In the Matter of Approving Out-of-Cycle Adoption of SLR 7.201, 7.202, 7.203, 7.204, 7.205, 7.206, 7.207, 7.208, and 7.209 for the Fourth Judicial District (Multnomah County)	)	CHIEF JUSTICE ORDER No. 13-021 ORDER TO APPROVE OUT-OF-CYCLE ADOPTION OF SLR 7.201, 7.202, 7.203, 7.204, 7.205, 7.206, 7.207, 7.208, AND 7.209 FOR THE FOURTH JUDICIAL DISTRICT (MULTNOMAH COUNTY)

I HEREBY ORDER, pursuant to ORS 1.002, ORS 3.220(2)(b), and UTCR 1.050(2)(f), that:

1. Good cause has been shown and the time limits established by UTCR 1.050(2) are waived for the adoption approved by this order.

2. Out-of-cycle adoption of SLR 7.201, 7.202, 7.203, 7.204, 7.205, 7.206, 7.207, 7.208, and 7.209 for the Fourth Judicial District (Multnomah County), as shown in Attachment A to this order, is approved.

3. The Fourth Judicial District shall provide notice of this adoption to state and local bar organizations, appropriate state and local agencies, and appropriate business partners in a manner that the Presiding Judge determines will give sufficient notice.

4. Pursuant to ORS 3.220(2)(b), this adoption takes effect 30 days after a certified copy of the rules adopted by this order is filed in the Office of the State Court Administrator.

5. This order takes effect immediately.

Dated this 30 day of April, 2013.

Thomas A. Balmer
Chief Justice

ATTACHMENT A
To CJO No. 13-021

7.201 POST-CONVICTION RELIEF – DOCUMENT FILING IN THE CIVIL SECTION OF THE COURT

All documents required by law to be filed with the Clerk of the Court in Post-Conviction Relief cases must be filed in the Civil Section of the Office of the Trial Court Administrator. The Civil Section is located in Room 210 of the Multnomah County Courthouse.

7.202 POST-CONVICTION RELIEF --- PLEADING WHEN COUNSEL IS APPOINTED UPON FILING OF THE PETITION

(1) Counsel appointed for the petitioner shall have 120 days from the date of appointment to file an amended petition.

(2) If counsel is unable to plead a viable claim for relief in an amended petition, counsel shall file an affidavit pursuant to ORS 138.590(5).

(3) The defendant shall not file an answer, motion or demurrer to the petition until the petitioner has filed a notice that the petitioner will proceed on the original petition, has filed an amended petition, or 120 days has expired.

(4) Once counsel for the petitioner files an amended petition or notifies the court in writing that the petitioner will proceed on the original petition, or the 120 days has expired, the defendant shall have 30 days from such filing or notice to file an answer, motion or demurrer.

7.203 POST-CONVICTION RELIEF --- MOTIONS OR DEMURRER TO THE PETITION

(1) The petitioner shall have 30 days to file a response to the defendant's motion or demurrer.

(2) The defendant shall have 20 days to file a reply to the petitioner's response.

(3) If the court denies defendant's motion or demurrer, the defendant shall have 20 days to file an answer.

(4) If the court grants the defendant's motion or demurrer and if it appears to the court that there is a reasonable expectation that the petitioner will be able to cure the defect, the petitioner shall be granted 30 days to file an amended petition. Upon

showing of good cause, the court may, in its discretion, grant the petitioner additional time to file an amended petition.

7.204 POST-CONVICTION RELIEF --- EXHIBITS

(1) Only the portions of the trial transcript, medical records, or other voluminous documents that are directly relevant to plaintiff's claim shall be attached to the petition or amended petition as an exhibit or offered at trial.

(2) All parties are encouraged to put lengthy transcripts, depositions, or other exhibits on CD or DVD in Word or PDF for submission to the court.

7.205 POST-CONVICTION RELIEF --- ADDITIONAL BRIEFING AND EXHIBITS

(1) The petitioner shall file with the court any legal memoranda and submit any additional trial exhibits no later than 30 days before trial.

(2) The defendant shall file with the court any memorandum of law and submit all trial exhibits no later than 20 days before trial.

(3) The petitioner may respond to the defendant's memorandum of law and exhibits with a further memorandum and additional exhibits. The memorandum must be filed with the court together with any additional submitted exhibits no later than 10 days before trial.

7.206 POST-CONVICTION RELIEF --- FILING OF DOCUMENTS WHEN PETITIONER IS REPRESENTED BY COUNSEL

(1) Counsel's written notification to the court that the case will proceed on the original petition constitutes counsel's ORCP 17 C certifications of the original petition filed by the petitioner pro se.

(2) All matters delivered to the court for filing shall be submitted only by counsel and, except for the petition or amended petition and any exhibits, signed exclusively by counsel. The only exception to this requirement is for a *Church v. Gladden*, 224 Or. 308, 417 P. 2d 933 (1966), notice filed by the petitioner.

7.207 POST-CONVICTION RELIEF --- HEARINGS ON MOTIONS AND DEMURRERS

(1) Unless the court orders otherwise, all oral arguments on motions and demurrers will be conducted by telephone or video.

(2) If the court grants oral arguments for a motion or demurrer and the petitioner is in custody, the petitioner, if represented by counsel, will not be brought before the court in person, by video or by telephone, unless counsel for the petitioner notifies the court not less than 10 days before the hearing that the issues to be heard involve more than solely issues of law.

7.208 POST-CONVICTION RELIEF CASES SPECIALLY ASSIGNED TO CHIEF CRIMINAL JUDGE FOR ALL PRETRIAL MOTIONS AND DEMURRERS; COURTESY COPY DELIVERY REQUIRED

(1) All post-conviction relief cases are specially assigned to the Chief Criminal Judge for purpose of all pretrial case management procedure and process. The Chief Criminal Judge will conduct scheduled monthly status conferences for post-conviction relief cases pending trial and, unless otherwise ordered by the court, will hear all pretrial matters, including any motions for delay of an assigned trial date.

(2) Courtesy copies of all pretrial demurrers, motions, responses and reply documents, with relevant exhibits, must be delivered to the office of the Chief Criminal Judge at the time of the filing of the document with the court.

7.209 POST-CONVICTION RELIEF --- TRIAL

(1) Unless otherwise ordered by the court, trials will be conducted by an assigned Senior Judge or Judge Pro Tempore.

(2) Unless otherwise ordered by the court, all post-conviction relief trials in which petitioner is in the custody of the Oregon Department of Corrections shall be held by video conferencing or, if video conferencing is not available, by telephonic conferencing. The petitioner shall remain in and appear from the correctional facility in which the petitioner is being held.

(3) Counsel may appear by video conference, by telephone conference, or in person before the trial judge. Counsel for the petitioner may appear apart from the petitioner only if the facility where counsel is located enables the petitioner to consult privately with the petitioner's counsel during the proceeding.

(4) Public access and viewing of proceedings shall be provided at the East County Courthouse, and the proceedings shall be deemed to take place at that location. Unless otherwise ordered by the court, all witnesses, except original counsel and law enforcement officers, shall appear at that location.

(5) Trials are scheduled for 30 minutes and without expectation of live witness testimony other than the petitioner. If the trial of the matter will take longer than the standard 30 minute setting or any other time allotted in the trial notice, or if witnesses

other than the petitioner will be called, a party seeking additional time must file a motion requesting the additional trial time. The motion must be accompanied by an affidavit setting out the need for the expansion of the original allotted time. The motion to request an expansion of the allotted hearing time must be filed within 15 days from the date of the trial notice.

(6) If a party requires the services of a court interpreter, the party must make the request as provided by UTCR 7.070 and SLR 7.071.