

UNIFORM TRIAL COURT RULES

Including Amendments

**Effective
August 1, 2014**

**(Including Out-of-Cycle Amendments
through December 1, 2014)**

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In the Matter of the Adoption of
Amendments to the Uniform Trial
Court Rules

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CHIEF JUSTICE ORDER
No. 14-034

ADOPTION OF AMENDMENTS TO THE
UNIFORM TRIAL COURT RULES

I HEREBY ORDER, pursuant to ORS 1.002, UTCR 1.030, and UTCR 1.050, the following:

1. The Uniform Trial Court Rules, as amended below, are adopted and are effective August 1, 2014, pursuant to ORS 1.002.
2. All current local rules inconsistent with the Uniform Trial Court Rules as amended will be deemed ineffective on August 1, 2014, pursuant to UTCR 1.030.
3. Local rules that are consistent with the Uniform Trial Court Rules as amended remain in effect and are subject to review as provided under UTCR 1.050.
4. Those local rules that are not amended or repealed and are not disapproved on review under UTCR 1.050 remain in effect until so amended, repealed, or disapproved.

Dated this 9th day of June, 2014.



Thomas A. Balmer
Chief Justice

**AMENDED UNIFORM TRIAL COURT RULES
(Effective August 1, 2014)
AND SUMMARY OF OTHER UTCR COMMITTEE ACTIONS**

I. INTRODUCTION

The amended Uniform Trial Court Rules (UTCR) take effect on August 1, 2014. The amendments are the result of suggestions and comments received from the public, bench, bar, and interested agencies. The proposed amendments were posted on the Oregon Judicial Department website to invite public comment. Additional information on the UTCR can be viewed at: <http://courts.oregon.gov/OJD/programs/utcr/index.page?>

II. FUTURE MEETINGS

The next meeting of the UTCR Committee is scheduled for October 17, 2014, at the Office of the State Court Administrator, Salem, Oregon. The committee will review proposed changes to the UTCR and the Supplementary Local Rules. They will make recommendations to the Chief Justice on those proposals. This is the only meeting in the next UTCR cycle at which the committee intends to accept proposals for UTCR changes that would take effect August 1, 2015. Meeting dates for the following year will be scheduled at this meeting.

III. BRIEF DESCRIPTIONS OF SPRING 2014 ACTIONS

See Section IV for detailed explanations.

A. APPROVED CHANGES

These changes have been approved by the Chief Justice. They will go into effect on August 1, 2014.

1. 1.120 – DISBURSING MONIES; MOTION AND ORDER
Amend the 1990 Commentary to update the statutory citations.
2. 2.100 – PROTECTED PERSONAL INFORMATION, NOT CONTACT INFORMATION, REQUIREMENTS AND PROCEDURES TO SEGREGATE WHEN SUBMITTING
Amend regarding information sheets and to include a nondisclosure provision.
3. Form 2.100.4a – REQUEST TO SEGREGATE PROTECTED PERSONAL INFORMATION FROM CONCURRENTLY FILED DOCUMENT
Amend regarding information sheets.
4. 2.130 – FAMILY LAW CONFIDENTIAL PERSONAL INFORMATION
Amend regarding nondisclosure and former legal names.
5. 4.060(1) – MOTION TO SUPPRESS EVIDENCE
Amend regarding the separate document requirement.
6. 5.020 – POINTS AND AUTHORITIES TO ACCOMPANY MOTION AND OTHER REQUIREMENTS
Amend the title and section (1) regarding the separate document requirement.

7. 8.010(4) - ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT
Amend to improve clarity.
8. Form 8.010.5 – UNIFORM SUPPORT DECLARATION
Amend the Schedule 1 instructions regarding deviation from the uniform child support guidelines.
9. 8.050 – JUDGMENT MODIFICATION PROCEEDINGS
Amend to require summons-like notice.
10. 8.080 – STATUTORY RESTRAINING ORDER TO PREVENT DISSIPATION OF ASSETS IN CERTAIN DOMESTIC RELATIONS ACTIONS
Amend to address unmarried parents under ORS 109.103 and to refer to a new form.
11. Form 8.080.1 – NOTICE OF STATUTORY RESTRAINING ORDER PREVENTING THE DISSIPATION OF ASSETS IN DOMESTIC RELATIONS ACTIONS
Revise for clarity.
12. Form 8.080.2 – NOTICE OF STATUTORY RESTRAINING ORDER PREVENTING THE DISSIPATION OF ASSETS IN DOMESTIC RELATIONS ACTIONS BETWEEN UNMARRIED PARENTS
Adopt a new form to address unmarried parents under ORS 109.103.
13. Form 8.080.3 – REQUEST FOR HEARING RE: STATUTORY RESTRAINING ORDER (was Form 8.080.2)
Re-number and revise for clarity.
14. 9.030 – ADDRESSES AND TELEPHONE NUMBERS REQUIRED
Amend to clarify the contact information requirements.
15. 13.240 – JUDGMENT ON AWARD
Amend to clarify judgment requirement.
16. Form 15.010.1a – SMALL CLAIM AND NOTICE OF SMALL CLAIM
Amend to include consent for notice by email.
17. Form 15.010.1e – DEFENDANT’S RESPONSE
Amend to include consent for notice by email.
18. 21.010(2) – DEFINITIONS
Amend to conform to amendments to 4.060 and 5.020.
19. 21.040(2) – FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY
Amend to conform to amendments to 4.060 and 5.020.

B. OUT-OF-CYCLE CHANGES

These changes to the 2013 UTCR became effective after August 1, 2013, and before August 1, 2014. They will be incorporated into the 2014 UTCR.

1. 1.020 – AMENDMENT OF THESE RULES; EFFECTIVE DATE
Corrected inaccurate website address.

2. 1.170 – COURT WEBSITES
Corrected inaccurate website address.
3. 3.170 – ASSOCIATION OF OUT-OF-STATE COUNSEL (*PRO HAC VICE*)
Out-of-cycle amendment, effective July 1, 2014, pursuant to Supreme Court Order 14-023.
4. 8.020 – SUPPORT ORDERS
Out-of-cycle amendment, effective May 1, 2014, pursuant to Chief Justice Order 14-018.
5. 21.010 – DEFINITIONS
Corrected inaccurate website address.
6. 21.020 – APPLICABILITY; LOCAL RULES OF COURT NOT PERMITTED
Corrected inaccurate website address.
7. 21.040 – FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY
Out-of-cycle amendment, effective May 1, 2014, pursuant to Chief Justice Order 14-012.
8. 21.070 – SPECIAL FILING REQUIREMENTS
Out-of-cycle amendment, effective May 1, 2014, pursuant to Chief Justice Order 14-012.
9. 21.080 – ELECTRONIC FILING DEADLINES
Out-of-cycle amendment, effective May 1, 2014, pursuant to Chief Justice Order 14-012.
10. 21.100 – ELECTRONIC SERVICE
Corrected typographical error.
11. 21.100 – ELECTRONIC SERVICE
Out-of-cycle amendment, effective May 1, 2014, pursuant to Chief Justice Order 14-012.
12. 21.120 – RETENTION OF DOCUMENTS BY FILERS
Out-of-cycle amendment, effective May 1, 2014, pursuant to Chief Justice Order 14-012.
13. Form 8.010.5 – UNIFORM SUPPORT DECLARATION
Corrected inaccurate website address.
14. Form 10.010.b – CERTIFICATE OF SERVICE FOR PETITION OF JUDICIAL REVIEW OF ORDER OF DMV – UTCR 10.010
Corrected inaccurate addresses.

C. COMMITTEE RECOMMENDATIONS OF DISAPPROVAL

1. 4.060 – MOTION TO SUPPRESS EVIDENCE
Amend to create new requirements in instances when the burden of proof shifts to the prosecution.

2. 5.030 – OPPOSING PARTY'S RESPONSE; TIME FOR FILING RESPONSE AND REPLY
Amend to limit the reply memorandum to matters raised in the responding memorandum.
3. 9.160(1)(b)(ii) – FORM OF ACCOUNTINGS
Amend to clarify whether income estimated in the next accounting period means net income or gross income.
4. Form 9.160 – ACCOUNTING FORM
Amend to clarify whether “estimate income” in the “Bonding and Asset Restrictions” section means net income or gross income.
5. 13.250 – REQUEST FOR TRIAL *DE NOVO*
Amend to clarify how to abandon a request for trial *de novo*.
6. Appendix – UTCR FORMS
Amend appropriate forms to include a UTCR 2.080 notice of simultaneous mailing or delivery.

D. PUBLIC COMMENT ON OTHER ACTIONS

1. 21.090 – ELECTRONIC SIGNATURES
Amend to address electronic notarizations.
2. Chapter 22 – REMOTE ELECTRONIC ACCESS TO CASE RECORD DOCUMENTS MAINTAINED IN OREGON eCOURT SYSTEM
Review status of proposal to adopt new rules, forms, and conforming amendments regarding remote electronic access to case record documents.
3. CJO 13-036 – AMENDING UTCR 5.150
Review public comment on out-of-cycle amendment.
4. CJO 13-014 – AMENDING UTCR 21.040, 21.050, 21.070, 21.080, 21.090, and 21.120
Review public comment on out-of-cycle amendments.
5. COMMITTEE MEMBERSHIP
Update.
6. SPRING 2014 MEETING
Spring meeting on April 4, 2014.
7. FALL 2014 MEETING
Fall meeting on October 17, 2014.

E. OTHER

1. 3.170 – ASSOCIATION OF OUT-OF-STATE COUNSEL (*PRO HAC VICE*)
Proposal to amend out-of-cycle to increase the application fee.

2. SLR Chapter 16 – Violations – Trial by Affidavit
Review status of a proposed statewide form substituting a declaration under penalty of perjury for the affidavit.

IV. DETAILED DESCRIPTIONS OF SPRING 2014 ACTIONS

A. APPROVED CHANGES

These changes have been approved by the Chief Justice. They will go into effect on August 1, 2014.

Deletions are shown in [*brackets and italics*]. Additions are shown in {**braces, underline, and bold**}. A proposed revision (in lieu of a simpler amendment) consists of a complete rewriting of a rule or form so there is no use of [*brackets and italics*] or {**braces, underline, and bold**}. The same is true of a new rule or form.

1. 1.120 – DISBURSING MONIES; MOTION AND ORDER

PROPOSAL

Amend the 1990 Commentary to update the statutory citations.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by the Honorable Kirsten E. Thompson, committee member, on June 4, 2013. The amendment updates the citations in the commentary to reflect changes to the statutes.

APPROVED AMENDMENT

1.120 DISBURSING MONIES; MOTION AND ORDER

- (1) The trial court administrator will not disburse monies without order of the court in any instance where the trial court administrator is unable to determine any of the following:

- (a) * * *

* * * * *

1990 Commentary {(statutory citations updated August 1, 2014)}:

Situations to which this section applies include, but are not limited to, a trial court administrator receiving and being unable to disburse monies under ORS [23.300(3)] {**18.422(3)**}, [23.410(1), 23.490(5)] {**18.872(2), 18.950**}, 87.475(3), or 88.100.

2. **2.100 – PROTECTED PERSONAL INFORMATION, NOT CONTACT INFORMATION, REQUIREMENTS AND PROCEDURES TO SEGREGATE WHEN SUBMITTING**

PROPOSAL

Amend regarding information sheets and to include a nondisclosure provision.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval became the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 19, 2013. The amendment updates provisions regarding information sheets and adds a nondisclosure provision.

APPROVED AMENDMENT

2.100 PROTECTED PERSONAL INFORMATION, NOT CONTACT INFORMATION, REQUIREMENTS AND PROCEDURES TO SEGREGATE WHEN SUBMITTING

(1) * * *

* * * * *

(6) Court Response. When a completed request is filed under this rule and the court grants the request to segregate, the court will do the following:

(a) **{Maintain}**~~[Separate]~~ the UTCR Form 2.100.4b [*from the affidavit and maintain that form*] and any attachments to it as not subject to public inspection unless there is a question about the court's legal authority to keep the specific information from public inspection. The requestor need not obtain the signature of a judge. As official custodian of the case file under the OPRL, the trial court administrator will resolve any question about whether, or the extent to which, information may be kept from disclosure under this rule unless statute or court order expressly provides otherwise. A request under this rule to keep information confidential, segregated, or exempt from public inspection is not subject to challenge and hearing except as specifically required by law.

(b) * * *

* * *

(7) * * *

(8) Inspecting or Copying Protected Personal Information.

{(a)} Except as specifically provided in subsection (7) of this rule, any person who seeks to inspect or copy information segregated and kept

from public inspection under this rule must make the request by using a form substantially like UTCR Form 2.100.8 and copy the requestor shown on the affidavit and parties to the case as required by UTCR 2.080. A court will only grant a request if the person requesting has a right by law, including this rule, to see the information. The court will indicate on the form its response to the request and maintain a copy of all the request forms, with its response, in the case file as a public record.

{(b) Any person inspecting information segregated and kept from public inspection under this rule must not further disclose the information, except:

(i) within the course and scope of the client-lawyer relationship, unless limited or prohibited by court order;

(ii) as authorized by law; or

(iii) as ordered by the court.

(c) Violation of subsection (b) of this section may subject a person to contempt of court under ORS 33.015 to 33.155.}

3. Form 2.100.4a – REQUEST TO SEGREGATE PROTECTED PERSONAL INFORMATION FROM CONCURRENTLY FILED DOCUMENT

PROPOSAL

Amend regarding information sheets.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 19, 2013. This is a conforming amendment for consistency with the amendment made to UTCR 2.100.

APPROVED FORM (see next page)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR _____ COUNTY

_____ Division - _____
(court's address and phone number)

Case name:)	CASE No. _____
Plaintiff Name)	UTCR 2.100 REQUEST TO SEGREGATE PROTECTED PERSONAL INFORMATION FROM CONCURRENTLY FILED DOCUMENT
v.)	
1 st Defendant Name)	
)	

IMPORTANT NOTE TO PERSON COMPLETING THIS REQUEST: Except as specifically ordered by a court, this request and UTCR form 2.100.4b **cannot be used for contact information** (addresses, telephone numbers, employer identification, and similar information that can be used to contact someone, see *UTCR 2.100*). The type of information that can be protected by this form is limited to what is listed in UTCR 2.100.

To the court: Pursuant to UTCR 2.100, I request that the protected personal information in the form [*attached to*] **{submitted with}** this request be segregated from information that the general public can see in the case noted above.

The protected personal information I request to be segregated is as follows:

A. The following is a general description of the protected personal information (<i>example description: "my Social Security number" or "parent's bank account number"</i>). <u>Do not include specific protected personal information here.</u>	B. The following is the legal authority by which I believe this information may be exempt from public inspection (<i>cite to statute, rule, case, etc.</i>). Row numbers correspond to those in column A. Add rows in both columns as necessary.
1.	1.
2.	2.
3.	3.
4.	4.

PERSON MAKING REQUEST MUST COMPLETE ALL THE FOLLOWING AS INDICATED:

1. *(Initial to confirm)* _____ The specific protected personal information described above is provided on the attached UTCR 2.100 segregated information sheet.
2. *(Initial to confirm)* _____ I have segregated the information described above from another document or form that I am submitting at the same time, (*describe document or form*) _____, to keep the protected information from being available to the general public. I appropriately noted in that other document the places where information has been provided in the attached information sheet rather than in that document. (*No fee is charged when information is segregated at time of submission.*)
3. I *(initial one)* _____ have OR _____ have not attached a self-addressed, stamped postcard with language required by UTCR 2.100 so that the court can inform me of its response to this request.
4. *(Initial to confirm)* _____ I understand that while the protected personal information may be withheld from the general public if this request is granted, it may still be available to some persons and government agencies as described in UTCR 2.100.
5. *(Initial to confirm, "na" if not applicable)* _____ If this document was prepared by someone who is not an attorney, I have attached a completed document preparation certification that applies to both this request and the attached form as required by UTCR 2.010(7).
6. *(Initial to confirm)* _____ I have mailed or delivered copies of this request (*not including the attached UTCR Form 2.100.4b and its attachments*) to the persons required by UTCR 2.080.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Date _____
OSB# (*if applicable*) _____

Signature _____
Type or print name _____

For office use:

Request _____ granted OR _____ denied (*state reason*) _____

Date: _____

TRIAL COURT ADMINISTRATOR
By _____

4. 2.130 – FAMILY LAW CONFIDENTIAL PERSONAL INFORMATION

PROPOSAL

Amend regarding nondisclosure and former legal names.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 19, 2013. The amendment updates the nondisclosure requirement and addresses former legal names.

APPROVED AMENDMENT

2.130 FAMILY LAW CONFIDENTIAL PERSONAL INFORMATION

(1) * * *

(2) Mandatory Use of the CIF

(a) When confidential personal information is required by statute or rule to be included in any document filed in a proceeding initiated under ORS chapters 25, 106, 107, 108, 109, 110, or 416, the party providing the information:

(i) must file the information in a CIF,

(ii) must not include the information in any document filed with the court, and

(iii) must redact the information from any exhibit or attachment to a document filed with the court, but must not redact the information from a court-certified document required to be filed by statute or rule.

(b) This rule does not apply to{;}

{(i)} the information required in a money award under ORS 18.042{, or

{(ii) the former legal name of a party pursuant to a name change request under ORS 107.105(1)(h)}.

(c) * * *

* * * * *

(3) * * *

* * * * *

- (6) Access and Confidentiality
- (a) A party may inspect a CIF that was filed by that party.
 - (b) A party to a proceeding may inspect a CIF filed by another party:
 - (i) upon filing a written, notarized consent signed and dated by the party whose information is to be inspected that states the dates during which the consent is effective; or
 - (ii) upon entry of an order allowing inspection under UTCR 2.130(10)(a); or
 - (iii) if the CIF sought to be inspected contains only the inspecting party's confidential personal information.
 - (c) A person other than a party to the proceeding may inspect a CIF upon filing a written, notarized consent signed and dated by the party whose information is to be inspected. The consent must state the dates during which the consent is effective.
 - (d) This rule does not limit a person's legal right to inspect a CIF as otherwise allowed by statute or rule.
 - (e) Oregon Judicial Department personnel may have access to a CIF when required for court business.
 - (f) Courts will share a CIF with the entity primarily responsible for providing support enforcement services under ORS 25.080 or 42 USC 666. A person receiving information under this section must maintain its confidentiality as required by ORS 25.260(2) and 192.502(10).
 - (g) Courts will share a CIF with other government agencies as required or allowed by law for agency business. Those agencies must maintain the confidentiality of the information as required by ORS 192.502(10).
 - (h) [*Unless otherwise ordered or authorized by law, a*]{A}ny person inspecting a CIF must not further disclose the confidential personal information **except:**
 - (i) within the course and scope of the client-lawyer relationship, unless limited or prohibited by court order;**
 - (ii) as authorized by law; or**
 - (iii) as ordered by the court.**
 - (i) An order entered under UTCR 2.130(10)(d) may further limit disclosure of confidential personal information.**
 - {(j)} Violation of [*this provision*] **{subsection (h) or (i) of this section}** may subject a person to contempt of court under ORS 33.015 to 33.155.

(7) * * *

* * * * *

5. 4.060(1) – MOTION TO SUPPRESS EVIDENCE

PROPOSAL

Amend regarding the separate document requirement.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 10, 2013. It simplifies wording and requires a party to include a memorandum of law in the same document as the motion in order to streamline document processing. This is parallel to a similar rule recently adopted in the Oregon Rules of Appellate Procedure. At the meeting held on October 18, 2013, the committee noted that there may be some concern with changing the standard from "adequately reasonable" to "sufficiently." The proponent responded that there was no intent to change the substance of the standard.

APPROVED AMENDMENT

4.060 MOTION TO SUPPRESS EVIDENCE

(1) All motions to suppress evidence:

- (a) must **{cite}** [*make specific reference to*] any constitutional provision, statute, rule, case, or other authority upon which it is based; and
- (b) must **{include in the motion document}** [*be accompanied by*] the moving party's brief{,} which must **{sufficiently}** [*be adequate reasonably to*] apprise the court and the adverse party of the arguments [*and authorities*] relied upon.

(2) * * *

* * * * *

6. 5.020 – POINTS AND AUTHORITIES TO ACCOMPANY MOTION AND OTHER REQUIREMENTS

PROPOSAL

Amend the title and section (1) regarding the separate document requirement.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee

convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 10, 2013. It simplifies wording and requires a party to include a memorandum of law in the same document as the motion in order to streamline document processing. This is parallel to a similar rule recently adopted in the Oregon Rules of Appellate Procedure.

APPROVED AMENDMENT

5.020 [POINTS AND] AUTHORITIES **{IN}** [TO ACCOMPANY] MOTION**{S}** AND OTHER REQUIREMENTS

(1) Every motion **{document}** must [*be accompanied by or*] include a memorandum of law or a statement of [*points and*] authorit**{y}**[*ies,*] explaining how any relevant authorities support the contentions of the moving party.

(2) * * *

7. **8.010(4) – ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT**

PROPOSAL

Amend to improve clarity.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 22, 2013. The amendment is meant to make the rule easier to understand, especially for self-represented parties.

APPROVED AMENDMENT

8.010 ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT

(1) * * *

* * * * *

(4) In all proceedings under ORS chapter 107, 108, or 109 wherein child support or spousal support is contested, each party must file with the trial court administrator and serve on the other party a Uniform Support Declaration in the form specified in Form 8.010.5 in the UTCR Appendix of

Forms. A Uniform Support Declaration required by this subsection must be completed as follows:

- (a) **{In all such cases, the parties must complete the declaration and required attachments.}** *[If no party seeks spousal support or deviation from the uniform child support guidelines, the parties must complete the affidavit and attachments required for the affidavit, but the parties need not complete the schedules or attachments to the schedules.]*
- (b) **{In all such cases, the parties must also complete the schedules and the attachments required by the schedules if:}** *[If any party seeks spousal support or any deviation from the uniform child support guidelines, all parties must complete the affidavit and all schedules and the attachments for all of them.]*
 - {(i) Spousal support is requested by either party, or**
 - {(ii) Child support is requested by either party in an amount that deviates from the uniform support guidelines.}**

(5) * * *

* * * * *

8. Form 8.010.5 – UNIFORM SUPPORT DECLARATION

PROPOSAL

Amend the Schedule 1 instructions regarding deviation from the uniform child support guidelines.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 22, 2013. The amendment is meant to make clear that Schedule 1 applies to a deviation from the uniform child support guidelines, consistent with UTCR 8.010(4)(b).

APPROVED FORM

SCHEDULE 1 Spousal/Registered Domestic Partner Support Factors

You must complete this schedule and prepare and submit the attachments requested in this schedule if either party seeks spousal support **{or deviation from the uniform child support guidelines}**. These are the total household expenses you must pay each month for yourself only and not for others in your household. Utility bills should be averaged over the year. Any other annual, quarterly, or other periodic payments should be converted to a monthly average. DO NOT LIST ANY EXPENSE IF IT IS DEDUCTED FROM YOUR WAGES.

9. 8.050 – JUDGMENT MODIFICATION PROCEEDINGS

PROPOSAL

Amend to require summons-like notice.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by the Honorable Maureen McKnight, Multnomah County Circuit Court, on August 19, 2013. The original proposal was to require a summons-like notice and to eliminate the requirement of an order to show cause. Some courts find the show cause requirement valuable, so the proponent offered an alternative that only addressed the summons-like notice. The proponent believes that the show cause requirement may be superfluous since there is a statutory requirement (adopted after this rule was implemented) for a written response. Other courts believe that the show cause requirement is a valuable screening tool when a party uses the modification process to harass an ex-spouse. Regarding a summons-like notice, the proponent believes that parties need that information since it is not normally part of an order to show cause. It should be in substantially the form set out in ORCP 7. At the meeting held on October 18, 2013, the committee chose to retain the current show cause order requirement and to add a new summons-like notice requirement.

APPROVED AMENDMENT

8.050 JUDGMENT MODIFICATION PROCEEDINGS

- (1) Modification proceedings must be initiated by an order to show cause based on a motion supported by an affidavit setting forth the factual basis for the motion or by other procedure established by SLR. **{The initiating documents must contain a notice to the served party, substantially in the form set out at ORCP 7. This notice may be a separate document or included in an Order to Show Cause or Motion.}** When support is to be an issue, a Uniform Support Declaration, as set out in Form 8.010.5 in the UTCR Appendix of Forms, must also be filed with the motion and completed as provided under subsection (4) of UTCR 8.010.
- (2) [*The order to show cause*] **{Initiating documents}** must be served by delivering a certified copy [*thereof, together with a certified copy of the motion, affidavit*] **{of each document,}** and Uniform Support Declaration, if applicable, in the manner necessary to obtain jurisdiction.
- (3) * * *

* * * * *

10. 8.080 – STATUTORY RESTRAINING ORDER TO PREVENT DISSIPATION OF ASSETS IN CERTAIN DOMESTIC RELATIONS ACTIONS

PROPOSAL

Amend to address unmarried parents under ORS 109.103 and to refer to a new form.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 22, 2013. This amendment addresses unmarried parents in light of changes to ORS 109.103 under Oregon Laws 2013, chapter 126 (HB 2571).

APPROVED AMENDMENT

8.080 STATUTORY RESTRAINING ORDER TO PREVENT DISSIPATION OF ASSETS IN CERTAIN DOMESTIC RELATIONS ACTIONS
(Adopted out-of-cycle on December 5, 2003, pursuant to CJO 03-072; effective January 1, 2004.)

(1) The form of notice specified in Form 8.080.1 in the UTCR Appendix of Forms [*shall*] **{must}** be used for the statutory restraining order established by ORS 107.093. The petitioner [*shall be responsible for assuring*] **{must ensure}** that a copy of the notice is attached to the summons as required by ORS 107.093(5). The notice [*shall*] **{need}** not be signed by a judge.

{2} The form of notice specified in Form 8.080.2 in the UTCR Appendix of Forms must be used for the statutory restraining order established by ORS 109.103(5). The petitioner must ensure that a copy of the notice is attached to the summons as required by ORS 109.103(5)(d). The notice need not be signed by a judge.}

{(2)}{(3)} The request for hearing required by ORS 107.093(3) **{or 109.103(5)(b)}** shall be in substantially the same form as specified in Form 8.080.**{2}{3}** in the UTCR Appendix of Forms.

11. Form 8.080.1 – NOTICE OF STATUTORY RESTRAINING ORDER PREVENTING THE DISSIPATION OF ASSETS IN DOMESTIC RELATIONS ACTIONS

PROPOSAL

Revise for clarity.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 22, 2013. The revision is meant to simplify the form.

APPROVED FORM (see next page)

[Attach to Summons per ORS 107.093(5)]

**NOTICE OF STATUTORY RESTRAINING ORDER
PREVENTING THE DISSIPATION OF ASSETS
IN DOMESTIC RELATIONS ACTIONS**

**REVIEW THIS NOTICE CAREFULLY. BOTH PARTIES MUST OBEY EACH
PROVISION OF THIS ORDER TO AVOID VIOLATING THE LAW.
YOU HAVE THE RIGHT TO A HEARING. SEE INFORMATION BELOW.**

TO THE PETITIONER AND RESPONDENT:

Under ORS 107.093 and UTCR 8.080, Petitioner and Respondent must not:

Insurance Policies

(1) Cancel, modify, terminate, or allow to lapse for nonpayment of premiums, any policy of health insurance, homeowner or renter insurance, or automobile insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy that names either of the parties or a minor child of the parties as a beneficiary.

Insurance Beneficiaries

(2) Change beneficiaries or covered parties under any policy of health insurance, homeowner or renter insurance, or automobile insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy.

Property

(3) Transfer, encumber (*i.e., mortgage, lien, borrow against*), conceal, or dispose of property in which the other party has an interest, in any manner, without written consent of the other party or an order of the court, except in the usual course of business or for necessities of life.

Expenses

(4) Make extraordinary expenditures without providing written notice and an accounting of the extraordinary expenditures to the other party.

EXCEPTIONS:

Paragraphs (3) and (4) do not apply to payment by either party of:

- a. Attorney fees in this action
- b. Real estate and income taxes
- c. Mental health therapy expenses for either party or a minor child of the parties
- d. Expenses necessary to provide for the safety and welfare of a party or a minor child of the parties

EFFECTIVE DATE:

The above provisions are in effect immediately upon service of the *Petition* and *Summons* on the respondent. They remain in effect until a final judgment is issued, until the petition is dismissed, or until further order of the court.

RIGHT TO REQUEST A HEARING

Either Petitioner or Respondent may request a hearing to modify or terminate one or more terms of this restraining order by filing with the court the *Request for Hearing re: Statutory Restraining Order* form specified in Form 8.080.3 in the UTCR Appendix of Forms.

**12. Form 8.080.2 – NOTICE OF STATUTORY RESTRAINING ORDER
PREVENTING THE DISSIPATION OF ASSETS IN DOMESTIC RELATIONS
ACTIONS BETWEEN UNMARRIED PARENTS**

PROPOSAL

Adopt a new form to address unmarried parents under ORS 109.103.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 22, 2013. The form is a companion to the amendment to UTCR 8.080.

APPROVED FORM (see next page)

[Attach to Summons per ORS 109.103(5)]

**NOTICE OF STATUTORY RESTRAINING ORDER
PREVENTING THE DISSIPATION OF ASSETS
IN DOMESTIC RELATIONS ACTIONS BETWEEN UNMARRIED PARENTS**

**REVIEW THIS NOTICE CAREFULLY. BOTH PARTIES MUST OBEY EACH
PROVISION OF THIS ORDER TO AVOID VIOLATING THE LAW.
SEE INFORMATION ON YOUR RIGHT TO A HEARING BELOW.**

TO THE PETITIONER AND RESPONDENT:

Under ORS 109.103(5) and UTCR 8.080, neither Petitioner nor Respondent may:

Insurance Policies

(1) Cancel, modify, terminate, or allow to lapse for nonpayment of premiums, any policy of health insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy that names either of the parties or a minor child of the parties as a beneficiary.

Insurance Beneficiaries

(2) Change beneficiaries or covered parties under any policy of health insurance that one party maintains to provide coverage for a minor child of the parties, or any life insurance policy.

EFFECTIVE DATE:

The above provisions are in effect immediately upon service of the *Petition* and *Summons* on the respondent. They remain in effect until a final judgment is issued, until the petition is dismissed, or until further order of the court.

RIGHT TO REQUEST A HEARING

Either Petitioner or Respondent may request a hearing to modify or revoke one or more terms of this restraining order by filing with the court the *Request for Hearing re: Statutory Restraining Order* form specified in Form 8.080.3 in the UTCR Appendix of Forms.

13. Form 8.080.3 – REQUEST FOR HEARING RE: STATUTORY RESTRAINING ORDER (was Form 8.080.2)

PROPOSAL

Re-number and revise for clarity.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 22, 2013. The revision is meant to simplify the form. The form was renumbered to be consistent with the amendment to UTCR 8.080.

APPROVED FORM (see next page)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR _____ COUNTY

Petitioner
and

Respondent

Case No: _____

**REQUEST FOR HEARING RE:
STATUTORY RESTRAINING
ORDER**

- Marriage
- Registered Domestic Partnership (RDP)
- Unmarried Parents

I, Petitioner Respondent, request a hearing to terminate or modify the following terms of the Statutory Restraining Order (*explain*):

- a. Paragraph 1 Terminate (or) Modify : _____
- b. Paragraph 2 Terminate (or) Modify : _____
- c. Paragraph 3 Terminate (or) Modify : _____
- d. Paragraph 4 Terminate (or) Modify : _____

Additional pages attached, titled "Termination or Modification requests, continued"

I { will will not} be represented by a lawyer at the hearing.

Certificate of Document Preparation. Check all that apply:

- I chose this form for myself and completed it without paid help.
- A legal help organization helped me choose or complete this form, but I did not pay money to anyone.
- I paid (or will pay) _____ for help choosing, completing, or reviewing this form.

Date

Signature

Name (printed)

Contact Address

City / State / ZIP

Contact Phone

Certificate of Mailing

I certify that on (*date*): _____ I placed a true and complete copy of this request in the United States mail to Petitioner Respondent at (*address*): _____

Date

Signature

Print Name

14. 9.030 – ADDRESSES AND TELEPHONE NUMBERS REQUIRED

PROPOSAL

Amend to clarify the contact information requirements.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 7, 2013. The amendment makes the contact information requirement consistent with UTCR 2.010(7).

APPROVED AMENDMENT

9.030 ADDRESSES AND TELEPHONE NUMBERS REQUIRED

- (1) The [*name, address, telephone number, fax number, email address, and bar number of the attorney of record*] **{contact information required by UTCR 2.010(7)}** must be typed or printed on the last page of every [*petition, motion, and order*] **{document submitted to the court}**.
- (2) The name, address, and telephone number of the guardian, conservator, or personal representative must be typed or printed on the last page of every **{proposed}** order **{submitted to the court}**.
- (3) The trial court administrator must be promptly notified by separate document of any change in address or telephone number of any attorney of record, self-represented party, guardian, conservator, or personal representative.

15. 13.240 – JUDGMENT ON AWARD

PROPOSAL

Amend to clarify judgment requirement.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by the Honorable Susie L. Norby, Clackamas County Circuit Court, on May 14, 2013. Judge Norby has found that some parties alter the arbitration award form to make it a judgment instead of preparing a separate judgment document as required by ORS 36.425(1) and (3). The amendment makes clear that a separate judgment document must be prepared.

APPROVED AMENDMENT

13.240 JUDGMENT ON AWARD

If no request for trial *de novo* is filed within the time established by ORS 36.425(3), [*the arbitration decision and award will be entered and have the effect provided in that statute*] **{a judgment shall be prepared based on the arbitration decision and award and submitted to the court to be entered}**.

16. Form 15.010.1a – SMALL CLAIM AND NOTICE OF SMALL CLAIM

PROPOSAL

Amend to include consent for notice by email.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by the Honorable Russell B. West, Tenth Judicial District, on April 20, 2012. The committee discussed this proposal at its meetings on October 12, 2012, March 1, 2013, and October 18, 2013. The amendment adds a line to the form allowing a party to list an email address for receiving notices from the court. The party must notify the court of any change in the address or if the party has withdrawn consent for the court to use the email address. At the March 1 meeting, representatives of the Oregon eCourt Law and Policy Work Group raised questions as to whether the new system can accommodate these email exchanges. In light of those concerns, the committee deferred consideration of this proposal to the October 18, 2013, meeting. The committee discussed that the concerns with the new system still exist, but that some judicial districts are not yet part of that system and do communicate with parties by email. The committee concluded that those judicial districts could continue to use email communication and that the amendment should be altered to add the phrase, "some courts communicate with parties by email."

APPROVED FORM (see next page)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR _____ COUNTY

Small Claims Department

_____))
_____))
_____)) **Case No:** _____
Plaintiff))
(Inmate ID #, if applicable, _____)))
v.))
_____)) **SMALL CLAIM AND**
_____)) **NOTICE OF SMALL CLAIM**
_____)) Filing fee at ORS 46.570
Defendant)) **Interpreter needed:** Spanish Russian
 Defendant is a public body)) other: _____

PLAINTIFF (Additional on attached page)

DEFENDANT (Additional on attached page)

Name

Name (enter Registered Agent, if necessary, on next page)

Street

Street (do not use a P.O. Box)

City / State / Zip

City / State / Zip

Phone County

Phone County

I, Plaintiff, claim that on or about (date) _____, the above-named defendants owed me the sum of \$ _____ because _____

_____, and this amount is still due.

I have paid (or will pay):
filing fees of \$ _____
and service costs of \$ _____

Claim	\$ _____
+ Fees	\$ _____
+Costs	\$ _____
TOTAL	\$ _____

DECLARATION OF BONA FIDE EFFORT

I, Plaintiff, have made a bona fide effort to collect this claim from the defendants before filing this claim with the court clerk.

I hereby declare that the above statements are true to the best of my knowledge and belief, and that I understand they are made for use in court and I am subject to penalty for perjury.

Date

Plaintiff Signature

{ _____ }
{**Email address***}

Plaintiff Name (print)

{*Some courts communicate with parties by email. By providing my email address I consent to receive notifications from the court by email instead of or in addition to other methods. I understand that if my email changes or if I choose to withdraw consent, I must notify the court in writing.}

DEFENDANT'S REGISTERED AGENT:

Name

Street (do not use a P.O. Box)

City / State / Zip

Phone

County

PROPOSAL

Amend to include consent for notice by email.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by the Honorable Russell B. West, Tenth Judicial District, on April 20, 2012. The committee discussed this proposal at its meetings on October 12, 2012, March 1, 2013, and October 18, 2013. The amendment adds a line to the form allowing a party to list an email address for receiving notices from the court. The party must notify the court of any change in the address or if the party has withdrawn consent for the court to use the email address. At the March 1 meeting, representatives of the Oregon eCourt Law and Policy Work Group raised questions as to whether the new system can accommodate these email exchanges. In light of those concerns, the committee deferred consideration of this proposal to the October 18, 2013, meeting. The committee discussed that the concerns with the new system still exist, but that some judicial districts are not yet part of that system and do communicate with parties by email. The committee concluded that those judicial districts could continue to use email communication and that the amendment should be altered to add the phrase, "some courts communicate with parties by email."

APPROVED FORM (see next page)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR _____ COUNTY
Small Claims Department

v. _____

Defendant

)
)
) **Case No:** _____
)

DEFENDANT'S RESPONSE

Interpreter needed: Spanish Russian
 other: _____

***EACH Defendant must file a separate response** (spouses and Registered Domestic Partners may file a joint response)*

PAYMENT OF CLAIM:

Proof of payment (including fees and costs) to Plaintiff is attached (or proof that the requested property was returned to Plaintiff).

Total Amount Paid: \$ _____ (or) Describe property and method of return:

DENIAL OF CLAIM

I deny the plaintiff's claim and demand a hearing (or) jury trial.*

*The claim must be for more than \$750 (without fees and costs) to request a jury trial.

COUNTERCLAIM:

I make the following counterclaim* against the plaintiff for \$_____.

*Counterclaims must arise out of the same transaction or event as the plaintiff's claim.

I, Defendant, claim that on or about (date) _____, the above-named plaintiff owed me the amount claimed because _____

_____, and this amount is still due.

If the amount is the value of property that you believe should be given to you, describe the property: _____

Date

Signature

{ _____ }
{**Email address***}

Name (Print)

Street

City/State/ZIP

Phone

{*Some courts communicate with parties by email. By providing my email address I consent to receive notifications from the court by email instead of or in addition to other methods. I understand that if my email changes or if I choose to withdraw consent, I must notify the court in writing.}

PROPOSAL

Amend to conform to amendments to 4.060 and 5.020.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 10, 2013. This is a conforming amendment for consistency with the amendments made to UTCR 4.060(1) and 5.020 regarding the separate document requirement. At the meeting held on October 18, 2013, the proponent mentioned that the work group had not intended to delete "an exhibit" from section (2). The committee discussed that a party may file a memorandum that is not a "memorandum at law" and not part of a motion. In light of that, the committee concluded that the best course was to delete "of law" from section (2) and leave the rest of the section intact.

APPROVED AMENDMENT

21.010 DEFINITIONS

The following definitions apply to this chapter:

- (1) * * *
- (2) "Document" means a pleading, a paper, a motion, a declaration, an application, a request, a brief, a memorandum[*of law*], an exhibit, or other instrument submitted by a filer, including any exhibit or attachment referred to in the instrument. Depending on the context, as used in this chapter, "document" may refer to an instrument in either paper or electronic form.
- (3) * * *

* * * * *

19. 21.040(2) – FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY

PROPOSAL

Amend to conform to amendments to 4.060 and 5.020.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of approval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of approval becomes the committee's final recommendation of approval.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 10, 2013. This is a conforming

amendment for consistency with the amendments made to UTCR 4.060(1) and 5.020 regarding the separate document requirement.

APPROVED AMENDMENT

21.040 FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY

(1) * * *

(2) Except as provided in subsections (a) and (b) of this section, when a document to be electronically filed includes one or more attachments, including but not limited to [*a memorandum of law, a statement of points and authorities,*] a documentary exhibit, an affidavit, or a declaration, each attachment must be submitted through the electronic filing system as a separate electronically filed document.

(a) An attachment to a motion to strike filed under UTCR 5.020(2) must be submitted together with the motion as a single, unified PDF or PDF/A file.

(b) An attachment to a motion for leave to amend a pleading filed under UTCR 5.070 must be submitted together with the motion as a single, unified PDF or PDF/A file.

(3) * * *

* * * * *

B. OUT-OF-CYCLE CHANGES

These changes to the 2013 UTCR became effective after August 1, 2013, and before August 1, 2014. They will be incorporated into the 2014 UTCR.

1. 1.020 – AMENDMENT OF THESE RULES; EFFECTIVE DATE

EXPLANATION

UTCR 1.020(3) and (4) included an inaccurate website address. Pursuant to UTCR 1.020(6), the UTCR Reporter corrected the hyperlink.

CORRECTION

1.020 AMENDMENT OF THESE RULES; EFFECTIVE DATE

(1) The UTCR may be amended by order of the Chief Justice.

(2) The effective date of any amendments to the UTCR shall be August 1 of each year, unless otherwise ordered by the Chief Justice.

(3) Proposed amendments to the UTCR will be posted on the Oregon Judicial Department website (*[<http://www.courts.oregon.gov/ojd>]{<http://courts.oregon.gov/OJD/programs/utcr/pages/utcrrules.aspx>}*) and will allow no less than a 49-day period for public comment, unless otherwise ordered by the Chief Justice.

- (4) Once approved by the Chief Justice, the final rules with any amendments which are adopted will be posted on the Oregon Judicial Department website ([\[http://www.courts.oregon.gov/ojd\]](http://www.courts.oregon.gov/ojd) [{http://courts.oregon.gov/OJD/programs/utcr/pages/utcrrules.aspx}](http://courts.oregon.gov/OJD/programs/utcr/pages/utcrrules.aspx)) no less than 49 days before their effective date, unless otherwise ordered by the Chief Justice.
- (5) When either of the time limits set forth in subsections (3) and (4) of this rule have been waived by order of the Chief Justice, the amendment shall be posted for public comment as soon after adoption as is practicable, and the amendment shall be placed on the agenda of the next regularly scheduled UTCR Committee meeting.
- (6) The UTCR Reporter may correct typographical errors, grammatical errors, and inaccurate website addresses if the correction does not change the substance of the rule. The UTCR Reporter shall give appropriate notice of corrections to the public.

2. 1.170 – COURT WEBSITES

EXPLANATION

UTCR 1.170 included an inaccurate website address. Pursuant to UTCR 1.020(6), the UTCR Reporter corrected the hyperlink.

CORRECTION

1.170 COURT WEBSITES

SLR 1.171 is reserved for judicial districts to announce the website addresses of their courts. Links to these websites may also be found at the Oregon Judicial Department website: [\[http://www.courts.oregon.gov/ojd\]](http://www.courts.oregon.gov/ojd) [{http://courts.oregon.gov/OJD/Pages/index.aspx}](http://courts.oregon.gov/OJD/Pages/index.aspx).

3. 3.170 – ASSOCIATION OF OUT-OF-STATE COUNSEL (*PRO HAC VICE*)

EXPLANATION

UTCR 3.170 was amended by [Supreme Court Order 14-023](#), effective July 1, 2014, to increase the application fee in support of funding for legal aid services.

AMENDMENT

3.170 ASSOCIATION OF OUT-OF-STATE COUNSEL (*PRO HAC VICE*)

(1) * * *

* * * * *

- (6) Except as otherwise provided in this rule, for each application under this rule to appear before a court, the applicant must pay to the Bar a fee of [~~\$250~~] ~~(\$500)~~ at the time of submission of information under subsection (2) of this section, including when application is sought to renew an application at the end of a current one-year grant for a case. The fee will not be refundable.

(7) * * *

* * * * *

NOTE: UTCR 3.170 is adopted by the Oregon Supreme Court under ORS 9.241 and may be modified only by order of that Court.

4. 8.020 – SUPPORT ORDERS

EXPLANATION

UTCR 8.020 was amended by [Chief Justice Order 14-018](#), effective May 1, 2014, to facilitate implementation of the Oregon eCourt Program.

AMENDMENT

8.020 SUPPORT ORDERS

{(1)} Every proposed order or judgment providing for the support of any person under ORS chapters 107, 108, 109, 110, 416 or 419A, 419B, or 419C, or modifying any order or judgment for support of any person under those chapters, must set forth the due date of the first support payment to be made thereunder, the means of payment and the person to whom payment must be made.

{(2) Every proposed order or judgment that includes a provision concerning child support must include notice that, if services are provided by the Division of Child Support, the obligor and obligee must inform the administrator, as defined in ORS 25.010(1), in writing of any change in private health insurance enrollment status within 10 days of the change.}

5. 21.010 – DEFINITIONS

EXPLANATION

UTCR 21.010(4) included an inaccurate website address. Pursuant to UTCR 1.020(6), the UTCR Reporter corrected the hyperlink.

CORRECTION

21.010 DEFINITIONS

The following definitions apply to this chapter:

(1) * * *

* * * * *

(4) “Electronic filing system” means the system provided by the Oregon Judicial Department for the electronic filing and the electronic service of a document via the Internet, excluding the electronic filing of a criminal citation under ORS 133.073. A filer may access the system through the Oregon Judicial

Department's website ([<http://www.courts.oregon.gov/ojd>]
{<http://courts.oregon.gov/OJD/Pages/index.aspx>}).

(5) * * *

* * * * *

6. 21.020 – APPLICABILITY; LOCAL RULES OF COURT NOT PERMITTED

EXPLANATION

UTCR 21.020(1) included an inaccurate website address. Pursuant to UTCR 1.020(6), the UTCR Reporter corrected the hyperlink.

CORRECTION

21.020 APPLICABILITY; LOCAL RULES OF COURT NOT PERMITTED

- (1) As authorized by ORS 1.002, this chapter applies to those circuit courts that have approval from the State Court Administrator to accept filings electronically for designated case types and filers. The Oregon Judicial Department's website lists the circuit courts approved to accept filing electronically for designated case types and filers ([<http://www.courts.oregon.gov/ojd>]
{<http://courts.oregon.gov/OJD/Pages/index.aspx>}).
- (2) No circuit court may make or enforce any local rule, other than those local rules authorized by UTCR 4.090, governing the electronic filing and electronic service of documents.

7. 21.040 – FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY

EXPLANATION

UTCR 21.040 was amended by [Chief Justice Order 14-012](#), effective May 1, 2014, to facilitate implementation of the Oregon eCourt Program.

AMENDMENT

21.040 FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY

- (1) A document submitted electronically to the court must be in the form of a text-searchable Portable Document Format (PDF) or a text-searchable Portable Document Format/A (PDF/A) file that does not exceed 25 megabytes. A document that exceeds the size limit must be broken down and submitted as separate files that do not exceed 25 megabytes each. **{A filer submitting separate files under this section must include in the eFiling Comment field for each submission a description that clearly identifies the part of the document that the file represents, for example, "Motion for Summary Judgment, part 1 of 2."}**
- (2) Except as provided in subsections (a) **{through (d)}**[and (b)] of this section, when a document to be electronically filed includes one or more attachments, including but not limited to a memorandum of law, a statement

of points and authorities, a documentary exhibit, an affidavit, or a declaration, each attachment must be submitted through the electronic filing system as a separate electronically filed document. **{A filer submitting separate documents under this section must include in the eFiling Comment field for each submission a description that clearly identifies the filing, for example, "Affidavit of Jane Smith (Attachment to motion for summary judgment)." An attachment file that exceeds 25 megabytes must comply with section (1) of this rule.}**

(a) An attachment to a motion to strike filed under UTCR 5.020(2) must be submitted together with the motion as a single, unified PDF or PDF/A file.

(b) An attachment to a motion for leave to amend a pleading filed under UTCR 5.070 must be submitted together with the motion as a single, unified PDF or PDF/A file.

{(c) Attachments to a petition for post-conviction relief filed under ORS 138.580 must be submitted together as a single, unified PDF or PDF/A file. The attachment file must be submitted separately from the petition document.}

{(d) Attachments to a Uniform Support Declaration filed under UTCR 8.010(4) must be submitted together with the declaration as a single, unified PDF or PDF/A file.}

(3) When viewed in an electronic format and when printed, a submitted document must comply with the requirements of ORCP 9 E and UTCR 2.010 except as to any requirement that a document bear a physical signature when filed.

(4) **{When submitting an electronic filing that creates a new case or adds a party to an existing case,**

(a) A filer must enter into the "Add Party" screen the names of all known parties or all parties being added; and

(b) A filer must enter party names in proper case, for example, "John Doe" and not "JOHN DOE."}

{(5)} The court may reject submitted documents that do not comply with these provisions as provided in UTCR 21.080(5).

8. 21.070 – SPECIAL FILING REQUIREMENTS

EXPLANATION

UTCR 21.070 was amended by [Chief Justice Order 14-012](#), effective May 1, 2014, to facilitate implementation of the Oregon eCourt Program.

AMENDMENT

21.070 SPECIAL FILING REQUIREMENTS

(1) Courtesy Copies **{and Other Copies}**

{(a)} The court may require that a filer submit, in the manner and time specified by the court, a copy of the document that was filed electronically and a copy of the submission or acceptance email from the electronic filing system.

{(b)} **When a filer submits a document for conventional filing or electronic filing, the filer need not submit for filing additional copies of that document unless otherwise required by the court.**

{(c)} **In a post-conviction relief proceeding filed under ORS 138.510 as limited by paragraphs (i) and (ii) of this subsection, if the petitioner intends to rely on the contents of the underlying circuit court criminal case file to support the allegations in the petition filed under ORS 138.580, then the petitioner must so state in the petition. If the petitioner intends to rely on some, but not all, of the contents of the underlying case file, then the petitioner must identify with reasonable specificity the materials on which the petitioner intends to rely. The petitioner need not attach to the petition, as part of evidence supporting the allegations, any document from the underlying case file. This subsection applies only if:**

{(i)} **Both the post-conviction court and the circuit court on the underlying criminal case are using the Oregon eCourt Case Information system; and**

{(ii)} **The underlying criminal case was filed on or after the date that the circuit court began using the Oregon eCourt Case Information system. The date that each Oregon eCourt Case Information circuit court began using that system is available at <http://courts.oregon.gov/Oregonecourt/pages/oregoneCourtMap.aspx> }**

(2) Court Order Requiring Electronic Filing and Electronic Service

Except for any document that requires service under ORCP 7 or that requires personal service, the court may, on the motion of any party or on its own motion, order all parties to file and serve all documents electronically, after finding that such an order would not cause undue hardship or significant prejudice to any party.

(3) Documents that Must be Filed Conventionally

The following documents must be filed conventionally:

(a) An accusatory instrument that initiates a criminal action, except as otherwise provided by ORS 133.073.

(b) A petition that initiates a juvenile delinquency proceeding under ORS 419C.250.

- (c) A document that initiates an extradition proceeding under ORS 133.743 to 133.857.
- (d) *[A citation that initiates a parking violation proceeding.]*
- (e)] An initiating instrument in a contempt proceeding, other than a motion, under ORS 33.055 (remedial) or an accusatory instrument that initiates a contempt proceeding under ORS 33.065 (punitive).
- (~~e~~)](f) A notice of appeal from a justice court or municipal court judgment under ORS 138.057 or ORS 157.020(1), a justice court order under ORS 157.020(2), or a municipal court conviction under ORS 221.359.
- (~~f~~)](g) A document that initiates an action that is accompanied by an application for a waiver or deferral of a required fee.
- (~~g~~)](h) An amended **{pleading}** *[civil complaint]* that, as a result of the amendment, requires payment of an additional filing fee.
- (~~h~~)](i) A document filed under seal or subject to in camera inspection, including a motion requesting that a simultaneously filed document be filed under seal or subject to in camera inspection **{, except that a document may be electronically filed in an adoption case.}**
- (~~i~~)](j) Except as provided in UTCR 21.090(4), a document that is required by law to be filed in original form, such as, but not limited to, an original will, a certified document, or a document under official seal.
 - (i) If applicable law requires an original document to be filed simultaneously with another document that is electronically filed, the filer must electronically file an image of the original document with the other electronically filed document and then conventionally file the original document within 7 business days after submitting the electronic filing. An original document conventionally filed under this paragraph is deemed filed on the date of filing of the electronically filed image of the same document.
 - (ii) If the filer elects to electronically file an image of an original document as set out in paragraph (~~j~~)](i)(i) of this subsection, the filer must include in the eFiling Comment field a statement that the electronic filing submission includes an image of an original document and that the filer will conventionally file the original document within 7 business days.
 - {(iii) If the filer elects to electronically file an image of an original document as set out in paragraph (i)(i) of this subsection, when conventionally filing the original document, the filer must include a notification to the court that the image was previously electronically filed.}**
- {(i) A negotiable instrument tendered under UTCR 2.060 for entry of notation of judgment.}**

- (k) A document delivered to the court under ORCP 55 (H)(2)(c).
 - (l) A Driver and Motor Vehicle Services Branch of the Oregon Department of Transportation (DMV) record, as defined in UTCR 10.020(1).
- (4) Limits on Exhibits
- (a) A demonstrative or oversized exhibit must be filed conventionally.
 - (b) Trial exhibits may not be filed electronically and must be submitted or delivered as provided in UTCR 6.050(2).
- (5) Expedited Filings
- A filer must include the words “EXPEDITED CONSIDERATION REQUESTED” in the Filing Comments field when preparing an expedited filing for submission through the electronic filing system.

9. 21.080 ELECTRONIC FILING DEADLINES

EXPLANATION

UTCR 21.080 was amended by [Chief Justice Order 14-012](#), effective May 1, 2014, to facilitate implementation of the Oregon eCourt Program.

AMENDMENT

21.080 ELECTRONIC FILING DEADLINES

- (1) A filer may use the electronic filing system at any time, except when the electronic filing system is temporarily unavailable.
- (2) The filing deadline for any document filed electronically is 11:59:59 p.m. in the time zone where the court is located on the day the document must be filed.
- (3) The court considers a document submitted for an electronic filing when the electronic filing system receives the document. The electronic filing system will send an email to the filer that includes the date and time of receipt, unless the filer has elected through system settings not to receive the email.
- (4) If the court accepts the document for filing, the date and time of filing entered in the register relate back to the date and time the electronic filing system received the document. When the court accepts the document, the electronic filing system will affix the date and time of submission on the document, thereby indicating the date and time of filing of the document. When the court accepts a document for filing, the electronic filing system sends an email to the filer, unless the filer has elected through system settings not to receive the email.
 - (a) The provisions of this subsection do not apply to a proposed order or judgment{, **or to any other document that requires court signature,**} that is electronically filed.

(b) When the court accepts a proposed order or judgment (or any other document that requires court signature) through the electronic filing system, the document is deemed submitted for judge review.

(5) If the court rejects a document submitted electronically for filing, the electronic filing system will send an email to the filer that explains why the court rejected the document, unless the filer has elected through system settings not to receive the email. The email will include a hyperlink to the document.

(a) A filer who resubmits a document within 3 days of the date of rejection under this section may request, as part of the resubmission, that the date of filing of the resubmitted document relate back to the date of submission of the original document to meet filing requirements. If the third day following rejection is not a judicial day, then the filer may resubmit the filing with a request under this subsection on the next judicial day. For purposes of this subsection, resubmission means submission of the document through the electronic filing system under section (3) of this rule or physical delivery of the document to the court. A filer who resubmits a document under this subsection must include:

(i) a cover letter that sets out the date of the original submission and the date of rejection and that explains the reason for requesting that the date of filing relate back to the original submission, with the words "RESUBMISSION OF REJECTED FILING, RELATION-BACK DATE OF FILING REQUESTED" in the subject line of the cover letter; and

(ii) if an electronic resubmission, the words "RESUBMISSION OF REJECTED FILING, RELATION-BACK DATE OF FILING REQUESTED" in the Filing Comments Field.

(b) A responding party may object to a request under subsection (a) of this section within the time limits as provided by law for the type of document being filed. For the purpose of calculating the time for objection provided by law under this subsection, if applicable, the date of filing is the date that the document was resubmitted to the court under subsection (a) of this section.

10. 21.100 – ELECTRONIC SERVICE

EXPLANATION

UTCR 21.100(2)(b)(ii) and (2)(d) included a typographical error. Pursuant to UTCR 1.020(6), the UTCR Reporter corrected the typographical error by changing "UTCR 21.010(9)" to "UTCR 21.010(8)."

CORRECTION

21.100 ELECTRONIC SERVICE

(1) * * *

(2) Contact Information

(a) * * *

(b) A filer described in subsection (1)(a) of this rule may enter in the electronic filing system, as an other service contact in the action:

(i) an alternative email address for the filer; and

(ii) the name and email address of any additional person whom the filer wishes to receive electronic notification of documents electronically served in the action, as defined in UTCR [21.010(9)]{**21.010(8)**}. If a lawyer enters a client's name and contact information as an other service contact under this subsection, then the lawyer is deemed to have consented for purposes of Rule of Professional Conduct 4.2 to delivery to the client of documents electronically served by other filers in the action.

(c) * * *

(d) A filer may seek court approval to remove a person entered by another filer as an other service contact in an action if the person does not qualify as an other service contact under UTCR [21.010(9)]{**21.010(8)**}.

(3) * * *

* * * * *

11. 21.100 – ELECTRONIC SERVICE

EXPLANATION

UTCR 21.100 was amended by [Chief Justice Order 14-012](#), effective May 1, 2014, to facilitate implementation of the Oregon eCourt Program.

AMENDMENT

21.100 ELECTRONIC SERVICE

(1) Consent to Electronic Service and Withdrawal of Consent

(a) A filer who electronically appears in the action by filing a document through the electronic filing system that the court has accepted is deemed to consent to accept electronic service of any document filed by any other registered filer in an action, except for any document that requires service under ORCP 7 or that requires personal service.

- (b) A filer who is dismissed as a party from the action or withdraws as a lawyer of record in the action may withdraw consent to electronic service by removing the filer's contact information as provided in subsection (2)(a) of this rule.
- (c) Except as provided in subsection (b) of this section, a filer may withdraw consent to electronic service only upon court approval based on good cause shown.

(2) Contact Information

- (a) At the time of preparing the filer's first electronic filing in the action, a filer described in subsection (1) of this rule must enter in the electronic filing system the name and service email address of the filer, designated as a service contact on behalf of an identified party in the action. If the filer withdraws consent to electronic service under subsection (1)(b) or (1)(c) of this rule, then the filer must remove the filer's name and service email address as a designated service contact for a party.
- (b) A filer described in subsection (1)(a) of this rule may enter in the electronic filing system, as an other service contact in the action:
 - (i) an alternative email address for the filer; and
 - (ii) the name and email address of any additional person whom the filer wishes to receive electronic notification of documents electronically served in the action, as defined in UTCR 21.010(9). If a lawyer enters a client's name and contact information as an other service contact under this subsection, then the lawyer is deemed to have consented for purposes of Rule of Professional Conduct 4.2 to delivery to the client of documents electronically served by other filers in the action.
- (c) A filer is responsible for updating any contact information for any person whom the filer has entered in the electronic filing system as either a service contact for a party or as an other service contact in an action.
- (d) A filer may seek court approval to remove a person entered by another filer as an other service contact in an action if the person does not qualify as an other service contact under UTCR 21.010(9).

(3) Selecting Service Contacts and Other Service Contacts

When preparing an electronic filing submission with electronic service, a filer is responsible for selecting:

- (a) the appropriate service contacts in the action, for the purpose of accomplishing electronic service as required by law of any document being electronically filed; and

- (b) the appropriate other service contacts in the action, if any, for the purpose of delivering an electronic copy of any document being electronically filed.

(4) **{Court Notification and Transmission Constituting Service}**

When the court accepts an electronic document for filing under UTCR 21.060(1)(a), the electronic filing system sends an email to the email address of each person whom the filer selected as a service contact or other service contact under subsection (3) of this rule. The email contains a hyperlink to access the document or documents that have been filed electronically. Transmission of the email by the electronic filing system to the selected service contacts in the action constitutes service.

(5) Completion and Time of Electronic Service

Electronic service is complete when the electronic filing system sends the email to the selected service contacts in the action.

(6) **{Applicability of ORCP 10 C}**

Electronic service performed in accordance with this chapter is equivalent to service by mail as provided in ORCP 10 C.

(7) Proof of Electronic Service

A filer must attach at the end of any document submitted electronically a list of names [*and addresses*] of all parties requiring conventional paper service, followed by a clearly identified list of the names of all parties requiring service that will be served electronically by the electronic filing system.

(8) Service Other than by Electronic Means

The filing party is responsible for accomplishing service in any manner permitted by the Oregon Rules of Civil Procedure and for filing a proof of service with the court for the following documents:

- (a) a document required to be filed conventionally under this chapter;
- (b) a document that cannot be served electronically on a party who appeared in the action; and
- (c) a document subject to a protective order.

12. 21.120 – RETENTION OF DOCUMENTS BY FILERS

EXPLANATION

UTCR 21.120 was amended by [Chief Justice Order 14-012](#), effective May 1, 2014, to facilitate implementation of the Oregon eCourt Program.

AMENDMENT

21.120 RETENTION OF DOCUMENTS BY FILERS

- (1) Unless the court orders otherwise, if a filer electronically files an image of a document that contains the original signature of a person other than the filer, the filer must retain the document in its original paper form for 10 years.
- (2) On reasonable notice, the filer must provide a paper copy **{of the original}** for inspection by another party, the clerk, or the court.

13. Form 8.010.5 – UNIFORM SUPPORT DECLARATION

EXPLANATION

Corrected inaccurate website address.

CORRECTION (see next page)

4. YOUR CHILDCARE EXPENSES

A. *Do you pay for childcare for the joint child(ren) so you can work, train, or look for work? Yes No

If yes,:

Paid to:	Name of Child	Age	Average Monthly Payment

B. *Does anyone else share the cost of childcare for the joint child(ren)? Yes No

If yes, name: _____ Average Monthly Amount \$ _____

C. *City where childcare is provided: _____

D. ATTACH COPIES OF PROOF OF CHILDCARE EXPENSES.

5. *YOUR PARENTING TIME

PROPOSED OCCURRING EXISTING PLAN OR WRITTEN AGREEMENT

A. How many ANNUAL overnights does each joint child spend with YOU?

i. Name of Child: _____ # of overnights: _____

ii. Name of Child: _____ # of overnights: _____

iii. Name of Child: _____ # of overnights: _____

iv. Name of Child: _____ # of overnights: _____

B. ATTACH COPY OF MOST RECENT PARENTING PLAN OR WRITTEN AGREEMENT.

6. YOUR REBUTTAL FACTORS

A. The amount of child support to be paid may be rebutted under OAR 137-050-0760.

[http://www.dcs.state.or.us/oregon_admin_rules/default.htm]

{http://oregonchildsupport.gov/laws/rules/docs/050_0760.pdf}

i. Are you seeking a rebuttal (an adjustment to the support amount)? Yes No

ii. Explain briefly: _____

B. ATTACH SUPPORTING EVIDENCE/ADDITIONAL INFORMATION.

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND THEY ARE MADE FOR USE AS EVIDENCE IN COURT AND ARE SUBJECT TO PENALTY FOR PERJURY.

DATED this _____ day of _____, 20____.

My (printed) Name Is _____

I am:

PETITIONER RESPONDENT CO-PETITIONER

OTHER: _____

SIGNATURE

**14. Form 10.010.b – CERTIFICATE OF SERVICE FOR PETITION OF JUDICIAL REVIEW
OF ORDER OF DMV – UTCR 10.010**

EXPLANATION

The form included two inaccurate addresses. Pursuant to UTCR 1.020(6), the UTCR Reporter corrected the addresses.

CORRECTION (see next page)

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Petition for Judicial Review on:

[*Manager*
DMV Hearings
Driver and Motor Vehicle Services Branch of the
Oregon Department of Transportation]
{Hearings Case Management Manager
Oregon Department of Transportation/Driver and Motor Vehicle Services
Division}
1905 Lana Avenue NE
Salem, Oregon 97314

and,

[*Attorney General or Designee*
General Counsel Division
Transportation - Implied Consent Unit
100 Justice Building]
{Department of Justice – General Counsel – Implied Consent
1162 Court Street}
Salem, Oregon [97310] **{97301}**

by mailing by registered or certified mail to those persons a true and correct copy thereof, certified by me as such, placed in a sealed envelope addressed to them at the addresses set forth, and deposited in the United States Post Office at _____, Oregon, on _____ (date) with the postage prepaid.

-
- Petitioner
 Attorney for Petitioner
(Please check one of the above)

C. COMMITTEE RECOMMENDATIONS OF DISAPPROVAL

1. 4.060 – MOTION TO SUPPRESS EVIDENCE

PROPOSAL

Amend to create new requirements in instances when the burden of proof shifts to the prosecution.

ACTION TAKEN

Motion 1, to reword section (2) for readability, as suggested in public comment from Elaine Bensavage, failed for lack of a second. Motion 2, to amend section (2) to replace the 7-day requirement with a 3-day requirement passed on a vote of 10-1. Motion 3, to amend section (3)(a) to replace the 7-day requirement with a 3-day requirement passed on a vote of 10-1. Motion 4, to amend section (5) so a judge may grant leave to file a supplemental memorandum, was withdrawn. Motion 5, to make a final recommendation of approval of the proposal, as amended, failed on a vote of 4-7.

EXPLANATION

This proposal was originally submitted by Guy Greco, committee member, on October 9, 2012. It was discussed at committee meetings on October 12, 2012, March 1, 2013, and October 18, 2014. Leading up to the March 1, 2013, meeting, the proposal was studied and modified by a work group consisting of committee members Gerking, Greco, Parosa, and West. The proposal:

- Requires the defendant to state whether the search or seizure was supported by a warrant
- Requires the defendant to identify the evidence to be suppressed
- Requires the defendant, if there was a warrant, to include the warrant and the affidavit supporting the warrant
- Requires the prosecution to identify in writing, for evidence obtained pursuant to a warrantless search or seizure when the burden of proof shifts to the state, the exceptions to the warrant requirement on which the state will rely (this requirement can be waived upon a showing of good cause)
- Allows the prosecution to file a memorandum in opposition to the motion to suppress not less than 7 days prior to the scheduled hearing (the current rule requires the memorandum to be filed not more than 7 days after the motion to suppress has been filed)
- Does not preclude a hearing on the merits for failure of the prosecution to identify in writing the exceptions or to file a memorandum in opposition
- Does allow the court, in its discretion, to order a continuance of the hearing if the prosecution fails to identify in writing the exceptions
- Gives the court discretion to allow parties to file additional briefs after the hearing

At the meeting held on October 18, 2013, the proponent noted that:

- A defense counsel needs to know the exception, and related evidence, asserted by the prosecution to properly focus on relevant arguments without

wasting time and resources on exceptions that will not be asserted by the state

- The proposal establishes a requirement for advance notice of the exceptions on which the state is going to rely
- The proposal doesn't preclude the state from relying on a new exception at the hearing, but that circumstance could result in a set over
- The state may talk to the officer the day before the hearing and learn of a new exception and the proposal allows for that type of circumstance

At the meeting held on October 18, 2013, the committee noted that:

- A lack of notice makes it difficult for the judge to prepare for the hearing
- Prosecutors believe they do not have time to comply with the notice requirement
- The notice requirement may discourage prosecutors from filing memoranda in opposition
- Briefing is not required and notice could be as simple as a list of exceptions with check boxes for identifying the relevant exceptions
- Changing the 7-day requirement is helpful to the prosecution

At the meeting held on April 4, 2014, the proponent noted that:

- It doesn't make sense to force defense counsel to brief every possible exception
- The state could use a simple form to indicate the applicable exception
- The proposal clarifies who must supply a copy of the warrant when there is one
- OCDLA is supportive
- The goal is to change the culture around these motions

At the meeting held on April 4, 2014, the committee noted that:

- Notice of the proposal was given to ODDA and OCDLA
- The goal is to prevent surprise and allow the defense and the judge to be prepared
- The Washington County District Attorney's Office submitted public comment in opposition from five attorneys who felt that the proposal would be burdensome for the prosecution and could be used to harass prosecutors
- The handling of these motions varies by judicial district
- Some courts hear the motions in advance of trial and others hear them on the day of trial

- Some courts see few responses filed by the State and others see responses filed for every motion
- The proposal could have an adverse impact on those courts where the State routinely files a response
- Statewide uniformity is unlikely, especially given different docketing practices
- Some SLR govern the timing of a motion
- The 7-day requirement should be shortened

PROPOSED AMENDMENT

4.060 MOTION TO SUPPRESS EVIDENCE

(1) All motions to suppress evidence:

{(a) must identify with particularity the search or seizure subject to the motion, whether the search or seizure was supported by a warrant, and the specific evidence that the moving party seeks to suppress;}

{(b) must, if the search or seizure was pursuant to a warrant, include the warrant and the affidavit in support of the warrant;}

~~[(a)]~~**{(c)}** must make specific reference to any constitutional provision, statute, rule, case, or other authority upon which it is based; and

~~[(b)]~~**{(d)}** must be accompanied by the moving party's brief which must be adequate [*reasonably*] to **{reasonably}** apprise the court and the adverse party of the arguments and authorities relied upon.

{(2) Whenever the burden is on the nonmoving party to establish that the evidence should not be suppressed, the nonmoving party shall submit, absent a showing of good cause, not less than 7 days prior to any scheduled hearing on the motion, a brief statement setting forth the basis for admission of the evidence.}

~~[(2)]~~**{(3)}** [*Any response to a motion to suppress*] **{The nonmoving party may also file a memorandum in opposition to the motion to suppress. Any such response}**:

(a) together with [*opposing*] **{supporting}** affidavits, if any, upon which it is based must be in writing and must be served and filed **{, absent a showing of good cause,}** [*not more than 7 days after the motion to suppress has been filed*] **{not less than 7 days prior to any scheduled hearing on the motion}**;

(b) must state the grounds thereof and, if the relief or order requested is not opposed, wholly or in part, a specific statement of the extent to which it is not opposed; and

- (c) must make specific reference to any affidavits relied on and must be accompanied by an opposition brief adequate [*reasonably*] to **{reasonably}** apprise the court and moving party of the arguments and authorities relied upon.

~~[(3)]~~**{(4)}** When averments in an affidavit are made upon information and belief, the affidavit must indicate the basis thereof.

~~[(4)]~~**{(5)}** Failure to file a written [*response*] **{statement pursuant to section (2) or a response pursuant to section (3)}** shall not preclude a hearing on the merits. **{Failure to file a statement pursuant to section (2) may be grounds for a continuance of the hearing on the merits.}**

{(6) With permission of the court, a party may file a supplemental memorandum or response after the hearing on the merits.}

2. 5.030 – FORM OF ACCOUNTINGS

PROPOSAL

Amend to limit the reply memorandum to matters raised in the responding memorandum.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of disapproval becomes the committee's final recommendation of disapproval.

EXPLANATION

This proposal was submitted by Peter M. Appleton, a lawyer from Salem, on July 15, 2013. The proponent believes the rule allows one party to sandbag another since the reply is not limited to addressing issues raised in the opposition memorandum. At the meeting held on October 18, 2013, the judges on the committee did not identify this as an issue in their courts. The committee discussed whether this is a fair way to define the debate, whether the rule is a timing rule rather than a procedure rule, and the confusion that can arise from adding length and complexity to court rules.

PROPOSED AMENDMENT

5.030 OPPOSING PARTY'S RESPONSE; TIME FOR FILING RESPONSE AND REPLY

In matters other than motions for summary judgment:

- (1) An opposing party may file a written memorandum of authorities in response to the matters raised in any motion not later than 14 days from the date of service of the motion.
- (2) A reply memorandum, if any, must be filed within 7 days of the service of the responding memorandum. **{Any reply memorandum should be limited to addressing the opposition memorandum.}**

3. 9.160(1)(b)(ii) – FORM OF ACCOUNTINGS

PROPOSAL

Amend to clarify whether income estimated in the next accounting period means net income or gross income.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of disapproval becomes the committee's final recommendation of disapproval.

EXPLANATION

This proposal was submitted by Harold A. Snow, a lawyer from Astoria, on February 5, 2013. At the meeting held on October 18, 2013, the discussion leader reported that he discussed this proposal with many probate practitioners and that none of them had found this to be a problem. The rule is meant to cover gross income and that is how it is interpreted by practitioners. In light of this, the committee concluded that there was no need to amend the rule.

PROPOSED AMENDMENT

The proponent did not submit a draft amendment.

4. Form 9.160 – ACCOUNTING FORM

PROPOSAL

Amend to clarify whether "estimate income" in the "Bonding and Asset Restrictions" section means net income or gross income.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of disapproval becomes the committee's final recommendation of disapproval.

EXPLANATION

This proposal was submitted by Harold A. Snow, a lawyer from Astoria, on February 5, 2013. At the meeting held on October 18, 2013, the discussion leader reported that he discussed this proposal with many probate practitioners and that none of them had found this to be a problem. The form is meant to cover gross income and that is how it is interpreted by practitioners. In light of this, the committee concluded that there was no need to amend the form.

PROPOSED AMENDMENT

The proponent did not submit a draft amendment.

5. 13.250 – REQUEST FOR TRIAL *DE NOVO*

PROPOSAL

Amend to clarify how to abandon a request for trial *de novo*.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of disapproval becomes the committee's final recommendation of disapproval.

EXPLANATION

This proposal was submitted by Erik Van Hagen, Deputy General Counsel for TriMet, on March 5, 2013. The proponent is concerned about instances where a party will file a request for trial *de novo* and then later file a dismissal without prejudice to avoid paying costs. At the meeting held on October 18, 2013, the committee pointed out that the draft amendment is confusing, may be more appropriate for legislative action, and should not be used to correct an isolated incident.

PROPOSED AMENDMENT

13.250 REQUEST FOR TRIAL *DE NOVO*

- (1) A party who qualifies under ORS 36.425(2) may obtain a trial *de novo* on the case determined by completing the service, filing, payment of trial or jury fee and deposit as required under ORS 36.425(2).
- (2) In addition to the provisions under ORS 36.425 relating to a trial *de novo*, the following provisions apply:
 - (a) In addition to filing a written notice of appeal and request for trial *de novo* with the trial court administrator, the party must serve on the parties a copy of the written notice of appeal and request for a trial *de novo* filed with the trial court administrator, and proof of such service must be filed with the trial court administrator.
 - (b) When cases are consolidated for arbitration and a party has filed an appeal from the arbitration award in one or more of the consolidated cases, any other party who otherwise qualifies under ORS 36.425(2) may serve and file with the trial court administrator a request for trial *de novo*, with proof of service on all other parties, within 20 days from the filing of the arbitration award or within two judicial days after the service of the initial written request for trial *de novo*, notwithstanding the lapse of 20 days from the filing of the arbitration award.
 - (c) If the trial *de novo* request is withdrawn, or abandoned, [*such appealing party must obtain permission of the court or there must be a stipulation of all parties to the abandonment of the appeal and the terms thereof*] **{including a voluntary dismissal under ORCP 54 A, judgment shall be entered on the arbitration decision and award as set forth in UTCR 13.240, unless otherwise stipulated by the parties}**.
 - (d) Cross appeal is not necessary to preserve issues raised in a counterclaim, because the trial *de novo* encompasses all claims raised by any party in the particular case appealed.

- (e) The court may assess statutory costs against a party who withdraws a request for trial *de novo*.

6. Appendix – UTCR FORMS

PROPOSAL

Amend appropriate forms to include a UTCR 2.080 notice of simultaneous mailing or delivery.

ACTION TAKEN

The committee received no public comment. No motions were made to change the preliminary recommendation of disapproval. Therefore, by committee convention, the committee's October 18, 2013, preliminary recommendation of disapproval becomes the committee's final recommendation of disapproval.

EXPLANATION

This proposal was submitted by Michelle Leonard, Trial Court Administrator for Union and Willowa Circuit Courts, on April 1, 2013. At the meeting held on October 18, 2013, the committee discussed that this appeared to be a change to statewide forms to deal with a local issue in one judicial district, which should be addressed through a local discussion with local stakeholders. They also discussed the need to be cautious in adding more wording to forms, which can make them more confusing.

PROPOSED AMENDMENT

"Pursuant to UTCR 2.080 I have simultaneously mailed or delivered copies of this document to the following parties:_____."

D. PUBLIC COMMENT ON OTHER ACTIONS

1. 21.090 – ELECTRONIC SIGNATURES

PROPOSAL

Amend to address electronic notarizations.

ACTION TAKEN

The committee received no public comment. Action was not needed nor taken.

EXPLANATION

This proposal was submitted by Josh Nasbe, OJD assistant legal counsel, on August 22, 2013. The Secretary of State and the notary industry are in the process of developing a system for electronic notarizations. The rule is not ready for amendment since there is insufficient information on the final system. The proponent withdrew the proposal but may resubmit it in the future.

2. Chapter 22 – REMOTE ELECTRONIC ACCESS TO CASE RECORD DOCUMENTS MAINTAINED IN OREGON eCOURT SYSTEM

PROPOSAL

Review status of proposal to adopt new rules, forms, and conforming amendments regarding remote electronic access to case record documents.

ACTION TAKEN

The committee received no public comment. Action was not needed nor taken.

EXPLANATION

A written update was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 30, 2013. Ms. Norris-Lampe appeared before the committee on October 18, 2013, to summarize the update. The work group continues to explore the functionality of the new system and will need to make additional adjustments to the proposed chapter to reflect that functionality. They anticipate that the chapter will be adopted out-of-cycle to coincide with implementation of the remote electronic access system.

3. CJO 13-036 – AMENDING UTCR 5.150

PROPOSAL

Review public comment on out-of-cycle amendment.

ACTION TAKEN

The committee received no public comment. Action was not needed nor taken.

EXPLANATION

This item was submitted by the UTCR Reporter on September 4, 2013. The rule was amended out-of-cycle by way of Chief Justice Order 13-036, effective June 11, 2013. It was posted for public comment. No public comment was submitted. The order can be found here:

http://courts.oregon.gov/OJD/docs/programs/utcr/CJO_13-036.pdf

4. CJO 13-014 – AMENDING UTCR 21.040, 21.050, 21.070, 21.080, 21.090, AND 21.120

PROPOSAL

Review public comment on out-of-cycle amendments.

ACTION TAKEN

The committee received no public comment. Action was not needed nor taken.

EXPLANATION

This item was submitted by the UTCR Reporter on September 4, 2013. The rules were amended out-of-cycle by way of Chief Justice Order 13-014, effective March 26, 2013. They were posted for public comment. No public comment was submitted. The order can be found here:

http://courts.oregon.gov/OJD/docs/programs/utcr/CJO_13-014.pdf

5. COMMITTEE MEMBERSHIP

PROPOSAL

Update.

ACTION TAKEN

The committee received no public comment. Action was not needed nor taken.

EXPLANATION

The Reporter posted a recruitment, which closed November 29, 2013, for new members to replace Guy Greco, Lindsey Hughes, Judge Hull, Judge Thompson, and Judge West. The new members chosen by Chief Justice Balmer are Judge Ashby, Jenny Cooke, Craig Cowley, Judge Erwin, and Judge Prall. The first term for Bill Miner and Chris Parosa ends on December 31, 2014. Committee practice is to have members serve two terms. The second term for Bryant Baehr, Larry Coady, and Richard Weill ends on December 31, 2014. The Reporter will recruit replacements for those positions. Baehr holds the seat reserved for trial court administrators. The committee requested applicants with a general civil litigation background for the other two positions.

6. SPRING 2014 MEETING

PROPOSAL

Schedule the spring meeting.

ACTION TAKEN

The committee received no public comment. Action was not needed nor taken.

EXPLANATION

The committee's spring meeting was held on April 4, 2014.

7. FALL 2014 MEETING

PROPOSAL

Schedule the fall meeting.

ACTION TAKEN

The committee received no public comment. Action was not needed nor taken.

EXPLANATION

The committee's fall meeting will be held on October 17, 2014. Please submit proposed UTCR changes to the UTCR Reporter by August 29, 2014, so that they may be included in the fall meeting agenda. You can submit proposals by email or traditional mail: utcr@ojd.state.or.us or UTCR Reporter, Supreme Court Building, 1163 State Street, Salem, Oregon 97301-2563.

E. OTHER

1. **3.170** – ASSOCIATION OF OUT-OF-STATE COUNSEL (*PRO HAC VICE*)

PROPOSAL

Amend to increase the application fee.

ACTION TAKEN

Action was not needed nor taken.

EXPLANATION

This proposal was submitted by Tom Kranovich, President of the Oregon State Bar, on behalf of the Task Force on Legal Aid Funding, on March 13, 2014. The proposal raises the annual application fee from \$250 to \$500 and is meant to increase funding for legal aid. It was posted for public comment with the comment period ending at 5:00 p.m. on April 30, 2014. Approval must come from the Supreme Court.

2. **SLR Chapter 16** – Violations – Trial by Affidavit

PROPOSAL

Review status of a proposed statewide form substituting a declaration under penalty of perjury for the affidavit.

ACTION TAKEN

Action was not needed nor taken.

EXPLANATION

Last fall Crook and Jefferson Counties proposed an SLR change that would have allowed use of a declaration under penalty of perjury in a trial by affidavit. The change was in reaction to an Oregon eCourt Law and Policy Work Group statewide form that was a declaration rather than an affidavit. The committee was concerned that this might be in violation of a statutory requirement of an affidavit. They asked Judge Hillman and the UTCR Reporter to look at the issue and report at this meeting. The trial court administrator chose to keep the original SLR, which requires an affidavit. The UTCR Reporter brought the issue to the Law and Policy Work Group. They discussed the issue with the OJD Legal Counsel Division and came to the conclusion that an affidavit is required.

2014 UNIFORM TRIAL COURT RULES

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Form 2.100.8	REQUEST TO INSPECT UTCR 2.100 SEGREGATED INFORMATION SHEET
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Form 2.130.2	NOTICE RE: FILING OF CONFIDENTIAL INFORMATION FORM (CIF)
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Form 4.100.1b	PROSECUTING ATTORNEY'S NOTIFICATION OF COMPLIANCE WITH CRIME VICTIMS' CONSTITUTIONAL RIGHTS
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Form 9.180.3 DEPOSITORY CERTIFICATION OF FUNDS ON DEPOSIT

Form 9.400.1 COURT VISITOR'S REPORT ADULT GUARDIANSHIP

Form 9.410.1 ORDER REGARDING CONFIDENTIAL INFORMATION DISCLOSED BY
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AUTHORITY

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Form 15.010.1c DECLARATION OF NONCOMPLIANCE AND REQUEST FOR JUDGMENT

Form 15.010.1d SMALL CLAIMS JUDGMENT AND MONEY AWARD

Form 15.010.1e DEFENDANT'S RESPONSE

Form 15.010.1f SMALL CLAIMS AGREEMENT