

***SUPPLEMENTARY LOCAL RULES**

Fifth Judicial District Circuit Court of the State of Oregon for Clackamas County

Effective February 1, 2025

***Only arbitration rules are included, and highlighted sections were revised or added as new.**

CHAPTER 13 - ARBITRATION

SLR 13.005: ARBITRATION

Clackamas Circuit Court maintains an arbitration program in accordance with UTCR

Chapter 13. SLR 13.031: ARBITRATION COMMISSION

When the Clackamas County Arbitration Commission was established, the attorney Arbitration Commission Board Members agreed to serve one (1), two (2) and three (3) year terms so that their terms would expire in alternate years. Subsequent appointments will be staggered so that a new attorney board member is appointed yearly for a three (3) year term. The Presiding Judge will replace the judicial representative(s) as needed and the Trial Court Administrator is a standing ex officio member.

SLR 13.041: ASSIGNMENT TO ARBITRATION

No case shall be assigned to arbitration until all defendants to the original action have appeared by filing an answer to the complaint that commenced the action, have had a default judgment entered against them, or have been dismissed from the case by a limited judgment.

SLR 13.091: ARBITRATORS

- (1) In addition to the requirements set forth in UTCR 13.090, to be placed on the Clackamas County Court-Appointed Arbitration List, an attorney must complete the [Application to Serve as Arbitrator](#) form available on the court's website and send it to the arbitration clerk. The Arbitration Commission may adopt additional requirements for inclusion or retention on the list, including experience, training

and continuing education. Additional requirements shall be posted on the Arbitration page of the court's website:
<https://www.courts.oregon.gov/courts/clackamas>.

- (2) The parties may stipulate to any arbitrator, including a non-lawyer arbitrator or a lawyer arbitrator who practices outside of Clackamas County. Such alternative arbitrators shall be required to follow all Clackamas County arbitration rules, procedures, and deadlines.
- (3) An arbitrator who is no longer willing or able to be listed on the Clackamas County Court-Appointed Arbitration List shall immediately notify the arbitration clerk by written letter or by email to cla.arbitration@ojd.state.or.us.
- (4) An arbitrator may refuse to serve on an individual case but must notify the arbitration clerk immediately by written letter or by email to cla.arbitration@ojd.state.or.us.
- (5) If either section (3) or (4) of this rule apply, the arbitrator must immediately notify all parties and return all original documents/materials in the case to the party who submitted them to the arbitrator.

SLR 13.121: COMPENSATION OF ARBITRATOR

- (1) Effective for cases filed on or after February 1, 2025, the arbitrator's hourly fee is \$250. The maximum total arbitration fee is \$2000, which shall be divided pro rata among the original parties or in accordance with the order of the arbitrator.
- (2) Within 14 days of the appointment of the arbitrator, each party must tender to the arbitrator the sum of at least \$500 as preliminary payment to be credited against the maximum total arbitration fee, unless a party has secured a fee waiver or deferral, in which case the party must submit a copy of the order waiving or deferring arbitration fees to the arbitrator.
- (3) The balance of the parties' maximum total arbitration fee shall be paid upon the earlier of
(a) the filing of a motion by any party upon which the arbitrator must rule; or (b) within 30 days of the first scheduled arbitration hearing date.
- (4) In accordance with UTCR 13.120(1), if, at the conclusion of the case, the arbitrator determines that the case required extraordinary effort and time, the arbitrator may seek the parties' agreement for a fee in excess of the \$2000 maximum fee. If the parties do not agree that additional fees are warranted, the arbitrator may seek an order from the judge assigned to oversee arbitration matters at the court authorizing additional fees.

- (5) If an arbitration hearing is cancelled fourteen (14) days or more from the arbitration hearing date, the arbitrator is entitled to retain the greater of \$250 per party or compensation for the time actually spent by the arbitrator paid at the rate of \$250 per hour. Any arbitrator fee deposit in excess of these amounts must be refunded to the parties in accordance with UTCR 13.120(2). If the hearing is cancelled fewer than fourteen (14) days prior to the arbitration hearing date, the arbitrator is entitled to retain the greater of \$500 per party or compensation for the time actually spent by the arbitrator paid at the rate of \$250 per hour.
- (6) In accordance with UTCR 13.120(4), the arbitrator may preclude a party from participating in the arbitration proceeding after the transfer unless the party pays the required arbitrator fee or the party obtains a waiver or deferral of the fee from the court and provides a copy of the waiver or deferral to the arbitrator, prior to the arbitration.

SLR 13.122: INDIGENT PARTIES

- (1) In the event funds are available under ORS 36.420, indigent parties may seek deferral or waiver of arbitration fees by applying within fourteen (14) days from the date the case is transferred to arbitration. Applications for Deferral or Waiver of Fees are available at the Clackamas County Circuit Court, in the Information Desk, or online at <https://www.courts.oregon.gov/clackamas> on the “Local and Statewide Forms” page. The completed application, declaration and order must be submitted to the Collections Unit on the first floor of the Clackamas County Circuit Court, in accordance with SLR 2.025.
- (2) Any party who obtains a deferral or waiver of arbitration fees as provided in ORS 36.420(3) and UTCR 13.120(3), must immediately provide the arbitrator with a copy of the court order granting the waiver or deferral. This does not relieve the court of its obligation under UTCR 13.120(3) but supplements that obligation to ensure the arbitrator is promptly informed.
- (3) In the event funds are available under ORS 36.420 and a fee deferral or waiver has been granted by the court, the arbitrator shall be reimbursed after completion of the arbitration, filing of the arbitration award, and submission of a request for payment to the Trial Court Administrator for Clackamas County Circuit Court.
- (4) The arbitrator must submit a copy of the order deferring or waiving fees of the indigent party with the request for payment, which must be in substantially the same form as the Arbitrator’s Request for Payment of Arbitrator fee on the court’s website: <https://www.courts.oregon.gov/clackamas> on the “Local and Statewide Forms” page.

SLR 13.131: TIME FOR ARBITRATION HEARING

- (1) As authorized by UTCR 13.160(2), except for good cause shown, the arbitration hearing must be scheduled to take place not later than 91 days from the date of assignment of the case to the arbitrator. Except for applying this 91-day time period in place of the 49-day time period set in UTCR 13.160(3), all other requirements of UTCR 13.160 (3) and (4) apply to the scheduling, postponement or continuance of an arbitration hearing.
- (2) If an arbitration hearing is not scheduled within 180 days from the date a case is assigned to arbitration, the court will remove the case from arbitration and will proceed with trial, unless:
 - (a) A party or the arbitrator files a Motion, Declaration and Order to Continue Arbitration. The documents will be reviewed by the judge assigned to oversee arbitration matters at the court, who will have discretion to continue the case in the arbitration program only if the parties establish extraordinary circumstances justifying the delay in the arbitration hearing date. If the parties do not make a showing of extraordinary circumstances, the judge assigned to oversee arbitration matters at the court shall order the case to be returned from arbitration.
- (3) In all cases subject to mandatory arbitration, a trial date will be set in accordance with the court's regular trial setting procedure and UTCR 7.020(5). Any arbitration hearings scheduled to be held less than sixty-two (62) calendar days of the date scheduled for trial shall be accompanied by a Motion, Declaration and Order to Postpone the trial date. The arbitrator may elect to draft the forms or may direct a party to draft and submit the forms to the arbitrator for filing with the court. All requests to postpone a trial date must comply with UTCR 6.030 and SLR 6.031.

SLR 13.141: JUDGMENT DOCUMENT MUST BE FILED IF NO TRIAL *DE NOVO*

- (1) If no request for trial *de novo* is filed within the time established by ORS 36.425(3), then the arbitration decision and award must be incorporated into a General Judgment document that complies with ORS 18.035 et. seq., ORS 18.042 et.seq., ORS 36.425(3) and with all other applicable ORS, ORCP and UTCR. The General Judgment must be filed with the court within thirty (30) days after the time to request a trial *de novo* has elapsed. The arbitrator is responsible for filing the General Judgment document with the court but may delegate that filing responsibility to a party.
- (2) If a General Judgment is not filed within (30) days after the time to request a trial *de novo* has elapsed, the court's arbitration clerk shall create and submit a General Judgment which incorporates the arbitration award to the judge assigned to oversee arbitration matters at the court.

SLR 13.161: ARBITRATION PROCEEDINGS; LOCATION AND PERSONAL APPEARANCE

(1) Unless otherwise stipulated by all parties, arbitration proceedings shall be scheduled at a location in Clackamas County, Oregon or via virtual meeting on a platform of the Arbitrator's choice. The arbitrator may schedule telephone or virtual conference calls to address scheduling and procedural issues. The following people must be personally present at the arbitration hearing, unless excused in advance by the arbitrator in writing for good cause shown:

- (a) The parties; and
- (b) The trial attorneys.

Residency in another state does not create a presumption of good cause.

(2) If the location of the arbitration hearing is to take place on a virtual meeting platform, the arbitrator shall furnish a link to the virtual arbitration hearing together with the notice of scheduled arbitration hearing, at least five (5) days before the date set for the arbitration hearing, in accordance with ORS 36.420.