deposition
 2. Disbursement of Funds
 3. Exoneration of Undertaking on Appeal
 4. Extension of Time to Respond to Pleadings
 5. Guardian Ad Litem Appointments
 6. Judgment Debtor Bench Warrant
 7. Preliminary Injunction Show Cause
 8. Provisional Process Show Cause
 9. Receivership Show Cause
 10. Registration of Foreign Deposition Instrument
 11. Reinstatement of Case
 12. Reset of Summary Judgment Hearing
 13. Second or Subsequent Continuance requests Under UTCR 7.020

- 14. Transport of Incarcerated Party
- 15. Unopposed Postponement of Trial Date (less than 29 days but more than four days before call)
- 16. Withdrawal of Attorney (without written client consent)
- 17. Writ of Assistance
- 18. Writ of Mandamus Show Cause

- b. The following must be presented at ex parte, and the opposing parties may address the court on the merits of the motion.
 - 1. An Opposed Trial Postponement Request (if presented more than three days from the date of Call)
 - 2. A Request to Expedite the Setting of a Motion in a Civil Action (presented at Expedited Motion Ex Parte)
 - 3. A Request for a Temporary Restraining Order

3. Set on the Motion Docket

The following motions, and all contested motions must be placed on the civil motion docket:

- a. Class Action Certification
- b. Compel Arbitration
- c. Compel Discovery
- d. Consolidate Cases (if opposed)
- e. Determine Sufficiency of ORCP 45 Response
- f. Discharge of Judgment after Bankruptcy
- g. Interpleader
- h. Intervention
- i. Joinder
- j. Judicial Satisfaction of Judgment
- k. Prima Facie Hearings
- l. Protective Order
- m. Quash Subpoena
- n. Relief from Judgment
- o. Sanctions
- p. Separate Trials
- q. Set Aside Default Order/Judgment
- r. Summary Judgment
- s. Third-Party Pleading
- t. To Request Leave to Amend to Plead Punitive Damages

The above lists are not exhaustive. Contested motions, prior to the time a case is assigned for trial or assigned to mandatory arbitration should be set according to SLR 5.015.

In civil actions not transferred to arbitration, motions are assigned a time and date by the calendar clerk at 503.988.3168. Call to get a time and date for the hearing, fill out the praecipe form (Form 05-06, Page 42, Appendix of Forms), serve the motion and praecipe according to SLR 5.015 and file the original motion with the court. In the normal course, the motion will be set approximately five weeks from the date of the request, subject to

judicial availability.

SLR 7.045 sets out the procedure to file a motion, affidavit and order for change of judge if necessary. (See ORS 14.210 et seq. for circumstances allowing this request.)

If a motion indicates that reporting is requested, the hearing fee must be paid at the time the motion is filed. ORS 21.275(8). In addition, if the motion is the first appearance of a party, the first appearance fee must also be paid.

4. Punitive Damages Claims (ORS 31.725)

ORS 31.725 prohibits the pleading of a claim for punitive damages without prior court approval. If a request for punitive damages is alleged without leave of court, the court will strike the request without hearing upon motion, affidavit and order mailed directly to the Presiding Judge. However, a pleading may contain a statement to the effect that the pleading party “will file a motion to amend pursuant to ORS 31.725.” The court considers such a statement as only notice to the opposing parties that there may be a request for leave to plead a claim for punitive damages and will not strike such a statement.

A motion for leave to amend to plead a punitive damage claim is scheduled through the motion calendar office like any other civil motion. The moving party should advise the calendar clerk that the motion is to add such a claim. As required by statute, the motion will be set for hearing within 30 days unless a continuance is granted as provided by ORS 31.725(4). The requirements of SLR 5.015 must be followed.

The motion for leave to amend must be accompanied by all supporting affidavits and documents. Any response to the motion should likewise contain the opposing party’s affidavits and documentation. At the hearing on the motion, the motion will be considered only on the affidavits and supporting documentation submitted by the parties and the arguments of counsel.

Prior to allowing a motion for leave to amend, the court will not limit discovery if the material sought appears reasonably calculated to produce admissible evidence, whether or not leave is given. Discovery will be limited, however, as to the ability to pay until leave to amend is granted. ORS 31.725(6).

5. Requesting an Expedited Hearing for a Civil Motion

In exceptional circumstances, a party may request an expedited hearing for any matter normally set on the regular motion docket. Such a request is made by presenting a Petition for Expedited Motion Hearing (Form 05-28A, Page 44, Appendix of Forms) to the designated judge at the expedited civil motion setting ex parte (SLR 5.015 (3)). If opposed, at least one day's notice of the ex parte appearance for this request must be given to the opposing party.

A request for an expedited setting of a civil motion will be granted only if a true emergency exists requiring such an exceptional action. If the motion for expedited hearing is granted, the judge presiding over the ex parte proceeding will assign the motion to a judge for hearing on an expedited basis, but will leave to that judge the date and time to be set for the hearing. If the request for an expedited setting is denied, then the moving party must

schedule the motion in the normal course through civil calendaring.

If the expedited setting of the motion is allowed, the moving party, after consultation with other counsel, must contact the judge assigned to schedule a hearing date and time for the expedited motion. The assigned judge's staff will notify the calendar clerk of the date and time of the hearing so that OJIN entries may be made. A praecipe is required for a motion permitted to be expedited. SLR 5.015(4).

6. Judge's Copies of Documents Should be Delivered to the Judge's Office

A judge's copy of any document should be taken to the judge's office directly or left in the mail room in an envelope specifically addressed to the judge. Delivery by fax directly to the judge is also possible; there is a fax number for each judge which goes directly to that judge's office. See page 8 for the web link to the room and fax numbers for judges in the courthouse. If the document to be delivered to the judge is a motion set by praecipe, the original praecipe must be attached to the judge's copy.

7. Civil Motions When a Judge Has Heard Earlier Motions

For several years now, the court has made an effort to keep civil motions with the judge who has heard earlier motions in the action. This practice is not followed, however, if the judge who has heard the earlier motions is unavailable to hear a succeeding motion for such time as would delay the case. In these latter situations, the motion is then assigned by the civil calendaring division of the clerk's office to a judge with time available to conduct the hearing.

The Motion Panel has instituted the following procedures to insure that whenever possible a succeeding motion is heard by the judge who heard one or more earlier motions in the action::

- a. Judge X hears a motion. Civil staff adds an entry in OJIN showing "Judge X (motions)."
- b. Attorney B calls civil calendaring and says "I need to schedule a hearing on a Rule 21 motion. Judge X has already heard a motion in this case." (Staff will assist you, if you don't know which judge heard the previous motion)
- c. If Judge X has a hearing slot available in the dates being scheduled by the motion clerk, the motion will be scheduled.
- d. If Judge X does not show any time available, the clerk will respond, "Judge X doesn't show any time available to hear civil motions right now. You should call Judge X's Judicial Assistant to see if the judge wants to make some time available for your motion on the trial department's calendar."
- e. Attorney B then calls Judge X's office and explains the situation. If Judge X is able to fit the motion onto the department's calendar, a hearing is scheduled through the JA. If Judge X is unable to hear the motion timely, the JA tells Attorney B, "Sorry, we can't help you. You'll

have to call civil calendaring again and have the hearing scheduled before another judge."

- f. Attorney B calls civil calendaring back, informs them that Judge X is unable to schedule the motion, and the motion will be scheduled before another judge with time available.

In the best of circumstances, one phone call should get the matter scheduled even if there is a motion judge assigned. If, however, the previous motion judge is unable to hear the matter, three phone calls will be required to get the motion a hearing time on some other judge's calendar.

Currently, judges are only available about 50 percent of the time to hear a succeeding motion filed in a civil action. Unless the judge is both available and has time on the civil motion availability for the week being set, the process cannot be resolved with a single phone call.

8. Re-Assigning and Re-Scheduling Motions for Summary Judgment Assigned to Judges Pro Tempore

Summary judgment motions are set by calling the calendaring clerk at 503.988.3168. It is the practice of the court to assign summary judgment motions to a group of attorneys who are experienced in civil litigation and who volunteer their time to the circuit court to hear these matters. These attorneys are in civil practice and have been approved by the Supreme Court to serve as judges pro tempore of the circuit court. The circuit court is indebted to them for the time they give, which frees up judicial time for hearings and trials of civil and criminal matters.

If a party to a proceeding scheduled for a summary judgment hearing before one of these judges pro tempore wished to have the hearing re-assigned to a sitting judge of the circuit court, an order is required and the only order to use is set out in the Appendix. (Form 05-78, Page 51, Appendix of Forms). Prepare the order in duplicate. The order must be presented at ex parte. If allowed, the conformed copy should be provided to the calendar clerk in Room 210. The motion will be re-assigned as provided by the order. Do not file a "motion for change of judge;" use the form of order provided in this manual.

Re-scheduling a hearing date for a summary judgment motion assigned to the volunteer judges pro tempore also requires a signed order. (Form 05-44, Page 50, Appendix of Forms). The request must be made at ex parte. When signed, a conformed copy of the order must be given to the calendaring clerk and the hearing will be scheduled for a new date. This process is necessary since the volunteer judges pro tempore have appointments to sit only on a particular day. A judge pro tempore may not move that date to another date unless there is a Chief Justice appointment to sit for that succeeding date. The request for an order to re-schedule a summary judgment hearing insures that these motions are re-scheduled to a date when there is a valid appointment from the Chief Justice for one of the judges pro tempore to sit.

D. MOTIONS IN CASES ASSIGNED TO MANDATORY ARBITRATION

Prior to the time a case is assigned to arbitration, motions should be presented as in any other civil case. Once the case has been assigned to arbitration by court order, all motions should be presented to and decided by the arbitrator. UTCR 13.040(3). **Any scheduled motions pending hearing at the time an action is assigned to arbitration will be heard by the court** and not the arbitrator.

UTCR 13.040 (3) provides:

“Once a case is assigned to arbitration, all motions against the pleadings, all motions for discovery, and all similar pretrial motions not then resolved will be submitted to the arbitrator only and determined by the arbitrator. The arbitrator's determination, however, will apply only during the arbitration proceeding. **If a request for trial *de novo* is filed, such matters may be raised again.** If the arbitrator's decision on a pretrial motion will prejudice a party on trial *de novo*, that party may file an appropriate motion with the court.” (Emphasis added)

Any motion decided by an arbitrator during the arbitration proceeding, may be raised anew before a judge, if the arbitrator's award is appealed. This right does not accrue until the appeal is filed.

Motions regarding the status of the case as arbitration eligible, for reinstatement of cases dismissed for failure to comply with arbitration rules, and exceptions to the award of costs and attorney fees should be presented to the Chief Judge for Alternative Dispute Resolution or the Chief Judge's designee. Call the arbitration clerk at 503.988.3830 to determine where the motions are being heard.

E. MOTIONS HEARD BY CONFERENCE WITH PRESIDING JUDGE

The Presiding Judge may hear certain matters by conference in chambers. These conferences may include: (1) the postponement of a trial date beyond 12 months from the date of filing, (2) the designation of a case as "complex", and (3) two-year abatement requests. (The clerks in Presiding Court can process an abatement request based on bankruptcy or independent, binding arbitration without a conference.) All attorneys are required to be present unless allowed to appear by telephone. These conferences are scheduled by calling the Presiding Judge's office at 503.988.3846.

F. DOCUMENTS NOT FILED WITH THE COURT

Pursuant to ORCP 9D, "notices of deposition, requests made pursuant to Rule 43, and answers and responses thereto shall not be filed with the court."

G. SERVICE BY FAX, NO FILING BY FAX

ORCP 9F allows service on a party represented by an attorney to be by facsimile transmission (fax) to the attorney. **The court does not accept documents for filing which are transmitted to the court by fax.** Courtesy copies of motions or other documents can be faxed to a particular judge at that judge's fax number. Documents that are on wet process or thermal process reproduction paper should not be filed with the court; make a copy of the document on plain paper before filing.

The courthouse has three fax machines: Room 210 (civil) 503.988.3698; Room 106 (criminal) 503.988.5065; and Room 210A (mail room) 503.988.3425. In addition, each judge has a separate fax number for the judge's office (the website for the judge's chambers fax numbers are listed on page 8). If getting a copy of a document to a judge is urgent, the fax should be directed to the judge's fax number. The sending party should then call the judge's court to indicate the document has been sent by fax.

H. BANKRUPTCY'S EFFECT ON A CIVIL CASE

If the court is notified that a bankruptcy has been filed by a party to the case, all activity in the case must be stayed unless the claim subject to the protection of the bankruptcy stay is severed. If the bankruptcy notice is received by a party, a copy of the bankruptcy court notice or an affidavit that includes the bankruptcy case number and bankruptcy court name should be provided with the court's form of Abatement Order (Form 05-32, Page 46, Appendix of Forms). The unsigned order with the accompanying document may be submitted to the Presiding Judge's office for processing. Once the Abatement Order has been signed, filed, and entered, the case remains open, although inactive, for a period of two years or until the parties either dismiss or proceed with the case. At the end of the two years, the court will provide a notice of intent to dismiss the case. UTCR 7.050. If the bankruptcy is still pending, a motion and order to continue the abatement may be submitted to the Presiding Judge by mail. The motion should state that the bankruptcy is still active; the court will continue the abatement for an additional two years.

If there are multiple defendants in a civil action in which a bankruptcy notice is received for one of the defendants, upon request, the court will sever that party from the active case and stay the case only as to the party in bankruptcy. (Form 05-38, Page 48, Appendix of Forms: *Order for Severance of Party and Abatement*) The case will continue active as to the remaining parties.

I. CONSOLIDATING CASES

Pursuant to ORCP 53, cases can be consolidated only by court order. The cases are consolidated for purposes of hearing or trial only; the case files and the documents therein are not physically consolidated.

After an order is entered for consolidation, documents must be filed with sufficient copies for each individual case (UTCR 2.090), unless otherwise ordered by the court in the order consolidating the cases. Court clerks will not make copies. If a document is filed without copies for the other case(s), and there is no order of the court excusing the delivery of copies, the original will be filed and entered in the "master" case only.

If an appearance is made in only one of the cases under an order of consolidation, that appearance will not automatically be entered in any other consolidated case. A copy or separate document, together with any required filing fee, must be filed in each other case under an order of consolidation.

If one of the cases subject to an order to consolidate for hearing or trial is arbitration eligible and one is not, the court will assign both cases into arbitration. UTCR 7.020 will apply to all cases individually.

J. CHANGING VENUE

If a motion for change of venue is allowed, the order will be sent to the file room. The file room clerk will count the number of pages in the file and bill the appropriate party at the rate of \$.25 per page. Once the payment is received, the copies will be made and certified. ORS 14.140. The receiving county gets the original documents; this court retains the copies.

K. ASSOCIATING FOREIGN COUNSEL

Foreign Counsel may appear in an action filed in this state only after complying with the requirements of UTCR 3.170 and obtaining a certificate of compliance from the Oregon State Bar. Next, the local associated attorney must prepare a motion and order to appear in this court in the case for which the admission of the out-of-state attorney was obtained. The motion and order should be captioned for filing in that specific action. A true copy of the certificate of compliance and acknowledgment of the Oregon State Bar must be attached to support the motion. The motion may be submitted by mail to the presiding judge if the foreign counsel is to appear in a civil or criminal action. The motion must be presented at family court ex parte if it is to appear in a domestic relation, juvenile, probate or mental health action. When the motion is granted, it will be filed in the action. The Oregon Rules of Appellate Procedure provide for appearance by an attorney pro hac vice in those courts at ORAP 8.10 (4) (filing briefs and oral argument) and 6.10 (4) (oral argument only). See ORS 9.241 for the statutory basis of the UTCR and ORAP.

Washington and Idaho attorneys who are admitted to the practice of law in Oregon under the reciprocity admission provisions of Rule 15.05 of the Rules of Admissions for Attorneys are not “foreign counsel” subject to the provisions of UTCR 3.170.

L. INTERSTATE DEPOSITIONS

Cases filed in one state may require depositions in another state. This necessitates transfer of the originating jurisdiction's power to administer an oath. SLR 5.095. The court has prepared forms to accomplish moving that power from this court to a foreign court, or to register the foreign court's power with this court. (Form 22-03, Page 53, Appendix of Forms). Most states issue a document, variously called a commission, letter rogatory, mandate or writ to reflect this transfer. In Oregon, this document is called a commission. ORCP 38.

1. For a case originating in this court

To obtain a commission for taking depositions in another state for a case filed in this judicial district, the requesting attorney should bring to ex parte a motion, affidavit and order (to be signed by the presiding judge) and a commission (to be signed by the courtroom clerk acting as deputy court administrator). (Form 22-03, Page 53, Appendix of Forms). The signed order is filed; the clerk will issue the commission and give the original of the commission to the attorney to send to the foreign court. The commission is valid for 28 days from the date issued, unless a longer period is set by the court.

2. For a case originating in another jurisdiction

To register an instrument from another state, the foreign counsel must enlist local counsel to appear at one of this court's ex parte sessions. The local attorney should bring the foreign state's signed commission or writ (for filing) together with a Petition and Order to Register the Instrument in Oregon to the Presiding Judge at ex

parte. (Form 22-03, Page 53, Appendix of Forms). For states that do not issue a commission, writ, or letter rogatory, the attorney should bring an affidavit to that effect along with the Petition and Order. SLR 5.095. Once the Order has been signed, the attorney should then file the case at the cashier's window and pay the filing fee. A circuit court case number will then be assigned.

M. AUTHENTICATION OF SUMMONS FOR SERVICE BY ANOTHER STATE

To serve a summons for an action filed in this court in another state using that state's civil process services (or comparable law enforcement department), some states require that the summons be accompanied by an authentication that the summons conforms to ORCP 7. If you require such an authentication, prepare a motion, affidavit and a form of an "order authenticating summons" and present it at ex parte for signature. Following ex parte, the presiding court clerk will make a certified copy of the order to accompany the summons; the original signed order will be filed in this court.

N. SUBPOENAING RECORDS TO THE COURT

Records for civil and criminal cases should be subpoenaed directly to the exhibits clerk in Room 131. Records for grand jury hearings should be subpoenaed to the Grand Jury clerk in Room 600.

Protected records cannot be subpoenaed without court permission. The requesting attorney will have to demonstrate that the protected information is unavailable by other means. If contested, this request belongs on the motion docket. If not contested, a request for protected records can be heard at ex parte and must be supported by an affidavit explaining why the records are necessary. Uncontested requests for protected records in family law cases are heard at Family Law ex parte.

Inspection of individually identifiable health information records under ORCP 55H(2)(d) requires, in part, that an attorney of record or party provide notice to all appearing parties that the records will be inspected. At the time set in the notice, all parties and attorneys of record attending may review the records in the presence of the custodian of the court files.

Individually identifiable health information records delivered to the court under subpoena in a civil action are available for inspection in Room 131 of the courthouse. If you wish to inspect these records, the administrative staff needs 24 hour notice so the records may be removed from the exhibit room and brought to Room 131. If you copy the "Circuit Court File Room" on your notice to the parties, it would allow staff sufficient time to have the records available. At the time of the inspection, each person present to inspect the records will be required to sign a certificate stating their relationship to the case and have appropriate identification. This precaution is necessary given the confidential nature of the records and the limited access granted by ORCP 55H(2)(d) for inspection of the sealed documents.

O. REMOVING A CASE TO FEDERAL COURT

When a Notice of Removal to federal court is filed in a Multnomah County case, the circuit court case is abated by operation of law. The circuit court loses jurisdiction over the action. No transfer of documents occurs on removal to federal court. Very often these cases are subsequently remanded back to the circuit court by the federal court. Since no pleadings are transferred back from federal court, the parties must ensure that copies of all documents filed in the federal court are

also filed in the state court after remand in order to reflect the posture of the case.

If the case is remanded back to state court, the case will continue in the federal posture as to completion of service, responsive pleadings filed, and readiness for trial but under its circuit court case number. No circuit court proceedings will be set until the federal court's order returning the case to the state court is filed and entered in the circuit court's register.

An appeal to the United States Court of Appeals of a United States District Court's order returning a case to the circuit court, once the District Court order is received by the circuit court, does not, without an order from the United States Court of Appeals, stay the state court action. An abatement due to removal to federal court ends when the United States District Court's order returning jurisdiction to the circuit court is received, filed and entered in the circuit court's register, notwithstanding an appeal of the District Court's order, and absent any further federal court order expressly removing state court jurisdiction.

P. TELECOMMUNICATION

ORS 45.400 permits testimony to be taken by telephone in certain proceedings upon motion of any party. If it is requested that a motion be heard by telephone, UTCR 5.050(2) applies as well. Once a motion or request is granted permitting testimony or a hearing by telephone, the moving party must provide notice to the judge assigned to conduct the proceeding that a part or all of the proceeding will be by telephone. The praecipe form contains a place to indicate that the motion will be heard by telephone. UTCR 5.050(2) requires that this request be included in the caption of the pleading.

Q. CONFESSION OF JUDGMENT

An ORCP 73 judgment by confession can be the initial filing in a case. The appropriate filing fee must be paid. A confession of judgment can also be filed in an existing case without payment of an additional filing fee.

To have the judgment create a lien, a money award section in compliance with ORS 18.042 must be included with the confession.

R. TEMPORARY RESTRAINING ORDERS

Requests for issuance of a Temporary Restraining Order (TRO) are presented at civil ex parte. Notice to the other party of the ex parte appearance is required unless the moving party provides affidavits which fulfill the requirements set out in ORCP 79B(1). The adverse party may appear at ex parte and be given leave of the court to address the merits of the request. SLR 5.025 (2).

The TRO, if allowed, will expire in 10 calendar days absent a court order extending or reducing the time period. ORCP 79B(2). Before a TRO will issue, the moving party must be prepared to present a bond or deposit money into court to cover costs, damages, and attorney fees as may be incurred by a party wrongfully enjoined, unless the court order provides that no security is required under the requirements of ORCP 82A(1).

The Temporary Restraining Order should be drafted separately from the Show Cause Order. Procedures for setting the Show Cause hearing are discussed below.

S. SHOW CAUSE HEARINGS

Show Cause Hearings in civil cases are assigned from the Thursday call docket for hearing on Friday. The Order to Show Cause for a preliminary injunction must allow five days notice of the hearing, unless shortened by the court. ORCP 79C(1). The Order must be presented at ex parte with the supporting documents along with a Motion for a Show Cause Hearing and Order setting the hearing. (Form 05-27, Page 43, Appendix of Forms). The Show Cause Order must contain language reflecting the Call date, time and room, as well as the date for which the hearing will be assigned.

Show Cause Hearings for judgment debtors or garnishees in circuit court civil matters other than small claims are scheduled at the discretion of the creditor for any judicial day at 11:00 am in Room 208. Small claim judgment debtor show cause hearings are set for Wednesday, Thursday or Friday at 8:15 am in Room 120 at the discretion of the judgment creditor. At least seven (7) days notice of the hearing date and time is required, unless a longer period is set by statute. SLR 5.065(1).

Show Cause Hearings in family law cases may be scheduled by calling the family law calendar clerk at 503.988.3185.

T. PRESIDING COURT DAILY SCHEDULE

8:00 am	Office Opens
9:00 am	Assignment Call for all Civil Cases and Felony Cases Not Assigned to Criminal Procedure Court
9:30 am	Ex Parte: Civil and Felony Criminal
11:00 am	Judgment Debtor Examinations
12:00 - 1:00	Office Closed
1:30 pm	Ex Parte: Civil and Felony Criminal Cases
2:30 pm	Conferences (in chambers by appointment only)
5:00 pm	Office Closed

Requesting an expedited setting on a civil motion is done at a separate ex parte proceeding and not in Presiding Court. This process is covered on page 17.

U. UTCR CHAPTER 7 ("Rule 7") NOTICES, DISMISSALS and CONTINUANCES

The Oregon Judicial Information Network (OJIN) is programmed to monitor cases as required by UTCR 7.020. If proof of service, appearance or default judgment has not occurred within the required time limits, the OJIN system will produce notices of intent to dismiss for want of prosecution to attorneys of record or unrepresented parties. This notice warns that the case will be dismissed in 28 days if the particular requirement of UTCR 7.020 is not met. If the required proof of service, appearance, or a Default Judgment is filed within 28 days from the date of notice, then a general or limited judgment of dismissal will not be entered.

To obtain more time to serve defendants, secure an appearance, or seek a default, you must submit a motion, affidavit and order for continuance. A form for this motion is available in Room 204. (Form 05-41, Page 49, Appendix of Forms). The motion may be mailed to the Presiding Judge if it is the first request for continuance. Subsequent requests must be presented at ex parte. Attach a

self-addressed confirmation card to be returned by the court indicating whether the continuance was allowed. The continuance runs from the date the Order is signed.

The court will not approve unlimited continuances to allow for settlement negotiation or to see whether payments will be made under a settlement agreement, but the court does not limit continuances to a fixed number of days. This change in policy is intended to allow the parties to take the time necessary for service, prima facie hearings or settlement without having to return to ex parte every 28 days to seek another continuance.

If a case is dismissed under UTCR 7.020 for want of prosecution, a motion and order to set aside the general or limited judgment of dismissal and to reinstate the case on the trial docket must be presented to the Presiding Judge at ex parte. (Form 05-33, Page 47, Appendix of Forms).

V. TWO-YEAR ABATEMENT

Pursuant to SLR 7.055(7) the Presiding Judge may, for good cause shown, abate or remove a case from the active trial docket for a period not exceeding two years.

1. Generally

The grounds for seeking abatement of a case include: the medical instability of the plaintiff; there is another action pending in another jurisdiction which may be dispositive; the parties wish to pursue outside independent binding arbitration. The Presiding Judge generally requires the consent of all parties to abate an action. Such requests are made by scheduling an in-chambers conference with the Presiding Judge. (For stay of an action for bankruptcy, please see Section H, supra; for stay of an action for independent, binding arbitration, see below.)

If abatement is allowed, the parties may not appear before the court for hearing of any kind during the inactive period; the parties by agreement may pursue discovery, but no motion practice of any kind will be allowed. The case will be dismissed two years from the date of the abatement unless sooner reinstated or dismissed.

To have the case put back on the active trial docket, the moving party must give prior notice to all parties and present a Motion and Order for Reinstatement (Form 05-33, Page 47, Appendix of Forms) along with a supporting affidavit, at ex parte. If the case was at issue at the time of the abatement, a trial date will be assigned within approximately 30 days of the reinstatement. Otherwise, the requirements of UTCR 7.020 will be applicable and the case dismissed within 28 days unless the appropriate action is taken.

2. Independent Arbitration

ORS 36.625 allows a stay of a case for independent arbitration when there is a claim referable to arbitration. If an abatement request pursuant to ORS 36.625 is opposed, a formal hearing should be scheduled through the motion calendar office (503.988.3168) and the requirements of SLR 5.015 followed.

If no contractual provision exists, but the parties mutually agree to pursue

outside arbitration of the claims, the court will not stay an action unless the parties also agree in writing that the arbitration decision will be final and binding. A stipulated request for stay for independent, binding arbitration may be submitted by mail directly to the Presiding Judge's office for processing.

W. CERTIFICATE OF PARTICIPATION IN DISPUTE RESOLUTION SLR 7.075

SLR 7.075 requires that parties have participated in some form of appropriate dispute resolution and that a certificate of such participation must be filed within 270 days of the filing of the first complaint or petition in the action. The rule provides that “appropriate dispute resolution” includes, but is not limited to arbitration, mediation and judicial settlement conferences. The rule makes clear, with a 2003 amendment, that negotiation between the parties to reach a settlement is not sufficient participation in dispute resolution to meet its burden. Compliance with this rule is required for any case seeking to postpone trial beyond the 270 day time limit.

Completing an arbitration, mediation or judicial settlement conference by the time a case reaches 270 days of age satisfies the ADR activity requirement of SLR 7.075. Filing the certificate completes the process required to comply with the rule. (Form 05-31, Page 45, Appendix of Forms). Filing the certificate prior to completing the activity does not comply with the rule.

Judge LaMar’s program is an extremely effective and efficient means to have an experienced judge assist the parties in assessing the merits of the action and the competing positions of the parties, in determining a probable outcome based on actual results in other similar cases, and in providing practical observations on the costs of continuing to trial versus negotiating a pretrial resolution. When considering the obligation imposed by SLR 7.075, keep in mind that less than 2 percent of the civil actions closed in this circuit court in 2007 were closed by a trial. Since there is an overwhelming probability that your case will be settled and not go to trial, is it better for your client to settle the matter at the point that trial is imminent, or is it better to save your client the expense of preparing for litigation and reach an earlier resolution of the matter? Participating in a Judicial Settlement Conference may help you to answer this question.

Since March, 2003, the circuit court has ceased to conduct jury matters on Friday in order to provide judges time to hear and resolve non-jury matters. Most of the judges not assigned to the Family Court are willing to set judicial settlement conferences on these days. If you are unable to set a conference timely with Judge LaMar, you may be able to schedule it with another judge. All it takes is a phone call to that judge’s office.

The circuit court is not prepared at this time to provide courtrooms, judges or jurors for mini-trials or summary jury trials; parties need to find other sources for these resources if they chose to use either of these ADR options.

X. MOTIONS TO SEAL A DOCUMENT OR A CASE FILE

Article I, Section 10 of the Oregon Constitution requires that “[n]o court shall be secret, but justice shall be administered, openly and without purchase, completely and without delay***.” In *State ex rel Oregonian v. Diez*, 289 Or 277 (1980) the Supreme Court interpreted this Constitutional provision to provide a broad constitutional right of public access to judicial proceedings. Following *Diez*, in *Oregonian Publishing Company v. O’Leary*, 303 Or 297 (1987), the Court reaffirmed this interpretation of Oregon’s Constitution.

Like court hearings, court files are public records unless otherwise expressly provided by law. While there has been no published opinion on the application of Article I, Section 10 of Oregon Constitution to court files, the Oregon Supreme Court did consider this matter directly in *A.K.H. v. R.C.T.*, Supreme Court Case No. 37202 (1990). In that case, the litigation began in the United States District Court, wherein some documents were permitted to be filed under seal. The District Court certified a question of law to the Oregon Supreme Court and transferred to the state court some of the documents which were sealed. The defendant in the federal action filed a motion with the Oregon Supreme Court requesting that the documents remain under seal before the state court. The Oregon Supreme Court denied the motion. In its order denying the motion, the court said:

“An effect of granting the motion would be to prevent access by the public to a record of a proceeding of this court. The motion is denied. Oregon Constitution, Article I, section 10.”

Any member of the public may examine and obtain copies of the contents of a court file. This is sometimes troubling to lawyers and litigants. A response to this concern often is filing a motion for an order to permit a party to file a document or sometimes an entire action “under seal.” That the order is “stipulated” by all litigants does not solve the Constitutional problem.

If a party believes they have legal grounds for filing under seal with respect to a specific document or a specific set of documents, the party must cite to the Presiding Judge the legal authority for the requested action. Any order allowing such motion will be narrow in scope to insure that the only information withheld from public inspection is information expressly authorized under law to be sealed.

If you have obtained an order sealing a file, Multnomah County Supplementary Local Rule 1.165(3) requires that you give written notice of that and a copy of the order to the Trial Court Administrator. If you do not comply with this rule, do not assume a document will be sealed.

UTCRC 2.100, should, in most litigation, provide to the parties some means to avoid disclosing “protected personal information.” That rule, to be used, requires the parties to draft documents for filing which incorporate the protections provided. For documents already filed in the circuit court, UTCRC 2.110 establishes a process for the redacting of personal identifier information from a case file.

In addition to the ability of the parties to protect information under UTCRC 2.100 and 2.110, there has always been available for entire actions to be filed with the identity of the parties protected. SLR 2.035 provides:

“In civil actions, the designation of a known party by a name other than the party’s true name shall be allowed only upon an order of the court. If ordered, the designation of such party shall be by use of such party’s initials or a fictitious name other than “Jane Doe” or “John Doe”. The name “Jane Doe” or “John Doe” is reserved to be used for a party whose identity is unknown and the party is being designated as provided in ORCP 20 H.”

necessarily the party's own) for each party. This device was the solution used by the Oregon Supreme Court in protecting the confidentiality of the parties to the action cited above, where the Supreme Court denied the motion to have documents submitted under seal. The court had no problem in protecting the true identity of the parties. The one limit in using this device, is that unrepresented (*pro se*) parties may have a problem with the requirement to sign documents (ORCP 17A).

IV. TRIAL CALENDARING PROCEDURES

A. NOTICES FOR CALL PROCEEDING FOR ASSIGNMENT TO TRIAL

Call refers to the trial docketing system whereby a case is called and assigned to a judge on the judicial day immediately preceding the date of the actual hearing or trial. When all defendants have either appeared or been defaulted or dismissed, the calendar clerk will assign a call date approximately 30-45 days away.

Call notices are produced by OJIN and will be mailed to the attorney of record for each party, and to any unrepresented party. For attorneys within a firm, the attorney of record will be the attorney who signed the initial pleading to start the action or the first appearance on behalf of an opposing party. All court notices will be sent to that "attorney of record," even though other attorneys in the firm may sign later filed documents. If there is a reason to have another attorney in the firm designated as the "attorney of record," a written notice to the clerk's office of the assignment to the action to the new attorney is required. Changes made within a firm are not substitutions of counsel, and a court appearance is not required. The clerk's office does need, however, written notice that Attorney 1 is to be replaced by Attorney 2 for all future appearances and Attorney 2 should be entered as the attorney of record for the firm.

At the call proceeding the case will be assigned for trial the next court day, set to stand-by status, carried to the next days call proceeding, or given a set over to a future call proceeding. If the call date is not acceptable, a motion for postponement should be filed as soon as possible to avoid the need for an ex parte appearance. Parties are encouraged to select an agreed date under SLR 7.015(3).

Because notices are produced by OJIN, it is essential that each attorney's correct address be listed on the attorney file in the computer. Filing a pleading with the new address on it is not sufficient. A notice of new address should be mailed or delivered to the Trial Court Administrator. UTCR 2.010(14).

B. TRIAL DATE POSTPONEMENTS

SLR 7.035 sets out the requirements for filing a motion and order to postpone a civil trial date. The motion shall be on a form prescribed by the Court (Form 05-82, Page 52, Appendix of Forms). An original and one copy of the Motion and Order to Postpone Civil Trial must always be submitted for processing.

The two important factors in determining whether the motion will be allowed are the case age and the days remaining before the trial date. The following guidelines govern the postponement requests:

Cases 12 Months Old or Older: The Presiding Judge may require a conference to postpone cases 12 months old or older, or when requesting a trial date that is beyond the one year guidelines set by the court. Such conferences are no longer mandatory. (See "Postponement Conferences" below.) Any request for a postponement of trial date beyond 270 days must be accompanied by a certificate of compliance with SLR 7.075 or must reference that such a certificate has been filed in the action.

30 or More Days Before the Call Date: If unopposed, the original and one copy of the

postponement motion can be mailed to Room 204. Stamped, addressed confirmation cards should be attached for all attorneys of record to be notified of the decision. Ex parte appearance is optional for unopposed postponement requests 30 or more days from call. If the postponement request is opposed, the motion must be presented at ex parte. The moving party must give one day's notice of the date the ex parte appearance will be made to all opposing attorneys and the moving party's client. SLR 7.035(2).

29 Days to 4 Judicial Days Before the Call Date. The moving party must appear at ex parte to request the postponement (even if the motion is unopposed), and provide an original and one copy of the postponement motion plus confirmation cards. If the motion is opposed, the moving party must give one day's notice of the ex parte appearance to the opposing party.

3 Judicial Days or Less Before the Call Date. The moving party **MUST** wait until Call to request a postponement.

C. POSTPONEMENT CONFERENCES

Postponement conferences may be required, at the discretion of the presiding judge, for civil cases if the requested trial date is beyond the one year guideline established by the court. If held, the trial attorneys for all parties must be present with their trial calendars. Parties will be asked to address SLR 7.075 compliance and matters listed in UTCR 6.010 at these proceedings, as well as other matters for which the court would give notice. These conferences are conducted by the presiding judge or a designee. Call Presiding Court at 503.988.3846 to schedule a postponement conference if you have been notified that a postponement will not be granted except by conference.

D. DAILY CALL

In Multnomah County, civil and certain felony criminal cases deemed ready for trial are placed on a master calendar for assignment by the Presiding Judge. Cases are called by name for assignment at this daily proceeding. The proceeding is known as "call". Call is held in courtroom 208. Call is at 9:00 am. Attorneys must appear at call to inform the court whether the case is ready to proceed to trial and the estimated length of the trial.² For civil cases only, an attorney may report unconditionally "ready" by calling the calendar secretary, at 503.988.3171, the day before call; if a motion for change of judge may be necessary, an appearance at Call is required. SLR 7.055. If both sides are ready, the Presiding Judge will assign the case for trial the next day as the availability of judges allows. Cases can be assigned for trial, set over, placed on "stand-by or carried", or "set to follow." These terms are explained below.

At the time of assignment in the call proceeding, attorneys who wish to file a motion for change of judge must announce to the Presiding Judge their intention to do so, and then follow the procedures described in SLR 7.045 to file their motion timely. If allowed orally by the Presiding Judge, a new judge will be assigned conditioned upon the timely receipt of the Motion, Affidavit and Order for Change of Judge.

The Chief Family Court Judge presides over call for all family law and juvenile cases. At this time, there are separate calls conducted at the courthouse (for domestic relations cases) and the

² In Criminal Cases, non-custody felony defendants must also appear in person with their attorney at Call.

Juvenile Justice Facility (for juvenile cases). Call is held in each location at 8:30 am. The Chief Family Law Judge presides at one location, and coordinates assignments with a judge presiding at the other location. Generally, the rules for call/assignment in the Family Court are similar to those of the presiding judge. See SLR 8.015.

E. STAND-BY or CARRIED CASES

A "stand-by" case has priority for assignment to the next judge who becomes available for the next court day. All attorneys, parties, and witnesses for stand-by are required to remain available for assignment to a judge for the next court day until 4:00 pm on the day of call, unless a shorter time is allowed by the Presiding Judge. The case will be assigned when a judge becomes available. If not assigned during the day, the case will be on the call docket the next judicial day and receive priority for assignment on the next day.

“Carried” cases are placed on the next day’s call/assignment docket. SLR 7.055(6).

F. CASES SET TO FOLLOW

The Presiding Judge has discretion to assign one case to follow another. The judge may assign one case to a particular judge, and another case to begin with that same judge when the first is concluded, i.e., “to follow.” Cases set to follow are assigned to a trial judge, and therefore any pretrial motions should be made to the assigned judge.

G. FAILURE TO APPEAR AT CALL

A civil case can be dismissed as the result of the attorneys' failure to appear at call. SLR 7.055(8). The judge will announce the decision to dismiss for want of prosecution and the clerk will send a notice, under ORCP 54B(3) that the case will be dismissed on the date indicated in the notice. The judgment dismissing the case will be entered unless otherwise ordered by the court. A Motion and Order to Reinstate the case (see Appendix of Forms) must be presented at ex parte to set aside the notice of dismissal, and any subsequent judgment, and to place the case back on the active trial calendar.

If a case set on the calendar for call is settled, please telephone the civil calendar section of the clerk’s office and report that the matter is settled. Even if the report comes too late to take the matter off the calendar, it provides information that is helpful to the court. Such a report is an appropriate professional courtesy to the court, and it is required by UTCR 7.040. Attorneys who fail to appear for call may be brought before the court to explain, on the record, their failure to follow the court’s orders and rules which require appearance. SLR 7.055(8).

H. POSTPONEMENT AFTER CASE ASSIGNED AT CALL

Only the Presiding Judge may postpone a proceeding assigned from the Presiding Judge's call docket. SLR 7.065 and ORS 1.171(3).

I. COMPLEX CASE DESIGNATION

To obtain designation as a complex case, a conference with the Presiding Judge is necessary. All counsel must be present. Generally, cases which will require more than three weeks to try should be presented for designation as a complex case. The Presiding Judge follows the

requirements of UTCR 7.030.

If complex case designation is granted, the matter will be assigned to a trial judge for pretrial matters or for pretrial matters and trial as provided by the order of the presiding judge. Trial in a complex case must be set within two years from the date of filing, unless a later setting is permitted by the court. UTCR 7.030(4).

Contact the office of the Presiding Judge (503.988.3846) for conference scheduling information.

J. LONG TRIALS AND PRE-ASSIGNMENT TO A TRIAL JUDGE

A “trial week” for civil matters is only four days, Monday through Thursday. No jury matters are conducted on Friday.

For actions which are not specially assigned to a judge prior to trial, and for which the trial is estimated by the parties to require longer than four trial days (more than one trial week), the plaintiff should send a letter to the Presiding Judge requesting that a trial judge be pre-assigned. The court needs this request at least 28 calendar days in advance of the call date to ensure a judge will be available to try the action. If the trial is expected to last longer than eight trial days (two trial weeks), then the letter should be sent to the Presiding Judge at least 42 calendar days in advance of the call date.

The letter to the Presiding Judge should contain the following information:

1. The estimated number of trial days needed,
2. The number of expert witnesses expected to be called in total,
3. The number of out-of-state witnesses,
4. Names of judges who heard pretrial motions in the action,
5. Names of judges who have participated in settlement conferences in the action, and
6. Any other information which is relevant to pre-assignment of the trial.

V. JUDGMENT AND POST-JUDGMENT PROCEDURES

A. ENTRY OF JUDGMENT - COMPLIANCE WITH ORS 18.042

Judgments and any supplemental judgments for attorney fees, costs and disbursements under ORCP 68 are entered in the register (ORS 7.020) after they are signed by a judge and filed with the clerk. For a money award to create a judgment lien it must comply with ORS 18.042 (1).

Pursuant to ORS 18.150, the clerk shall rely on the presence of the money award section required by ORS 18.042 (1), and shall enter in the judgment lien record only what is contained in that section and is required to be entered by ORS 18.075. The parties are responsible for entering the correct information in the money award section. Amounts or terms outside the money award are not entered in the judgment lien record.

When a judgment is entered in the register, OJIN produces a notice of entry of judgment. The notice of entry of judgment will be sent to attorneys for all parties not in default, and to unrepresented parties not in default, indicating that the judgment was entered in the register and whether the judgment created a judgment lien. If entered in the judgment lien record, a copy of the judgment's money award particulars, as these appears in that OJIN record, will be enclosed. The clerk of the court must be notified immediately of any clerical errors on the judgment lien record.

Judgments which are determined by the clerk to not be in compliance with ORS 18.042 (1) will not be returned; the judgment will be filed, no entry will be made in the register that the judgment creates a lien. The notice of judgment mailed to the parties will state that the matter does not create a judgment lien.

B. SUBSTANTIATING DAMAGES

Any documentation that establishes damages will be liberally construed. The most common documents include hospital and doctor bills to prove medical expenses, repair bills to prove damage to property, checks returned for non-sufficient funds, credit vouchers that prove account claims, and contracts that prove specific rights or liabilities.

Some claims for damages cannot be substantiated by documentation and require a hearing to obtain such damages. These include the following: (1) punitive damages; (2) non-monetary losses (including claims for pain, mental suffering, emotional distress, humiliation, injury to reputation, loss of care, comfort, and companionship, loss of consortium, and similar types of claimed losses); (3) claims where no supporting documentation exists. To obtain a judgment by default which includes any of the above damages, a prima facie hearing must be scheduled by contacting the calendaring clerk at 503.988.3022, option 3.

C. PROBATE COURT INVOLVEMENT IN CERTAIN ACTIONS

Except as provided by ORS 126.725 as to minors, when a civil action has been brought by a guardian ad litem on behalf of a minor or an incapacitated person, generally a conservatorship on behalf of the minor or incapacitated person is required to settle the claim. ORS 125.445(21). When a wrongful death action has been brought by the personal representative of an estate pursuant to ORS 30.020, settlement of the claim requires the approval of the probate court. ORS 30.070. Where the allocation of funds and structuring of funds involve a minor, and ORS 126.725 does not apply, the minor child should be provided with independent counsel for proceeding before the

probate court. SLR 5.105 and SLR 9.055 implement this requirement.

When a tortfeasor dies and probate has not been instituted within 60 days of the tortfeasor's death, a plaintiff shall apply to the probate court for the appointment of an administrator of the tortfeasor's estate to accept service and be substituted as the defendant in the place of the deceased person. ORS 30.080 to 30.100.

D. SUBROGATION CLAIMS

In insurance subrogation cases ONLY, a prima facie hearing is not necessary and damages can be proven by affidavit of the claim's adjustor submitted with the default documents.

E. ORIGINAL INSTRUMENTS

If a judgment is based on a negotiable instrument, UTCR 2.060 requires that the original negotiable instrument be tendered to the court before the entry of judgment. The instrument may be submitted with the complaint, or a copy may be attached to the complaint and the original submitted with the judgment. The original instrument will be returned upon request and the clerk will file a certified copy in its place. If the original is submitted with the complaint, it is helpful if the affidavit in support of a motion for default judgment so indicates. If the original instrument has been lost, the court requires that such information be submitted by an affidavit.

In dealing with bank checks, the Check Clearing for the 21st Century Act (Public Law No. 108-100 (2003)), eliminates (truncates) original checks. Banks no longer have the original of a negotiated check. Actions based on negotiated checks will be deemed to comply with UTCR 2.060 if a bank supplied image of the negotiable instrument is tendered to the court in the complaint or with the judgment. The bank's image will be endorsed with the required notation and filed with the judgment. The image will not be returned.

F. ATTORNEY FEES

In civil actions, ORCP 68 must be followed if a party is seeking attorneys fees, costs and disbursements. UTCR 5.080 sets out the requirement for the statement for attorney fees.

G. FEES AND COSTS OF COLLECTION

The Presiding Judge will not award anticipated attorney fees or costs for efforts to collect the judgment. These fees and costs may be added by supplemental judgment after the fees and costs have been incurred. Parties seeking attorneys fees and costs after the judgment has been filed must comply with ORCP 68 and UTCR 5.080. In addition, under ORCP 68 C(4)(a), if the fourteen days for filing have run, the party must request the court to waive the time for filing. ORCP 15D. The supplemental judgment should be presented at ex parte if there is no objection. If there is an objection, then the moving party should set the hearing before the judge who signed the judgment, if still in office, or, request the matter be placed on the circuit court show cause docket for assignment from call.

In 2007, the Legislative Assembly enacted ORS 18.049, which provides, in part, as follows:

“. . .In addition, the judgment creditor is entitled to recover the expenses specified in ORS 18.999 that are incurred by the judgment

creditor in collecting on the judgment, in the manner provided by ORS 18.999. . . “

ORS 18.999 permits the direct offset against collection proceeds some costs associated with the collection of a judgment. This change in the law should be reviewed for its application.

H. CLERK'S REVIEW OF DEFAULT JUDGMENTS

Default orders and judgments in circuit court civil cases, other than small claims, are reviewed by the clerks in Presiding Court prior to signing by the Presiding Judge. The clerks check for the following for each defendant:

To allow the Order:

- Proof of service of summons in compliance with ORCP 7;
- 30 days have elapsed since service;
- Proof of service of notice of the application for the order of default, if applicable;
- No answer or other appearance has been filed prior to the judgment;
- Non-military, non-minor, non-incapacity affidavit has been filed. Compliance with the requirements of the Servicemembers Civil Relief Act 2003 (Public Law No. 108-189) are enforced strictly.

To allow the Judgment:

- Default Order is granted, unless judgment is stipulated or by confession;
- No answer or appearance has been filed (if an answer or appearance has been filed before the default judgment is filed, even if more than 30 days have elapsed since service, the presiding judge will be informed that an appearance has been filed and entered in the action and the default should be denied);
- All affidavits are signed and notarized;
- Damages are for a sum certain, original negotiable instrument has been filed under UTCR 2.060;
- If attorney fees are requested, a copy of contract or other instrument allowing fees has been filed, or the authority for claiming fees is included in the affidavit;
- A statement of attorneys fees is included in compliance with UTCR 5.080;
- Cost bill has been filed;
- A judgment complying with ORS 18.038 and 18.042 is included containing all the required information and the money award section is immediately above the judge's signature line.

The clerks review and allow to go forward to signing only default judgments that comply with all the applicable statutes, UTCR and ORCP. Anything that is out of the ordinary should be presented to the judge at ex parte with an explanation, or scheduled for a prima facie hearing.

I. SATISFACTION OF MONEY AWARD

When all amounts of the judgment have been paid, the judgment creditor has the ATTORNEY REFERENCE MANUAL (2008 ed.)

responsibility to file a satisfaction of money award with the court. Partial satisfactions may be filed also and noted on the judgment lien record, but the judgment will not be "satisfied" until a full satisfaction, signed by the judgment creditor and notarized, is filed.

In domestic relations cases where there is continuing support, monthly satisfactions can be filed, but the judgment will not be "satisfied" until a full satisfaction and a termination of support are filed. Where the state has been involved in the collection of support obligations or the provision of support to minor children, a satisfaction may be obtained as provided by ORS 18.228 and 18.232.

A judicial satisfaction of money award can be obtained if the judgment debtor is unable to obtain a satisfaction from the creditor. ORS 18.235. These motions should be set for hearing through the motion calendar clerk and praeciped.

J. REGISTERING FOREIGN JUDGMENTS

Before a foreign judgment will be filed and docketed, the filing party must have complied with the requirements of ORS Chapter 24. However, the judgment will not be entered in the judgment lien record and create a lien unless the file includes a certified copy of the foreign judgment, an affidavit setting out the names and last known addresses of the judgment debtor and judgment creditor, a separate statement containing the information required by ORS 18.042, and a certification that the judgment is being filed in only one court in Oregon. ORS 24.125 and 24.129.

K. RECORDING JUDGMENTS FROM OTHER COUNTIES, TRANSCRIPTS OF JUDGMENTS FROM OTHER CIRCUIT COURTS

Judgments from circuit courts in other counties in Oregon are recorded at the Multnomah County Recorder's office at 501 SE Hawthorne Avenue, Portland, OR, 97214, to establish a lien on real property of the judgment debtor in Multnomah County. ORS 18.152.

A transcript of a judgment entered in another circuit court may be filed in this circuit court and be the basis for execution on that judgment in Multnomah County only if the judgment debtor resides in this county. ORS 18.255 sets out the process to be followed to execute on a judgment filed in another circuit court when the judgment debtor resides in Multnomah County.

L. WRITS OF EXECUTION

The clerk of the court will issue a writ of execution on a judgment entered in this county or on a transcript of a judgment from another circuit court that is filed under ORS 18.255. To obtain the writ, file a PRAECIPE FOR WRIT which includes the amount of the judgment, interest, costs, payments to date, and most important, the total amount needed to satisfy the judgment. There is a court fee to issue the writ; there will also be additional fees owed to the sheriff depending on the type of execution. Instructions to the sheriff should be included with the praecipe.

Although executions may be issued at the same time to different counties, only one execution at a time will issue in any one county. Before a subsequent writ will be issued in a county, the sheriff's return on the first execution must be filed.

If there is a return on the writ, and money is received by the court from the sheriff, the

court will pay the judgment creditor up to the sum of money listed on the execution as the amount needed to satisfy the judgment, unless the judgment creditor used the judgment amount or a portion of it to purchase the property at the Sheriff's sale. Additional funds beyond what is owed to the judgment creditor and received by the court on the execution will be disbursed as provided by law. Any uncertainty will be resolved under the provisions of UTCR 1.120.

M. WRITS OF ASSISTANCE

A writ of assistance will be issued by the clerk upon a judge's order. The affidavit, motion and order must be entered in the case file, or be presented to the clerk before the writ will be issued. The motion for a writ may be made at ex parte. The writ must be prepared by the moving party.

N. WRIT OF GARNISHMENT

Writs of garnishment may be issued by an attorney or the court clerk. ORS 18.600 to 18.850 sets out the procedures and forms for garnishment by both attorneys and clerks. When issuing a garnishment, the clerk will check for the correct case name and number, that the writ and the garnishee duties set out therein comply with the statutory requirements, that a judgment has been entered and not satisfied, that a total amount has been filled in, and that the garnishment has been signed by the creditor or creditor's attorney or agent. The original and two copies of the garnishment are required. ORS 18.650 and 18.658 set out the disposition of the copies; one to the garnishee and one to the judgment debtor. The writ may be served by the sheriff or by a resident of this state over the age of 18 who complies with ORS 18.625.

The "garnishee's duties" tell the garnishee to make checks payable to the judgment creditor. ORS 18.730. If instead the money is paid to the court, an out-of-state check is held a minimum of 28 days and an in-state check a minimum of 21 days before the funds are disbursed by the court to the judgment creditor.

If the garnishee fails to respond to the writ, ORS 18.775 to 18.782 sets out a procedure for compelling an answer.

O. RELEASE OF GARNISHMENT

ORS 18.770 allows the judgment creditor to release a garnishment covering all or a part of any property held under garnishment. A form of release is set out in ORS 18.842. The release is directed to the garnishee. If funds are held by the court, for example by virtue of a challenge, the release should direct the clerk to disburse the funds and indicate to whom the funds should be disbursed. A duplicate original of the release of garnishment must be filed with the court if the garnishment requested the sale of property or there was a challenge filed.

P. CHALLENGE TO GARNISHMENT BY DEBTOR

When a challenge to the garnishment pursuant to ORS 18.700 is received by the court from a judgment debtor, the clerk will schedule a hearing and send notices to the creditor or creditor's attorney, to the garnishee, and to the sheriff if required, indicating the date, time and room for

appearance. All challenges are set for hearing as soon as is possible, and the hearing is to decide the challenge in a summary manner. ORS 18.710.

A challenge is specific to each garnishment. A second garnishment would need a second challenge.

Q. APPEARANCE OF JUDGMENT DEBTOR

ORS 18.265 allows a judgment creditor to file a motion for an order requiring the appearance of a judgment debtor to answer under oath questions concerning the property of the judgment debtor. In Circuit Court (except small claims) civil cases, to obtain an order for appearance, submit a motion, supporting documentation and proposed order to the court. These can be processed by the clerks in Presiding Court and do not require an appearance at ex parte. Unless otherwise ordered by the court, the time and place of appearance must be 11:00 am in Courtroom 208 on any judicial day. The judgment creditor need not select a hearing date until the debtor is served to insure that sufficient notice is given to the debtor. The clerks will issue the order "in blank" without a specific date and return the original to the creditor. (Please provide a self-addressed, stamped envelope if requesting such an order.) When the date is selected, the original order should be filled in and filed with the court along with the proof of service. The debtor should have seven days' notice of the hearing. SLR 5.065.

If the creditor obtains a date at the time the Order is signed by the court, and later wishes to change the appearance date, a new order including that date must be obtained and served. Do not alter the date after the order has been signed.

Judgment debtor examinations are not placed on the court calendar and the judge does not preside. At 11:00 am, if the debtor appears, the clerk in presiding court will swear the debtor and the questioning may be held in the courtroom, or elsewhere if the debtor agrees. The hearing is not recorded unless recording is privately arranged.

The court will generally not order a judgment debtor to appear at any location other than Room 208 of the courthouse. However, if the debtor stipulates to another location, or the creditor meets the requirements of ORS 18.265(6), the court may order the debtor to appear before another court for examination.

For Small Claims Judgment Debtor Examination Orders, the Motion and supporting documents should be presented to the Small Claims clerks in Room 210 for signature. These examinations are set for any Wednesday, Thursday or Friday at 8:15 am in Room 120.

If an order for appearance of a judgment debtor pursuant to another county's judgment is based on the presence of the debtor and the recording of the other county's judgment in Multnomah County (ORS 18.265(2)(b)), the caption of the order should indicate the Multnomah County Recorder's number and the case number assigned by the county in which the underlying judgment was entered. The order will be signed by the Presiding Judge, but sent for filing to the court where the original case file exists.

R. APPEARANCE OF GARNISHEE

A garnishee may be ordered to appear under ORS 18.778 to be examined on oath
ATTORNEY REFERENCE MANUAL (2008 ed.)

concerning the garnishment. When such an order is obtained from the court the garnishee should be ordered to appear at 11:00 am in Courtroom 208 on any business day, or Courtroom 120 at 8:15 am on Wednesday, Thursday or Friday if a small claims department matter. If the garnishee fails to appear, the court will consider signing a judgment against the garnishee. Any request for a judgment against the garnishee should be set on the court's show cause docket for assignment for hearing. If the garnishee appears and a satisfactory answer is not provided, the creditor may request a hearing date from the calendar clerk in Room 210.

The court will not order any person to appear regarding a judgment except the debtor and the garnishee.

S. JUDGMENT DEBTOR CONTEMPT

If the judgment debtor fails to appear at a judgment debtor examination, the judgment creditor may file a motion to initiate a proceeding under ORS 33.055, remedial contempt.

T. DISBURSEMENT OF FUNDS PAID INTO COURT

The court accepts funds paid into court for a variety of reasons: these include interpleader, tender of rent, bonds, undertakings, and judgments. If payment is made by check, the check must be payable to the State of Oregon and the case number to which the funds apply must be written on the check.

In some instances, the court will disburse funds without an order to disburse, e.g., funds to be applied to a judgment will be paid to a creditor; bond on appeal will be paid out according to the appellate order regarding costs. However, if there is any question as to the reason the funds are being held, to whom they should be paid, or what proportion multiple creditors should receive, an order disbursing funds is required. UTCR 1.120 sets out the steps to obtain such an order.

U. DEPOSITING FUNDS IN COURT'S INTEREST-BEARING ACCOUNT

By ORS 293.293 all funds held in trust by a court for the benefit of any party must be deposited with the State Treasurer. An order is required to deposit funds in an interest-bearing account with the State Treasurer. The amount to be deposited must be over \$10,000. ORS 293.293(2). Since the money must be transferred to the State Treasurer and then transferred again into the interest-bearing account held by the State Treasurer, some delay in the date interest begins to accumulate is usual.

An order is required to pay out the money plus interest. The order should specify to whom the check should be made payable, and the amounts including the interest. After the order is signed, a request to transfer the money is forwarded to the State Treasurer, the funds plus interest are transferred back into the court's trust account, and then are disbursed. Once the funds are transferred back to the court's trust account, interest ceases to accumulate. An order requiring the money to be disbursed "immediately" or to continue to earn interest until paid will still be subject to the process of moving money back to the Court's account from the interest-bearing account, and the cessation of interest accumulation from the point of transfer through disbursement.

When moving to have funds deposited or removed from an interest-bearing account, notice of the motion must be given to the Trial Court Administrator as provided by SLR 1.165.

V. EXTENSION OF JUDGMENT REMEDIES

ORS 18.182 allows an extension of judgment remedies for an additional 10 years. This must be done prior to the time the original judgment remedies expire.

The extension is obtained by filing a certificate of extension. ORS 18.182. The certificate should indicate when the original judgment was entered and that it has not been satisfied. The extension time (10 years) runs from the date the certificate is filed (not from the date the original judgment expires).

Do not submit a Money Award with a certificate of extension. When the certificate of extension is entered, a notation to that effect also will be entered on the judgment lien record in OJIN.

If, at the time of the certificate of extension, additional amounts for costs or attorneys fees are requested, this should be done by a supplemental judgment as provided in ORCP 68C(5)(b) together with a request for the court to permit the statement of fees and costs to be filed beyond the 14 day time limit. Please bear in mind that permitting late filing is discretionary with the court. If, following service on the appropriate parties, the late filing is permitted and the fees and costs are allowed, a supplemental judgment should then be submitted. Seeking the supplemental judgment is a separate act from extending the judgment remedies, and any lien thereof, for an additional ten years.

APPENDIX OF FORMS TO ATTORNEY REFERENCE MANUAL

(The following forms are referred to in the Attorney Reference Manual. They can be photocopied or reproduced in your own word processing system; please follow as closely as possible the format of the form. Where indicated, please be sure to provide the required number of copies for processing.)

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

Plaintiff,)
v.) Case No. _____
_____))
Defendant.)
MOTION PRAECIPE

Notice is hereby given that _____, attorney for _____ Plaintiff Defendant
has set a motion for hearing as follows:

Judge (or Pro Tem): _____

Date _____ Time _____ Room _____

OR

On Call _____ in Room 208 at 9:00 a.m. for assignment for hearing on _____
(Date) (Date)

This is a first subsequent setting for this motion.

Moving party waives appearance Reporting is requested (fee required when motion filed)

Hearing by telephone requested (office more than 25 miles from courthouse)

Length of time requested for this motion hearing _____

TYPE OF MOTION:

- ORCP 21 Prima Facie Default Set Aside Default
- Summary Judgment Compel Production Change Venue
- Other _____

I certify that I served a copy of this praecipe as required by SLR 5.015 on the _____ day of _____, _____ on
the following (indicate name and address):

Date Signed

Signature

OSB NO. _____ Telephone Number _____

IMPORTANT: If applicable, the certification required by UTCR 5.010, "conferring on MOTIONS under ORCP 21,23 and 34-46," must be filed separately.

Distribution: Original Praecipe (Blue) - to Judge (if assigned) OR to Rm. 210, Calendar Clerk (if on call), with courtesy copy of motion; Copy of Praecipe - to opposing parties, with courtesy copy of motion. See, SLR 5.015

(DO NOT FILE A COPY OF PRAECIPE WITH ORIGINAL MOTION PAPERS)

Motion Praecipe
05-06 (1/98)

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR MULTNOMAH COUNTY**

_____) Case Number _____
Plaintiff)
)
) **EX PARTE**
)
) **MOTION FOR SHOW CAUSE HEARING**
) **and ORDER**
)
_____)
Defendant)

_____ comes now before the court and moves the court to set a show cause hearing. The original of the
(insert the name of the party requesting the show cause hearing)
underlying show cause documents are presented to the court herewith to be filed in the office of the clerk of the court.

Nature of the Proceeding For Which A Show Cause Hearing Is Requested:

- For Preliminary Injunction. For Writ of Review. For Receivership.
 Provisional Process. For Claim and Delivery.
 Other Proceeding As Follows: _____.

Estimated Length of Hearing: _____.

I certify to the court that I have complied with SLR 5.025 (3) regarding one judicial day's notice of an ex parte appearance to opposing parties, that I will appear at Call as required by SLR 7.055 (8)(A), and will comply with UTCR 7.040 and give the court **immediate notice of resolution of this matter.**

Signature

Name Typed or Printed and OSB Number

ORDER

The request for a Show Cause Hearing is:

- Denied and the original show cause documents are returned.
 Allowed: The Motion for an order to show cause is set for Call on _____, at 9:00 AM, in Courtroom 208, for assignment for hearing on _____ (date). The original show cause documents will be filed by the court with this order.

Date signed: _____, _____.

Signature

Name of Judge Typed or Printed

MOTION FOR SHOW CAUSE HEARING
05-27 (5/00)

Distribution: Original--Court Copies--Moving Party

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR MULTNOMAH COUNTY**

Plaintiff	)	Case No. _____
)	
v.	)	PETITION FOR EXPEDITED HEARING
	)	(Ex Parte)
Defendant)	

Comes now _____, by the attorney named below, and petitions for an expedited hearing on the motion indicated below. The underlying motion is presented herewith for filing with the clerk.
(insert the name of the party requesting the expedited setting)

1. Nature of the underlying motion for which an expedited hearing is requested:
 Motion to Compel Motion to Quash
 Other Motion As Follows: _____

2. Nature of the emergency which requires the setting of the motion to be expedited:

3. Trial date: _____; Date certain? Yes No

4. The Civil Calendaring Department of the court has been contacted and indicates no hearing time is available prior to _____.

5. Judges who have heard previous motions in this matter are: _____.

6. Judges scheduled to hear pending motions in this matter are: _____.

I certify that I have complied with SLR 5.025 (3) regarding notice of this ex parte appearance to opposing parties.

Date signed: _____ _____
Signature (Attorney)

Name (Typed or Printed) and OSB Number

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR MULTNOMAH COUNTY**

Plaintiff(s))	
	)	Case No. _____
vs.)	
	)	CERTIFICATE OF ALTERNATIVE DISPUTE RESOLUTION
Defendant(s))	

PURSUANT TO Multnomah County SLR 7.075:

The parties signed below certify that they have complied with the rule by participation in arbitration, mediation, a judicial settlement conference, or some other form of appropriate dispute resolution. The parties participated in the following forms of dispute resolution (check any that apply):

- Judicial Settlement Conference
- Arbitration
- Mediation
- Other _____ (describe)

Signatures and Date of Signing

Party	Date	Party's Attorney	Date
Party	Date	Party's Attorney	Date
Party	Date	Party's Attorney	Date
Party	Date	Party's Attorney	Date
Party	Date	Party's Attorney	Date
Party	Date	Party's Attorney	Date

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

Plaintiff(s))
v.) Case No. _____

Defendant(s))
ABATEMENT ORDER

IT APPEARING TO THE COURT that the above case cannot proceed for the following reason:

- Bankruptcy; a copy of the petition or notice of bankruptcy is attached
- Independent Binding Arbitration (stipulation of the parties is attached)
- Other _____

IT IS THEREFORE ORDERED that the above case be removed from the active docket of this Court for a period not to go beyond or exceed this date _____. (The date cannot be more than two(2) years from the date of this order.)

IT IS FURTHER ORDERED that this order shall not be rescinded without an order for reinstatement; and

IT IS FURTHER ORDERED that this case shall be dismissed without prejudice at the expiration of the date set and following notice of intent to dismiss pursuant to ORCP 54B(3), unless this case has been reinstated as an active case before the Court, or otherwise continued or resolved.

Signed _____

Presiding Judge

Presented By:

Print Name & OSB#

Attorney for

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR MULTNOMAH COUNTY**

_____ )	)	No. _____
Plaintiff))	
v. )	)	MOTION AND ORDER FOR
) )	)	REINSTATEMENT
_____))	
Defendant))	

Plaintiff moves the Court to reinstate the above case, which was dismissed on _____, as to defendant(s) (indicate) _____ or All, by the following order:

- UTCR 7.020 Judgment of Dismissal
- ORCP 54B(3) Judgment of Dismissal (including cases that were reported settled and cases dismissed for failure to appear at trial assignment pursuant to SLR 7.055(8)(A))
- Abated or inactive status due to bankruptcy, independent arbitration, appeal or other
- Judgment of Dismissal for failure to comply with rules of arbitration (requests under this provision must be presented to the Dispute Resolution Department)

Signature of Attorney: _____
 Print Name and OSB #: _____

IT IS HEREBY ORDERED THAT the judgment of dismissal is vacated, the case is reinstated, and:

- Continued under UTCR 7.020, subject to the condition that plaintiff obtain service on the defendant(s), secure the necessary appearances to place the case at issue, take default judgment(s), or move for further continuance no later than _____ (specify date)
- The trial is set for _____
- A trial date will be assigned in the REGULAR COURSE
- The final judgment or decree submitted with this motion and order shall be entered forthwith
- Other: _____

Dated: _____

Presiding Judge

FOR MULTNOMAH COUNTY

_____)	
Plaintiff(s)	)	Case No. _____
)	
v.	)	ORDER FOR SEVERANCE OF PARTY
	)	AND ABATEMENT
_____)	
Defendant(s))	

IT APPEARING TO THE COURT that a party in the above case cannot proceed for the following reason:

- Bankruptcy; a copy of the petition or notice of bankruptcy is attached
- Other: _____

IT IS THEREFORE ORDERED that the above case be removed from the active docket of this Court for a period not to go beyond or exceed this date _____. (The date cannot be more than two(2) years from the date of this order.)

IT IS FURTHER ORDERED that this order shall not be rescinded without an order for reinstatement; and

IT IS FURTHER ORDERED that this case shall be dismissed without prejudice at the expiration of the date set and following notice of intent to dismiss pursuant to ORCP 54B(3), unless this case has been reinstated as an active case before the Court, or otherwise continued or resolved.

Signed _____	_____
Date	Presiding Judge

Presented By:

Print Name & OSB#

Attorney for

05-38 (12/00)

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR MULTNOMAH COUNTY**

)	
Plaintiff,	)	Case No. _____
vs.	)	MOTION AND ORDER FOR
	)	CONTINUANCE (UTCR 7.020)
Defendant.)	

Plaintiff moves the Court for an order extending the reporting period established by UTCR 7.020, as to the defendant(s) listed below, or all defendants, based upon the attached affidavit and/or the reasons stated below:

Defendant(s): _____

- Service upon defendant(s) indicated above is not complete
- Defendant(s) served, and extension for appearance requested
- Defendant(s) defaulted by order, but final judgment not yet entered
- Continuance necessary to allow for Prima Facie hearing set for _____ (Specify date)
- Other: _____

Signature of Attorney/Party: _____
 Print Name and OSB#: _____

IT IS HEREBY ORDERED THAT the motion for continuance is hereby:

- DENIED
- GRANTED, subject to the condition that plaintiff obtain service on the defendant(s), secure the necessary appearances to place the case at issue, take default judgment(s), or move for further continuances no later than _____ (specify date).
- GRANTED, and this case is **STAYED** as to the defendant(s) listed above pursuant to S.L.R. 7.015(3) pending the outcome of the trial.

Date signed: _____

 Presiding Judge

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

_____) Case No. _____
Plaintiff,)
)
v.) **MOTION AND ORDER TO**
) **RESCHEDULE SUMMARY**
) **JUDGMENT HEARING**
)
_____)
Defendant.)

The moving party / non-moving party (check one), moves the court for leave to reschedule the summary judgment hearing currently set on _____ for the following reason(s): _____
_____.

Opposing party: Consents Objects

I certify that I have served a copy of this motion on all opposing parties. If objected to, at least one judicial day's notice of the date and time of Ex Parte appearance was given to all opposing counsel pursuant to S.L.R. 5.025(3).

Dated: _____

Signature of Attorney

Print Name and OSB #

Party Attorney Represents

Telephone Number

ORDER

The request for leave to reschedule the summary judgment hearing is: Granted Denied.
The hearing is rescheduled to:
 a date provided by calendaring and agreed to by all parties; or
 _____.

Signed this _____ day of _____, 2____.

Dale R. Koch, Presiding Judge
05-44 (02/04) Motion and Order to Reschedule Summary Judgment Hearing
IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

_____	)	Case No. _____
Plaintiff,)	
	)	MOTION AND ORDER TO
v.	)	RESCHEDULE SUMMARY
	)	JUDGMENT HEARING
_____	)	IN FRONT OF A SITTING JUDGE
Defendant.)	

The moving party / non-moving party (check one), moves the court for leave to reschedule the summary judgment hearing currently set on _____, in front of a sitting judge.

Opposing party: Consents Objects

I certify that I have served a copy of this motion on all opposing parties. If objected to, at least one judicial day’s notice of the date and time of Ex Parte appearance was given to all opposing counsel pursuant to S.L.R. 5.025(3).

Dated: _____

Signature of Attorney

Print Name, Phone Number and OSB #

Party Attorney Represents

ORDER

The request for leave to reschedule the summary judgment hearing is: Granted Denied.
The hearing is rescheduled to:

- a date provided by calendaring and agreed to by all parties; or
- _____.

Signed this _____ day of _____, 2____.

Dale R. Koch, Presiding Judge

_____)
 Plaintiff) No. _____
 v.)
 _____)
 Defendant)

**MOTION AND ORDER TO
POSTPONE CIVIL TRIAL**

Pursuant to UTCR 6.030, Plaintiff Defendant moves the court to postpone the current trial date of _____ for the following reason(s): _____

Case Filing (or Reinstatement) Date: _____

Number of prior postponements: _____

REQUESTED SETOVER: Regular course; to _____ (specify date)

Opposing Party: Consents Objects

Probable Trial Status Court Jury

Estimated Total Length of Trial: _____

I certify that I have advised my client of this request and served a copy of this motion on all opposing parties. If objected to, at least one judicial day's notice of the date and time of the Ex Parte appearance was given to all opposing counsel.

Dated: _____ Signature of Attorney: _____
 Print name and OSB #: _____
 Attorney for: _____
 Phone number: _____

ORDER

The motion to postpone is **GRANTED:** in the regular course to _____

Dated: _____

 Presiding Judge

SUBMIT THE ORIGINAL AND ONE COPY OF THIS FORM (SLR 7.035(2)). Attach stamped, self addressed confirmation cards for all parties. Any contested request must be presented at Ex Parte. See, UTCR 6.030 and SLR 7.035 for further guidelines.

1. A combined petition to register the commission or letter rogatory and order form is available in Room 204. The party caption of the petition should be the caption of the parties in the foreign jurisdiction.
2. An Oregon attorney must present the completed petition with the commission attached at ex parte.
3. After the order is signed, take the petition, order, and commission to the cashier in Room 210, pay the circuit court filing fee and get a case number. Once the documents are filed, subpoena may be issued for deposition.
4. If no mandate, writ, commission or letter rogatory is issued by the foreign jurisdiction, the moving party may provide the Presiding Judge with a motion to compel witnesses to appear and testify upon notice or agreement. The motion must be supported by an affidavit stating that litigation is pending in a foreign jurisdiction, that it is required to take the testimony of the witnesses (listed in the affidavit) for the litigation, and that the party is proceeding upon notice or agreement under ORCP 38C(1). SLR 5.095. The motion, affidavit and order should be presented at ex parte. If allowed, these documents must be filed, with payment of the filing fee. Once filed, subpoena may issue for deposition.

INSTRUCTIONS FOR ISSUING A COMMISSION TO TAKE OUT OF STATE DEPOSITIONS

1. An affidavit/motion/order for commission and commission to take an out of state deposition is available in Room 204.
2. Complete all the forms and present them to the Presiding Judge at ex parte.
3. After the order is signed, the clerk will issue the completed commission by signing and sealing it. The clerk will return the commission to the attorney for forwarding to the foreign jurisdiction. Unless otherwise ordered by the court, the commission will be effective for 28 days from the date it is signed by the clerk. SLR 5.095.

Plaintiff)	
v.	)	No. _____
)	
	)	PETITION AND ORDER TO REGISTER FOREIGN
	)	DEPOSITION INSTRUMENT AND ISSUE SUBPOENAS
Defendant)	

Petitioner certifies that:

The attached mandate, writ, commission or letter rogatory was issued by the _____ Court of the State or Country of _____ on the ____ day of _____, _____, in case no. _____, requiring testimony of a witness within the State of Oregon and the authority granted by the document is in full effect.

Therefore, petitioner requests that:

The mandate, writ, commission or letter rogatory be approved by the Court for filing so witnesses may be compelled by subpoena to appear and testify in the same manner and by the same process and proceeding as may be employed for the purpose of taking testimony in proceedings pending in this state.

Signed this ____ day of _____, _____.

Signature

_____ Name of Attorney typed or printed	_____ OSB No.
--	------------------

Petition granted. It is ordered that this petition and the attached mandate, writ, commission or letter rogatory be filed, and upon filing, subpoena may be issued and served.

Signed this ____ day of _____, _____.

Judge's Signature

Judge's Name Typed or Printed

Plaintiff)	
	)	No. _____

v.

)
) **AFFIDAVIT, MOTION AND ORDER FOR COMMISSION**
) **TO TAKE OUT OF STATE DEPOSITION**
)
)

Defendant

STATE OF OREGON)
County of Multnomah) ss.

I, _____, attorney for _____, being
first duly sworn depose and say that it is necessary in the above entitled case to take the depositions of
the following people in the state or country of _____:

Signature

SUBSCRIBED AND SWORN to before me this _____ day of _____, _____.

Notary Public for Oregon

Commission Expires

Pursuant to ORCP 38 and based on the above affidavit, _____ moves this court for an
order issuing a commission for depositions to be taken in the state or country of _____,
and that the commission be effective for _____ day(s) from the date of signing by the clerk.

Signature

Name of Attorney typed or printed OSB No.

IT IS ORDERED that the requested commission be issued and that the commission shall be effective for
_____ day(s) from the date of signing by the clerk.

Signed this _____ day of _____, _____.

Judge's Signature

Judge's Name Typed or Printed

	Plaintiff	)	No. _____
v.)	
		)	COMMISSION TO TAKE FOREIGN DEPOSITION
)	
	Defendant)	

TO ANY PERSON AUTHORIZED TO ADMINISTER OATHS IN _____:

Pursuant to ORCP 38, by order of the above titled Court made on application of _____ in the above captioned case, you are hereby appointed, commissioned and authorized to take the depositions of the following named people in the State or Country of _____:

You are authorized to administer an oath to the above witnesses and to take their depositions on oral examination. You are further authorized and directed to cause the examinations of these witnesses to be recorded and to certify that the witnesses were duly sworn and that the deposition transcripts are a true record of the witnesses' testimony. This commission expires _____ days from the date of signing.

Signed this _____ day of _____, _____.

Douglas M. Bray
 TRIAL COURT ADMINISTRATOR

(Seal)

by _____