CIRCUIT COURT OF THE STATE OF OREGON
MULTNOMAH COUNTY COURTHOUSE
1021 SW FOURTH AVENUE
PORTLAND OREGON 97204-1123

Nan G. Waller 503 988-3846
Presiding Judge

STIPULATED PROTECTIVE ORDERS AND FILING OF DOCUMENTS UNDER SEAL

Stipulated protective orders will not be signed if it contains provisions that do not conform with Presiding Court's policy concerning protective orders and filing of documents under seal. A stipulated protective order is likely to be unsigned if the order contains language that allows documents to be considered sealed upon their filing with the clerk of the court. For example: "if a document designated CONFIDENTIAL is filed with the Court, it shall be filed under seal and kept under seal until further order of the Court" violates the Presiding Court's policy. Every time a party wishes to file a document under seal, it must be considered *in camera* by the presiding judge at ex parte. If other lesser restrictive options are available to the parties, that must be taken instead of sealing the document.

Article I, Section 10 of the Oregon Constitution has been interpreted by the Oregon Supreme Court to provide a broad constitutional right of public access to judicial proceedings. *State ex rel. Oregonian vs. Deiz*, 289 Or. 277 (1980), significantly limits the court's authority to close the court to non-parties. Like court hearings, court files are public records unless otherwise expressly provided by law. Sealing court files or documents in court proceedings would prevent access by the public to records of proceedings of the court. See *A.K.H. v. R.C.T.*, Supreme Court Case No. 37202 (1990).

Any order allowing such a motion will be narrow in scope to insure that the only information withheld from public inspection is information expressly authorized by law to be sealed.

Alternatively, UTCR 2.100 provides a means for litigants to avoid disclosing "protected personal information" in documents filed with the court without sealing documents in their entirety. For documents already filed in the circuit court, UTCR 2.110 establishes a process for the redacting of personal identifier information from a case file.

In addition, the Presiding Court will not sign any order directing or dictating court action that deviates from current court procedures.

FILING OF DOCUMENTS UNDER SEAL

Judge Waller's policy on the filing of documents under seal is that she will only consider signing orders authorizing the sealing of a document to be filed, if:

1) The party demonstrates a **specific** prejudice or harm that will result if the order is not signed or the document not filed;
2) The party making the request cites statutory, constitutional, or other authority for Judge Waller to seal the document; and
3) There are no other means to protect the information in the documents.

Judge Waller will more likely sign an order sealing a specific document than an order sealing an entire file. There are two main reasons for this policy. First, the sealing of a file or documents within a file not only prevents the public from seeing the file or those documents, but also the judges and court staff. Second, there are a line of cases, starting with *State ex rel. Oregonian vs. Deiz*, 289 Or. 277 (1980), that read Article I, Section 10 of the Oregon Constitution to severely limit the court's authority to close the court to non-parties, including allowing documents to be filed under seal.

The proper procedure for filing a document under seal is for counsel to present at ex parte a motion and an order authorizing the filing of documents under seal for signature and then file the document under seal with the order attached. Envelopes will not be provided.