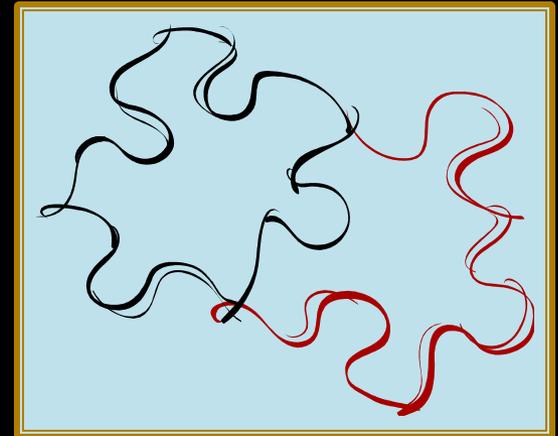


# **CONSOLIDATION of DEPENDENCY CASES with OTHER MATTERS**

**JCIP Conference  
August 12, 2013**



**Hon. Maureen McKnight, Multnomah County  
Referee Lisa Fithian-Barrett, Multnomah County  
Hon. Paulette Sanders, Linn County**

# What we're covering:

- **The Law** – What it says and what it means
- **Nuts and Bolts**
  - The right files and people at the right time
  - How to handle hearings when cases are consolidated
  - Inter-country transfers
- **What If -- You Didn't Consolidate?**



Like you,  
we continue to  
search for best  
practices

# The ORS on Consolidation

## ORS 419B.806

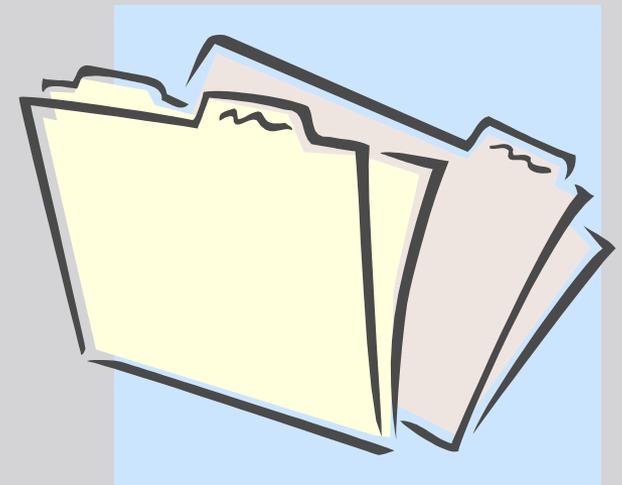
### “Consolidated”

- = “heard before one judge . . . to determine issues regarding a child or ward”
- = heard in the Juvenile Court
- ≠ simultaneous hearings
  - Hear Juvenile before other matter unless not in best interest of child/ward



- **Consolidation is REQUIRED** when a Dependency case exists and a Dom Rel case\* is pending, no matter which is initiated first

- \* Includes:
  - Disso with Custody
  - UnMarried Parent (ORS 109.103)
  - Mod of either
  - Psych parent (ORS 109.119) FAPA
  - Guardianship
  - Parenting time ( + PTE?)
  - Filiation
- Doesn't include agency child support matter



*Consolidation* does not merge the procedural or substantive law that is applicable to each separate action

- Standing in the Custody case does not create standing in the Dependency
  - Intervention may be needed in one for party status
- Evidence rules in the Dependency do not apply in the Disso (and vice versa)
  - Could have two (consecutive) records or one (simultaneous) audio record but rulings regarding **admissibility** of evidence are **governed by separate standards**, i.e., testimony or documents may be objectionable or admitted in one case but not the other.



- **Represented status**

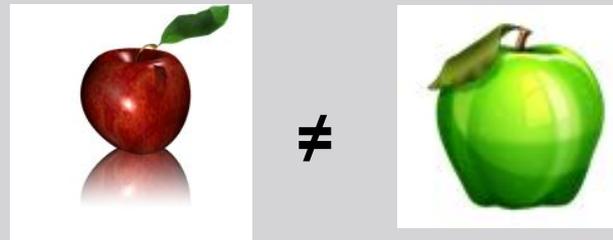
Dependency does not apply in the Disso

Parents represented in the Dependency doesn't mean those parents have that same (or any) counsel in the Dom Rel case

- **Authority to rule** – can't rule in Dom Rel case without following procedural rules for Dom Rel (filed and served petition or motion, response period, etc. [unless acting under immediate danger statute] . Can't make Dom Rel a permanency hearing w/o 419B.473 notice



- Any ruling in the consolidated NON-dependency case must be **consistent with the Dependency orders** (stay the Dom Rel until Juvenile is “ripe”?)
- If a party to the Dependency, **cannot re-litigate “issues”** in the consolidated case
  - If time has passed and there are new facts, is arguably not same issue



- What if facts could have been brought to Dependency case and weren't? Second bit ein Dom Rel court? Probably not.

# Inter-County Consolidation

- Still have to do but can't consolidate until you **TRANSFER**, and can't transfer until you **CONSULT**
- Conference\* between Judges is mandatory, w/in 10 court days of learning of other action
  - Noticed to parties?
  - If disagreement, Dependency county is venue
  - If both are Juv cases, Count of first Dep filing is venue



# Nuts and Bolts

TAKE CONTROL

KEEP CONTROL

MANAGE EXPECTATIONS

- Sign the consolidation order as soon as you are aware of the other case[s] and distribute to all parties in both cases.
- Stay the domestic relations matter until you decide it is ripe.
- Pull all physical files together.
- Keep all matters in front of one judicial officer.
- Make it clear to parents that their court appointed attorneys in the Juvenile case will not be representing them in the domestic relations matter.
- Ensure that parents understand that DHS is not a party to the domestic relations case and won't appear unless subpoenaed.

# What if:

- You don't consolidate?