IN THE JUSTICE COURT OF THE STATE OF OREGON

FOR THE COUNTY OF DESCHUTES

FILED
JUN 29 2016
DESCHUTES COUNTY
JUSTICE COURT

In the Matter of Amending Supplementary Local Rules	))	GENERAL ORDER NO. 2016-01

The Supplementary Local Rules set forth below are adopted and are effective immediately.

Any action filed in this court on or after the effective date of these rules shall be subject to these rules.

Except where adherence to these rules would cause a party unreasonable hardship, expense, delay, or would otherwise result in substantial prejudice to a party, any action pending in this court on the effective date of these rules shall be subject to these rules on and after the effective date.

An application for exemption from these rules made before the effective date of these rules shall be made by written motion and affidavit setting forth the basis for the exemption; such motion and affidavit shall be served upon all parties to the underlying action. An application for exemption from these rules after the effective date of these rules shall be made in accordance with these rules.

DATED this 29 day of June, 2016.

CHARLES N. FADELEY
Justice of the Peace

DESCHUTES COUNTY JUSTICE COURT

SUPPLEMENTARY LOCAL RULES

Effective July 1, 2016

DESCHUTES COUNTY JUSTICE COURT
SUPPLEMENTARY LOCAL RULES

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DESCHUTES COUNTY JUSTICE COURT
SUPPLEMENTARY LOCAL RULES

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DESCHUTES COUNTY JUSTICE COURT
SUPPLEMENTARY LOCAL RULES

CHAPTER 1. GENERAL PROVISIONS

1.010 CITATION OF COURT RULES

The Justice Court Rules (JCR) shall be cited as JCR by chapter and section number. Paragraph numbers and letter shall be included in the citation where appropriate.

1.020 AMENDMENTS OF THESE RULES

(1) These rules may be amended at any time by order of the Justice of the Peace of this Justice Court.

(2) Amendments to these rules shall take effect on the date of the Order, unless the Order specifies a later date.

(3) Upon the effective date of these rules, all existing rules or practices which are inconsistent with these rules or their amendments are superseded, except that, where justice requires, a judge may order that an action or proceeding pending on that date be governed by the previous rule or practice of the Court.

1.030 RELIEF FROM APPLICATION OF COURT RULES

Relief from application of these rules in an individual case may be given for good cause shown if necessary to prevent hardship or injustice.

1.040 SANCTIONS

(1) The Court may strike a pleading or document if the pleading or other document does not conform to these rules.

(2) For willful refusal to comply with these rules, on its own motion or that of a party, the Court, after opportunity for a hearing, may award reasonable costs, expenses and attorney fees incurred by a party, in addition to any other remedy.

1.050 COURT OFFICE LOCATION AND HOURS OF OPERATION

(1) Deschutes County Justice Court maintains an office at:

2444 SW Glacier Place
Redmond, OR 97756

(2) Unless notified otherwise, court offices are open from 8 a.m. to 12 p.m. and 1 p.m. to 4 pm, Monday through Friday, excluding legal holidays and the Friday following Thanksgiving.

1.060 PARTY ADDRESSES AND TELEPHONE NUMBERS

(1) Defendants in criminal and violation cases: During the pendency of any cases charging a violation or misdemeanor, or while any monetary or other obligation imposed by the Court in such case remains unsatisfied, defendant must keep the court advised in writing of defendant's current name, mailing address, and telephone or message telephone number.

(2) Unrepresented parties in civil and small claim cases: During the pendency of any civil or small claim cases, any party who is not represented by an attorney of record must keep the court advised in writing of the party's current name, mailing address, and telephone or message telephone number.

CHAPTER 2. SETTING MOTIONS, HEARINGS, AND TRIALS

2.010 SETTING MOTION AND HEARING DATES IN SMALL CLAIMS CASES

(1) Small claim motions are set by written notice. Motions may also be set by telephone, in which case the Court does not provide written confirmation of the hearing date.

(2) Small claim trials are set by written notice, giving the parties not less than 14 days notice of the hearing.

(3) Parties are notified that the court has removed a hearing or trial from the docket by telephone or by written notice. If the postponement is granted in open court, the parties personally present are deemed notified.

2.020 SETTING SHOW CAUSE HEARINGS

Show cause hearings are set by telephone with the moving party, and may also be set by written notice without consulting the parties.

2.030 SETTING MOTION AND HEARING DATES IN VIOLATION CASES

(1) Violation motions and hearings are set by written notice, giving the parties not less than 14 days notice of the hearing.

(2) Parties are notified that the court has postponed a hearing or trial by written notice or by telephone. If the postponement is granted in open court, the parties personally present are deemed notified.

CHAPTER 3. SMALL CLAIMS.

3.010 FILING PROCEDURES

Plaintiffs shall file their claim on a form prescribed by the court, attached as Appendix A. The service copies of the claim shall include the Notice to defendant required by ORS 55.045(5).

Defendants must file any response to the claim on a form prescribed by the court, attached as Appendix B. Such form shall be served by plaintiff upon the defendant(s) with the Notice of Claim.

Small Claim pleadings are accepted only at the Justice Court business office during regular office hours. Any such pleadings received by the Court during evening violation court shall be file-stamped as having been received on the following business day.

3.020 REQUEST TO POSTPONE HEARINGS

A request to postpone a scheduled hearing for a later time must be made in writing and filed with the court and served upon all other parties not less than 10 days before the date set for the scheduled hearing. The request must state the reason for the postponement.

3.030 DISMISSAL FOR FAILURE TO PURSUE CLAIM

If no answer or confession of judgment is filed on the claim and no motion or demand for judgment is filed within 90 days after the date a claim is filed, the clerk of the court shall send a notice to plaintiff that the action shall be dismissed unless the plaintiff takes appropriate action on the claim.

A judgment of dismissal shall be filed and entered on the Court's own motion 30 days after notice of impending dismissal is given, unless the claim is set for a hearing, or a judgment is entered, or good cause is shown as to why the case should be continued as a pending case.

3.040 TIME EXTENSION

On written request filed with the Small Claims Department at least seven days prior to the hearing date, the Court may extend the time within which to make appearances or file papers. Time extension shall not exceed 30 days.

3.050 COMMUNICATION IN WRITING

A copy of any written communication to the Court, including attachments, must be sent to all parties. The sender of such communication shall file a certificate of mailing to all parties.

3.060 AUTHORIZED AGENTS

An agent authorized to accept notice and bind the entity shall be designated for any corporation, organization or limited liability company party.

3.070 REPRESENTATION BY ATTORNEYS

Attorneys may represent a party to a small claims case only with the Court's consent.

3.080 CLERK AUTHORITY TO EXECUTE WRITS

For purposes of issuing writs of garnishment, a court clerk shall be deemed the Deschutes Justice Court Administrator and delegated the requisite authority as required by ORS 18.635.

CHAPTER 4. VIOLATIONS.

4.010 REPRESENTATION BY ATTORNEYS

If a defendant is to be represented by an attorney at trial of any violation case, the attorney must notify the court, in writing or by telephone, at least seven days prior to the trial date.

4.020 TRIAL BY AFFIDAVIT

(1) Upon entry of a plea of Not Guilty, the defendant may, no later than seven days before the trial date, waive oral testimony by filing a Waiver on a form prescribed by the court, attached as Appendix C.

(2) Upon waiving their personal appearance, defendant may file Testimony by Affidavit on a form prescribed by the court, attached as Appendix D.

(3) The plaintiff or any witness appearing by affidavit must file the affidavit no later than two days before the date set for trial.

(4) Defendant will receive Waiver and Testimony by Affidavit forms from the court along with defendant's notice scheduling the initial trial date in the case, or subsequent to that date upon request.

CHAPTER 5. PARKING VIOLATIONS.

5.010 TRIALS

Parking citations shall be subject to the procedures set forth in Chapter 4, above. Trials on parking citations shall be scheduled only upon written request by the offender, and approval by the Justice of the Peace.

CHAPTER 6. PAYMENTS

6.010 APPROVED CREDIT CARDS AND USAGE

(1) Credit cards will be accepted for payment of fines, fees, security deposit, restitution, base fine forfeiture, or any court-imposed monetary obligation.

(2) Only VISA, MasterCard, American Express, and debit cards with the VISA logo are accepted.

6.020 SERVICE FEE

(1) A $3.00 service fee shall be charged for each card transaction.

(2) A service fee shall not be charged if a court refund is credited to the card.

6.30 OTHER PAYMENTS

(1) Checks with acceptable identification.

(2) Cashier checks.

(3) Currency with a minimum denomination of $1. Coins will not be accepted for payment of court imposed fines, fees and/or costs.

CHAPTER 7. MEDIATION.

7.010 SMALL CLAIM AND CIVIL CASES

(1) Small claim and civil cases at issue shall be subject to mandatory mediation.

(2) Appearance at mediation shall be mandatory. Failure to attend a noticed mediation shall be grounds for dismissal of a party's claim or counterclaim, or result in entry of judgment against a defendant.

7.020 NON-COMPLIANCE WITH MEDIATED AGREEMENT

(1) A party may contend that the mediation agreement has not been complied with and request that a judgment be entered by filing with the court an Affidavit of Non-Compliance and serving it upon the opposing party.

(2) The opposing party may affirm that the mediation agreement has been complied with by filing with the court an Affidavit of Compliance within 72 hours of being served with an Affidavit of Non-Compliance.
   (a) In such cases, the compliance issue shall be set for hearing.
   (b) If no affidavit is filed, the Court may enter judgment.

CHAPTER 8. REFUNDS

8.10 REFUNDS ON OFFENSE CASES

(1) Base fine and payments on offense cases are deemed to be the property of the defendant. Base fine refund checks shall be made payable to the defendant.

(2) Before making refund of base fine or payment posted by or on behalf of a defendant, the court shall deduct any court-ordered obligations of the defendant.

(3) All base fine and payment refunds shall be made by regular first class mail.

(4) Overpayments of five dollars or less will be shown as receipted on defendant's case to the Miscellaneous Revenue fund. Overpayments of five dollars or less will not be returned to the defendant unless written application is made to the court.

8.020 REFUNDS ON SMALL CLAIMS AND CIVIL CASES

(1) Refund of filing fee overpayments will be returned to the plaintiff or defendant, or to plaintiff's or defendant's attorney, upon written application to the Court and approval by the Justice of the Peace.

(2) Refund of other small claim and civil fees, except those fees governed by ORS 55.077(3)(b), will not be made without written application to the Court and approval by the Justice of the Peace.

CHAPTER 9. ELECTRONIC FILINGS.

9.010 COURT DOCUMENTS IN GENERAL

(1) The court may scan letters and legal documents filed with the court in paper format, and reformat them to an electronic record.

(2) The court may issue judicial decisions and signatures electronically.

(3) The court may affix the signature of a judge, clerk, defendant, or other party to a document by electronic means.

(4) Documents that are electronically filed or manually scanned, along with all documents that comprise the case file, are the original and legal court record.

(5) Members of the public may obtain a printed image of a citation electronically filed or manually scanned in the same manner as for a paper record.

(6) Hard copies of scanned documents shall be retained by the court for a minimum of three months before being destroyed.

9.020 COMPLAINT FOR VIOLATION OFFENSES

(1) A law enforcement officer may file an electronic citation or a printed version of an electronic citation that meets all specifications under ORS 153.770, and includes the following:

- (a) The citation contains all information required on a uniform citation, and includes the officer name, e-signature, agency name, and agency number of the officer who issued the citation;
- (b) Each citation includes no more than three offenses; and,
- (c) The citation is numbered by the issuing law enforcement agency using a number series approved by the Justice Court.

(2) Misdemeanor crimes shall not be filed electronically.

JUSTICE COURT, STATE OF OREGON, COUNTY OF DESCHUTES
SMALL CLAIMS DEPARTMENT
2444 SW Glacier Place ◆ Redmond, OR 97756 ◆ (541) 617-4758

_____)
Plaintiff Name (s))
vs.)
)
_____) **CLAIM AND NOTICE**
Defendant #1 Name)
)
_____) **Case No.** _____
Defendant #2 Name)

PLAINTIFF'S ADDRESS

_____
Plaintiff: Mailing Address

_____
Plaintiff: City / State / Zip Telephone

_____
Agent Name, if Plaintiff is a Corporation

_____
Agent Address, if Plaintiff is a Corporation

DEFENDANT #1 ADDRESS:

_____
Defendant #1: Street Address for Service of Claim

_____
Defendant #1: City / State / Zip Telephone

_____
Agent Name, if Defendant #1 is a Corporation

_____
Agent Address, if Defendant #1 is a Corporation

DEFENDANT #2 ADDRESS:

_____
Defendant #2: Street Address for Service of Claim

_____
Defendant #2: City / State / Zip Telephone

_____
Agent Name, if Defendant #2 is a Corporation

_____
Agent Address, if Defendant #2 is a Corporation

CLAIM

I, Plaintiff, claim that on or about _____, 20_____, the above-named Defendant(s) of _____ County, Oregon, owed me the sum of $_____, *(Not to exceed $10,000)* and this sum is still owing for: _____
_____.

AFFIDAVIT

State of Oregon)
County of Deschutes) ss.

I, the above-named Plaintiff, having been duly sworn, state that I have read the above claim, and that it is true as I verily believe, and I have already made a good faith effort to collect this claim from the Defendant(s) by: _____
_____.

I have incurred filing expenses of $_____, I anticipate service expenses of $_____.

I certify that this is a true copy of the Claim & Notice filed in Deschutes County Justice Court.

Justice Court Clerk:

Signed: _____

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____
NOTARY PUBLIC / COURT CLERK

ATTENTION DEFENDANT: You must read the Notice on the reverse side of this form.

APPENDIX A, (FRONT)

NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY
Within 14 DAYS after receiving this notice you must do one of the following things:
Pay the Claim plus Filing Fees and Service Expenses Paid by the Plaintiff, *or*
Demand a Hearing, *or* Demand a Jury Trial.

If you fail to do one of the above things within 14 DAYS after receiving this notice, then upon written request from the Plaintiff, the Clerk of the Court will enter a judgment against you for the amount claimed plus filing fees and service expenses paid by the Plaintiff, plus a prevailing party fee. (Execution may issue on such a judgment against your wages, bank account, or other property).

State law provides that within 14 days after service of this notice upon the Defendant, if you admit the claim, it may be settled by a) paying to the Plaintiff the amount of the claim plus the amount of all filing fees and service expenses paid by the Plaintiff and mailing proof of that payment to the court; or b) if the claim is for recovery of specific personal property, delivering the property to the Plaintiff, the amount of all filing fees and service expenses paid by the Plaintiff and mailing proof of that delivery and payment to the court.

If you deny the claim, you must check one of the alternatives listed on Defendant's Answer which provides that:
1. You may demand a hearing in the Small Claims Department upon payment of the appropriate answer fee; and
2. In addition, a COUNTERCLAIM may be asserted upon payment of the appropriate answer fee; or
3. You may demand a jury trial if the amount claimed exceeds $750 and you pay the filing and jury fees required in Justice Court actions.

Contact Deschutes County Justice Court immediately
if you did not receive an Answer form when you were served with this Claim.

CERTIFICATION OF SERVICE

STATE OF OREGON)
Deschutes County) ss.

I hereby certify that the Claim and Notice appearing on the reverse were delivered to me for service on _____, 20_____; that on the _____ day of _____, 20_____, I served the Claim and Notice on the within named Defendant _____, by delivering a copy thereof prepared and certified by the Clerk of the Justice Court to the within named Defendant at _____ o'clock, as follows, indicated by an "X":

- ❑ To said Defendant _____, in person at _____.
- ❑ By delivering said papers to _____, (position) _____ of said corporation.
- ❑ I was unable to find said Defendant at his usual place of abode: Such service was therefore made on said date by delivering said papers to _____, a person over 14 years of age who resides at Defendant's abode: _____ _____ *(Defendant's Address)*. I mailed a certified copy of the Claim and Notice to Defendant at _____ am/pm on _____, 20_____.
- ❑ I was unable to find said Defendant within the county after diligent search and inquiry. All of said search and service was made within said _____ County.

_____
Signature

Completed Service is to be returned to Justice Court and not to the Plaintiff.

APPENDIX A, (BACK)

JUSTICE COURT, STATE OF OREGON, COUNTY OF DESCHUTES
SMALL CLAIMS DEPARTMENT

_____	)	
_____,	)	
Plaintiff(s),	)	
vs.	)	
_____	)	Small Claim No. _____
_____,	)	**DEFENDANT(S) ANSWER**
Defendant(s).	)	

To Defendant(s): Unless this completed form and the required filing fee are returned to Justice Court within 14 days from the date of service, plaintiff may request a default judgment. If you fail to include the appropriate filing fee, your answer will be returned to you without being filed. Please refer to the instructions on the back of this form. Please check **only one** of the four alternatives listed. If you choose alternative 1 or 3, you must also choose either a. b. or c.

1. ____ I/we hereby admit plaintiff's claim and *(choose a. b. or c.)*:
   - 1-a. ____ I/we have paid to the plaintiff the amount claimed plus costs paid by plaintiff as listed at the bottom of the claim and proof of that payment is enclosed. If you cannot pay the total amount but wish to make payments, please contact the plaintiff.
   - 1-b. ____ I/we wish to pay to the plaintiff the amount claimed plus costs as listed at the bottom of the claim. However, the plaintiff and I are unable to reach an agreement on payments. Enclosed is my answer fee of $35, please set this case for mediation.
   - 1-c. ____ (If the claim is for recovery of specific personal property) I/we have delivered the property demanded to the plaintiff as listed at the bottom of the claim and proof of that delivery and payment, if any, is enclosed. *(No filing fee required.)*

2. ____ I/we hereby deny plaintiff's claim and I/we demand a hearing in the Small Claims Department. *(Enclose defendant's filing fee of $35.00.)*

3. ____ I/we deny plaintiff's claim and hereby counterclaim against the plaintiff. Enclosed is defendant's filing fee. I/we claim that on or about _____, the above-named plaintiff owed me/us the sum of $_____, and this sum is still owing for: _____
   _____
   _____; and *(choose a. or b.)*:
   - 3-a. ____ I/we demand a hearing. *(Enclose defendant's filing fee of $35.00.)*
   - 3-b. ____ I/we demand a jury trial. *(The amount of the claim must exceed $750 before you can make this election. Enclose defendant's filing fee of $215.00).*

4. ____ I/we deny plaintiff's claim and hereby demand a jury trial. The amount of the claim must exceed $750 before you can make this election. *(Enclose defendant's filing fee of $215.00.)*

I am filing this answer *(choose one)*: ☐ on behalf of myself only; ☐ on behalf of all defendants.

Defendant's Signature:_____ Date:_____

Print Name: _____

Mailing Address:_____

City:_____ State:_____ Zip:_____ Telephone:_____

DEFENDANT'S ANSWER TO CLAIM AND NOTICE

APPENDIX B, FRONT

DEFENDANTS' INSTRUCTIONS

You must check one of the four alternatives listed on the front of this form, complete and sign the form, pay the required filing fee and file it with this court within 14 days of service of the Claim and Notice on you. If you fail to do so, plaintiff may request default judgment and take action against you to satisfy the judgment. Please refer to ORS Chapter 55 for procedures regarding small claims actions in Justice Courts.

1. PAYMENT OF CLAIM

If you admit the claim, you do not pay a filing fee to the court. You may settle it:

- By paying to the plaintiff the amount of the claim plus the amount of the small claim fee and service expenses paid by the plaintiff and providing proof of payment along with your answer, AND/OR
- If the claim is for recovery of specific personal property, by delivering the property to the plaintiff and paying him/her the amount of the small claims fee and service expenses paid by the plaintiff, and providing proof of that delivery and payment along with your answer.

2. DEMAND FOR A HEARING

If you believe you have paid this claim or do not owe all or any portion of it, you may pay the required filing fee and demand a hearing before a judge.

- You will receive notice of the hearing date by mail. The hearing is informal.
- Both plaintiff and defendant may offer testimony, bring witnesses and other evidence pertinent to the controversy.
- No attorney or person other than you, the plaintiff and witnesses may participate without the consent of the judge of the Justice Court.

3. COUNTERCLAIM

If you believe plaintiff owes you money or holds specific personal property of yours as a part of the same controversy, you may pay the required filing fee and file a counterclaim against the plaintiff.

- The claim and counterclaim will be decided at the same hearing.
- If your counterclaim exceeds $10,000 you must take steps to transfer the case to Circuit Court. You must pay a transfer fee to Justice Court and additional filing fees to Circuit Court.

4. DEMAND FOR A JURY TRIAL

If plaintiff's claim is for more than $750, you may demand a jury trial.

- You must pay the required filing fee and the jury trial fee at the time you file your answer and demand for trial.

FILING FEES

If you do not pay the required filing fee, your answer will be returned to you without being filed.

Plaintiff, filing claim	$35.00
Plaintiff, additional fee after filing formal complaint	$55.00
Defendant, demanding hearing	$35.00
Defendant, demanding jury trial	$215.00

Deschutes County Justice Court
2444 SW Glacier Place
Redmond, OR 97756
(541) 617-4758

IN THE JUSTICE COURT OF THE STATE OF OREGON
FOR THE COUNTY OF DESCHUTES

STATE OF OREGON,	)	
Plaintiff,	)	
vs.	)	Case No. _____
	)	
_____,	)	WAIVER OF APPEARANCE
Defendant.	)	

I, _____, have plead Not Guilty and requested a trial in the above-entitled case. Pursuant to ORS 153.080, I hereby waive my right to have the testimony presented orally in court at trial and agree that all testimony may be presented by sworn affidavit.

(Please check box):

☐ I agree that the court may make a decision on any sworn affidavits submitted in this case and I hereby waive my right to be personally present for a trial.

I am not represented by an attorney in this matter. If I retain counsel, I will advise the court immediately.

_____ Defendant's Signature

_____ Date

Return to: Deschutes County Justice Court
2444 SW Glacier Place
Redmond, OR 97756
(541) 617-4758

APPENDIX C

IN THE JUSTICE COURT OF THE STATE OF OREGON

FOR THE COUNTY OF DESCHUTES

STATE OF OREGON,	)	
Plaintiff,	)	
vs.	)	Case No. _____
	)	
_____,	)	TESTIMONY BY AFFIDAVIT
Defendant.	)	

I, _____, being first duly sworn, state that I am the

☐ Defendant, and I consent to testimony by affidavit only; ☐ Police Officer; ☐ Other witness

in the above traffic offense. Pursuant to ORS 153.080, my presence at trial has been waived. I agree that all testimony may be presented by affidavit. This affidavit represents my sworn testimony concerning the above traffic offense:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Page One of Two - TESTIMONY BY AFFIDAVIT

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____ _____

Signature Date

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____.

_____

NOTARY PUBLIC / COURT CLERK

My Commission Expires: _____

Page Two and Final - TESTIMONY BY AFFIDAVIT