

## Local Rules of Civil Procedure

Effective March 1, 2014

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## Local Rules of Civil Procedure

Effective March 1, 2014

### Timetable for Lawyers

*This Timetable was prepared by the Court's Local Rules Advisory Committee. It is to be used as a supplemental guide to the Time Table for Lawyers included with the published version of the Federal Rules of Civil Procedure. This timetable summarizes the unique time limits imposed by the local rules of practice of this District Court. The user should always consult the actual text of the appropriate federal or local rule or statute.*

### After Hours Filings (See LR 77-2)

- Statute of Limitations or Other Provisional Process Issues (LR 77-2(a)): When it is necessary to file a hard copy of time-sensitive matters after normal business hours, the filing party must notify the resident Clerk's Office during normal business hours to make arrangements.
- Late Filings of Materials Relating to Court Imposed Deadlines (LR 77-2(b)): Unless directed by the Court, the Clerk's Office will not remain open after normal business hours to receive a party's paper filing of a non-statute of limitations related document.

### Alternative Dispute Resolution (ADR) (See LR 16-4)

- ADR Conference Requirements (LR 16-4(c)): Within 120 days from the initiation of the lawsuit, counsel must confer with all other attorneys and all unrepresented parties about ADR options.
- Joint ADR Report (LR 16-4(d)): Within 150 days of the initiation of the lawsuit, the parties must file a Joint ADR Report. (See the "Joint ADR Report" form available on the Court's website.)
- Notice of Private ADR Settlement or After Failure to Achieve a Settlement (LR 16-4(h)(1)): Not later than seven days after the conclusion of private ADR, plaintiff's attorney will notify the Court in writing of the results.

### Attorney Fees (See LR 54-3)

- Motion for Award of Attorney Fees (LR 54-3(a) and Fed. R. Civ. P. 54(d)(2)): Unless otherwise ordered by the Court or statute, must be filed not later than 14 days after the entry of judgment, or receipt and docketing of the appellate court's mandate, and filed concurrently with any bill of costs. (See also LR 54-1(a)(1).)
- Objections (LR 54-3(b)): Must be filed not later than 14 days after service of the motion. Replies, if any, must be filed not later than 14 days after service of the objection.

### Bill of Costs (See LR 54-1)

- Bill of Costs (LR 54-1(a)(1)): Must be filed not later than 14 days after the entry of judgment, or receipt and docketing of the appellate court's mandate.
- Objections (LR 54-1(b)): Must be filed not later than 14 days after service of the Bill of Costs.

- Objections to the Clerk's Order Taxing Costs (LR 54-2(b)): Must be filed not later than 14 days after the filing of the order.

#### **Compel (See LR 37)**

- Compliance with Order (LR 37-2): Unless otherwise directed by the Court, compliance must be within 14 days after entry of the order.

#### **Discovery Completion (See LR 16-1(d))**

- The Clerk's Office will issue a scheduling order as appropriate for the case. The Discovery and Pretrial Scheduling Order issued at the time of case initiation provides for discovery to be completed within 120 days from the date of the Order. (See "Discovery and Pretrial Scheduling Order" form.)

#### **Discovery Provisions (See LR 26)**

- Initial Conference of Counsel for Discovery Planning (LR 26-1(a)): Unless exempted or otherwise ordered by the Court, within 30 days after all defendants have been served, the parties must hold an initial conference for discovery planning.

#### **Dismissals (See LR 41)**

- Involuntary Dismissal (LR 41-2(b)): Not later than seven days prior to the hearing date, each party will file and serve statements describing the status of the action or proceedings to date; and whether good cause exists to dismiss the action or proceeding for failure to prosecute.
- Voluntary Dismissal (LR 41-1(a)): Immediately upon reaching substantial agreement about the terms and conditions of a settlement, plaintiff's counsel must notify the courtroom deputy clerk for the assigned judge.

#### **Electronic Filings (See LR LR 5)**

- Judge's Paper Copy Requirements (LR 5-9): A paper copy of electronically filed documents set out in LR 5-9 and the Notice of Electronic Filing must be marked as a "JUDGE'S COPY" and must be delivered to the Clerk's Office within three business days.
- Electronic Filing Deadlines (LR 5-3(b)): The filing deadline for any document is 11:59 p.m. (Pacific Time) on the day the document is required to be filed.

#### **Exhibits (See LR 77-6)**

- Disposition of Unclaimed Exhibits (LR 77-6(b)): Unless otherwise ordered by the Court, exhibits not withdrawn within 60 days after notice, may be destroyed or otherwise disposed of by the clerk. (See also LR 77-5.)

#### **Mediation (See LR 16-4(f))**

- Failure to Select a Court-sponsored Mediator (LR 16-4(f)(2)(B)): If the parties cannot agree upon a mediator within 14 days after entry of the order, each party will submit its list of three acceptable mediators to the assigned judge, who will then designate a mediator.

#### **Pretrial Order (See LR 16-5)**

- Service and Filing of a Proposed Pretrial Order (LR 16-5(c)(1)): Unless modified by the Court, the plaintiff will, at least 30 days before the filing date, prepare and serve on all parties a proposed pretrial order.
- Objections, Additions, and Changes (LR 16-5(c)(2)): Within 14 days after service of the proposed pretrial order, each party will serve on all parties the objections, additions, and changes such party believes should be made to the proposed pretrial order.
- Filing with the Court (LR 16-5(a) and (c)(4)): The proposed pretrial order must be signed by the parties, and the plaintiff must file it with the Court on or before the date ordered by the Court. The proposed order will also be submitted via e-mail to the Court (See LR 5-10(c) and Practice Tip).

#### **Reply (See LR 7)**

- Motions Filed Pursuant to Fed. R. Civ. P. 56 (LR 7-1(f)(2)): Unless otherwise ordered by the Court, a party must file and serve any reply to the response within 14 days after service of the response.
- Motions Other Than Motions Filed Pursuant to Fed. R. Civ. P. 56 (LR 7-1(e)(2)): A party must file and serve any allowable reply to a response within 14 days after service of the response.
- Discovery Motions (LR 26-3(c)): Unless otherwise directed by the Court, replies to discovery motions are not permitted.
- Motions to Strike (LR 56-1(b)): Unless otherwise directed by the Court, replies to motions to strike are not permitted; rather, a party may assert evidentiary objections in its response or reply memorandum.

#### **Response (See LR 7)**

- Motions Filed Pursuant to Fed. R. Civ. P. 56 (LR 7-1(f)(1)): A party must file and serve any response within 21 days after service of the motion.
- Motions Other Than Motions Filed Pursuant to Fed. R. Civ. P. 56 (LR 7-1(e)(1)): A party must file and serve any response within 14 days after service of a motion.
- Response to Order to Show Cause: (LR 83-6(b)(3)): Within 21 days from the date of the Order to Show Cause.

#### **Suspension or Disbarment (See LR 83-6)**

- Duty of Counsel to Notify the Court (LR 83-6(a)): Every attorney must notify the Clerk, Chief Judge, and the assigned judge in writing within 14 days.
- Response to Order to Show Cause: (LR 83-6(b)(3)): Must be filed within 21 days from the date of the Order to Show Cause.

- Final Order for Disciplinary Action (LR 83-6(b)(4)): Will be entered at the conclusion of any hearing, or within 21 days if no response is filed by the attorney.

#### **Waiver of Service of Summons (See LR 4-4)**

- Return Requirements (LR 4-4(a)): Unless otherwise permitted by the Court, the waiver should be returned 30 days from the date on which the request is sent, or 60 days from the date if the defendant is addressed outside any judicial district of the United States.

#### LR 1 - Scope and Purpose

(See [Fed. R. Civ. P. 1](#))

##### **LR 1-1 Scope and Application**

These local rules govern practice and procedure in the United States District Court for the District of Oregon in all civil actions-whether arising at law, in equity, or in admiralty-except as stated in Fed. R. Civ. P. 81.

##### **LR 1-2 Effective Date**

These local rules originally became effective on June 1, 1998. Over time, individual rules have been modified, and an explanation of the changes is included in the amendment history following each rule.

##### **LR 1-3 Citation Format**

The local civil rules will be cited as "LR \_\_\_\_ - \_\_\_\_."

##### **LR 1-4 Authority to Modify or Suspend the Local Rules**

In the interest of justice, a judge may suspend or modify the application of these rules in an individual case or group of cases.

##### **LR 1-5 Definitions**

Unless the context requires otherwise, the following definitions apply to all proceedings within the District of Oregon:

###### **(a) Clerk**

refers to the Clerk of the District Court and to any authorized deputy clerk.

###### **(b) CM/ECF**

is the acronym for the federal judiciary's case management and electronic case filing system. (See LR 5-2 and the Court's website at [ord.uscourts.gov](http://ord.uscourts.gov), under the E-Filing menu.)

###### **(c) Counsel**

includes counsel of record for any represented party, any unrepresented or pro se party, and any law student appearing pursuant to LR 83-5.

###### **(d) Court**

refers to the United States District Court for the District of Oregon and not to any particular judicial officer.

###### **(e) Electronic Filing**

means any pleading, document, exhibit, memorandum, or other material filed using the CM/ECF system. (*See* LR 5.)

**(f) Electronic Service**

means service of any electronic filing using the CM/ECF system. (*See* LR 5-1.)

**(g) Judge or Judicial Officer**

applies to any United States circuit, district, or magistrate judge exercising jurisdiction over a particular case or proceeding.

**(h) Notice of Electronic Filing (*See* LR 100-8(a)(2))**

refers to the document reflecting completion of the CM/ECF transaction, displaying the case number(s), date of filing, docket text, and identifying who was notified by e-mail.

**(i) Party**

includes counsel of record for the represented party.

**(j) PDF Text Searchable Format (*See* LR 5-2(b) and Section 5 of the CM/ECF User Manual available on the Court's website at [ord.uscourts.gov](http://ord.uscourts.gov).)**

**(k) Registered User**

Attorneys admitted to practice in this Court pursuant to LR 83-1 and registered with the CM/ECF system pursuant to LR 83-1(e), and *pro se* litigants who have been granted permission by a judicial officer to electronically file documents pursuant to LR 5-1(c).

LR 3 - Commencement of Action

(*See* [Fed. R. Civ. P. 3](#))

**LR 3-1 Locations for Filing**

- a. See 28 U.S.C. § 117 for locations where Court may be held.
- b. The Court is open to receive filings in Portland, Eugene, and Medford.

**LR 3-2 Divisions of Court**

**(a) The following divisions of court and corresponding codes are established to identify divisional venue, distribute the judicial work, and to align counties for juror management purposes:**

1. **Portland Division (Division Code is 3)**  
Clackamas, Clatsop, Columbia, Hood River, Jefferson, Multnomah, Polk, Tillamook, Wasco, Washington, and Yamhill.
2. **Pendleton Division (Division Code is 2)**  
Baker, Crook, Gilliam, Grant, Harney, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wheeler.

3. **Eugene Division (Division Code is 6)**  
Benton, Coos, Deschutes, Douglas, Lane, Lincoln, Linn, and Marion.
4. **Medford Division (Division Code is 1)**  
Curry, Jackson, Josephine, Klamath, and Lake.

**(b) Pleading Requirement: Assignment to a Division**

In the caption of any complaint, petition, notice of removal, and all charging documents, the filing party must identify the division where "divisional venue" lies.

For purposes of these Local Rules, "divisional venue" means the division of the Court in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated.

	UNITED STATES DISTRICT COURT	
	DISTRICT OF OREGON	
	MEDFORD DIVISION	
<b>Example</b>	<p><b>JANE DOE,</b> Plaintiff,</p> <p>v.</p> <p><b>JOHN DOE,</b> Defendant.</p>	<p>Case No.:</p> <p>COMPLAINT Personal Injury Action (28 U.S.C. § 1332) DEMAND FOR JURY TRIAL</p>

**LR 3-3 Place of Trial**

**(a) Usual Place of Trial**

Unless otherwise directed by the Court, cases will be tried in the division assigned under LR 3-2(b).

**(b) Other Places for Conducting Trials**

In the interests of justice, the Court may order that the case be tried at any other place within the district.

**LR 3-4 Initial Filing Requirements**

**(a) Advance Payment Required (See 28 U.S.C. § 1914(c))**

Before a document can be accepted for filing - or before the Clerk's Office can provide any services covered under the Schedule of Fees adopted by the Judicial Conference of the United States - the filing party, or the person requesting services, must pay all required fees, or file an *in forma pauperis* application for waiver of fees pursuant to 28 U.S.C. § 1915(a).

**(b) Applications to Proceed *In Forma Pauperis* (See 28 U.S.C. § 1915)**

The clerk is directed to conditionally grant an Application to Proceed *In Forma Pauperis* and not delay the filing, assignment, and statistical opening of any civil action pending final review and decision on the application by the Court. (See "Application to Proceed *In Forma Pauperis* - Incarcerated Person" and "Application to Proceed *In Forma Pauperis*" forms.)

### Practice Tips

1. A completed JS-44 Civil Cover Sheet is required to be filed with every civil complaint, petition, or other paper that initiates a civil action. Copies of the JS-44 Civil Cover Sheet are available at the Divisional Office Intake Counters in Portland, Eugene, and Medford.

2. Checking the  JURY DEMAND box on the JS-44 Civil Cover Sheet does not constitute a valid jury demand pursuant to LR 38 or Fed. R. Civ. P. 38(b).

### LR 3-5 Additional Service Requirements

#### (a) Case Management Scheduling Orders and Other Papers (*See LR 16-1*)

Upon case initiation, the Clerk's Office will issue certain documents as enumerated in LR 16-1.

#### (b) Issuance of Summons Electronically

The Clerk's Office may issue summons electronically by placement of the Court's seal and signature of the issuing clerk in the manner described in LR 11-1(b) on the process documents submitted by the plaintiff(s).

#### (c) Responsibility to Serve

Except as provided by 28 U.S.C. § 1915, the filing party is responsible for serving all documents issued by the clerk at case initiation upon all named parties. In cases which are removed to this Court, the removing defendant is considered the "filing party" for purposes of this rule and must serve the documents issued by the clerk enumerated in LR 16-1 upon all named parties.

### Practice Tip

Electronic notice by the Court is not a substitute for the filing party's obligation to serve all documents issued by the Court at the time of filing upon all named parties.

### LR 3-6 Sealed Cases (*See LR 26-4*)

#### (a) New Action

At the time a complaint is presented for filing, any party seeking to file the case under seal must either:

1. File a motion and supporting memorandum requesting the Court to seal the case. Pending the Court's ruling on the motion to seal, the case, complaint, and motion will be withheld from the public record; or
2. Provide a citation to the authorizing legislation. Pending verification of the legislation, the case, complaint, and motion will be sealed and withheld from the public record.

#### (b) Pending Action

A party seeking to place a pending case under seal must file an appropriate motion requesting the Court to seal the case along with all associated electronic records. (*See LR 100-5(a)*.)

#### (c) Proposed Order to Seal a Case

A proposed order to seal a case must include language that:

1. Identifies the persons authorized to review, copy, photograph, and/or inspect the sealed materials; and
2. Instructs the clerk whether the document should be excluded from the electronic docket as well as the public case file.

**(d) Court's Responsibility**

After reviewing the motion and supporting materials, the Court will either:

1. Grant the motion and direct the clerk to file the case and all subsequent papers and electronic records under seal and to limit future access to the sealed case to those individuals included in the order; or
2. Deny the motion and direct the clerk to file the case in the public records of the Court.

**(e) Access to Sealed Cases**

Subsequent access to the sealed case will be regulated by controlling statute or court order.

**LR 3-7 Protective Orders (See LR 26-4 and 5-5(b))**

**(a) Proposed Protective Orders**

Proposed protective orders must include language that:

1. Instructs the clerk whether the parties through their counsel are to have remote, electronic access to the documents pursuant to the protective order.
2. Identifies by name the parties authorized to have remote, electronic access to the documents.

**(b) Documents Filed Pursuant to Protective Order**

When a previous court order authorizes the filing by a Registered User of a document or other materials under seal pursuant to a protective order, the filing party is to electronically file the document in the manner and process described in the CM/ECF User Manual. Remote, electronic access to documents in support of a protective order is allowed in a manner that is consistent with the terms of the protective order, or as otherwise ordered by the Court.

<b>Practice Tip</b>
Two forms of proposed Protective Orders are available on the Court's website on the For Attorneys page, under the Forms tab, and Forms for Civil Cases menu. The forms of proposed Protective Orders exempt a party from the duty to stamp each page of confidential material with a confidentiality designation when it is not practical to do so. This exemption is intended to provide some flexibility for designating material that cannot be stamped, such as electronically stored information. It will rarely, if ever, apply to traditional paper documents.

**LR 3-8 Sealed Documents**

This provision applies to documents sealed by orders other than a protective order.

**(a) Sealed Documents Generally**

Portions of a document cannot be placed under seal. Instead, the entire document must be placed under seal in order to protect the confidential information and remote, electronic access to electronically filed sealed documents is restricted to court users only.

**(b) Filing a Document Sealed by Previous Court Order**

When a previous court order authorizes the filing of a document or other materials under seal, the filing party must present the clerk with a copy of the court order and submit the materials in an envelope provided by the Clerk's Office marked "SEALED MATERIALS." In addition, all documents authorized to be filed under seal must have the words "AUTHORIZED TO BE FILED UNDER SEAL" typed directly below the document title.

**(c) Motions to File a New Document Under Seal**

Motions to file a new document under seal - even those offered by stipulation of the parties - will be handled as in camera submissions pursuant to LR 3-9.

**(d) Motion to Seal Previously Filed Documents**

A party seeking to place under seal a document that is currently in the public record must file and serve a motion and proposed order pursuant to LR 3-8(e). Unless requested, the motion will be treated as a discovery motion pursuant to LR 26-3 and LR 26-4.

**(e) Order to Seal Documents and/or Cases**

A proposed order to seal a document or case must include language that:

1. Identifies the persons authorized to review, copy, photograph, and/or inspect the sealed materials; and
2. Instructs the clerk whether the document should be excluded from the electronic docket as well as the public case file.

**LR 3-9 In Camera Submissions**

**(a) During Court Proceedings**

Documents or other materials offered and accepted for in camera inspection during a Court proceeding will be handled in accordance with LR 3-9(c).

**(b) Tendered to the Clerk's Office**

Documents tendered *ex parte* to the Clerk's Office for transmission to the Court and subsequent in camera inspection must be:

1. Accompanied by a transmittal letter or motion to the assigned judge requesting that the materials be reviewed in camera; and
2. Enclosed in a separate envelope provided by the Clerk's Office and marked to include the following information:

Example

Case caption including case number

Sealed Materials  
For In Camera Inspection

Submitted by: name of attorney, representing (name of party)

**(c) Court Responsibility**

After completing the in camera inspection, the Court will direct the Clerk's Office to:

1. File the documents or materials in the public record; or
2. File the documents under seal with appropriate disclosure instructions to the clerk; or
3. Direct that the documents should be returned to the offering party with appropriate instructions.

#### LR 4 – Summons

(See [Fed. R. Civ. P. 4](#))

##### **LR 4-1 Summons (See Fed. R. Civ. P. 4(a) and (b))**

All summonses, along with sufficient copies for service, will be prepared by the filing party and presented to the clerk for issuance.

##### **LR 4-2 Amended Summons (See Fed. R. Civ. P. 4(a))**

An amended summons must be titled AMENDED SUMMONS, must be reproduced without interlined changes, and must be served pursuant to Fed. R. Civ. P. 4(c).

##### **LR 4-3 Service by U.S. Marshals Personnel (See Fed. R. Civ. P. 4(c)(3))**

Unless required by law or statute, or upon application for good cause shown and subsequent court order, U.S. Marshals Office personnel will not serve the complaint and summons in private civil actions.

##### **LR 4-4 Waiver of Service of Summons - Option (See Fed. R. Civ. P. 4(d))**

###### **(a) Time Limits (See Fed. R. Civ. P. 4(d)(1)(F))**

Unless otherwise permitted by the Court, the reasonable time to return the waiver is 30 days from the date on which the request is sent, or 60 days from the date if the defendant is addressed outside any judicial district of the United States.

###### **(b) Motion to Collect the Cost of Service (See Fed. R. Civ. P. 4(d)(2))**

A motion and affidavit to recover costs of service pursuant to Fed. R. Civ. P. 4(d)(2) must include:

1. Certification of the actions taken to implement the waiver of service option;
2. Itemization of the costs incurred in effecting service pursuant to Fed. R. Civ. P. 4(e), (f), or (h); and
3. Explanation of the method and rates used to calculate any reasonable attorney fees associated with the motion.

#### LR 5 - Service and Filing of Pleadings and Papers

(See [Fed. R. Civ. P. 5](#))

##### **LR 5-1 Types of Filers; Implications for Receipt of Service**

###### **(a) Registered Users**

Attorneys admitted to the bar of this Court pursuant to LR 83-1, LR 83-3, and LR 83-4 must register with the Clerk's Office to establish a User Account in the CM/ECF system. Upon registration, attorneys are deemed to be Registered Users for purposes of these Local Rules.

1. **Mode of Filing**

Attorneys admitted to the bar of this Court pursuant to LR 83-1, LR 83-3, and LR 83-4 must register with the Clerk's Office to establish a User Account in the CM/ECF system. Upon registration, attorneys are deemed to be Registered Users for purposes of these Local Rules.

2. **Receipt of Service**

Unless a Registered User has notified the Court that he or she wishes to opt out of electronic service, the Registered User has consented to receive service electronically and waived the right to receive such service by first class mail or personal service pursuant to Fed. R. Civ. P. 5(b)(2)(E). This consent does not affect service of a summons and complaint pursuant to Fed. R. Civ. P. 4; *i.e.*, there is no electronic service of a complaint. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment.

**(b) Non-Registered Users**

For good cause shown in a specific case, attorneys may apply to the assigned judge for an exemption from the CM/ECF electronic filing requirements. (*See* LR 83-1(e).) Non-Registered Users include attorneys in the process of applying for admission to practice in the Court and any *pro se* party who is not approved by the Court as a Registered User.

1. **Mode of Filing**

Non-Registered Users must file all documents with the Clerk's Office in paper form.

2. **Receipt of Service**

A filing party is responsible for perfecting service on a Non-Registered User in any manner permitted by the Federal Rules of Civil Procedure or these local rules and for filing a Certificate of Service. (*See* LR 5-4(c).)

<b>Practice Tip</b>
An attorney in a civil case who is not a Registered User as described in LR 1-5(k) must submit the following initial case pleadings and documents as text-searchable PDF files on a CD-R at the time of case initiation: Complaint, Notice of Removal, and any state court papers in removal actions. The Civil Cover Sheet is to be included on the CD-R as a separate PDF file. Because it contains multiple tables, it does not have to be in a text-searchable format. It is not necessary to include a PDF file containing issued summons(es) on the CD-R. Corporate Disclosure Statements, if filed at the same time as the Complaint or Notice of Removal, must be included on the CD-R as a separate PDF file.

**(c) Pro Se Party Litigants**

A *pro se* party may apply to the assigned judge for permission to become either: (1) a Registered User; or (2) a recipient of electronic filing notices by e-mail without becoming a Registered User.

1. **Registered User**

If approved as a Registered User, the Clerk will assign the *pro se* party a CM/ECF login and password. That individual will become a Registered User in the specific case, and the receipt by the *pro se* party of the Court's e-mail notices of electronic filing will constitute service upon the *pro se* party.

**2. Non-Registered User Receiving Electronic Filing Notices**

If the *pro se* party is approved to receive electronic filing notices without becoming a Registered User, then the *pro se* party will not have access to the CM/ECF system for the purpose of filing documents, and there is no consent to electronic service by the *pro se* party. Accordingly, opposing parties are still required to serve paper copies of any documents on a *pro se* party who is approved to receive electronic filing notices by e-mail, but is not approved to become a Registered User.

**LR 5-2 Electronic Filing**

**(a) CM/ECF User Manual**

Registered Users are to follow the electronic filing requirements as described in detail in the CM/ECF User Manual on the Court's website at [ord.uscourts.gov](http://ord.uscourts.gov), on the For Attorneys page under the E-Filing tab. This manual may be updated periodically to conform to new releases or features of the CM/ECF system. Notice of any updates will be posted on the Court's website.

<b>Practice Tips</b>		
1. Unless specifically directed otherwise, do not file pleadings, documents, jury instructions, exhibits (whether original or a copy) with chambers. Instead, file all documents directly with the Clerk's Office.		
2. Filings Offered During Court Proceedings: Parties tendering documents for filing during a Court proceeding are responsible for filing the document with the Clerk's Office immediately after the Court proceeding.		
3. When requested by the Court, a proposed form of order or judgment submitted by counsel must include the words "SUBMITTED BY" and the signature line requirements of LR 11-1., <i>e.g.</i>		
<b>Example</b>	SUBMITTED BY:	John Q. Attorney John Q. Attorney OSB # 999-99999 (541) 999-9999 Attorney for Plaintiff Smith Corporation, Inc.

**(b) Text-Searchable PDF Files Required**

All pleadings and documents, including attachments and exhibits, must be filed as text-searchable PDF files, unless otherwise directed by the Court.

**(c) Hyperlinks**

**1. Authorization**

Electronically filed documents may contain hyperlinks to other portions of the same document and/or hyperlinks to a location on the Internet that contains a source document for a citation.

## 2. **Citation Format**

Hyperlinks to cited authority do not replace standard citation format. Complete citations must be included within the text of the document. Neither a hyperlink, nor any site to which it refers, is considered part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in an electronically filed document.

## 3. **Disclaimer**

The Court neither endorses nor accepts responsibility for any product, organization, or content at any hyperlinked site, or at any site to which that site may be linked.

### **(d) Facsimile (FAX) Filings (See Fed. R. Civ. P. 5(d))**

Facsimile filings are not allowed except in emergency situations, and then only when expressly approved in advance by the assigned judge and coordinated with the Clerk's Office.

### **LR 5-3 Filing Availability and Deadline**

#### **(a) Availability**

1. Electronic filing via the CM/ECF system is permitted at all times, except when the system is temporarily unavailable.
2. After Business Hours Filings. For after-hours filing of documents in paper form, *see* LR 77-2.

#### **(b) Deadline**

The filing deadline for any document is 11:59 p.m. (Pacific Time) on the day the document is required to be filed.

#### **(a) Completion of Filing**

A document will be considered filed when all components of the document reside in the official court record.

#### **(d) Scheduled Court Proceedings**

If an electronic filing relates to a scheduled court proceeding that is to be held within three business days of the filing, the filing party must concurrently telephone or e-mail the assigned judge's courtroom deputy to request that chambers be promptly notified of the e-filing.

### **LR 5-4 Service**

#### **(a) CM/ECF Electronic Service**

Completion of Service: Electronic service is complete upon transmission of the Notice of Electronic Filing but is not effective if the serving party learns that it did not reach the person to be served.

#### **(b) Notice of Electronic Service**

The Notice of Electronic Filing will be transmitted to all Registered Users who have appeared in the case. Confirmation of receipt of the Notice of Electronic Filing fulfills the notice requirements of Fed. R. Civ. P. 5(b) and 77(d), and the filing party is not required to file a Certificate of Service. (*See* LR 5-4(c) for Certificate of Service requirements for paper documents.)

#### **(c) Paper Service**

The filing party is responsible for perfecting paper service in any manner permitted by the Federal Rules of Civil Procedure (and for filing a Certificate of Service with the Clerk's Office) for every:

1. Document permitted by these rules to be filed in paper instead of electronically;
2. Electronic filing that could not be electronically served upon a party or Registered User who appeared in the action; and
3. Document filed under seal.

**LR 5-5 Documents that Must be Filed in Paper**

The following documents cannot be filed electronically and must instead be filed in paper:

**(a) Case Initiating Documents Filed by Non-Registered Attorneys in Civil Cases**

Unless otherwise ordered by the Court or permitted by these Local Rules, an attorney who is not a Registered User as described in LR 1-5(k) will file case initiating documents in paper and must also present a CD-R containing text-searchable PDF files of initial case papers at the time of filing.

**(b) Sealed and In Camera Documents**

Except those documents authorized for filing by a Registered User under seal pursuant to a protective order in a civil case. (*See also* LR 3-6, LR 3-7, and LR 3-8.)

**(c) Individual "Consent to Jurisdiction by a Magistrate Judge and Designation of the Normal Appeal Route" forms.**

**(d) Individually identifiable health information protected under HIPAA. (See also 45 C.F.R. § 160.103.)**

Practice Tip
Return of Service documents must be electronically filed.

**LR 5-6 Exhibits**

**(a) Demonstrative or Oversized Exhibits**

Demonstrative or oversized exhibits need not be filed electronically.

**(b) Trial Exhibits**

Electronic trial exhibits are to be submitted to the Clerk's Office per the requirements and procedures as described in "Submission Requirements for Electronic Trial Exhibits" found on the Court's website. Physical exhibits are to be handled in accordance with the trial judge's instructions.

**LR 5-7 Clerk's Conversion of a Paper Filing into an Electronic Replacement**

Clerk's Office staff may scan and convert a paper filing in its entirety to an electronic replacement for posting to the CM/ECF system. If a clerk does so, the paper filing may be returned to the filing party or disposed of in accordance with guidance from the Administrative Office of the U.S. Courts.

**LR 5-8 Transcripts**

Transcripts of courtroom proceedings held before judicial officers will be electronically filed.

**LR 5-9 Judge's Paper Copy Requirements (See LR 10-1(e), (g) and Practice Tips)**

**(a) Registered Users**

Unless otherwise ordered by the Court, a paper copy, properly fastened pursuant to LR 10-1(e), of the following electronically filed documents, and the Notice of Electronic Filing, must be marked as a "JUDGE'S COPY" and delivered to the Clerk's Office within three business days after the electronic filing: Dispositive motions and motions for injunctive relief (including all related documents), Social Security administrative records, and any other documents (including all related documents) that, in the aggregate, are in excess of ten pages.

**(b) Non-Registered Users**

Unless otherwise required, Non-Registered Users need not provide a judge's copy.

**LR 5-10 Documents Not Filed With the Court**

**(a) Documents Retained by Parties**

Unless required by the Court in a particular proceeding, the following documents must be retained by the parties and not filed with the Court:

1. Notices of depositions and transcripts (*see* LR 27 and LR 30);
2. Interrogatories and responses (*see* LR 33);
3. Requests for production and responses (*see* LR 34);
4. Requests for admissions and responses (*see* LR 36);
5. Expert witness disclosures (*see* LR 16 and LR 26);
6. Unaccepted offers of judgment (*see* LR 68); and
7. Initial Disclosures. (*see* LR 26)

**(b) Service of Non-Filed Documents on Parties**

Any document enumerated in LR 5-12(a) served pursuant to Fed. R. Civ. P. 5 must also be provided concurrently to a party by e-mail. Interrogatories, requests for production, and request for admissions must be e-mailed in MS Word or WordPerfect format, not in PDF format, unless otherwise agreed by the parties.

<b>Commentary</b>
The purpose of LR 5-10(a)-(b) is to allow counsel to prepare responses to discovery documents easily and efficiently. This rule does not affect the prescribed period for taking any action in response to the document, which is calculated according to the selected method of service.

**(c) Proposed Forms of Orders or Judgments (See LR 84.1)**

Proposed forms of order or judgments should not be submitted unless stipulated to by the parties or requested by the Court. If requested, the proposed document should be e-mailed in MS Word or WordPerfect format to the applicable judge. *See* Practice Tip for an example.

<b>Practice Tip</b>
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E-mail addresses in the following format have been established for each Chambers to receive submitted jury instructions and proposed forms of order under LR 5-10(c): [HZpropdoc@ord.uscourts.gov](mailto:HZpropdoc@ord.uscourts.gov) . In this example, the initials HZ are for Judge Hernandez and the initials are to change for each judge.

**(d) Return of Unfiled Documents or Correspondence**

The Clerk will not accept for filing any courtesy or information copies of documents or correspondence exchanged between the parties unless they are contemporaneously filed as an exhibit or appendix to a pleading or other document.

**(e) Letter Correspondence to the Court**

Unless directed by the Court, letters to the Court will not be docketed. (*See* Fed. R. App. P. 10(a) for guidance about including undocketed correspondence in the official record on appeal.)

**LR 5-11 Request for Conformed Copies**

A party may request the Clerk to conform a copy of any document presented on paper for filing. However, the filing party must provide the Clerk with a copy of the document and a postage-paid, addressed return envelope if the copy is to be returned by mail.

**LR 5-12 Court Orders and Judgments**

Every order or other Court-issued document filed electronically without the original signature of a judge or Clerk has the same force and effect as if the judge or Clerk had signed a paper copy of the order and it had been entered on the docket in a conventional manner. Orders may also be issued as "text only" entries on the docket, without an attached document.

**Practice Tip - Mailing Judgments to Registered Users**

In accordance with Fed. R. Civ. P. 5(b) and 77(d), the Clerk's Office does not mail a paper copy of electronically filed judgments to Registered Users who have been electronically served.

**LR 5-13 Retention Requirements (*See* LR 10-3)**

**(a) Documents Containing Original Signatures of Non-Registered Users**

Electronically filed documents such as affidavits or declarations under penalty of perjury that contain original signatures of persons who are not Registered Users must be maintained in their original paper form by the Registered User until the later of:

1. The final disposition of the case, including appeal or expiration of the time for appeal; or
2. The expiration of any relevant statute of limitations.

**(b) Production of Original**

On request of the Court or a party, the Registered User must provide the document for review.

**LR 5-14 Personal Privacy Issues (*See also* LR 10-3)**

Information posted on the CM/ECF system may not be downloaded for uses inconsistent with the privacy concerns of any person.

LR 5.2 – Redaction of Filings

(See Fed. R. Civ. P. 5.2)

The responsibility to redact filings pursuant to Fed. R. Civ. P. 5.2 rests with counsel and the party or non-party making the filing. The Clerk's Office is not required to review documents filed with the Court for compliance with Fed. R. Civ. P. 5.2.

LR 6 - Computing Time After Service

(See Fed. R. Civ. P. 6(d))

When a party may or must act within a specified time after service and service is made under Fed. R. Civ. P. 5(b)(2)(A) or (B), three days are added after the period would otherwise expire under Fed. R. Civ. P. 6(a), regardless of whether any additional method of service is also made, unless otherwise ordered by the Court.

Commentary
<p>Many deadlines under the Federal Rules and Local Rules are calculated from the time of service of the paper that triggers the deadline. Federal Rule of Civil Procedure 6(d) adds three days to a deadline, but only for certain kinds of service: mail (Fed. R. Civ. P. 5(b)(2)(C)), leaving with the clerk (Fed. R. Civ. P. 5(b)(2)(D)), service by electronic means (Fed. R. Civ. P. 5(b)(2)(E)), and delivery by other means with consent (Fed. R. Civ. P. 5(b)(2)(F)).</p> <p>Under LR 6, three days are added to the response deadline regardless of the means by which the triggering paper is served. This is intended to remove the incentive to serve papers (including, without limitation, discovery requests) by hand under Fed. R. Civ. P. 5(b)(2)(A) or by leaving at person's office or dwelling under subsection (B), in order to keep the receiving party from having the three-day period provided by Fed. R. Civ. P. 6(d) for other means of service.</p>

LR 7 - Motions Practice

(See Fed. R. Civ. P. 7)

**LR 7-1 Motions Practice - Generally**

**(a) Certification Requirements**

1. Except for motions for temporary restraining orders, the first paragraph of every motion must certify that:
  - A. In compliance with this Rule, the parties made a good faith effort through personal or telephone conferences to resolve the dispute and have been unable to do so; or
  - B. The opposing party willfully refused to confer; or
  - C. The moving party or opposing party is a prisoner not represented by counsel.
2. When conferring about a dispositive motion, the parties must discuss each claim, defense, or issue that is the subject of the proposed motion.
3. The Court may deny any motion that fails to meet this certification requirement.
4. A party filing a motion should state "UNOPPOSED" in the caption if the other parties to the action do not oppose the motion.

### Practice Tips

1. The certification requirements of LR 7-1 are broader than those established in Fed. R. Civ. P. 37(a)(1), which deals only with motions to compel discovery.
2. In cases in which one or more parties are proceeding *pro se*, counsel should document a good faith effort to consult with the unrepresented party. The Court will determine compliance with LR 7-1 on a case by case basis. (See LR 55-1)
3. If a motion is to be based on the inadequacy of the evidence, the parties should discuss the inadequacy of the evidence in detail.

#### (b) Separately Stated Motion

Every motion must concisely state the relief sought and be stated in a separate section under the heading "Motion." Motions may not be combined with any response, reply, or other pleading.

#### (c) Supporting Memoranda (See Fed. R. Civ. P. 7(b))

Every motion must be supported by a legal memorandum. The legal memorandum must be combined in a single document with the motion. A legal memorandum exceeding 20 pages must have a table of contents and a table of cases and authorities with page references.

#### (d) Limitations on Oral Argument

1. **Court Hearing:** The Court will decide each motion without oral argument unless the Court determines that oral argument would help it resolve the matter. If the Court elects to hear oral argument, the Court will notify the parties of the date and time for any hearing.
2. **Request for Oral Argument:** A party seeking oral argument must include "Request for Oral Argument" on the last line of the caption to the motion or response.

#### Example

Plaintiff Smith Corporation's  
MOTION FOR PROTECTIVE ORDER  
Pursuant to Fed. R. Civ. P. 26(c)(1)  
Request for Oral Argument

3. **Oral Argument by Telephone Conference:** A party may request that oral argument be by telephone conference.
4. **Waiver of Oral Argument:** A party waives oral argument by:
  - A. Failing to timely file any memorandum or other statement required by LR 7, LR 26, LR 37, or LR 56; or
  - B. Filing late any paper allowed by LR 7, LR 26, LR 37, or LR 56.

#### (e) Time Limits for Motions Other Than Motions Filed Pursuant to Fed. R. Civ. P. 56

1. **Response:** A party must file and serve any response within 14 days after service of the motion.

2. **Reply:** A party must file and serve any allowable reply to the response within 14 days after service of the response. (*See* LR 26-3(c).)

**Practice Tip**

A reply is not permitted in some cases under these rules. For example, no reply is permitted in connection with a discovery motion under LR 26-3(c) unless otherwise directed by the Court, and no reply is permitted in response to a motion to strike pursuant to LR 56-1(b).

3. **Other Memoranda:** Unless directed by the Court, no further briefing is allowed.
4. **Taking Under Advisement:** Unless otherwise directed by the Court, both discovery and non-discovery motions will be taken under advisement at the close of the time limits set forth in LR 7-1(e).

**(f) Time Limits for Motions Filed Pursuant to Fed. R. Civ. P. 56**

1. **Response:** Unless otherwise ordered by the Court, a party must file and serve any response within 21 days after service of the motion.
2. **Reply:** Unless otherwise ordered by the Court, a party must file and serve any reply to the response within 14 days after service of the response. (*See* LR 26-3(c).)
3. **Other Memoranda:** Unless directed by the Court, no further briefing is allowed other than the briefing allowed under LR 56-1(b).

**(g) Request for Expedited Hearing**

A party seeking expedited hearing must include "EXPEDITED HEARING REQUESTED" on the last line of the document's title, *e.g.*,

**Example**                      Plaintiff Smith Corporation's  
   MOTION FOR PROTECTIVE ORDER Pursuant to Fed. R. Civ. P. 26(c)  
   Expedited Hearing Requested

**(h) Reminders to the Court (*See* LR 83-13)**

**LR 7-2 Non-Discovery Motions**

**(a) Document Designation (*See* LR 10-2)**

The document title must substantially comply with the following format:

**Example**                      Defendant ABC Corporation's  
   MOTION FOR SUMMARY JUDGMENT

**(b) Word-Count or Page Limits**

1. Without prior Court approval, memoranda (including objections to a Findings and Recommendation of a Magistrate Judge and responses to such objections) may not exceed 11,000 words, or in the alternative, 35 pages. If the document exceeds the page limit, then the party must certify compliance with the word-count limit. This limitation includes headings, footnotes and quotations, but excludes the caption, table of contents, table of cases and authorities, signature block, exhibits, and any certificates of counsel.

2. Certificate of Compliance: The person preparing the certificate may rely on the word-count of the word processing system used to prepare the brief. The certificate must state the number of words in the memorandum. Use of the suggested form of "Certificate of Compliance" displayed in the example below will be regarded as sufficient to meet the requirements of this rule.

**Example**

**CERTIFICATE OF COMPLIANCE**

This brief complies with the applicable word-count limitation under LR 7-2(b), 26-3(b), 54-1(c), or 54-3(e) because it contains (insert number) words, including headings, footnotes, and quotations, but excluding the caption, table of contents, table of cases and authorities, signature block, exhibits, and any certificates of counsel.

**(c) Calendaring (See LR 7-1(d)(1) and LR 7-1(e)(4))**

**LR 7-3 Discovery Motions (See LR 26-3)**

**LR 7-4 Preliminary Injunctions and Temporary Restraining Orders (See LR 65)**

**LR 7-5 Motions for Summary Judgment (See LR 56)**

**LR 7-6 Motions to Consolidate Complex or Related Cases (See LR 42)**

**LR 7.1 - Disclosure Statement**

(See [Fed. R. Civ. P. 7.1](#))

**LR 7.1-1 Disclosure Statement**

In diversity actions, any party that is a limited liability corporation (L.L.C.), a limited liability partnership (L.L.P.), or a partnership must, in the disclosure statement required by Fed. R. Civ. P. 7.1, list those states from which the owners/members/partners of the L.L.C., L.L.P., or partnership are citizens. If any owner/member/partner of the L.L.C., L.L.P., or partnership is another L.L.C., L.L.P., or partnership, then the disclosure statement must also list those states from which the owners/members/partners of the L.L.C., L.L.P., or partnership are citizens.

**Practice Tip**

The certification requirements of LR 7.1-1 are broader than those established in Fed. R. Civ. P. 7.1. The Ninth Circuit has held that, "like a partnership, an LLC is a citizen of every state of which its owners/members/partners are citizens." *Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). Early state citizenship disclosure will help address jurisdictional issues. Therefore, the disclosure must identify each and every state for which any owner/member/partner is a citizen. The disclosure does not need to include names of any owner/member/partner, nor does it need to indicate the number of owners/members/partners from any particular state.

**LR 10 - Form of Pleadings and Other Documents**

(See [Fed. R. Civ. P. 10](#))

**LR 10-1 Format Requirements**

**(a) Legibility**

Pleadings and other documents must be typewritten, neatly printed, or otherwise legibly reproduced, using blue or black ink.

**(b) Line Spacing**

Pleadings and other documents must be double-spaced except for the identification of counsel, title of the case, footnotes, quotations, and exhibits.

**(c) Minimum Type Size for Text, Footnotes, and Endnotes**

Typewritten materials, including footnotes and endnotes, must use at least a 12-point font, *i.e.*, at least ten typed characters per inch.

**(d) Page Margins**

Pleadings and other documents must have one inch margins on the top, bottom, left, and right sides.

**(e) Stapled or Fastened**

Pleadings and other documents that are less than one inch thick must be stapled in the upper left hand corner. Larger documents must be fastened with some other permanent fastening device. (*See Practice Tip below.*)

**(f) Pagination Requirements**

1. Every page of a pleading or other document (not including attachments or exhibits) must bear a footer with a brief description of the pleading or document and consecutive numbering at the bottom of the page.
2. Exhibits or attachments to pleadings and other documents must be clearly numbered.

**(g) Paper Requirements**

Paper copies filed with the clerk must be on one-sided 8 ½" x 11" white paper of good quality (not less than 13-pound weight), flat and unfolded, without back or cover. The paper must not be numbered down the left margin (except for exhibits that are deposition transcripts). (*See Practice Tip below regarding hole-punching judges' copies.*)

<b>Practice Tips</b>
<b>1.</b> Exhibits and attachments do not require a footer, but they must be clearly numbered to enable the Court and counsel to find particular pages quickly and easily.
<b>2.</b> Rubber bands or large clips do not qualify as "permanent fastening devices" for purposes of this rule. Metal fasteners, ring or nylon binder posts may be used.
<b>3.</b> Regarding judges' copies: Ask the courtroom deputy clerk whether the judge's copies should be three hole punched on the side for inclusion in a binder, or two hole punched at the top for inclusion in a file or folder.

**LR 10-2 Caption Requirements (*See LR 15-1 and "Complaint" form*)**

**(a) Counsel Information**

Type counsel information in the upper left corner on the first page, starting one (1) inch from the top of the page on paper that is not numbered down the left margin.

<b>Practice Tips</b>
<b>1.</b> Identifying lead counsel: List the name of the attorney who has primary litigation responsibility for the case ("lead counsel") first. You may list other attorneys affiliated with the case on subsequent lines. The signature page may include a complete list of counsel submitting the document for filing.

2. Identifying Associate (Out-of-State) Counsel: List out-of-state counsel in a separate paragraph below the local Oregon counsel name and address information. Local counsel are deemed "lead counsel" for purposes of this rule.

3. When paper filing or service is required by these rules (*See* LR 5-4(c) and LR 5-5), the Court will send paper notices only to "lead counsel" in Oregon or *pro se* litigants.

**(b) Court Title**

Double space, capitalize and center the title of the Court at least one inch below the last line of the counsel information paragraph.

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
MEDFORD DIVISION

Example

**JANE DOE,**  
Plaintiff,  
  
v.  
  
**JOHN DOE,**  
Defendant.

Case No.:

COMPLAINT  
Personal Injury Action (28 U.S.C. § 1332)  
DEMAND FOR JURY TRIAL

**(c) Clerk's Authorization to Return Documents**

The clerk is directed to return without filing, and without action, all documents and papers presented for filing that do not comply with the requirements of LR 10-2(b). The offering party will be directed to re-submit the document(s) to comply with the local rule.

**(d) Party Names**

Single space the names of the parties along the left margin, four lines from the bottom of the court title. If the parties are numerous, the names may be continued on the second or, if necessary, successive pages in the same space.

**Practice Tips**

1. Representation in Multi-Party Cases: When not representing all plaintiffs or all defendants, counsel must clearly identify the specific party or parties they are representing.

2. Parties' names should be capitalized and bold-faced, with all other relevant party information typed in a plain text format, *e.g.*, **SMITH CORPORATION**, an Oregon corporation, and **JOHN S. SMITH**, individually and in his official capacity, **PLAINTIFFS**.

**(e) Eliminate Brackets Following Party Name Information**

Do not use brackets ")" to set off party names from the document title.

**(f) Case Number**

Right justify the case number on the same line as the first named plaintiff. The case number will be assigned by the Clerk's Office at the time the initial filing is made, and must appear on all subsequent filings. The case number must include the division code as described in LR 3-2.

**Example** Case No.: 3:11-cv-01388-AA

**(g) Document Title**

At least two lines below the case number, single space and capitalize a concise description of the nature of the document.

**Example** COMPLAINT  
Personal Injury Action (28 U.S.C. § 1332)  
DEMAND FOR JURY TRIAL

**LR 10-3 Affidavits and Declarations**

**(a) Filed Separately**

Affidavits or declarations must be filed as separate documents with their own captions and footers. Their title must include the name of the related document.

**Example** AFFIDAVIT OF JOHN S. HONEST, Esquire  
In Support of Plaintiff Smith Corporation's Motion for Summary Judgment

**(b) Signature Notarized**

The affiant's signature on an affidavit must be notarized.

**(c) Unsworn Declaration**

An unsworn declaration under penalty of perjury may be filed pursuant to 28 U.S.C. § 1746. (*See also* LR 5-13.)

**LR 10-4 Patent, Trademark, or Copyright Cases (*See* LR 26-6)**

**(a) Document Title**

The word(s) "PATENT," "TRADEMARK INFRINGEMENT," or "COPYRIGHT" must appear in the narrative description of the complaint.

**Example** COMPLAINT FOR TRADEMARK INFRINGEMENT  
JURY TRIAL REQUESTED

**(b) Pleading Requirements**

In a separately numbered paragraph within the body of the complaint, the filing party must identify the owner's full name and the registration number and date of issuance of the relevant patent, trademark, or copyright.

**LR 10-5 Individuals with Disabilities Education Act (IDEA) Cases**

**(a) Document Title Requirements**

The words "Individuals with Disabilities Education Act (IDEA)" must appear in the document title.

**Example** COMPLAINT  
Individuals with Disabilities Education Act (IDEA)

**(b) Court Scheduling Order**

When the complaint is filed, the Court will issue the Individuals with Disabilities Education Act Scheduling Order.

**LR 10-6 Page or Word-Count Limitations**

<b>Document</b>	<b>Page or Word-Count Limits</b>	<b>Local Rule</b>	<b>Comment</b>
<i>Memoranda</i>			
Attorney Fees	ten pages / 3,000 words	LR 54-3(e)	
Bill of Costs	ten pages / 3,000 words	LR 54-1(c)	
Discovery Motions	ten pages / 3,000 words	LR 26-3(b)	Exclusive of Exhibits
Non-Discovery Motions	35 pages / 11,000 words	LR 7-2	Exclusive of Exhibits
<i>Concise Statement of Material Fact</i>	five pages / 1,500 words	LR 56-1	Filed only upon request of the Court.
<i>State Court Record for Capital Habeas Case</i>	250 pages	LR 81-3(i)(3)(C)	per volume

**LR 11 - Signature Requirements**

(See [Fed. R. Civ. P. 11](#))

**LR 11-1 Signature Requirements on Electronic Filings**

**(a) Signature**

A Registered User's login and password required to electronically file documents via the CM/ECF system constitute the Registered User's signature for purposes of the Federal Rules of Civil Procedure, the Local Rules of this Court, and for any other purpose for which a signature is required in connection with proceedings before this Court.

**(b) Format**

Electronically filed documents must include a signature block, including the typed name of the Registered User who filed the document preceded by an "s/" (followed by the typed name) in the space where the signature would otherwise appear (e.g., s/ John Q. Attorney).

**(c) Signatures of Non-Registered Users**

Documents containing the signature of a Non-Registered User are to be filed electronically with the signature represented by an "s/" and the name typed in the space where a signature would otherwise appear, or as a scanned image.

**(d) Multiple Signatures**

Documents requiring the signatures of more than one party must be electronically filed either by:

1. Submitting a scanned document containing all necessary signatures;
2. Representing the consent or stipulation of the other parties on the document;
3. Identifying on the document the signatures which are required and submitting written confirmation by the parties no later than seven days after the filing; or
4. In any other manner approved by the Court.

LR 15 - Amended and Supplemental Pleadings

(See [Fed. R. Civ. P. 15](#))

**LR 15-1 Amended and Supplemental Pleadings (See LR 10-1 and LR 10-2)**

**(a) Amended Document Title**

The word AMENDED—and iteration number—must be included in the revised document title, *e.g.*:

**Example**                      THIRD AMENDED COMPLAINT

**(b) Supplemental Document Title**

The word SUPPLEMENTAL must be included in a supplemental document title.

**(c) Amended Document Requirements**

An amended or supplemental pleading must reproduce the entire pleading and may not incorporate any part of the prior pleading by reference. In addition, any party moving for leave to file an amended or supplemental pleading must describe the proposed changes.

**(d) Exhibits to a Motion**

1. A copy of the proposed amended pleading must be attached as an exhibit to any motion for leave to file the amended pleading.
2. On entry of an order granting the motion, the original amended pleading must be submitted to the clerk for filing.
3. The clerk will not detach the proposed amended pleading from the motion.

**(e) Amendments by Interlineation**

Amendments by interlineation are allowed only by order of the Court.

LR 16 - Pretrial Conferences, Scheduling, and Case Management

(See [Fed. R. Civ. P. 16](#))

**LR 16-1 Court Actions On Initial Filing (See LR 3-5)**

During the case initiation process:

**(a) Case Assignment**

The case will be randomly assigned to a judge in accordance with the Court's Case Management Plan and assigned a case number.

**(b) Consent Forms**

The Clerk's Office will issue "Consent to Jurisdiction by a Magistrate Judge and Designation of the Normal Appeal Route" forms and other information packets. (See "Consent to Jurisdiction by a Magistrate Judge" form.)

**(c) Process**

The Clerk's Office will issue summons and other appropriate process. (See LR 3-5(b).)

**(d) Scheduling Order**

The Clerk's Office will issue a scheduling order as appropriate for the case. (See "Discovery and Pretrial Scheduling Order" form.)

**LR 16-2 Rule 16 Conferences (See Fed. R. Civ. P. 16)**

Unless otherwise ordered by the Court:

**(a) Counsel's Duty to Request Conference**

Counsel for plaintiff(s) and for defendant(s), during or promptly after the conference of counsel for discovery planning referred to in LR 26-1, must contact the assigned judge's courtroom deputy and request a Rule 16(b) scheduling and planning conference.

**(b) Conference**

At the Rule 16(b) scheduling and planning conference, counsel for the parties must have their calendars available and be prepared to discuss any of the issues enumerated in Fed. R. Civ. P. 16(b) and 16(c), including proposed modifications to the schedule outlined in the initial Discovery and Pretrial Scheduling Order issued by the Court at the commencement of the action. Counsel must also be prepared to discuss the possible submission of trial exhibits electronically. (See LR 5-6(b).)

**(c) Conference Request Made At Any Time**

Notwithstanding anything in this or any other local rule, any party may ask for a conference under Fed. R. Civ. P. 16 at any time. This subsection applies to all civil cases, including those categories of cases mentioned in Fed. R. Civ. P. 26(a)(1)(B).

**(d) Sample**

See sample "Order Establishing the Trial and Pretrial Conference Dates and Procedures" for a type of order that may be used for the final pretrial conference held under Fed. R. Civ. P. 16(e). Requirements may vary depending on the nature of the case.

**(e) Completion of Discovery Defined**

The initial case scheduling order establishes the time for completion of discovery. Unless otherwise directed by the Court, the following discovery related events must be completed by the completion of discovery date:

1. All depositions must be taken, including depositions to preserve testimony for trial.
2. All interrogatory or other discovery requests must be answered.
3. All documents must be produced per request.

4. The Court will not require a response to a discovery request that is made with insufficient time for a party to respond before the completion of discovery date.
5. Completion of discovery does not include expert depositions taken under Fed. R. Civ. P. 26(b)(4)(A).

### **LR 16-3 Motions to Change or Extend Court-Imposed Deadlines**

#### **(a) Motions**

Unless provided by LR 16-2(b), objections to any court-imposed deadline must be raised by motion and must:

1. Show good cause why the deadlines should be modified.
2. Show effective prior use of time.
3. Recommend a new date for the deadline in question.
4. Show the impact of the proposed extension on other existing deadlines, settings, or schedules.

#### **(b) Stipulations to Extend Deadlines or Schedules (*See LR 29*)**

### **LR 16-4 Alternate Dispute Resolution (ADR) (*See Fed. R. Civ. P. 16(c)(2)(I)*)**

#### **(a) Scope and Application**

Unless otherwise directed by the Court or as provided in subsection (b) below, this rule applies to all civil cases filed in the district court.

#### **(b) Exemptions**

The following classes of cases are presumed to be exempt from this rule:

- Habeas Corpus Petitions;
- Prisoner Suits;
- 28 U.S.C. § 2255 Claims;
- Social Security Appeals;
- Civil Forfeitures;
- Qui Tam Actions;
- IRS Summons Enforcement Actions;
- Student Loan Collection; and
- Bankruptcy Appeals.

#### **(c) ADR Conference Requirements**

Not later than 120 days from the initiation of a lawsuit, counsel for all parties (after conferring with their clients) must confer with all other attorneys of record and all unrepresented parties, to discuss whether the case would benefit from any private or court-sponsored ADR option.

#### **(d) Joint ADR Report**

Within 150 days of the initiation of a lawsuit, the parties must file a "Joint Alternate Dispute Resolution Report" form available on the Court's website at [ord.uscourts.gov](http://ord.uscourts.gov), on the For Attorneys page, under Forms for Civil Cases on the [Forms menu](#).

**(e) ADR Options - Generally**

1. **Private ADR:** The parties may agree to any form of ADR, including arranging mediation with a private mediator. The parties are to select and compensate the mediator and, in conjunction with the mediator, agree to the time, place, and duration of the mediation.
2. **Request for a Settlement Judge:** The assigned judge, on his/her own motion or at the request of a party, may schedule a settlement conference before a judicial officer of this Court. The assigned judge will not conduct the settlement conference unless all the parties in the action jointly initiate a request that the assigned judge do so.
3. **Court-Sponsored Mediation:** The assigned judge, on his/her own motion, or upon the motion or request of a party, may refer any civil case to mediation with a mediator on the Court's list of mediators.
4. **Non-Binding Summary Trial and Other Forms of ADR:**
  - A. The assigned judge, on his/her own motion or at the request of a party, may assign any civil case for a non-binding summary trial (including a summary jury trial for cases triable to a jury), a mini-trial, an advisory jury proceeding, or an arbitration hearing.
  - B. The assigned judge, on his/her own motion or at the request of a party, may assign any civil case for any other ADR process (such as an advisory jury panel consisting of panel members not drawn from the jury pool who volunteer their time to hear case summaries and confer with counsel about settlement).

**(f) Court-Sponsored Mediation Procedures**

1. **Pro Bono Hours:** Mediators on the Court-sponsored panel list agree to conduct mediation without cost to the parties for four hours, exclusive of preparation time and travel time to or from the agreed location for the mediation. The mediator and the parties must agree before the mediation on an hourly rate for the mediator if the mediation continues beyond four hours.
2. **Selection of a Mediator:**
  - A. The assigned judge will enter an order directing the parties to select a mediator from the Court's list of mediators, and to work with the mediator to agree to the time, place, and duration of the mediation.
  - B. If the parties cannot agree on a mediator within 14 days after entry of the order, each party will submit its list of three acceptable mediators to the assigned judge who will then designate a mediator after consultation with the parties.
3. **Judicial Immunity:** During the conduct of Court-sponsored mediation, mediators act as officers of the Court, have judicial immunity, and are subject to the disqualification rule in LR 16-4(k).
4. **Mediation Process:** After entry of the order of reference to mediation, the parties are required to provide such information and advice as the mediator requires. The mediator may schedule a preliminary conference before the mediation and may also require the parties to participate in the preliminary conference along with their attorneys.

**5. Participation by Counsel and Parties:**

- A. The responsible attorney for each party must attend the mediation and any additional sessions and must be prepared to discuss in good faith:
  - i. All liability issues;
  - ii. All damage issues; and
  - iii. The position and interests of his or her client relative to settlement.
- B. Unless excused by the mediator, a person with complete settlement authority for each party must attend the mediation. However, the United States may be represented by the trial attorney.
- C. Where a party's defense is provided by a liability insurer, a representative of the insurer, unless excused by the mediator, must attend the mediation conference and have full authority to bind the insurer to a settlement. This representative must also have ready telephonic access to another representative of the insurer, unless excused by the mediator, with authority to enter into a settlement up to the policy limits.
- D. Unless excused from attendance by the mediator, an attorney or party's willful failure to attend the mediation when required must be reported to the Court by the mediator and may result in the imposition of sanctions.

**(g) Proceedings Privileged**

- 1. ADR proceedings (including all statements made by a party, attorney, or other participant, and any memorandum or written submission provided to the mediator or ADR facilitator), are privileged and, unless otherwise authorized by the Federal Rules of Evidence, will not be reported, recorded, or otherwise placed in evidence; made known to the assigned judge or jury; or construed for any purpose as an admission against interest.
- 2. This privilege applies to ADR proceedings conducted under LR16-4(e)(1)-(4).
- 3. No party will be bound by anything done or said in mediation unless a settlement is reached, in which event, the agreement on a settlement will be reduced to writing and will be binding on all parties to that agreement. In a dispute between the parties regarding the terms of the settlement, the terms of the settlement as communicated by the mediator and accepted by the parties are not privileged under LR 16-4(g)(1).

**(h) Proceedings After Failure to Achieve an ADR Settlement**

- 1. Private ADR: Not later than seven days following the conclusion of private ADR proceedings, the plaintiff's attorney (or the *pro se* plaintiff) will notify the Court in writing:
  - A. Whether settlement (in whole or in part) was achieved; or
  - B. Whether settlement could not be achieved and whether any (or all) of the parties believe that further judicial intervention (including the possibility of a settlement judge), will help to resolve the case.

2. Court-Sponsored Mediation: Not later than seven days following the conclusion of Court-sponsored mediation, the mediator will notify the assigned judge if no settlement is achieved and whether intervention by a settlement judge may help to resolve the matter.

**(i) No Stay of Action**

Unless ordered by the assigned judge, no stay of an action will take place during ADR. In addition, no scheduled dates for any required submission or proceeding, including trial, will be changed unless otherwise ordered by the assigned judge.

**(j) Qualifications and Requirements of Mediators**

1. As a general rule, the parties may select and thereby set the qualifications of a private mediator or mediation service. The mediator is subject to the requirements of LR 16-4(g).
2. Court-sponsored mediators must submit an agreement to serve, advise the assigned judge in which divisions of this Court they are willing to serve, and agree to perform at least eight hours of volunteer mediation service per year without payment.
3. Court-sponsored mediators must be members in good standing of the Oregon State Bar who have been admitted to practice before the federal courts for a minimum of five years, or be a retired or senior judge. Disciplinary sanctions may result in the rejection of an application to serve as a Court-sponsored mediator or termination of a Court-sponsored mediator's service.
4. Court-sponsored mediators must have a minimum of 12 hours of actual mediation experience and submit proof or a certificate of attendance for a minimum of 30 hours of mediation training that includes such competencies as information gathering, effective communication, ethical concerns, the role of a mediator as a neutral third party, control of the mediation process, and problem analysis.
5. The Clerk will maintain a list of Court-sponsored mediators by division of this Court.

**(k) Disqualification of Mediators**

Any person selected as a mediator may be disqualified for bias or prejudice as provided in 28 U.S.C. § 144 and must be disqualified in any case in which such action would be required of a justice, judge, or Magistrate Judge governed by 28 U.S.C. § 455.

**(l) ADR Program Administration**

1. An ADR Administrator is responsible for implementing, administering, overseeing, and evaluating the ADR program and procedures covered by LR 16-4.
2. The Clerk will make pertinent rules, explanatory materials, and requisite forms available to the parties.

**LR 16-5 Proposed Pretrial Order**

**(a) Filing Requirements**

The parties may stipulate, subject to the approval of the Court, or the Court may order, that no pretrial order need be filed. Otherwise, the parties will prepare and sign a proposed pretrial order to be filed with the Court on or before the date ordered by the Court. The proposed order will also be submitted via e-mail per procedures described in LR 5-10(c).

**(b) Content Requirements (See Pretrial Order)**

If there is no court-approved stipulation or order dispensing with the need for a pretrial order, the parties will prepare a proposed order to frame the issues for trial. At a minimum, the pretrial order must contain:

1. A concise statement of the nature of the action, including whether trial will be by jury and whether the parties have consented to trial by a magistrate judge.
2. A concise statement of each basis for federal jurisdiction and the facts supporting or disputing jurisdiction.
3. All agreed facts; with an asterisk (\*) by those where relevance is disputed.
4. A statement of each claim and defense to that claim with the contentions of the parties. Contentions will not recite the evidence to be offered at trial but will be sufficient to frame the issues presented by each claim and defense.
5. Other legal issues not stated under either claims or defenses and designating those appropriate for decision before trial.
6. A statement indicating proposed amendments to the pleadings, if any.
7. The same format should be used in the order for any counterclaim or cross-claims, followed by any affirmative defenses to each of those claims.

**(c) Service and Filing of Proposed Pretrial Order**

Unless modified by the Court, the time for service and filing of the proposed pretrial order will be as follows:

1. The plaintiff will, at least 30 days before the filing date, prepare and serve on all parties a proposed pretrial order.
2. Within 14 days after service of that proposed pretrial order, each other party will serve on all parties the objections, additions, and changes such party believes should be made to the plaintiff's proposed pretrial order.
3. All areas of disagreement must be shown in the proposed pretrial order, but the parties will make every effort to resolve such disagreements.
4. The proposed pretrial order must be signed by the parties, and the plaintiff must file it with the Court.

**(d) Effect of Pretrial Order**

The pretrial order amends the pleadings, and it, and any later order of the Court will control the subsequent course of action or proceedings as provided in Fed. R. Civ. P. 16.

LR 23 - Class Actions

(See [Fed. R. Civ. P. 23](#))

**LR 23-1 Document Caption Requirements (See LR 10-2)**

The words CLASS ACTION ALLEGATION must be included on the first line of any document proposing or seeking to maintain a class action.

Example

**CLASS ACTION ALLEGATION COMPLAINT**  
**Product Liability Action (28 U.S.C. § 1332)**  
**DEMAND FOR JURY TRIAL**

**LR 23-2 Pleading Requirements**

The filing party must also explain in separately titled and numbered paragraphs within the body of the document:

1. How this action meets the prerequisites mandated by Fed. R. Civ. P. 23(a);
2. How this action can be maintained as a class action under Fed. R. Civ. P. 23(b);
3. The basis on which the party claims either to be an adequate representative of the class; or that the class is comprised of defendants, and that those individuals named as defendants are adequate representatives of the proposed class; and
4. The question(s) of law and fact alleged to be common to the class.

LR 26 - Discovery

(See [Fed. R. Civ. P. 26](#))

**LR 26-1 Initial Conference of Counsel for Discovery Planning (See Fed. R. Civ. P. 26(f))**

Unless exempted under Fed. R. Civ. P. 26(a)(1)(B) or otherwise ordered by the Court:

1. The parties must hold a Fed. R. Civ. P. 26(f) initial conference of counsel for discovery planning within 30 days after all defendants have been served. Counsel for plaintiff(s), upon learning the identity of counsel for defendant(s), must initiate communications with counsel for defendant(s). All counsel must then confer as required by Fed. R. Civ. P. 26(f).
2. No written report of the initial conference of counsel for discovery planning is required (other than the form that is referred to in LR 26-2), but the parties must be prepared to report orally to the Court as to their discovery plan.
3. The parties may seek discovery once the initial conference of counsel for discovery planning contemplated by this local rule has occurred.

**Practice Tip**

When making either an oral or written report of the initial conference to the Court, the parties are expected to address the items listed on Form 52 of the Federal Rules of Civil Procedure, Appendix of Forms.

**LR 26-2 Initial Disclosures (See Fed. R. Civ. P. 26(a)(1))**

Unless otherwise ordered by the Court, parties who agree to forgo the disclosures required by Fed. R. Civ. P. 26(a)(1) can do so using the form issued at the time of filing. (See Fed. R. Civ. P. 26(a)(1) and "Discovery Agreement" form.)

**LR 26-3 Discovery Motions (See Fed. R. Civ. P. 26 and LR 37)**

**(a) Document Title (See LR 10-2)**

The document title must substantially comply with the following format:

Example

PLAINTIFF JOHN SMITH'S MOTION TO COMPEL

Example 2

DEFENDANT ABC CORPORATION'S RESPONSE TO PLAINTIFF JOHN SMITH'S  
MOTION TO COMPEL PRODUCTION

**(b) Word-Count or Page Limits**

Without prior Court approval, memorandum may not exceed 10 pages, exclusive of exhibits, unless the memorandum complies with LR 26-3(b)(1) and (2):

1. Without prior Court approval, the memorandum may not exceed 3,000 words, or in the alternative, ten pages. If the document exceeds the page limit, the party must certify compliance with the word-count limit. This limitation includes headings, footnotes and quotations, but excludes the caption, signature block, exhibits, and any certificates of counsel.
2. Certificate of Compliance: As required by these rules, the party must file a Certificate of Compliance as to the word-count limit as provided in LR 7-2(b).

**(c) No Replies**

Unless otherwise directed by the Court, a movant may not file a reply supporting a discovery motion.

**(d) Motions to Compel (See LR 37)**

**(e) Calendaring (See LR 7-1(d) and LR 7-1(e)(4))**

**(f) Resolving Discovery Disputes by Telephone Conference**

Parties encountering a discovery problem may telephone the assigned judge to set up a telephone conference to help resolve the issue(s). If the assigned judge is unavailable, the Court will attempt to have the telephone conference handled by another judge.

**LR 26-4 Motions for Protective Orders (See Fed. R. Civ. P. 26(c) and LR 3-7)**

A party or person asserting there is good cause for the Court to make an order that would limit access to discovery materials not filed with the Court, or would authorize a party or person to file any materials with the Court under seal, must show with respect to each particular material or category of materials that specific prejudice or harm will result if no order is granted. The showing must be sufficiently detailed to permit the Court in its good cause examination to identify specific factors supporting entry of the order sought. Where the order sought would authorize a party to file materials under seal, the showing also must articulate why, as an alternative to filing under seal, the information sought to be protected could not be redacted. Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning, do not satisfy the requirements of this rule. The showing must be made even if the other party stipulates to the entry of the order.

**Practice Tip**

Issues related to protective orders are handled under Fed. R. Civ. P. 26(c). Relevant case law includes *Foltz v. State Farm Mut. Ins. Co.*, 331 F.3d 1122 (9th Cir. 2003), *Kamakana v. United States*, 447 F.3d 1172 (9th Cir. 2006), and *Phillips v. Byrd*, 307 F.3d 1206 (9th Cir. 2002). Parties may amend or supplement the form order as necessary to meet the specific needs of their case, e.g., to address issues regarding the Privacy Act, 5 U.S.C. Sec. 552a. (See form "

## **LR 26-5 Waiver of Objections**

### **(a) Objections Must be Timely**

Failure to object to a discovery request within the time permitted by the Federal Rules of Civil Procedure, or within the time to which the parties have agreed, constitutes a waiver of any objection.

### **(b) Description Within Reasonable Time**

By making a timely objection, a party may preserve its privilege or its protection against production of attorney work product or trial preparation material without simultaneously providing a "privilege log" or a description of the claims of privilege or work product required by Fed. R. Civ. P. 26(b)(5). However, such a "privilege log" or description of the claims of privilege or work product required by Fed. R. Civ. P. 26(b)(5) must be provided within a reasonable time after service of timely objections to a discovery request.

## **LR 26-6 E-Discovery in Patent Cases (See LR 10-4)**

The

### **"Model Order Regarding E-Discovery in Patent Cases"**

governs in all cases in which a claim of patent infringement is asserted. The Court may enter a specific order adopting the Model Order verbatim or tailored for a specific case. Absent a specific order, the Model Order applies in patent cases. The

### **Model Order**

is available on the Court's website on the For Attorneys page, under the Forms tab, and Forms in Civil Cases menu.

## **LR 26-7 Initial Discovery Protocols for Employment Cases Alleging Adverse Action**

### **(a) Introduction and Definitions**

1. **Scope:** Except for good cause shown, the Initial Discovery Protocols set forth below apply to all employment cases that challenge one or more actions alleged to be adverse except:
  - A. Class actions; and
  - B. Cases in which the allegations involve only the following:
    - i. Discrimination in hiring;
    - ii. Harassment/hostile work environment;
    - iii. Violations of wage and hour laws under the Fair Labor Standards Act (FLSA);
    - iv. Failure to provide reasonable accommodations under the Americans with Disabilities Act (ADA);
    - v. Violations of the Family Medical Leave Act (FMLA); and
    - vi. Violations of the Employee Retirement Income Security Act (ERISA).

2. **Interaction with Federal Rules of Civil Procedure:** The Initial Discovery Protocols do not preclude or modify the rights of any party to discovery as provided by the Federal Rules of Civil Procedure or other applicable local rules, but they supersede the parties' obligations to make initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1).
3. **Definitions:** The following definitions apply:
  - A. **Concerning:** The term "concerning" means referring to, describing, evidencing, or constituting.
  - B. **Document:** The terms "document" and "documents" are synonymous in meaning and equal in scope to the terms "documents" and "electronically stored information" as used in Fed. R. Civ. P. 34(a).
  - C. **Identify (Documents):** When referring to documents, to "identify" means either to produce the document or to give, to the extent known: (i) the type of document; (ii) the general subject of the document; (iii) the date of the document; (iv) the author(s), according to the document; and (v) the person(s) to whom, according to the document, the document (or a copy) was to have been sent.
  - D. **Identify (Persons):** When referring to natural persons, to "identify" means to give the person's: (i) full name; (ii) present or last known address and telephone number; (iii) present or last known place of employment; (iv) present or last known job title; and (v) relationship, if any, to plaintiff or defendant. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.
4. **Instructions:**
  - A. For this Initial Discovery, the relevant time period begins three years before the date of the adverse action unless otherwise specified.
  - B. This Initial Discovery is not subject to objections except on the grounds set forth in Fed. R. Civ. P. 26(b)(2)(B).
  - C. If a responding party provides a partial or incomplete answer or production, that party must state the reason the answer or production is partial or incomplete.
  - D. This Initial Discovery is subject to Fed. R. Civ. P. 26(e) regarding supplementation and Fed. R. Civ. P. 26(g) regarding certification of responses.
  - E. This Initial Discovery is subject to Fed. R. Civ. P. 34(b)(2)(E) regarding form of production.

**(b) Production by Plaintiff**

1. **Timing:** Plaintiff must provide Initial Discovery to defendant within 30 days after such defendant has submitted a responsive pleading or motion.
2. **Documents plaintiff must produce to defendant:**
  - A. All communications concerning the factual allegations or claims at issue in this lawsuit between plaintiff and defendant.

- B. Claims, lawsuits, administrative charges, and complaints by plaintiff that rely on any of the same factual allegations or claims as those at issue in this lawsuit.
  - C. Documents concerning the formation and termination, if any, of the employment relationship at issue in this lawsuit, irrespective of the relevant time period.
  - D. Documents concerning the terms and conditions of the employment relationship at issue in this lawsuit.
  - E. Diary, journal, and calendar entries maintained by plaintiff concerning the factual allegations or claims at issue in this lawsuit.
  - F. Plaintiff's current resume(s).
  - G. Documents in the possession of plaintiff or plaintiff's agent concerning claims for unemployment benefits.
  - H. Documents concerning: (i) communications with potential employers; (ii) job search efforts; and (iii) offer(s) of employment, job description(s), and income and benefits of subsequent employment. Defendant must not contact or subpoena a prospective or current employer to discover information about plaintiff's claims without first giving plaintiff 30 days' notice and an opportunity to file a motion for a protective order or a motion to quash such subpoena. If such a motion is filed, defendant will not initiate such contact or serve such subpoena until the motion is ruled upon.
  - I. Documents concerning the termination of any subsequent employment.
  - J. Any other document(s) on which plaintiff relies to support plaintiff's claims.
3. **Information plaintiff must produce to defendant:**
- A. Identify persons plaintiff believes have knowledge of the facts concerning the claims or defenses at issue in this lawsuit and a brief description of that knowledge.
  - B. Describe the categories of damages plaintiff claims.
  - C. State whether plaintiff has applied for disability benefits and/or social security disability benefits after the adverse action, whether any application has been granted, and the nature of the award, if any. Identify any document concerning any such application.

**(c) Production by Defendant**

1. **Timing:** Defendant must provide Initial Discovery within 30 days after such defendant has submitted a responsive pleading or motion. When the United States Government is a defendant, it shall provide Initial Discovery within 60 days after it has submitted a responsive pleading or motion.
2. **Documents defendant must produce to plaintiff:**
  - A. All communications concerning the factual allegations or claims at issue in this lawsuit among or between:
    - i. Plaintiff and defendant;

- ii. Plaintiff's manager(s), supervisor(s), and defendant's human resources representative(s).
  - B. Responses to claims, lawsuits, administrative charges, and complaints by plaintiff that rely on any of the same factual allegations or claims as those at issue in the lawsuit.
  - C. Documents concerning the formation and termination, if any, of the employment relationship at issue in this lawsuit, irrespective of the relevant time period.
  - D. Plaintiff's personnel file, in any form, maintained by defendant, including files concerning plaintiff maintained by plaintiff's supervisor(s), manager(s), or defendant's human resources representative(s), irrespective of the relevant time period.
  - E. Plaintiff's performance evaluations and formal discipline.
  - F. Documents relied on to make the employment decision(s) at issue in this lawsuit.
  - G. Workplace policies or guidelines relevant to the adverse action in effect at the time of the adverse action. Depending on the case, those may include policies or guidelines that address: discipline, termination of employment; promotion; discrimination; performance reviews or evaluations; misconduct; retaliation; and the nature of the employment relationship.
  - H. The table of contents and index of any employee handbook, code of conduct, or policies and procedures manual in effect at the time of the adverse action.
  - I. Job description(s) for the position(s) plaintiff held.
  - J. Documents showing plaintiff's compensation and benefits. Those normally include retirement plan benefits, fringe benefits, employee benefit summary plan descriptions, and summaries of compensation.
  - K. Agreements between plaintiff and defendant to waive jury trial rights or to arbitrate disputes.
  - L. Documents concerning investigation(s) of any complaint(s) about plaintiff or made by plaintiff, if relevant to plaintiff's factual allegations or claims at issue in this lawsuit and not otherwise privileged.
  - M. Documents in the possession of defendant and/or defendant's agent(s) concerning claims for unemployment benefits unless production is prohibited by applicable law.
  - N. Any other document(s) on which defendant relies to support the defenses, affirmative defenses, and counterclaims, including any other document(s) describing the reasons for the adverse action.
3. **Information defendant must produce to plaintiff:**
- A. Identify plaintiff's supervisor(s) and manager(s).
  - B. Identify persons known to defendant who were involved in making the decision to take the adverse action.
  - C. Identify persons defendant believes have knowledge of the facts concerning the claims or defenses at issue in this lawsuit, and a brief description of that knowledge.

- D. State whether plaintiff has applied for disability benefits and/or social security disability benefits after the adverse action. State whether defendant has provided information to any third party concerning any application by plaintiff for disability benefits and/or social security disability benefits after the adverse action and identify any documents concerning any such application or any such information provided.

LR 27 - Depositions: Before Action or Pending Appeal

(See [Fed. R. Civ. P. 27](#))

**LR 27-1 Before Action Filed (See Fed. R. Civ. P. 27(a))**

1. A party seeking to perpetuate testimony must file a verified petition and proposed order with the Clerk's Office.
2. Upon payment of the required filing fee, the Clerk's Office will open a miscellaneous case and refer the petition and proposed order to the duty magistrate judge for calendaring and disposition.

**LR 27-2 Pending Appeal (See Fed. R. Civ. P. 27(b))**

Unless otherwise requested by a party, a motion to perpetuate testimony pending an appeal will be processed as a discovery motion pursuant to LR 26-3.

**LR 27-3 Relationship to LR 30**

The requirements of LR 30 apply to depositions conducted under LR 27.

LR 28 - Depositions in a Foreign Country

**Practice Tip**

Taking a deposition of an uncooperative witness in a foreign country may be complicated. See Williams, Taking Depositions Abroad, Los Angeles Lawyer 10 (December 2005), located by searching the Los Angeles County Bar Association website at [www.lacba.org](http://www.lacba.org). The text of the "Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters" and a "Model for Letters of Request" can be found on the Hague Conference on Private International Law website. Important information about the Hague Convention, the preparation of letters rogatory with samples, and country specific information is also published on the U.S. State Department website at <http://travel.state.gov> on the Law & Policy page, under the Judicial Assistance menu. Additional important information can be found in the State Department's Foreign Affairs Manual, particularly 7 FAM 920 ("Taking Voluntary Depositions of Willing Witnesses") and 930 ("Compulsion of Evidence"), available on the U.S. Department of State's website at [www.state.gov](http://www.state.gov).

LR 29 - Stipulations About Discovery Procedure

(See [Fed. R. Civ. P. 29](#))

**LR 29-1 Non-Permissible Stipulations**

Unless the Court orders otherwise, the parties alone may not stipulate to extend any:

- a. Deadline established by the case scheduling order;
- b. Filing deadline established by the Court, the Federal Rules of Civil Procedure, or these local rules;

- c. Court-scheduled conference;
- d. Proposed pretrial order filing date; or
- e. Trial date.

LR 30 - Depositions

(See [Fed. R. Civ. P. 30](#))

### **LR 30-1 Depositions - Generally**

#### **(a) Not Filed With the Court (See LR 5-10)**

Unless directed by the Court, deposition transcripts will not be filed with the Court. Instead, they will be maintained by counsel and made available to parties in accordance with Fed. R. Civ. P. 30(b). Deposition transcripts presented for filing without approval will be returned to the offering party.

#### **(b) Use of Non-Filed Depositions**

This rule does not preclude the use of deposition transcripts as exhibits or evidence in support of a motion, or for introduction and use at trial.

#### **(c) Availability of Copies to Non-Parties**

With leave of court during the pendency of a civil action, any person may obtain a copy of a deposition transcript not on file provided they:

1. Serve notice of their request and proposed order on all parties;
2. Receive approval; and
3. Pay the cost for a copy of the deposition.

### **LR 30-2 Notice of Deposition**

Except for good cause, counsel will not serve a notice of deposition until they have made a good faith effort to confer with all counsel regarding a mutually convenient date, time, and place for the deposition.

### **LR 30-3 Conduct of Counsel (See Fed. R. Civ. P. 30(c) and (d))**

Counsel present at a deposition will not engage in any conduct that would not otherwise be allowed in the presence of a judge.

### **LR 30-4 Objections (See Fed. R. Civ. P. 30(c)(2))**

There should be no argument in response to an objection or an instruction not to answer.

### **LR 30-5 Pending Questions**

If a question is pending, it must be answered before a recess is taken unless the question involves a matter of privacy right, privilege, or an area protected by the constitution, statute, or work product.

### **LR 30-6 Motions Relating to Depositions (See Fed. R. Civ. P. 30(d)(3))**

- a. If the parties have a dispute that may be resolved with assistance from the Court, or if unreasonable or bad faith deposition techniques are being used, the deposition may be suspended so that a motion may be made immediately and heard by an available judge, or the parties may hold a telephone conference pursuant to LR 16-2(c).

- b. Alternatively, a written motion relating to the deposition may be filed after a transcript is available.
- c. The Court may impose costs, including attorney fees, on any person responsible for unreasonable or bad faith deposition techniques or behavior.

LR 33 - Interrogatories

(See [Fed. R. Civ. P. 33](#))

**LR 33-1 Interrogatories - Generally**

**(a) Not Filed With the Court (See LR 5-10)**

Unless directed by the Court, interrogatories, objections, and answers will not be filed with the Court. Instead they will be maintained by counsel and made available to parties upon request. Interrogatories presented for filing without Court approval will be returned to the offering party. To facilitate responding, a courtesy copy of the interrogatories must be e-mailed concurrently pursuant to LR 5-10(b).

**(b) Use of Non-Filed Interrogatories**

This rule does not preclude the use of interrogatories and answers as exhibits or evidence in support of a motion or at trial.

**(c) Definitions**

Each interrogatory must state in concise language the information requested. In no case may an interrogatory refer to a definition not contained within the interrogatory or the preamble. Only terms actually used in a set of interrogatories may be defined.

**(d) Prohibited Form of Interrogatories**

Broad general interrogatories, such as those that ask an opposing party to "state all facts on which a claim or defense is based" or to "apply law to facts," are not permitted.

<b>Practice Tip</b>
The word "contention" has been eliminated to clarify that it is not prohibited <i>per se</i> to inquire what another party is contending, although overly broad general interrogatories are prohibited. See, e.g., <i>EEOC v. United States Bakery</i> , No. CV 03-64-HA, 2003 U.S. Dist. LEXIS 25529, 2003 WL 23538023, at *6-7 (D. Or. Nov. 20, 1993).

**LR 33-2 Answers to Interrogatories**

- a. Answers and objections to interrogatories must set forth each question in full before each answer or objection. Each objection must be followed by a statement of reasons.
- b. When an objection is made to part of an interrogatory, the remainder of the interrogatory must be answered at the time the objection is made, or within the period of any extension of time to answer, whichever is later.

**LR 33-3 Motions to Compel (See Fed. R. Civ. P. 33(b) and LR 37)**

**(a) Requirements**

Motions to compel must set forth only the pertinent interrogatory question, objection, and legal arguments.

**(b) Certification Requirements**

The Court will deny any motion to compel that does not contain the certification requirements mandated by LR 7-1(a).

#### LR 34 - Requests for Production

(See [Fed. R. Civ. P. 34](#))

##### **LR 34-1 Requests for Production - Generally**

###### **(a) Not Filed With the Court (See LR 5-10)**

Unless directed by the Court, requests for production will not be filed with the Court. Instead they will be maintained by counsel and made available to parties upon request. Requests for production presented for filing without Court approval will be returned to the offering party. To facilitate responding, a courtesy copy of the requests for production must be e-mailed concurrently pursuant to LR 5-10(b).

###### **(b) Use of Non-Filed Requests**

This rule does not preclude the use of requests for production and responses as exhibits or evidence in support of a motion, or at trial, subject to appropriate rules of evidence.

###### **(c) Definitions**

Each request must state in concise language the information requested. In no case may a request refer to a definition not contained within the request or the preamble. Only terms actually used in the request for production may be defined.

##### **LR 34-2 Responses and Objections (See Fed. R. Civ. P. 34(b)(2))**

- a. Responses must set forth each request in full before each response or objection. Each objection must be followed by a statement of reasons.
- b. When an objection is made to part of a request for production, a response must be made to the remainder of the request at the time the objection is made, or within the period of any extension of time to respond, whichever is later.

#### LR 36 - Requests for Admission

(See [Fed. R. Civ. P. 36](#))

##### **LR 36-1 Requests for Admission - Generally**

###### **(a) Not Filed With the Court (See LR 5-10)**

Unless directed by the Court, requests for admission will not be filed with the Court. Instead they will be maintained by counsel and made available to parties upon request. Requests for admission presented for filing without Court approval will be returned to the offering party. To facilitate responding, a courtesy copy of the requests for admission must be e-mailed concurrently pursuant to LR 5-10(b).

###### **(b) Use of Non-Filed Requests**

This rule does not preclude the use of requests for admission and responses as exhibits or evidence in support of a motion or at trial.

###### **(c) Definitions**

Each request must state in concise language the admission requested. In no case may a request for admission refer to a definition not contained within the request for admission or preamble. Only terms actually used in the request for admission may be defined.

**LR 36-2 Response or Objections** (*See Fed. R. Civ. P. 36(a)*)

Every response, denial, or objection must set forth each request in full, followed by the admission, denial, or objection. Each objection must be followed by a statement of reasons.

LR 37 - Motions to Compel

(*See Fed. R. Civ. P. 37*)

**LR 37-1 Motion Requirements** (*See LR 7*)

**(a) Requirements**

Motions to compel must comply with LR 26-3 and set forth only the pertinent interrogatory, question, request, response, and/or objection, together with the legal arguments of the party.

**(b) Certification Requirements**

The Court will deny any motion to compel that does not contain the certification requirements mandated by LR 7-1(a).

**LR 37-2 Time Limits**

Unless otherwise directed by the Court, the party against whom an order to compel has been entered must comply with the order within 14 days after the date of entry of the order.

LR 38 - Right to a Jury Trial

(*See Fed. R. Civ. P. 38*)

**LR 38-1 Demand for Jury Trial**

The words DEMAND FOR JURY TRIAL must be included on the last line of the document title of any jury demand instrument filed pursuant to Fed. R. Civ. P. 38(b).

**Example**

ANSWER by ABC Corporation, Inc. and  
DEMAND FOR JURY TRIAL

LR 40 - Scheduling Cases for Trial

(*See Fed. R. Civ. P. 40*)

**LR 40-1 Scheduling Cases for Trial**

The judge to whom a case is assigned will schedule trial (1) without request of the parties, or (2) upon request of a party and notice to the other parties.

LR 41 - Dismissal of Action

(*See Fed. R. Civ. P. 41*)

**LR 41-1 Voluntary Settlement - Notice of Settlement**

**(a) Notice of Settlement**

Immediately upon reaching substantial agreement about the terms and conditions of a settlement, plaintiff's counsel must notify the courtroom deputy clerk for the assigned judge of the impending settlement.

**(b) Assessment of Juror Costs for Late Notices**

If the Court finds that the parties failed to notify the trial judge's courtroom deputy clerk and the trial judge of the settlement not later than 3:00 p.m. of the business day preceding the day the trial is to commence and that the parties had the opportunity to do so, the Court may assess the costs of summoning and paying prospective jurors on one or more of the parties.

**(c) Order of Dismissal**

Upon notice of settlement pursuant to LR 41-1(a), the Court may direct the clerk to dismiss the case with prejudice (unless otherwise specified) and without costs, and with rights to any party to reopen the case in the event of a failure to consummate the final settlement agreement within 60 days.

**LR 41-2 Involuntary Dismissal (See Fed. R. Civ. P. 41(b))**

**(a) Order to Show Cause**

The Court may notice for hearing any action or proceeding which does not appear to be diligently prosecuted.

**(b) Party Statement Requirements**

Not later than seven days prior to the hearing date, each party will file and serve a statement describing:

1. The status of the action or proceedings to date; and
2. Whether good cause exists to dismiss the action or proceeding for failure to prosecute.

**(c) Filing Motion to Dismiss**

Nothing in this rule will preclude any party from filing a motion to dismiss an action or proceeding for failure to prosecute under Fed. R. Civ. P. 41.

LR 42 - Consolidation; Separate Trials

(See Fed. R. Civ. P. 42)

**LR 42-1 Reference to The Manual for Complex Litigation**

Unless otherwise directed by the Court, consolidation and case management of complex or related cases are governed by the principles set forth in *The Manual for Complex Litigation* (4th ed. 2004).

<b>Practice Tip</b>
This manual is published by The Federal Judicial Center and may be purchased from the U.S. Government Printing Office: 1995 - 395 - 123 / 30538, and also available from other sources, including Mathew Bender, West, and the Internet (www.fjc.gov).

**LR 42-2 Responsibilities of Counsel**

It is the responsibility of counsel to identify complex or related cases and to bring the matter promptly to the attention of the Court.

**LR 42-3 Related Cases**

For good cause shown and consistent with Fed. R. Civ. P. 42, any party may file and serve a motion to consolidate, or oppose consolidation, or for a separate trial of related cases. When a party seeks or opposes consolidation, the motion or opposition must be filed in each case to be consolidated. Each motion or opposition must include:

1. The case number, case title, and assigned judge of every related case pending in the District of Oregon.
2. The case number, case title, assigned judge, and court location of every other related case pending in any other state or federal court.
3. The common question of law or fact at issue in each case.
4. The status in each case of all pending motions, Court imposed deadlines, case management schedules, trial dates, etc.
5. The reason that the cases should be reassigned and managed by a single judicial officer.
6. The position of the other parties, if known.
7. The scope of consolidation requested, *e.g.*, for hearing on a motion; for pretrial and discovery; or for all further proceedings, including trial.

**LR 42-4 Document Caption Requirements After Consolidation**

**(a) Designation of Lead Case**

Unless otherwise directed by the Court, the earliest filed consolidated case will be designated as the lead case for administrative control and case management purposes.

**(b) Identifying Lead Case Information on Consolidated Case Papers**

Unless otherwise directed by the Court, parties will file all pleadings, motions, and other case documents in the lead case only. The case number and designation of the lead case must be listed first in the document title of every document filed in consolidated cases.

<b>Practice Tip</b>
<p>For example, if a party in case 3:04-CV-01111-RE, which has been consolidated with 3:04-CV-00999-RE, wishes to file a motion to compel, then the document title for the motion would read as follows:</p> <p>3:04-CV-00999-RE (Lead Case)            3:04-CV-01111-RE (Trailing Case)</p> <p>PLAINTIFF JOHN SMITH'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS</p>

LR 47 - Selecting Jurors

(See [Fed. R. Civ. P. 47](#))

**LR 47-1 Selecting Jurors**

**(a) Examination of Jurors - Generally**

The Court will conduct the voir dire examination of jurors. The matter of attorney voir dire can be addressed with the trial judge at the preliminary pretrial conference.

**(b) Supplemental Questions by the Parties**

Counsel may submit and serve any questions which they desire to be propounded to the jurors at such time as the Court orders. If there is no such order, questions must be submitted at least seven days before trial.

**LR 47-2 Challenges for Cause (See Fed. R. Civ. P. 47(c))**

Challenges to excuse a juror for cause will be taken orally.

**LR 47-3 Peremptory Challenges (See Fed. R. Civ. P. 47(b))**

**(a) Numbers of Peremptory Challenges (See 28 U.S.C. § 1870)**

The trial judge will establish the number of peremptory challenges at the final pretrial conference.

**(b) Procedures for Exercising Peremptory Challenges**

Unless otherwise directed by the Court, the parties will exercise their peremptory challenges in the following manner:

**Step (1)** Prior to the commencement of the trial, the courtroom deputy clerk will prepare a seating chart - or a numbered list - showing the names and seated positions of the jurors to be examined.

**Step (2)** When the time comes to exercise peremptory challenges, the clerk will circulate the seating chart between the parties, starting with the plaintiff.

**Step (3)** Peremptory challenges will be exercised one at a time, starting with the plaintiff, and alternating between the parties until completed.

**Step (4)** A party may exercise a peremptory challenge by circling the juror's name on the seating chart, and marking the chart with the number of the challenge, *e.g.*, P-1, D-1, and so forth.

**Step (5)** If a party elects to pass a peremptory challenge, the decision to pass will be counted as though the challenge had been exercised. However, it will not constitute a waiver of subsequent challenges unless there are no subsequent challenges by any other party.

**LR 48 - Jurors and Participation in the Verdict**

(See Fed. R. Civ. P. 48)

**LR 48-1 Number of Jurors**

The Court will fix the number of jurors in a civil case.

**LR 48-2 No Communications With Jurors - Before, During, and After Trial**

Except as authorized by the Court, attorneys, parties, witnesses, or court employees must not initiate contact with any juror concerning any case which that juror was sworn to try.

Commentary
Previous LR 48-2 allowing a party to request a jury poll was eliminated because Fed. R. Civ. P. 48(c) now specifically allows for jury polling and sets out the procedure if there is a lack of assent or unanimity.

**LR 51 - Instructions to the Jury**

(See Fed. R. Civ. P. 51)

**LR 51-1 Proposed Jury Instructions**

**(a) Scope of Party Submissions**

To request model instructions for issues not specific to the subject matter of a case (*e.g.*, instructions located in Chapters 1, 2, and 3 of the Ninth Circuit's Manual of Model Civil Jury Instructions), submit only the suggested instruction number and title corresponding to the requested instruction. Instructions specific to the issues in the case must be submitted as specified in LR 51-1(b)-(d).

**(b) Application of Model or Uniform Jury Instructions**

When Oregon law applies, the applicable Oregon State Bar Uniform Civil Jury Instructions should be used. In other cases, and unless otherwise directed by the Court, the applicable Ninth Circuit Model Jury Instructions should be used.

**(c) Index of Instructions**

If more than ten instructions specific to the issues in the case are submitted, include an index.

**(d) Format Requirements**

1. Each instruction must begin on a separate page.
2. The complete set of jury instructions specific to the issues in the case must be submitted, via e-mail as described in the Practice Tip after LR 5-10(c) immediately following the electronic filing of the proposed instructions in the CM/ECF system.
3. Each instruction must embrace only one subject, and must be numbered consecutively using the model or uniform jury instruction numbers where applicable.
4. Each instruction must be brief, impartial, understandable, and free from argument. The principle stated in one instruction must not be repeated in any other instruction.
5. Except when citing to a model or uniform jury instruction, the text of each instruction must be set out in full. In the case of model or uniform jury instructions, citation to the model or uniform jury instruction number is sufficient.
6. Each instruction must contain in a footnote citations of authority in support of the principle of law stated in the instruction.

LR 54 - Bill of Costs and Attorney Fees

(*See Fed. R. Civ. P. 54*)

**LR 54-1 Costs - Other than Attorney Fees (*See Fed. R. Civ. P. 54(d)(1)*)**

**(a) Filing Requirements (*See 28 U.S.C. §§ 1920-24*)**

1. **Bill of Costs:** Not later than 14 days after entry of judgment or receipt and docketing of the appellate court's mandate, the prevailing party may file and serve on all parties a Bill of Costs that provides detailed itemization of all claimed costs. The prevailing party must file an affidavit and appropriate documentation.
2. **Verification:** The Bill of Costs must be verified as required by 28 U.S.C. § 1924.

**(b) Objections**

Not later than 14 days after service of the Bill of Costs, a party objecting to any item of cost must file and serve objections. Objections should be accompanied by an affidavit and supporting legal memorandum in support of the party's position. A response, if any, must be filed not later than 14 days after service of the objections.

**(c) Word or Page-Count Limitations**

1. Without prior Court approval, any legal memorandum in support of, or in opposition to, the Bill of Costs may not exceed 3,000 words, or in the alternative, ten pages. If the document exceeds the page limit, then the party must certify compliance with the word-count limit. This limitation includes headings, footnotes and quotations, but excludes the caption, signature block, exhibits, and any certificates of counsel.
2. Certificate of Compliance: As required by these rules, the party must file a Certificate of Compliance as to the word-count limit as provided in LR 7-2(b).

**LR 54-2 Order Taxing Costs**

**(a) Authority to Tax Costs**

Unless otherwise directed by the Court, the Clerk may tax costs provided in Fed. R. Civ. P. 54(d)(1).

**(b) Objections to the Clerk's Order Taxing Costs**

Notwithstanding Fed. R. Civ. P. 54(d)(1), not later than 14 days after filing of the Clerk's order taxing costs, any party may file and serve written objections to the Clerk's order. Unless requested by the Court, there will be no further submissions, and review by the Court will be determined on the same papers and evidence submitted to the Clerk.

**(c) No Oral Argument**

Unless requested by the Court, costs will be taxed on the written submissions of the parties and without oral argument.

**LR 54-3 Motion for Award of Attorney Fees (See Fed. R. Civ. P. 54(d)(2))**

**(a) Motion Requirements**

In addition to the requirements of Fed. R. Civ. P. 54(d)(2)(B), any motion for attorney fees must set forth the relevant facts and arguments of the moving party, along with all supporting authorities and affidavits.

<b>Practice Tip</b>
<p><b>Reasonable Hourly Rate</b></p> <p>As for the reasonable hourly rate, the Court uses the most recent Oregon State Bar Economic Survey as its initial benchmark. A current edition of the Economic Survey is available from the Oregon State Bar at its website: <a href="http://www.osbar.org">www.osbar.org</a>. Attorneys may argue for higher rates based on inflation, specialty, or other factors. However, the Court requests that fee petitions address the Economic Survey and provide justification for requested hourly rates higher than reported by the Survey. Practitioners are also referred to the document "Message From the Court Regarding Attorney Fee Petitions" found on the Court's website.</p>

**(b) Objections or Other Responses**

Objections and responsive materials are due not later than 14 days after service of the motion. Replies, if any, must be filed not later than 14 days after service of the objection.

**(c) Hearing**

Unless otherwise directed by the Court, any hearing on the motion for attorney fees will be heard by the Court without:

1. Segregating the issue of liability for attorney fees from the issue of the amount of fees;
2. Live testimony and/or cross-examination of witnesses;
3. Extending the time for appeal of the underlying judgment under Fed. R. Civ. P. 58; or
4. The parties submitting proposed findings and conclusions, and/or the parties objecting to proposed findings and conclusions issued by the Court.

**(d) Other Options (See Fed. R. Civ. P. 54(d))**

The Court may issue other appropriate orders relating to the motion for attorney fees, including a decision to refer the motion and objections to mediation or other dispute resolution process.

**(e) Legal Memoranda and Word or Page-Count Limitations**

1. Without prior Court approval, all legal memoranda in support of, or in opposition to, motions for attorney fees may not exceed 3,000 words, or in the alternative, ten pages. If the document exceeds the page limit, then the party must certify compliance with the word-count limit. This limitation includes headings, footnotes and quotations, but excludes the caption, signature block, exhibits, and any certificates of counsel.
2. Certificate of Compliance: As required by these rules, the party must file a Certificate of Compliance as to the word-count limit as provided in LR 7-2(b).

LR 55 - Default

(See Fed. R. Civ. P. 55)

**LR 55-1 Conference Required Prior to Filing for Default**

If the party against whom an order or judgment of default pursuant to Fed. R. Civ. P. 55 is sought has filed an appearance in the action, or has provided written notice of intent to file an appearance to the party seeking an order or judgment of default, then LR 7-1 and LR 83-8 apply, and the parties must make a good faith effort to confer before a motion or request for default is filed.

<b>Practice Tip</b>
The requirement to confer is in addition to the requirement in Fed. R. Civ. P. 55(b)(2) that, "If a party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 7 days before the hearing."

LR 56 - Summary Judgment

(See Fed. R. Civ. P. 56)

**LR 56-1 Motion for Summary Judgment**

**(a) Supporting Factual Positions**

A party's factual positions must be supported by citations, by page and line as appropriate, to the particular parts of materials in the record. Unless otherwise ordered by the Court, a party is not required to file a separate Concise Statement of Material Facts. If ordered, a Concise Statement of Material Facts may not exceed 1,500 words, or in the alternative, five pages. If the document exceeds the page limit, then the party must certify compliance with the word-count limit by filing a Certificate of Compliance as provided in LR 7-2(b). This limitation includes headings, footnotes, and quotations, but excludes the caption, table of contents, table of cases and authorities, signature block, exhibits, and certificates of counsel.

### **(b) Evidentiary Objections**

Rather than filing a motion to strike, a party may assert evidentiary objections in its response or reply memorandum. Evidentiary objections in a response or reply memorandum are subject to the certification requirement of LR 7-1(a). If an evidentiary objection is raised in the non-moving party's response memorandum, the moving party may address the objection in its reply memorandum; the non-moving party may not file further briefing on its evidentiary objection. If an evidentiary objection is raised by the moving party in its reply memorandum, the non-moving party may file a surreply memorandum pursuant to this subparagraph within seven days addressing only the evidentiary objection; the moving party may not file further briefing on its evidentiary objection. If a party asserts an evidentiary objection in a motion to strike evidence, no reply memorandum is permitted. Unless otherwise ordered by the court, any oral argument as to evidentiary objections will be scheduled for the same time as the summary judgment motion.

Commentary
An evidentiary objection in a response or reply memorandum may be supported by argument and should be stated concisely. There is no need to make a separate motion to strike. <i>See Pfingston v. Ronan Engineering Co.</i> , 284 F.3d 999, 1003 (9th Cir. 2002); Fed. R. Evid. 103(a)(1). If the case goes to trial, failure to challenge admissibility at the summary judgment stage does not forfeit the right to challenge admissibility at trial.

## LR 65 - Injunctions and Restraining Orders

(See [Fed. R. Civ. P. 65](#))

### **LR 65-1 Calendaring**

Motions for a preliminary injunction, not otherwise accompanied by the concurrent filing of an application for a Temporary Restraining Order, will be calendared as a non-discovery motion pursuant to LR 26.

### LR 65.1 - Securities and Sureties

(See [Fed. R. Civ. P. 65.1](#))

### **LR 65.1-1 Qualifications of Sureties; Deposit Requirements**

#### **(a) Bond Requirements**

Except for qualified corporate sureties, or as otherwise provided by statute, every bond or undertaking must:

1. Be secured by the deposit of cash or government bonds in the amount of the bond; or
2. Have as sureties two residents of the district, each of whom owns real or personal property within the district in excess of that exempt from execution and sufficient to justify the full amount of the surety.

**(b) Surety Requirements**

Except for qualified corporate sureties, before a bond or undertaking may be accepted, each surety must present a verified schedule of assets and liabilities, including a statement of all other bonds and undertakings on which the surety may become liable. If the bond is accepted by the Court, the schedule must be filed with the clerk.

**LR 65.1-2 Court Officers as Sureties**

**(a) Sureties**

No clerk, marshal, or other employee of the Court - nor any member of the bar representing a party in the particular action or proceeding - will be accepted as surety on any bond or other undertaking in any action or proceeding.

**(b) Cash Deposits**

Cash deposits on bonds may be made by members of the bar on certification that the funds are the property of a specified person who has signed a surety on the bond.

**(c) Exoneration**

Upon exoneration of the bond - and upon motion and order of Court - monies held by the clerk will be returned to that specified person.

**LR 65.1-3 Examination of Sureties**

Any party may apply for an order requiring an opposing party to show cause why it should not be required to furnish further or different security, or requiring personal sureties to justify the full amount of the surety.

LR 67 - Deposits in Court

(See [Fed. R. Civ. P. 67](#))

**LR 67-1 Deposits in Court - Procedural Requirements (See 28 U.S.C. § 2041)**

**(a) Form of Deposit**

All monies paid into the Court must be by cash or by cashier's check or certified check made payable to Clerk, U.S. District Court.

**(b) Registry Fund**

Upon receipt, the Clerk will deposit the monies into the Court's registry fund which is held by the Treasurer of the United States.

**(c) Interest-bearing Account**

Upon order of the Court, the Clerk will deposit monies into an interest-bearing account to be held pending disbursement. As set forth in paragraph (d), below, a fee will be assessed on funds deposited into such an account.

**(d) Assessment of Registry Fee**

Pursuant to the authority of the Judicial Conference of the United States, the Clerk will assess a registry fee on all income earned on any funds deposited in an interest-bearing account authorized by the Court pursuant to paragraph (c), above.

**LR 67-2 Order to Deposit Funds (See**

**[Sample Orders to Deposit Funds](#)**

)

A proposed form of order must be filed with any motion to deposit funds. The Clerk's Office Financial Administrator must approve all proposed orders seeking to deposit funds with the Court.

### **LR 67-3 Funds Withdrawal - Generally (See 28 U.S.C. § 2042)**

#### **(a) Motion to Withdraw Funds (See**

#### **Sample Orders to Disburse Funds**

)

Upon motion or stipulation, the Court may order that funds be withdrawn from the registry of the Court for redeposit or disbursement. A proposed form of order must be filed with a motion to withdraw funds, and must contain the following information:

1. The amount on deposit at the time of the motion;
2. The amount to be withdrawn and the amount of the registry fee, if any, to be assessed by the Clerk;
3. The name of the attorney of record who will receive and maintain the funds as a trustee, or the name and address of any payee who will receive such funds; and
4. The method for delivery of such funds to the intended recipient, whether by U.S. Mail or personal delivery at the Clerk's Office.

#### **(b) Review of Proposed Orders by the Clerk**

The Clerk's Office Financial Administrator must approve all proposed orders to withdraw funds deposited with the Court.

### **LR 67-4 Disbursement of Funds**

All payments from registry funds held by the Court will be paid as directed by the Court.

LR 68 - Offer of Judgment

(See [Fed. R. Civ. P. 68](#))

### **LR 68-1 Offers of Judgment - Generally**

#### **(a) Not Filed With the Court (See LR 5-10)**

Unaccepted offers of judgment are not filed with the Court. Counsel must maintain unaccepted offers of judgment and make them available to the parties or the Court upon request.

#### **(b) Use of Non-filed Offers**

This rule does not preclude the use of an offer for any purpose allowed by the federal rules.

LR 72 - Magistrate Judges: Pretrial Order

(See [Fed. R. Civ. P. 72](#))

### **LR 72-1 Pretrial Authority (See 28 U.S.C. § 636(b))**

The Court designates every Magistrate Judge to conduct all pretrial proceedings authorized by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72 without further designation or assignment.

<b>Practice Tips</b>
<b>1.</b> The District of Oregon includes Magistrate Judges in the random assignment of new civil case filings.
<b>2.</b> When selected as the assigned judge, the Magistrate Judge will be the presiding judicial officer and will conduct all pretrial proceedings in accordance with Fed. R. Civ. P. 72.
<b>3.</b> Magistrate Judges may modify scheduling orders issued by other judges.

LR 73 - Magistrate Judges: Trial by Consent

(See [Fed. R. Civ. P. 73](#))

**LR 73-1 Duties and Powers**

Pursuant to 28 U.S.C. § 636(c)(1), and subject to the consent of the parties, every full-time, part-time, or recalled Magistrate Judge assigned to the District of Oregon is authorized to exercise civil jurisdiction over all assigned cases, including entry of final judgment and the conduct of any court or jury trial.

**LR 73-2 Accelerated Trial Scheduling**

Unlike District Judges who are assigned both civil and criminal cases, and by law must give scheduling priority to criminal cases, Magistrate Judges are assigned civil cases and criminal misdemeanor and petty offense cases only. Consequently, a Magistrate Judge is able to set earlier and firmer trial dates than might otherwise be possible for a District Judge for parties who consent pursuant to Fed. R. Civ. P. 73(b). (See LR 16-1(b).)

**LR 73-3 Review By District Court Judge of Rulings Issued Prior to Full Consent**

If a Magistrate Judge issues a ruling or findings and recommendations before all the parties have consented to a Magistrate Judge, and objections are filed pursuant to 28 U.S.C. § 636, a District Judge will review the objections, even if all the parties consent to a Magistrate Judge subsequent to the issuance of the ruling or findings and recommendations.

<b>Commentary</b>
The purpose LR 73-3 is to address the situation where all but one party has consented to a Magistrate Judge, and the Magistrate Judge then gives a favorable ruling to the non-consenting party. The concern is that the non-consenting party may try to foreclose a review of any 28 U.S.C. § 636 objections to the favorable ruling by filing a Magistrate Judge consent form shortly after receiving the favorable ruling. Under this rule, a District Judge will still review those objections.

LR 77 - Conducting Business; Clerk's Authority; Notice of an Order or Judgment

(See [Fed. R. Civ. P. 77](#))

**LR 77-1 District Court Clerk's Office (See Fed. R. Civ. P. 77(a))**

<b>Clerk's Office Locations</b>
<b>Portland District Court Clerk's Office</b>

<b>Street Address</b>	Room 740 Mark O. Hatfield United States Courthouse 1000 S.W. Third Avenue Portland, Oregon 97204
<b>Normal Business Hours</b>	8:30 a.m. to 4:30 p.m., Monday through Thursday; 9:30 a.m. to 4:30 p.m., Friday
<b>Records &amp; Filings</b>	(503) 326-8000
<b>Eugene District Court Clerk's Office</b>	
<b>Street Address</b>	Room 2100 Wayne L. Morse United States Courthouse 405 E. Eighth Avenue Eugene, Oregon 97401
<b>Normal Business Hours</b>	8:30 a.m. to 4:30 p.m., Monday through Thursday; 9:30 a.m. to 4:30 p.m., Friday
<b>Records &amp; Filings</b>	(541) 431-4100
<b>Medford District Court Clerk's Office</b>	
<b>Street Address</b>	Room 213 James A. Redden United States Courthouse 310 W. Sixth Avenue Medford, Oregon 97501
<b>Normal Business Hours</b>	8:30 a.m. to 4:30 p.m., Monday through Thursday; 9:30 a.m. to 4:30 p.m., Friday
<b>Records &amp; Filings</b>	(541) 608-8777
District of Oregon website: <a href="http://ord.uscourts.gov">ord.uscourts.gov</a>	

**LR 77-2 After-Hours Filings (See Fed. R. Civ. P. 77(a))**

**(a) Statute of Limitations and Other Provisional Process Issues**

When it is necessary to file a hard copy of time-sensitive matters after normal business hours, the filing party must notify the resident Clerk's Office during normal business hours of the anticipated requirements. Once notified, the Clerk's Office will make arrangements to receive, file, and process these time-sensitive materials.

**(b) Late Filings Under Court-Imposed Deadlines**

Unless otherwise directed by the Court, the Clerk's Office will not remain open after normal business hours to receive a party's late filing of a hard copy of a motion, response, or other non-statute of limitations related documents.

**(c) After-Hours Depository**

The Portland Clerk's Office maintains an after-hours filing depository available to the public when the building is open. Negotiable instruments and cash must not be left in this depository.

**LR 77-3 Custody and Withdrawal of Court Records**

**(a) Custody**

Any records of the Court must remain in the custody of the Clerk's Office.

**(b) Withdrawal**

Nothing belonging in any paper files of the Court may be withdrawn from the custody of the Clerk's Office without a court order and a signed receipt that specifies the matter withdrawn.

**LR 77-4 Clerk's Authority to Grant Orders (See Fed. R. Civ. P. 77(c))**

In addition to the authority granted by Fed. R. Civ. P. 77(c), the Clerk is authorized to sign and enter an order on consent noting satisfaction of a judgment providing for the payment of money and orders of dismissal pursuant to Fed. R. Civ. P. 41(a)(1), LR 41-1, or LR 55.

**LR 77-5 Custody of Exhibits**

**(a) During Court Proceedings**

Unless otherwise directed by the Court, exhibits offered or received in evidence will be maintained by the Clerk's Office while the Court is in session.

**(b) At the Close of Daily Proceedings**

1. **Sensitive Exhibits:** At the conclusion of the daily proceedings, sensitive exhibits, unless submitted electronically, are returned to the offering counsel, who is responsible for maintaining custody and the integrity of the exhibits until the next session of Court, when they must be returned to the courtroom deputy clerk.
2. **Non-Sensitive Exhibits:** Generally, the courtroom deputy clerk will maintain custody of non-sensitive exhibits until the conclusion of the proceedings.

**LR 77-6 Return and Disposition of Physical Exhibits**

**(a) Return of Exhibits**

1. **Clerk's Responsibility:** Unless otherwise ordered by the Court, at the conclusion of the hearing or trial, offering counsel will be notified to withdraw any exhibit not attached to a filed document.
2. **Counsel's Responsibility:** Counsel are responsible for:
  - A. maintaining all exhibits and other returned materials during the time permitted for filing an appeal and thereafter during the pendency of any appeal, should one be taken; and
  - B. granting all reasonable requests of other parties or the court reporter to examine any or all returned exhibits or other materials for use in preparation of the record on appeal or for other purposes; and if requested by the Court or the Clerk, counsel must promptly return such items to the Clerk's Office.

**(b) Disposition of Unclaimed Exhibits:**

Unless otherwise ordered by the Court, exhibits not withdrawn within 60 days after notice may be destroyed.

LR 79 - Records Kept by the Clerk

(See **Fed. R. Civ. P. 79**)

LR 81 - Habeas Corpus Petitions

**LR 81-1 Petitions and Motions Generally**

- a. Petitions for a writ of habeas corpus pursuant to 28 U.S.C. §§ 2241 and 2254, and motions pursuant to 28 U.S.C. § 2255 must be legibly written or typewritten on forms supplied by the Court and must be signed under penalty of perjury by the petitioner or by a person authorized to sign for the petitioner. The original of the petition or motion must be sent to the Clerk of Court.
- b. If a prisoner seeking habeas relief moves to proceed *in forma pauperis*, the application must include an affidavit setting forth information which establishes that the applicant is unable to pay the fees and costs of the proceedings. State prisoners must include a certificate from the warden or other appropriate officer showing the amount of money or securities that the petitioner has in any account in the institution.

**LR 81-2 Procedures in § 2254 Cases and § 2255 Proceedings**

The rules governing § 2254 cases and § 2255 proceedings brought in the United States District Courts, as adopted and amended by the Supreme Court of the United States, apply to all such cases filed in this Court.

**LR 81-3 Requirements for First Petition in a Capital Case**

**(a) Applicability**

This rule governs the procedures for a first petition for a writ of habeas corpus in which a petitioner seeks relief from a state court's judgment imposing a sentence of death. A subsequent filing will be treated as a first petition under this rule if the original filing was voluntarily dismissed or dismissed for failure to exhaust state remedies. This rule is intended to supplement the Rules Governing § 2254 Cases in the United States District Courts (Rules Governing § 2254 Cases) and is not intended to alter or amend those rules. The application of this rule to a particular petition may be modified by the judge to whom the petition is assigned.

**(b) Information on Status of Cases**

The Clerk of the Court will periodically request copies of the reports prepared by the State Court Administrator regarding the status of cases in which an Oregon court has imposed the penalty of death.

**(c) Notice of Intent to File**

The Attorney General must provide the Federal Public Defender with notice of the following: the conclusion of the petitioner's direct appeal, the filing of the state post-conviction petition, the conclusion of the petitioner's state post-conviction proceeding (including the appeal and the denial of certiorari by the United States Supreme Court). On notice that all of petitioner's state court remedies have concluded, the Federal Public Defender, after consultation with the petitioner, must file a written notice of intention to file a petition and send a copy to the Oregon Attorney General's Office. The notice must identify the petitioner, the county where the petitioner was convicted, the place where the petitioner is incarcerated, and the status of the petitioner's state court proceedings. The notice is used for informational purposes by the Court and failure to file the notice will not preclude the filing of the petition.

#### **(d) Counsel**

1. **Representation by Counsel:** Each petitioner will be represented by counsel, unless petitioner has clearly elected to proceed *pro se* and the Court is satisfied, after a hearing, that petitioner's election is intelligent and voluntary.
2. **Appointment of Counsel:** Unless petitioner is proceeding *pro se* or is represented by retained counsel, the Federal Public Defender must be appointed in every such case on the filing of the written notice of intention to file a habeas corpus petition. A panel of attorneys qualified for appointment in death penalty cases will be recruited and maintained by the Federal Public Defender. The Federal Public Defender will accept and review referrals to this panel from interested associations and bar groups.
3. **Two Counsel to be Appointed:** Due to the complex, demanding, and protracted nature of death penalty proceedings, at least two counsel must be appointed in every case.

#### **(e) Filing**

1. **Assignment of Case Number:** On the submission of the notice of intention to file a capital habeas petition, the next sequentially numbered civil case file will be opened and that number assigned to the document. Subsequent submissions related to the same petition will bear the same case number.
2. **Petition Requirements:** Petitions must conform to the Model Form accompanying the Rules Governing § 2254 Cases. All petitions must state whether petitioner has previously sought relief arising out of the same matter from this Court or any other federal court, together with the ruling and reasons of such court, and set forth any scheduled execution date.
3. **Copies:** An original of the petition must be filed by counsel for the petitioner, or *pro se* petitioner. No additional copies are required. If no fee is tendered or waiver sought with the filing of a petition, the Clerk will grant *in forma pauperis* status conditionally, subject to further review by a judge, and will not delay the filing, assignment, or statistical opening of any civil action pending the resolution of *in forma pauperis* status.

#### **(f) Assignment to District Judges**

Consistent with the Court's case assignment procedures, petitions are randomly assigned to the active District Judges of the Court.

#### **(g) Order of General Procedure**

As soon as practicable following the assignment of a capital habeas case to a judge, the judge will issue an Order of General Procedure setting an initial case management conference.

#### **(h) Stays of Execution**

1. **Stay Pending Final Disposition in District Court:** On the filing of a petition, unless the petition is frivolous, the judge will order a stay of execution pending final disposition of the petition in this Court.
2. **Temporary Stay for Preparation of the Petition:** Should petitioner require a temporary stay of execution pending the preparation of a petition, counsel must so move, and the Court will issue a 90 day stay of execution.

3. Stay Pending Appeal from District Court: If the petition is denied and a certificate of appealability is issued, the Court will grant a stay of execution, which will continue in effect until the Court of Appeals issues its mandate.
4. Notice of Stay: On the granting of any stay of execution, the Clerk's Office will immediately notify the Oregon Attorney General's Office, which must immediately notify the Superintendent of the Oregon State Penitentiary. The Oregon Attorney General's Office must ensure that the Clerk' Office has a 24-hour telephone number to that office.
5. Application of 28 U.S.C. § 2262: Sections (1) through (4) of LR 81-3 (h) do not apply if the stay provisions of 28 U.S.C. § 2262 apply and the Court of Appeals has not approved the filing of a second or successive application under 28 U.S.C. § 2244(b).

**(i) Procedures for Considering the Petition**

Unless the judge dismisses the petition under Rule 4 of the Rules Governing § 2254 Cases, the following schedule and procedure apply, subject to modification by the judge for good cause shown. Requests for enlargement of any time period in the Rule must comply with Local Rules.

1. Schedule: Respondent must, as soon as practicable but in any event on or before 60 days from the date of service of the application for appointment of counsel or the petition, whichever occurs first, file with the Court duplicate copies of any and all documents from petitioner's pretrial, trial, sentencing, direct appellate, post-conviction, and state and federal habeas corpus proceedings. If any documents are not available, respondent must state when, if at all, such missing material can be filed. These documents also must be served on petitioner's lead counsel, unless respondent confirms that petitioner's counsel already has a copy of the documents. Should respondent wish to produce fewer documents than required by this rule, respondent must first demonstrate good cause as to why he or she should be permitted to do so.
2. Index: An index of all materials must be prepared reflecting the filing date, title of the document and a reference to the document number for each document submitted. These requirements also apply to any supplements to the state court record.
3. Assembling the Record:
  - A. Both copies of each document submitted under LR 81-3(i) must be individually tabbed and numbered consecutively.
  - B. Each document submitted must bear a copy of the state court file stamp. The record must be accompanied by a certification from the clerk of the state court attesting to the authenticity of the documents.
  - C. The state court record must be submitted in volumes consisting of no more than 250 pages each. Each paper volume must be two-hole punched at the top center and fastened with a two-prong fastener. Each paper volume must be identified with the case title and case number as required in LR 10-2, *e.g.*:

**Example**

Clerk's Record - Multnomah County Circuit Court  
C86-05-323246  
Vol. #1 of 3 Volumes

4. Failure to Comply: If counsel for petitioner claims that respondent has not complied with the requirements of LR 81-3(i)(1) and (2), counsel for petitioner must immediately notify the Court in writing, and serve a copy on respondent.
5. Status Conference: As soon as practicable after the filing of the petition, the Court will set a status conference to determine a schedule for further proceedings.
6. Procedural Defenses:
  - A. Respondent is responsible for raising procedural defenses in the appropriate responsive pleading(s). A failure to plead any such defense, except exhaustion, before the date of the evidentiary hearing, or submission of the case for decision in cases in which no evidentiary hearing is held, will constitute a waiver of the defense.
  - B. The respondent may choose to waive a procedural defense in order to address the merits of the claim(s) for which the defense is waived.

**(j) Evidentiary Hearing**

If an evidentiary hearing is held, the Court will order the preparation of a transcript of the hearing, which is to be provided immediately to petitioner and respondent for use in briefing and argument. Following the preparation of the transcript, the Court may establish a reasonable schedule for further briefing and argument of the issues considered at the hearing.

**(k) Rulings**

1. The Court's rulings may be in the form of a written opinion, which will be filed, or in the form of an oral opinion on the record in open court, which will be transcribed and filed promptly.
2. The Clerk's Office will notify the Superintendent of the Oregon State Penitentiary and the Oregon Attorney General's Office immediately whenever relief is granted on a petition.
3. The Clerk's Office will notify the Clerk of the United States Court of Appeals for the Ninth Circuit immediately, by telephone, of (1) the issuance of a final order denying or dismissing a petition without a certificate of appealability, or (2) the denial of a stay of execution.
4. When a notice of appeal is filed, the Clerk's Office will transmit the records to the Court of Appeals immediately as required by circuit rules.

**(l) Return of State Court Record**

On conclusion of proceedings at either the district or appellate court level, the Clerk's Office is directed to return one copy of the state court record to the office of the Oregon Attorney General.

LR 83 - Rules and Directives - By the District Court

(See [Fed. R. Civ. P. 83](#))

## **LR 83-1 Attorney Admissions - Generally**

### **(a) Limitations on Practice (See LR 83-2 to LR 83-5)**

Only attorneys generally or specially admitted pursuant to this rule may practice in the district and bankruptcy courts of the District of Oregon.

### **(b) Application**

An applicant must submit an application for general or special admission in the format provided by the Clerk's Office. *See* Attorney Admissions page available on the Court's website at [ord.uscourts.gov](http://ord.uscourts.gov) under the For Attorneys menu.

### **(c) Payment of Fees**

Attorney admission fees must be paid when the application for general or special admission is filed with the Clerk's Office.

### **(d) Sanctions for Unauthorized Practice**

Any person who exercises any of the privileges of a member of the bar of this Court without being entitled to do so is guilty of contempt.

### **(e) CM/ECF Registration (See LR 5-1)**

1. Attorneys admitted to practice pursuant to LR 83 are required to complete and deliver to the Clerk's Office, the [CM/ECF Attorney Registration form](#) found on the Court's website on the For Attorneys page under the Attorney Admissions tab.
2. Attorneys may apply to the assigned judge on a case-by-case basis for exemption from CM/ECF Registration.

## **LR 83-2 Admission to General Practice**

Admission to general practice, and continuing membership in the bar of this Court, is limited to attorneys of good moral character who are active members in good standing with the Oregon State Bar.

## **LR 83-3 Special Admissions - *Pro Hac Vice***

### **(a) Application for Special Admission Pro Hac Vice (See Application for Special Admission - Pro Hac Vice)**

Any attorney who is an active member in good standing of the bar of any United States court, or the highest court of any state, territory, or insular possession of the United States, may apply to be specially admitted *pro hac vice* in a particular case, provided he or she:

1. Associates with an attorney admitted to general practice before the bar of this Court, who will meaningfully participate in the preparation and trial of the case. (*See* LR 83-2 and LR 83-4).
2. Pays the admissions fee and files a *pro hac vice* admission application in every case in which the attorney seeks to be specially admitted.
3. Certifies having professional liability insurance, or financial responsibility equivalent to liability insurance, that will apply and remain in force for the duration of the case, including any appeal proceedings.

### **(b) Motion to Waive Special Admissions Fee**

Upon motion and for good cause shown, any attorney may move to have the Court waive the special admission fee.

**(c) Order Granting Special Admission**

The assigned judge will review and rule upon the application for special admission.

**(d) Scheduling Court Proceedings**

Unless otherwise directed by the assigned judge, the Clerk's Office will coordinate and schedule all calendaring actions, telephone conferences, and other court proceedings through local counsel.

**(e) Notice to Pro Hac Vice Counsel**

*Pro hac vice* counsel registered with the CM/ECF system pursuant to LR 83-1(e) will receive electronic notice pursuant to LR 5-1(a)(2).

**LR 83-4 Special Admissions - Government Attorneys**

Attorneys who represent the United States, Indian treaty tribes, a state, or any agency of these sovereigns, may appear in a case without having to comply with LR 83-1(c), LR 83-2, and LR 83-3(a)(3).

**LR 83-5 Special Admissions - Certified Law Students**

**(a) Eligibility**

An "eligible" law student is a law student meeting all the requirements of Rule 13.20 of Rules for Admission of Attorneys of the Supreme Court of the State of Oregon ("Oregon Rules").

**(b) Certification**

A law school dean must make the certification described in Oregon Rules 13.20 and 13.25 by filing a copy of the certification filed with the State Court Administrator. The dean may withdraw the certification, and this Court may terminate the certification as provided in Oregon Rule 13.25. The certification remains in effect for the period described in Oregon Rule 13.25(1).

**(c) Supervising Counsel**

1. In all cases, there must be a supervising attorney who is a member of the bar of this Court and attorney of record for the client on whose behalf the law student is appearing. No law student may appear until the client, the supervising attorney, and the assigned judge have consented to such an appearance.
2. The supervising attorney is responsible for explaining to the client the nature and extent of the law student's participation, and for obtaining the client's consent to such participation. The client's consent must be filed and will become part of the record of the case. Consent by the United States Attorney for the District of Oregon will constitute consent by the United States.
3. The supervising attorney must be present at all times when the law student appears before the Court. The supervising attorney must supervise the student and is responsible for the quality of the student's work.

**LR 83-6 Suspension or Disbarment**

**(a) Duty of Counsel to Notify Court**

Every attorney admitted to general or special practice before this Court has an affirmative duty to notify the Clerk, Chief Judge, and the assigned judge in writing within 14 days after the attorney has:

1. Been suspended or disbarred from practice by any court;
2. Been convicted of a felony in either a state or federal court;
3. Resigned from the bar of any court while an investigation was pending into allegations of misconduct which would warrant suspension or disbarment; or
4. Been notified of a change in admission status in any other jurisdiction that would affect his or her eligibility for general or special admission to the bar of this Court.

**Practice Tip**

It is in the attorney's interest to report an order of suspension to the Chief Judge, assigned judge, and Clerk as soon as possible. If a period of reciprocal suspension is imposed under LR 83-6(b), early notification increases the likelihood that the period of reciprocal suspension may coincide with the suspension period imposed by the disciplining court or bar. For most attorneys, parallel suspension periods are less disruptive to professional obligations than serial or overlapping suspension periods.

**(b) Order to Show Cause**

1. Upon receipt of a notice pursuant to LR 83-6(a), or upon notice or information that an LR 83-6 violation may have occurred, the Court may direct the Clerk to issue an order to show cause why disciplinary action including suspension, disbarment, or other appropriate disciplinary action, should not be taken against the attorney.
2. The Clerk will mail the order to the last known address of the attorney and the Oregon State Bar's Discipline Committee.
3. The attorney must file a response to the order within 21 days from the date of the order, showing good cause why he or she should not be subject to disciplinary action. If requested, the responding attorney may ask that a hearing be held on the matter. If a hearing is requested, the Chief Judge may appoint a judge or special master to preside over the hearing.
4. At the conclusion of any hearing, or within 21 days if no response is filed by the attorney, the assigned judge or master will enter a final order. A copy of the order will be mailed to the attorney and the Oregon State Bar's Discipline Committee.

**(c) Court-sponsored Mediator**

Disciplinary sanctions may result in the rejection of an application to serve as a Court-sponsored mediator or termination of a Court-sponsored mediator's service.

**(d) Reinstatement Following State Bar Disciplinary Action**

Attorneys who have applied for reinstatement to The Oregon State Bar (pursuant to Title 8 of The Oregon State Bar Rules of Procedure) must also separately apply for reinstatement to the bar of this Court after being reinstated by the Oregon Supreme Court. Applications for reinstatement before this Court must be filed with the Clerk using the Application for General Admission to Practice available on the Court's website. Proof of reinstatement to the Oregon State Bar must also be submitted, and the applicant must pay the appropriate fee.

**LR 83-7 Standards of Professional Conduct**

Every attorney admitted to general or special practice and every law student appearing pursuant LR 83-5 must:

- a. Be familiar and comply with the Oregon State Bar Standards of Professional Conduct and this Court's Statement of Professionalism. (See Statement of Professionalism form.)
- b. Maintain the respect due to courts of justice and judges.
- c. Perform with the honesty, care, and decorum required for the fair and efficient administration of justice.
- d. Discharge his or her obligations to clients and the Court and assist those in need of counsel when requested by the Court.

**LR 83-8 Cooperation Among Counsel**

- a. Counsel must cooperate with each other, consistent with the interests of their clients, in all phases of the litigation process and be courteous in their dealings with each other, including matters relating to scheduling and timing of various discovery procedures.
- b. The Court may impose sanctions if it finds that counsel has been unreasonable in not accommodating the legitimate requests of opposing counsel. In a case where an award of attorney fees is applicable, the Court may consider lack of cooperation when setting the fee.

**LR 83-9 Appearances by an Attorney**

**(a) Appearance by Filing**

The filing of any document constitutes an appearance by the attorney who signs the document.

<b>Practice Tip</b>
In order to be added to the case docket as attorney of record for notification purposes, each registered attorney must file a Notice of Appearance using his or her individual login and password.

**(b) Appearance by Represented Parties Through Counsel**

A party represented by an attorney cannot appear or act except through the attorney. Unless otherwise specifically provided by law or Court order, a corporation may appear or act only through an attorney.

**LR 83-10 Notification of Change of Address or Affiliation**

**(a) Current Address Information**

Every attorney admitted to general or special practice, and every unrepresented party, has a continuing responsibility to notify the Clerk's Office whenever his or her mailing address, telephone number, and/or business e-mail address changes. The attorney must update his or her CM/ECF User Account as necessary.

**(b) Notice of Change of Mailing and/or Business E-Mail Address**

Notice of a change of mailing and/or business e-mail address must be filed in pleading form and served on all parties to any pending action or case on appeal.

**LR 83-11 Withdrawal From a Case**

**(a) Withdrawal - Court Approval Required**

An attorney may withdraw as counsel of record only with leave of Court, except as provided in subsections (b), (c), and (d). A motion must be filed and served on the client and opposing counsel. The motion will be heard on an expedited basis.

**(b) Withdrawal - When Co-Counsel Exists**

A notice of withdrawal of attorney may be filed by a withdrawing attorney or by a member of the withdrawing attorney's law firm or former law firm, if a member of the withdrawing attorney's law firm or former law firm remains as counsel of record for the party.

**(c) Withdrawal by Counsel Appearing Pro Hac Vice**

Unless a member of the withdrawing attorney's firm or former law firm remains as counsel of record for the party, counsel appearing *pro hac vice* may withdraw as counsel of record only with leave of Court as provided in subsection (a). In such cases, counsel appearing *pro hac vice* must notify local counsel of the intent to withdraw and must ascertain whether local counsel objects to such withdrawal. The motion required by subsection (a) must be served on local counsel and must inform the Court of local counsel's position regarding the motion. If a member of the withdrawing attorney's law firm or former law firm remains as counsel of record for the party, the withdrawing attorney may instead file a notice of withdrawal as provided in subsection (b).

**(d) Withdrawal – When Simultaneous With Appearance of New Counsel**

When new counsel appears simultaneously with withdrawal of counsel of record, a single Notice of Substitution of Counsel may be filed, containing both the appearance of new counsel and the withdrawal of counsel of record. If the Notice of Substitution of Counsel is to be filed by the appearing counsel, it must contain a statement of consent electronically signed by the withdrawing counsel.

**(e) Death, Removal, Suspension, or Inaction of Attorney**

When an attorney dies, is removed or suspended, or ceases to act, the party, unless already represented by another attorney, must designate a new attorney or appear in person before further proceedings occur.

**LR 83-12 Undeliverable Mail**

When the Court sends mail to the last known address of an attorney of record or unrepresented party, and the postal service returns the mail as undeliverable because the attorney or party has failed to notify the Clerk of a changed address, and the failure to notify the Clerk of the change of an address continues for 60 days, then the Court may strike appropriate pleadings, enter a default, or dismiss the action.

**LR 83-13 Reminders to the Court**

**(a) Matters Under Advisement**

If any matter, including a motion or a decision in a bench trial, is under advisement more than 60 days, the parties must jointly send a letter or e-mail to the assigned judge or courtroom deputy clerk describing the matter and stating when it was taken under advisement.

**(b) Failure to Schedule a Preliminary Pretrial Conference**

Unless a trial date has already been set, if the assigned judge fails to schedule a preliminary pretrial conference within 14 days after the lodging of the pretrial order or order waiving the pretrial order, each affected party must send the assigned judge a letter advising that no conference has been set.

## **LR 83-14 Wireless Communication Devices**

### **(a) Definition**

For purposes of this rule, wireless communication devices include (but are not limited to) cellular telephones, pagers, laptop computers, iPods or MP3 players, and personal digital assistants (PDAs).

### **(b) Limitations on Use**

Except as authorized by a judge, wireless communication devices must be turned off while in a courtroom. They may be turned on when not in a courtroom but must not record, receive, or transmit video images, pictures, signals, or movies at any time when inside the courthouse.

### **(c) Exceptions**

1. Cameras and other recording devices are allowed during naturalization ceremonies, investitures, and other Court-approved ceremonial and educational programs.
2. Jurors must turn their wireless communication devices over to the courtroom deputy Clerk during deliberation.

### **(d) Laptop Computers**

Laptop computers may be brought into the courthouse and, if authorized by the Court, may be used during Court proceedings.

## **LR 83-15 Certifying a Question to the Oregon Supreme Court (See ORS § 28.200-255)**

### **(a) Criteria**

For purposes of this rule, the Court is guided by the certification criteria set forth in *Western Helicopter Services, Inc., v. Rogerson Aircraft Corporation*, 311 Or. 361, 811 P.2d 627 (1991).

### **(b) Procedural Requirements**

1. **Party Responsibilities:** Any party seeking to have this Court certify a question of law to the Oregon Supreme Court must file and serve a motion with a supporting memorandum that complies with the requirements of LR 83-15(a).
2. **Court Responsibilities**
  - A. **Assigned Judge:** If the assigned trial judge (district, bankruptcy, or magistrate judge) believes that certification of a question to the Oregon Supreme Court is appropriate, he or she will refer that recommendation to the Chief Judge.
  - B. **Chief Judge Responsibility:** Upon receipt of the recommendation, the Chief Judge will confer with other members of the Court. If the Court concurs, the Chief Judge will certify the question to the Oregon Supreme Court.

## **LR 84-1 - Forms**

Absent specific directives or a requirement to use a particular form (such as the "JS-44 Civil Cover Sheet" at case initiation), a party may use any form provided by the Federal Rules of Civil Procedure, provided by these Local Rules, or recommended by the Administrative Office Forms Working Group of judges and clerks on the United States Courts website at [uscourts.gov](http://uscourts.gov) on the Forms page, as applicable, even if the forms do not comply with LR 10.

### Practice Tips

- 1.** When citing an attorney's name in a signature block or address block, regardless of the form used, the Court prefers that all parties comply with LR 10-2(a) and include the bar number for the attorney.
- 2.** Some national judiciary forms may display brackets or parentheses in the case caption to set off party names from the document title. LR 10-2(e) was enacted after notice that the inclusion of parentheses or brackets displayed in a vertical line in a text file may not print or translate well when a PDF version of that document is created for electronic filing in CM/ECF. The Court prefers that these be removed.
- 3.** Parties are advised to read the Notice Regarding Federal and Local Civil/Criminal Forms that is found on the Court's website at [ord.uscourts.gov](http://ord.uscourts.gov). (See also Fed. R. Civ. P. 5(d)(4).)

LR 100 - Rule Governing CM/ECF: Case Management and Electronic Case Filing - Practices

(See LR 5 and LR 3001)

Note: As of **March 1, 2014** the electronic filing provisions of former LR 100 have been moved to Civil LR 5 and Criminal LR 3001.