

**COURTROOM PROCEDURES
JUDGE JANICE R. WILSON**

**COURTROOM 508
MULTNOMAH COUNTY CIRCUIT COURT**

DEPARTMENT 12

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STAFF:

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I. INTRODUCTION

A. Phone / Fax

The office phone number is 503-988-3069.

During trials, your office, witnesses and family may leave messages with Janell Seet, the judge's judicial assistant. Those messages will be given to you by the judicial clerk.

Please call before sending faxes. The fax number is 503-276-0968. Faxes are received through the e-mail system and sometimes take a while to get through. We may not know they are here at all if the JA is gone. **We will not accept anything over 10 pages without prior approval.**

We do not provide a fax service. If you have an outgoing fax you may send it from the Laser Quick store in the Portland Building.

B. Deliveries

Deliver all copies of documents to the office of the Judicial Assistant, Room 502. Do not try to deliver to 506 or 508. It is also wise not to deliver to the mail room unless no one is in Room 502. Please do not deliver originals, unless otherwise specified in UTCR; AND do not file the copy with the original and assume that it will be delivered to the judge's chambers as that does not happen. You must file the original document with the clerk in Room 210 and hand deliver or mail separately the copy to the judge's chambers in Room 502.

C. Wi-Fi

Wireless internet access is available in the courtroom. Ask the clerk for directions on how to access it.

II. COURTROOM

A. General

The clerk will ask you to rise at the beginning of each morning and afternoon session.

Please do not begin speaking until the judge indicates that she has set up her computer and she and the court reporter are ready to proceed.

The clerk is here to assist the judge and take care of the jury. She will help you as much as possible, but she is not your assistant or your errand runner.

B. Cell Phones

Cell phones may not be used in the courtroom. If you bring them in, you **must turn them off** (not just silent or vibrate, but OFF).

C. Wireless Microphones

The courtroom is equipped with a sound system. You will be asked to wear a wireless microphone. Clip the microphone on **before** you turn on the power. Place the microphone high on your lapel or tie. The clerk will instruct you how to use it if you have any questions. If the clerk places the microphone for you, please do not move it.

When the microphone is turned on, check to see if the light is green. A red light indicates a low battery. Let the clerk know and she will provide you with batteries.

Please remember to turn the microphone off when you leave the courtroom, when discussing matters privately with your client or witnesses, and before entering chambers. The sound system picks up conversation held outside the courtroom. The volume is controlled by the judge.

D. Accommodation for People with Disabilities

If any of the lawyers, parties or witnesses need accommodation because of a disability, please let us know as early as possible. See UTCR 7.060.

E. Assistive Listening Devices (ALDs)

ALDs are available for all parties, including witnesses, jurors, and attorneys. A T-coil is also available for people who have T-coils in their hearing aids.

F. Court Reporter

Judge Wilson has a court reporter present for all matters. There is a digital recording device in the courtroom; however, the official record is preserved by the court reporter.

A transcript of the proceedings may be ordered and requests for transcripts are to be made directly to the court reporter. There are two court reporters for Judge Wilson; therefore, you will need to note in your records which reporter is working for which portion of the trial. Their names and numbers are on the front cover.

The court reporter provides a real-time transcript of the proceedings to the judge which is available to you upon request. A monitor may be set up for your convenience if you feel it is necessary. Please let the staff know in advance if one is needed and it will be set up for you. This is available only on the monitor and not on a line into a laptop computer.

G. Access to the Courtroom

For purposes of security, the doors to the courtroom will be locked during the noon hour and when court is not in session. If you wish to stay in the courtroom during the lunch hour, please check with the clerk to make sure someone is available.

III. PRE-TRIAL ISSUES

A. Recommended Practices for Civil Jury Trials

Judge Wilson attempts to follow the *Recommended Practices for Civil Jury Trials* and expects all counsel to do likewise. The Recommended Practices can be found on line on the judge's webpage <http://mulsrv22/browser/Recommended%20Practices%20for%20Civil%20Jury%20Trials%20B&W.pdf>

B. Confer with Opposing Counsel

Prior to trial you should confer with opposing counsel on the following:

- Whether witnesses are to be excluded. Note: You are responsible for notifying witnesses that they are excluded; the clerk and the judge cannot always identify all of the people in the courtroom.
- Stipulations as to evidence and exhibits.
- Motions *in limine*
- Prior convictions of witnesses (if applicable).

As much as possible, objections and other legal issues should be dealt with prior to jury selection. The judge is very protective of the jurors' time. If a matter needs the court's attention, bring it up at the earliest

possible moment. It may be scheduled for a time before the jurors are to return from a break or after they are excused for the day.

C. Equipment

If you need a DVD/VCR player, X-ray viewer, or other type of equipment that the court has available, please notify the clerk or judicial assistant the day before trial is to begin. Please tell us which day you will need it and for how long. If court-supplied equipment is not available, you will be responsible for bringing in your own.

If you are using a computer to project images on a screen, both parties must share the projector and screen. Please work out the set-up in advance.

D. Exhibits

Mark all exhibits before trial. The clerk can provide you with extra exhibit stickers if necessary. Exhibits are to be marked as required in UTCR 6.080.

You must provide the clerk with an exhibit list as required by UTCR 6.080(3) at the beginning of the trial. The exhibit list is not only a requirement in the rules, but essential for record keeping when there are large numbers of exhibits and for the purpose of assisting the clerk. We understand not all exhibits on the list may be offered and, rarely, additional exhibits may need to be presented.

If you prefer, exhibits that have not been received may be given to the clerk to be handed to witness. However, once exhibits have been received, they are in the custody of the clerk and are not to go back to the counsel table.

If there are many exhibits, the judge appreciates having her own copies in a 3-ring binder or (preferably, in electronic format sent by email or on a CD, DVD or flash drive.

E. Witness List

It is also helpful, but not mandatory, for the lawyers to provide a witness list to the clerk. This helps the court reporters to get correct spellings and make the real-time transcript more useful to the judge.

F. Jury Instructions

Please see Judge Wilson's *Goals for Jury Instructions* included at the end of this document. UTCR 6.060(1) and UTCR 6.060(2) require jury instructions

and verdict forms (an original and a copy) to be delivered to the court on the morning of the trial. You may hand these documents to the clerk. Note: The jury instructions are the only original pleadings that may be filed with the trial court, originals of all other pleadings should be filed with the court clerk in the normal course.

If you are requesting specially-drafted instructions, please submit them via e-mail or on a CD, DVD or flash drive (in Word format) together with the hard copy.

The judge uses simplified narrative instructions in both civil and criminal cases and she does not rely on the UCJI. She uses quite detailed preliminary instructions that she reads to the jury before opening statements. For sample instructions, ask the court staff or see Judge Wilson's web page (link below). The judge provides both detailed preliminary instructions and final instructions to the jurors in writing.

[Judge Wilson Documents and Resources](#)

G. Check in with the Clerk

Please provide the clerk with the following information:

- Your name and your bar number; and
- A receipt of showing that the appropriate trial fee has been paid.

H. Criminal Trials

If the defendant is in custody, the clerk will call for the defendant only after the attorneys are ready to go and the jurors are in the jury room. Please do not ask the clerk to call for the defendant earlier than necessary; the judge does not like to unnecessarily tie up the resources of the Sheriff's office.

When an interpreter is necessary, the attorney is responsible for notifying interpreter services at least two judicial days in advance (see UTCR 7.070). Their phone number is: 503-988-3515.

IV. JURY SELECTION

A. Juror Seating

The clerk will provide you with a seating chart for the jury and a copy of the names of the jury panel prior to voir dire.

B. Questioning Jurors

You are not permitted to ask questions that:

- Condition a response or make a “witness” out of a potential juror.
Ex: Would you have difficulty walking a straight line if you were tired and nervous?
- Exact a promise from the jurors.
Ex: Can you promise me that you will return a guilty verdict if the state proves its case?
- Argue the facts of the case.
Ex: Would it surprise you to learn that the police did not collect fingerprints when they learned the car was stolen?
- Suggest facts not in evidence.
Ex: Can you think of why my client would not want to testify?

When in doubt, ask the judge if a question is appropriate. She is happy to discuss what questions are permitted and give you guidance. Keep in mind that Judge Wilson does not allow counsel to go down the row from juror to juror asking questions merely for the purpose of having individual conversations with each prospective juror.

C. Peremptory Challenges

Challenges are usually taken in the courtroom outside the presence of the jurors. If you prefer to have the jurors in the room during the challenges, the paper-slip method as described in ORCP 57 will be used. Challenges for cause during voir dire need to be made before the jurors leave the courtroom. You need not expressly challenge the juror to his or her face, but you should signal to the judge by saying, “Does the court want to inquire?” or by asking for a conference outside the presence of the jury.

V. TRIAL

A. General Rules

- The defense is not permitted to reserve opening statement.
- Use the proper names of the parties. Do not use first names unless the witness or party is a child.
- Do not be solicitous about the welfare of the jurors and witness.
- Do not hand exhibits received by the court to the jury or witness – the clerk will do that for you.
- Do not grab for exhibits from the clerk’s desk.
- Do not take exhibits that have been received into evidence back to counsel table.

- You may move freely about the courtroom. You have permission to approach the witness. You may stand during the examination of the witness.
- Bench conferences are usually held in chambers. Please remember to turn off your microphone before speaking in chambers.
- Speaking objections are not permitted in front of the jury.
- The judge allows direct, cross, and re-direct examinations. There is no re-cross. You must make an objection if you believe that re-direct is exceeding the scope of cross. If witnesses have been excluded, attorneys will be responsible for calling their witnesses into the courtroom.
- The court breaks for lunch at noon. The courtroom will be locked and inaccessible until 1:00 p.m. If you have to work on your case during the lunch hour, you will need to move to the law library.

B. Questions from the Jury

In civil cases, the judge permits clarifying questions from the jury. The clerk will collect any questions that the jury has written down after the re-direct examination of a witness. The judge will review these questions with the attorneys in chambers. You will be permitted to ask follow-up questions to the witness if a question from the jury is asked.

C. Making Your Record

The judge will provide you an opportunity to put on the record any matters discussed at sidebar (or in chambers). This will usually occur at a normal break time for the jury.

VI. POST TRIAL MATTERS

The clerk will require that you sign out your exhibits in civil trials (UTCRC 6.120(1)). It would be appreciated if you pick up larger poster boards as soon as possible after the end of a trial.

GOALS FOR JURY INSTRUCTIONS

Hon. Janice R. Wilson

In my court, the overriding goal of all jury instructions is to help jurors do their jobs. To this end, I seek always to give instructions that:

1. Are in plain, understandable language;
2. State the applicable law in a neutral manner;
3. Cover the issues actually raised in the trial;
4. Do not address issues that were not raised in the trial (except for issues that research or my own experience show jurors routinely speculate about, such as the existence of insurance).

Language from Appellate Decisions

The fact that a statement of law appears in an appellate decision is not a basis to include it in my instructions – see #1 above. *Rogers v. Meridian Park Hospital*, 307 Or 612, 616, 722 P2d 929 (1989).

Uniform Jury Instructions

The fact that an instruction appears in the Oregon State Bar Uniform Jury Instructions is not persuasive to me. The committees that draft these instructions have memberships carefully balanced by partisan interests. The committees work very, very hard and usually produce instructions that are accurate and neutral statements of the law. Nevertheless, the instructions are sometimes not understandable by a lay person.

Draft Instructions Proposed by the Judge

If I have given you proposed instructions in draft form, these will be our starting point. I want to hear from you if:

1. The instructions can be stated more clearly; (I still have many blind spots about my own “legalese” and seek constant improvement in this area.) Please be prepared to suggest clearer language.
2. My proposed instruction is an incorrect statement of the law (and your requested instruction is both correct and understandable); or

3. My proposed instructions fail to cover an issue that you addressed in your requested instructions.

Jury Instruction Conferences

I try to avoid pride of authorship in my proposed instructions. I do intend them to be a starting point and will listen to your criticisms and suggestions. I have never failed to improve my draft instructions after hearing the suggestions and arguments of counsel in our jury instruction conferences. The instructions can always be made better, and I welcome your help in that process.

"The parties to any jury case are entitled to have the jury instructed in the law which governs the case in plain, clear, simple language. The objective of the mold, framework and language of the instructions should be to enlighten and to acquaint the jury with the applicable law. Everything which is reasonably capable of confusing or misleading the jury should be avoided. Instructions which mislead or confuse are ground for reversal or a new trial." *Williams v. Portland Gen. Elec.*, 195 Or 597, 610, 247 P2d 494 (1952).

"An instruction that accurately quotes or faithfully paraphrases an appellate decision is not necessarily beyond reproach. Indeed, "it is not advisable in charging the jury to use the exact words of an appellate court opinion * * *." In *Amfac Foods v. Int'l Systems*, 294 Or 94, 99 n. 3, 654 P2d 1092 (1982), we warned that because many appellate opinions are written with no view that they will be turned into instructions, care must be exercised in using the language of these opinions for instructions to juries. See also *Thornburg v. Port of Portland*, 244 Or. 69, 73, 415 P2d 750 (1966).

Jury instructions should reduce the relevant law to terms readily grasped by the jury without doing violence to the applicable legal rule. In *Williams v. Portland Gen. Elec.*, 195 Or 597, 610, 247 P2d 494 (1952), this court explained the aim of instructions:

The parties to any jury case are entitled to have the jury instructed in the law which governs the case in plain, clear, simple language. The objective of the mold, framework and language of the instructions should be to enlighten and to acquaint the jury with the applicable law. Everything which is reasonably capable of confusing or misleading the jury should be avoided. Instructions which mislead or confuse are ground for a reversal or a new trial."

Rogers v. Meridian Park Hospital, 307 Or 612, 616, 722 P2d 929 (1989) (citations and footnote omitted).