

**NOTICE SEEKING PUBLIC COMMENT ON
PROPOSED UNIFORM TRIAL COURT RULES CHANGES FOR 2016**

I. INTRODUCTION

This notice is provided pursuant to Uniform Trial Court Rule (UTCRR) 1.020(3), which requires official notice of proposed rule changes to be posted on the Oregon Judicial Department website (<http://courts.oregon.gov/OJD/programs/utcr/pages/utcrrules.aspx>) for at least 49 days to allow submission of public comment.

The UTCRR Committee makes recommendations to the Chief Justice of the Oregon Supreme Court. At its fall meeting on October 16, 2015, the committee made preliminary recommendations on several proposed changes. The committee will review public comment and make final recommendations at its next meeting on April 8, 2016.

The committee encourages you to submit comments on these proposals, the recommendations (whether for approval or disapproval), and any other action taken by the committee. In order to be considered by the committee, public comment must be received by the UTCRR Reporter by 5:00 p.m. on March 18, 2016.

SUBMISSION OF WRITTEN COMMENTS

You can submit written comments by clicking on the button next to the item of interest. You can also submit written comments by email or traditional mail:

utcr@ojd.state.or.us

or

UTCRR Reporter
Supreme Court Building
1163 State Street
Salem, Oregon 97301-2563

If you wish to appear at the spring meeting, please contact the UTCRR Reporter at utcr@ojd.state.or.us or Bruce C. Miller at 503-986-5500 to schedule a time for your appearance.

Recommendations that are adopted by the Chief Justice will take effect on August 1, 2016. Following adoption, the rules will be posted on the Oregon Judicial Department website (<http://courts.oregon.gov/OJD/programs/utcr/pages/utcrrules.aspx>). Additional information on the UTCRR process can be found at: <http://courts.oregon.gov/OJD/programs/utcr/pages/index.aspx>.

II. FUTURE MEETINGS

The committee plans to meet twice in 2016.

SPRING MEETING: April 8, 2016, 9:00 a.m., at the Office of the State Court Administrator, Salem, Oregon. The committee will review public comment on the proposals and preliminary recommendations described in this notice and will make final recommendations to the Chief Justice on changes to the UTCR to take effect August 1, 2016. The committee may also reconsider any and all of these proposals, the corresponding recommendations, and any other committee action.

FALL MEETING: October 14, 2016, 9:00 a.m., at the Office of the State Court Administrator, Salem, Oregon. The committee will review existing and proposed Supplementary Local Rules (SLR) and may make recommendations to the Chief Justice on disapproval of SLR pursuant to UTCR 1.050. The committee will also consider proposals for changes to the UTCR to take effect August 1, 2017. This is the only meeting at which the committee intends to accept proposals for that cycle. Committee meeting dates for the following year will be scheduled at this meeting.

III. SYNOPSIS OF FALL 2015 ACTIONS

A. RECOMMENDATIONS OF APPROVAL

These are brief descriptions of UTCR changes the committee has preliminarily recommended for approval (see Section IV.A. for detailed explanations).

1. 1.050
Delete UTCR 1.050(1)(e).
2. 1.110
Amend to create definition of “document.”
3. 1.120
Amend to conform to proposed definition of “document” in UTCR 1.110.
4. 1.140
Amend to clarify text relating to affidavits.
5. 1.150
Repeal UTCR 1.150
6. 1.160
Amend to clarify when documents are considered filed.
7. 1.170
Require judicial districts to include specified information on website.
8. 2.010
Amend to conform to Oregon eCourt requirements.
9. 2.090
Amend to modify requirements for filing in consolidated cases.

10. 2.100
Amend to conform rule to proposed amendment to UTCR 2.130.
11. 2.100
Amend to clarify text relating to affidavits.
12. 2.110
Amend to clarify text relating to affidavits.
13. 2.120
Amend to clarify text relating to affidavits.
14. 2.130
Amend to clarify text relating to affidavits.
15. 2.130
Amend to require use of Confidential Information Form in additional proceedings.
16. 2.130
Amend to conform to proposed definition of “document” in UTCR 1.110.
17. Form 2.130.1
Amend to conform rule to proposed amendment to UTCR 2.130.
18. Form 2.130.2
Amend to conform rule to proposed amendment to UTCR 2.130.
19. 3.140
Amend to include “court contact information,” as defined in UTCR 1.110.
20. 4.090
Amend to eliminate outdated provision.
21. 4.090
Amend to conform to proposed amendment to UTCR 2.010.
22. 5.060
Amend to allow judicial district to identify stipulated or *ex parte* matter that must be filed conventionally.
23. 6.050
Amend to eliminate specific, paper-based reference, and to require filed documents to be served on opposing parties.
24. 6.060
Amend to eliminate specific, paper-based reference, and to require filed documents to be served on opposing parties.
25. 7.060
Amend to remove the word “special” from the rule.

26. 8.010
Amend to eliminate obligation of filer to file multiple copies of single document.
27. 8.010
Amend to establish earlier filing dates for support declarations.
28. 8.040
Amend to establish earlier filing dates for support declarations.
29. 8.050
Amend to establish earlier filing dates for support declarations.
30. Form 8.080.2
Amend to clarify notice.
31. 8.110
Adopt new rule creating filing and service requirements for limited scope representation in domestic relations cases.
32. 9.010
Amend to create an exception to the self-addressed, stamped envelope requirement.
33. 13.210
Amend to modify time within which an arbitrator must send award to parties.
34. 13.220
Amend to modify time period applicable to filing of arbitration award and to account for attorney fee issues.
35. 19.020
Amend to clarify filing requirements in remedial contempt cases.
36. 21.010
Amend to conform to proposed definition of “document” in UTCR 1.110.
37. 21.020
Amend to apply chapter 21 to all circuit courts.
38. 21.020
Amend to conform to proposed deletion of UTCR 1.050(1)(e).
39. 21.040
Amend to include cross-reference to proposed amendment to UTCR 21.070.
40. 21.070
Amend to address filing issues.
41. 21.100
Amend to update citation to ORCP and conform to proposed definition of “document” in UTCR 1.110.

42. 21.100
Amend to clarify application of ORCP 10 to electronic service.
43. 21.140
Amend to reflect statewide implementation of electronic filing system.

B. RECOMMENDATIONS OF DISAPPROVAL

These are brief descriptions of the UTCR proposals the committee has preliminarily recommended for disapproval (see Section IV.B. for a detailed explanation).

1. 1.110
Amend definition of “Trial Court Administrator” to include court staff to whom duties have been delegated.
2. 1.160
Amend to clarify when documents are considered filed.
3. 2.010
Amend to remove line numbering requirement.
4. 6.200
Amend rule to apply to criminal cases.
5. 21.010
Amend to conform to proposed changes to UTCR 1.160.
6. 21.060
Amend to clarify trial court administrator’s role in accepting filings.
7. 21.100
Amend to conform to proposed restructuring of UTCR 21.060.

C. OTHER ACTIONS

These are brief descriptions of other committee actions (see Section IV.C. for detailed explanations).

1. 5.100
Review out-of-cycle amendment of 5.100.
2. 7.020
Amend to modify time period for setting trial dates when venue changes.
3. 13.120
Amend to modify manner in which arbitrators are compensated.
4. 13.170
Amend to preclude admission of evidence if arbitrator’s fees remain unpaid.

5. Committee Membership Update
6. Spring 2016 Meeting Schedule meeting.
7. Fall 2016 Meeting Schedule meeting.

IV. DESCRIPTION OF FALL 2015 ACTIONS

Proposed deletions are in *[brackets and italics]*. Proposed additions are 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. In instances when the text of a proposed amendment was not submitted for committee consideration, the absence of a proposed amendment is noted following the explanation.

A. RECOMMENDATIONS OF APPROVAL

1. **1.050**
Delete UTCR 1.050(1)(e).

ACTION TAKEN

Motion 12, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal deletes subsection (1)(e) of the rule. That subsection allows courts to adopt Supplementary Local Rules (SLR) chapter 24 as they implement the Oregon eCourt Program. Rollout of that program is scheduled for completion statewide in June of 2016. The relevant portions of chapter 24 will be added to the UTCR so subsection (1)(e) and SLR chapter 24 will no longer be needed.

PROPOSED AMENDMENT

1.050 PROMULGATION OF SLR; REVIEW OF SLR;
ENFORCEABILITY OF LOCAL PRACTICES

(1) Promulgation of SLR

- (a) Pursuant to ORS 3.220, a court may make and enforce local rules consistent with and supplementary to these rules for the purpose of giving full effect to these rules and for the prompt and orderly dispatch of the business of the court.

* * * * *

[(e) For the sole purpose of facilitating the Oregon eCourt Program, a court may adopt a Chief Justice-approved, standardized series of SLR to implement the Oregon eCourt Program in that court, even

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though some of those SLR may conflict with the UTCR in certain respect. Those SLR take precedence over any conflicting UTCR.]

(2) * * *

* * * * *

2. 1.110

Amend to create definition of “document.”

ACTION TAKEN

Motion 14, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal adds a definition of “document” that will apply to all of the UTCR. The definition makes clear that a document can be paper or electronic.

PROPOSED AMENDMENT

1.110 DEFINITIONS

As used in these rules:

- (1) “Court contact information” means * * *
- (2) “Days” mean * * *
- (3) “Defendant” or “Respondent” means * * *
- (4) **{“Document” means any instrument filed or submitted in any type of proceeding, including any exhibit or attachment referred to in the instrument. Depending on the context, “document” may refer to an instrument in either paper or electronic form.}**
- (~~5~~)[4] “Party” means * * *
- (~~6~~)[5] “Plaintiff” or “Petitioner” means * * *
- (~~7~~)[6] “Trial Court Administrator” means the court administrator, the administrative officer of the records section of the court, and where appropriate, the trial court clerk.

3. 1.120

Amend to conform to proposed definition of “document” in UTCR 1.110.

ACTION TAKEN

Motion 15, to preliminarily recommend approval, passed by consensus.

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EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal amends subsection (2)(b) of the rule so that it is consistent with the proposed change to UTCR 1.110 (see above) to add a definition of “document” that will apply to all of the UTCR.

PROPOSED 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) * * *

* * * * *

(2) In any instance described under subsection (1), the trial court administrator must give notice to the presiding judge and to any parties the trial court administrator can reasonably determine might have an interest in the monies. The following apply to notice under this subsection:

(a) Notice must be in writing.

(b) Notice must include all the following to the extent possible: an indication that it is being given under this section, the amount of the money in question, identification of the source from which the trial court administrator received the money, a copy of any **{document}**[papers] received with the money, a description of the circumstances of receiving the money, identification of any case to which the trial court administrator can determine the monies may be related, and a description of the reasons for not disbursing monies.

(c) * * *

(3) * * *

* * * * *

4. 1.140

Amend to clarify text relating to affidavits.

ACTION TAKEN

Motion 3, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Joshua Nasbe, Civil Law Staff Counsel, Oregon Judicial Department, on September 15, 2015. It amends subsection (3)(a) in an effort to use consistent wording in the UTCR regarding affidavits.

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PROPOSED AMENDMENT

1.140 REQUESTS FOR EXTENDED RETENTION OF COURT RECORDS

(1) * * *

* * * * *

(2) EVERY REQUEST under this rule must:

- (a) Be in writing, or where available, on the form specified by the court.
- (b) Be submitted to the trial court administrator for the court where the records are maintained.
- (c) Where the records subject to a request relate to a specific case, specify the case number and case title for the applicable case.
- (d) Indicate that the request is being made under this rule.

(3) In addition to the requirements under subsection (2) of this rule, every request for an AUTOMATIC EXTENSION under this rule must:

- (a) Be [*notarized*] **{accompanied by an affidavit}**.
- (b) Specify the records described under paragraph (1)(a) of this rule to which the request applies.
- (c) Be a separate request for each case.

(4) In addition to the requirements under subsection (2) of this rule, every request for a JUDICIAL EXTENSION under this rule must:

- (a) Be accompanied by a supporting affidavit giving the reason for the request.
- (b) Include a proposed order which provides a specific date to which the extended retention will run.
- (c) If the request relates to records not described under paragraph (1)(a) of this rule, specify the records with sufficient detail for the court clerk to be able to identify the records to be retained. A request does not meet the requirement to specify records with sufficient detail for purposes of this paragraph if a request requires a clerk to perform substantial research to either identify the records or determine whether the records exist.
- (d) If the request relates to records described under paragraph (1)(a) of this rule, specify the records described under paragraph (1)(a) of this rule to which the request applies.

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(5) * * *

* * * * *

5. **1.150**
Repeal UTCR 1.150

ACTION TAKEN

Motion 20, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal simplifies the UTCR by moving the provisions of this rule to UTCR 1.170.

PROPOSED AMENDMENT

[1.150 *HOURS OF COURT OPERATION*

Each judicial district must adopt an SLR to announce where the following information can be found: when each court location in the judicial district is open to conduct business; the hours when papers will be received and may be filed at each location, if different from when the court location is open to conduct business; and special arrangements, if any exist or may be made, for filing of documents at times when the court location is not open to conduct business. SLR 1.151 is reserved for SLR adopted under this section.]

6. **1.160**
Amend to clarify when documents are considered filed.

ACTION TAKEN

Motion 41, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal is meant to clarify which court staff may accept filings, incorporate the concept of efiled documents, and account for efilings by eliminating the reference to “original” documents.

PROPOSED AMENDMENT

1.160 *FILING OF DOCUMENTS {WITH}/[M] COURTS; LOCAL SLR*

- (1) *[Except as provided in subsection (2) of this rule, a] {A} document to be filed with the court{,} [or the clerk of court or the trial court administrator must be filed with the office of the local trial court administrator or designee. No]{including any} document {submitted}[delivered] to a judge{ or judicial}[, judge's] staff, [judge's mailbox, courtroom, or chambers] is {not considered} filed until it is {accepted}[received] by {court staff designated by the trial court administrator to accept*

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court filings][the office of the trial court administrator or designee. For every document to be filed, other than an order or judgment submitted to a judge for signature, the original is to be delivered to the trial court administrator's office].

- (2) [Notwithstanding subsection (1) of this rule,]{A}local court[s] may adopt {an}SLR[s] to **designate where a filing may be submitted**][allow filing of documents in places other than required by subsection (1)]. [Such SLRs may allow such filing generally or in specific circumstances as convenient to the court adopting the SLR.] SLR [number]1.161 is reserved for **courts to designate where filings may be submitted**][the purposes of such SLRs].
- (3) **Proposed orders and judgments awaiting judicial signature may be delivered to a judge or judicial staff as otherwise permitted or required under these rules.**}
- {4}[3] A judicial district must accept a filing that is substantially in the form of the corresponding document made available to the public on <http://courts.oregon.gov/OJD/forms>, if the proper fee is tendered when required and the document is filed in compliance with all applicable statutes and rules.

7. 1.170

Require judicial districts to include specified information on website.

ACTION TAKEN

Motion 21, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal simplifies the UTCR by moving the provisions of UTCR 1.150 to this rule.

PROPOSED AMENDMENT

1.170 COURT WEBSITES{; **HOURS OF COURT OPERATION**}

{(1)} SLR 1.171 is reserved for {each} judicial district[s] to **identify**][announce] the website addresses of {its}[their] court[s]. Links to these websites may also be found at the Oregon Judicial Department website: <http://courts.oregon.gov/OJD/Pages/index.aspx>.

{(2) **Each judicial district must announce on its website the following information: when each court location in the judicial district is open to conduct business; the hours when documents will be received for filing at each location, if different from when the court location is open to conduct business; and special arrangements, if any exist or may be made, for delivery of documents for filing at times when the court location is not open to conduct business, other than by electronic filing.**}

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8. **2.010**

Amend to conform to Oregon eCourt requirements.

ACTION TAKEN

Motion 22, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal makes various changes to accommodate the Oregon eCourt Program, eFiling, and the move away from a paper-based environment. It incorporates provisions from SLR chapter 24 (use of electronic signatures by judges; motions and orders to be filed separately; prohibition on the use of staples). It removes the definition of "document" in light of the proposal to add a definition to UTCR 1.110 (see above). It removes the reference to backing sheets.

PROPOSED AMENDMENT

2.010 FORM OF DOCUMENTS

{Except where a different form is specified by statute or rule, the form of any document, including pleadings and motions, filed in any type of proceeding must be as prescribed in this rule.} [*The form of all documents, including pleadings and motions, except where a different procedure is specified by statute or rule, must be:*]

(1) [Definitions]

- (a) "Document," as used in this rule, means every paper filed in any type of proceeding.
- (b) "[Printed document{,}]" **{as used in this rule,}** means **{any}** document[s] wholly or partially printed.

(2) Size of Documents

All documents, except exhibits and wills, must be prepared **{in a manner that, if printed, would be}** [on] letter-size (8-1/2 x 11 inches) [paper], except that smaller size **{s}** [paper] may be used for bench warrants, commitments, uniform citations and complaints and other documents otherwise designated by the court.

(3) Documents Must be Printed or Typed **{; Binding Documents; Use of Staples Generally Prohibited}**

- {(a)}** All documents must be printed or typed, except that blanks in preprinted forms may be completed in handwriting and notations by the trial court administrator or judge may be made in handwriting.
- {(b)}** **Pleadings and other documents submitted to the court for filing that are not electronically filed must be bound by paperclip or binder clip and must not contain staples. If the document includes an attachment, including a documentary**

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exhibit, an affidavit, or a declaration, then the attachment must be bound in one packet to the document being filed by paperclip or binder clip.

(c) Copies of documents submitted to chambers under SLR or other requirement. A document or document with attachments submitted to chambers must be stapled as one packet or otherwise bound as practical, depending on the size of the document and attachments.

(4) Spacing, Paging and Numbered Lines

(a) All pleadings, motions and requested instructions must be double-spaced and prepared [*on paper*] with numbered lines.

(b) All other documents may be single-spaced and the lines need not be numbered.

(c) On the first page of each pleading or similar document, [*not less than*]two inches [*or more than four inches*]at the top of the page shall be left blank.

(d) All documents, except exhibits and wills, shall be prepared with [*at least*]a one-inch [*binding*]margin{ **on each side**}. [*The binding margin shall be at the edge of each sheet of paper in the document corresponding to the top of the first page printed on the sheet of paper, unless a different location is specified by SLR. All documents containing printing on the back side of a sheet shall be printed in such a manner so that when the page is turned on the binding edge, print on the back side is oriented in the same direction as the print on the front side of the following sheet.*]

(5) Backing Sheets

The use of backing sheets is {**prohibited**}[*discouraged. If used, they must be 8-1/2 x 11 inches, no heavier than 16-pound weight and not folded over at the top.*]

(6) **{Party Signatures and Electronic Court s}**{S}signature{s}

{**(a)**} The name of the party or attorney signing any pleading or motion must be typed or printed immediately below the signature. All signatures must be dated.

{**(b) The court may issue judicial decisions electronically and may affix a signature by electronic means.**

(i) The trial court administrator must maintain the security and control of the means for affixing electronic signatures.

(ii) Only the judge and the trial court administrator, or the judge's or trial court administrator's designee, may access the means for affixing electronic signatures.

(7) * * *

* * * * *

(12) Orders, Judgments or Writs

- (a) **{Except for electronically filed documents subject to UTCR 21.040(3), t}** [The judge's signature portion of any order, judgment or writ prepared for the court must appear on a page containing at least two lines of the text. Orders, judgments or writs embodying the ruling of a particular judge must have the name of the judge typed, stamped or printed under the signature line.
- (b) If the order, judgment or writ is prepared by a party, the name and identity of the party submitting the order must appear therein, preceded by the words "submitted by." See the commentary to this subsection, located at the end of this rule.
- (c) **{A m}** [Motion[s and orders may be submitted as a single document only if the motion is stipulated, subject to ex parte ruling, not contested or otherwise specifically allowed by SLR. Any other motion] must be submitted as a separate document from any proposed form of order deciding the motion. A motion submitted as a single document with an order may not be filed unless the order has been ruled upon and signed by a judge.
- [(d) *When allowed to be submitted as a single document under paragraph (c) of this subsection, motions and orders submitted as a single document must contain a double solid line across the page separating the motion portion of the document from the order portion. The caption of the document must be labeled "Motion xxxxxxxx and Order" in the upper right-hand corner of the document. The full description of the motion must be included in the title. The order portion must be clearly labeled "Order" in the upper left-hand corner of the order portion of the document. A 2-inch by 2-inch space must be provided below the double solid line in the upper right-hand corner of the order portion for the file/date stamp of the order. The order portions must be written as clearly and simply as possible. Where appropriate, the order must consist of only two check boxes as follows: one for allowed, the other for denied. Where such check boxes are used in the order portion, they must be placed above the standard date and signature lines.]*

(13) * * *

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9. **2.090**

Amend to modify requirements for filing in consolidated cases.

ACTION TAKEN

Motion 28, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal clarifies the procedures for conventional (paper) filing in consolidated cases and creates exceptions. The proposed change to UTCR 21.070 (see below) addresses electronic filing in consolidated cases.

PROPOSED AMENDMENT

2.090 FILINGS FOR CONSOLIDATED CASES

Cases that are consolidated are consolidated for purposes of hearing or trial only. **{A party filing any}***[All]* pleading[s], memorandum~~{um}~~*[a]*, **{or}***[and]* other document[s] applicable to more than one **{case}***[file]* **{must file the document}***[will be filed]* in each case **{using}***[under]* existing **{case numbers and}***captions [and case numbers]* unless otherwise ordered by the court **{or provided by SLR}**. *[Unless otherwise ordered by the court, any document applicable to only a single file will be singly filed.]* **{If such a document is not electronically filed, the filing party must}***[It is the duty of counsel to]* provide the trial court administrator with sufficient **{copies}***[documents to allow filings consistent with this rule or a court order pursuant to this rule]*.

{(1) A court order or SLR under this rule may permit designation of a lead case and require that parties file documents using only the case number and caption of the lead case.}

{(2) Unless otherwise ordered by the court, a party filing a document applicable to only one case must file singly in that case.}

10. **2.100**

Amend to conform rule to proposed amendment to UTCR 2.130.

ACTION TAKEN

Motion 24, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Joshua Nasbe, Civil Law Staff Counsel, Oregon Judicial Department, on September 22, 2015. The proposal amends subsection (1)(c) to add statutory citations to conform this rule to the changes proposed to UTCR 2.130 (see below).

PROPOSED AMENDMENT

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

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(1) Purpose

(a) * * *

* * * * *

(c) UTCR 2.130 establishes separate procedures and processes for protecting personal information in proceedings brought under ORS chapters 25, 106, 107, 108, 109, 110, and 416{ **or initiated under ORS 24.190, ORS 30.866, ORS 124.010, or ORS 163.763**}.

(2) * * *

* * * * *

11. **2.100**

Amend to clarify text relating to affidavits.

ACTION TAKEN

Motion 4, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Joshua Nasbe, Civil Law Staff Counsel, Oregon Judicial Department, on September 15, 2015. It amends subsection (4)(b) in an effort to use consistent wording in the UTCR regarding affidavits.

PROPOSED AMENDMENT

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

(1) * * *

* * * * *

(4) Procedure to Follow. A person may only request protected personal information be segregated and protected under this rule when submitting it to a court in a case. The procedures under this rule may be used to identify and separately present protected personal information from any submitted document or form that is used to give information to a court. To do so, a person must do the following:

(a) Place in the document from which the protected personal information is being segregated a written notation to the effect that the information is being separately submitted under UTCR 2.100.

(b) Complete an affidavit in substantially the form provided in UTCR Form 2.100.4a. The affidavit[:

(i) *Need not be notarized but must be signed by the requestor and contain language that the person knowingly gives the*

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information under an oath or affirmation attesting to the truth of what is stated and subject to sanction by law if the person provides false information to the court.

- (ii) *M*{**m**}ust describe generally the protected personal information and set out the legal authority for protecting the information.
- (c) Complete an information sheet in substantially the form provided in UTCR Form 2.100.4b to duplicate the protected personal information sought to be segregated. The information sheet must be submitted as a separate document, not as an attachment to the affidavit prepared under UTCR 2.100(4)(b).
- (d) File the completed forms and attachments with the court along with, but not attached to, the document from which the protected personal information is segregated.
- (e) For purposes of UTCR 2.080, mail or deliver to parties a copy of the affidavit only, and not the information sheet or any attachments to the information sheet.

(5) * * *

* * * * *

12. 2.110

Amend to clarify text relating to affidavits.

ACTION TAKEN

Motion 5, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Joshua Nasbe, Civil Law Staff Counsel, Oregon Judicial Department, on September 15, 2015. It amends subsection (4)(a) in an effort to use consistent wording in the UTCR regarding affidavits.

PROPOSED AMENDMENT

2.110 PROTECTED PERSONAL INFORMATION, NOT CONTACT INFORMATION, PROCEDURES TO SEGREGATE WHEN INFORMATION ALREADY EXISTS IN A CASE FILE

(1) * * *

* * * * *

- (4) Procedure to Follow. A person may only request protected personal information be segregated under this rule when the information is already in a document that has become part of a court case file. To do so, a person must do all the following:



(a) Complete an affidavit in substantially the form provided in UTCR Form 2.110.4a. The affidavit **{must}**:

[(i)] *Need not be notarized but must be signed by the requestor and contain language that the person knowingly gives the information under an oath or affirmation attesting to the truth of what is stated and subject to sanction by law if the person provides false information to the court.*

[(ii)] **{D}**escribe generally the protected personal information and set out the legal authority for protecting the information.

[(iii)] **{S}**pecifically identify the case file, document in the case file, and the page number of the page that is sought to be redacted.

[(iv)] **{B}**e accompanied by a copy of that page sought to be redacted showing specifically the protected personal information to be redacted.

(b) Complete an information sheet in substantially the form provided in UTCR Form 2.100.4b to duplicate the protected personal information sought to be segregated. The information sheet must be submitted as a separate document, not as an attachment to the affidavit prepared under UTCR 2.110(4)(a).

(c) File the completed forms and attachments with the court.

(d) Pay the required fee set by Chief Justice Order.

(e) For purposes of UTCR 2.080, mail or deliver to parties a copy of the affidavit only and not the information sheet or any attachments to the information sheet.

(5) * * *

* * * * *

13. 2.120

Amend to clarify text relating to affidavits.

ACTION TAKEN

Motion 2, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Joshua Nasbe, Civil Law Staff Counsel, Oregon Judicial Department, on September 15, 2015. It amends the rule in an effort to use consistent wording in the UTCR regarding affidavits.

PROPOSED AMENDMENT

2.120 AFFIDAVITS

Unless otherwise mandated by statute, [*an affidavit required by the UTCR need not be notarized, but it must be signed by the affiant and must include a sentence, in prominent letters immediately above the signature of the affiant, that is in substantially the same form as the sentence for a declaration under penalty of perjury as specified in ORCP 1 E.*]{**a declaration under penalty of perjury, in substantially the same form as specified in ORCP 1E, may be used in lieu of an affidavit required or allowed by these rules.**}

14. 2.130

Amend to clarify text relating to affidavits.

ACTION TAKEN

Motion 6, to preliminarily recommend approval and addition of new subsection (6)(k), passed by consensus.

EXPLANATION

This proposal was submitted by Joshua Nasbe, Civil Law Staff Counsel, Oregon Judicial Department, on September 15, 2015. It amends the rule in an effort to use consistent wording in the UTCR regarding affidavits and to clarify that a declaration under penalty of perjury cannot be used in lieu of an affidavit required by this rule.

PROPOSED AMENDMENT

2.130 FAMILY LAW CONFIDENTIAL PERSONAL INFORMATION

(1) * * *

* * * * *

(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*] **an affidavit of** 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.

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- (c) A person other than a party to the proceeding may inspect a CIF upon filing [a written, notarized] **{an affidavit of}** consent{,} signed and dated by the party whose information is to be inspected[. *The consent must state*] {, **that states**} 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) Any 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 subsection (h) or (i) in this section may subject a person to contempt of court under ORS 33.015 to 33.155.
- {(k) Notwithstanding UTCR 2.120, a declaration under penalty of perjury may not be used in lieu of an affidavit required by this rule.}**

(7) * * *

* * * * *

15. 2.130

Amend to require use of Confidential Information Form in additional proceedings.

ACTION TAKEN

Motion 25, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal expands the requirements of the rule to apply to other types of proceedings that are subject to the federal Violence Against Women Act (VAWA). Specifically, the proposal adds citations to proceedings initiated under ORS 24.190, ORS 30.866, ORS 124.010, or ORS 163.763.

PROPOSED AMENDMENT

2.130 [FAMILY LAW]CONFIDENTIAL PERSONAL INFORMATION{ **IN FAMILY LAW AND CERTAIN PROTECTIVE ORDER PROCEEDINGS**}

(1) Definitions. As used in this rule:

- (a) “Confidential personal information” means a party’s or a party’s child’s Social Security number; date of birth; driver license number; former legal names; and employer’s name, address, and telephone number.
- (b) “Confidential Information Form” (CIF) means a document substantially in the form provided in UTCR Form 2.130.1.
- (c) “Inspect” means the ability to review and copy a CIF to the same extent as any other document contained in a court file.
- (d) “Document” has the same meaning as used in UTCR 21.010(2).

(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, {**or initiated under ORS 24.190, ORS 30.866, ORS 124.010, or ORS 163.763,**}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,

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- (ii) the former legal name of a party pursuant to a name change request under ORS 107.105(1)(h), or
 - (iii) a document filed in an adoption proceeding initiated under ORS 109.309.
- (c) Documents filed in a contempt action filed in a proceeding under ORS chapters 25, 106, 107, 108, 109, 110, or 416, **{or a proceeding initiated under ORS 24.190, ORS 30.866, ORS 124.010, or ORS 163.763, }** are also subject to this rule.
- (d) A party must file a separate CIF for each person about whom the party is required to provide confidential personal information.
- (e) The confidential personal information of a minor child must be included in the CIF of the party providing the information.

(3) * * *

* * * * *

16. 2.130

Amend to conform to proposed definition of “document” in UTCR 1.110.

ACTION TAKEN

Motion 16, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Joshua Nasbe, Civil Law Staff Counsel, Oregon Judicial Department, on September 15, 2015. The proposal amends section (1) of the rule to remove the definition of “document” in light of the proposal to add a definition of document to UTCR 1.110 (see above) that would apply to all UTCR.

PROPOSED AMENDMENT

2.130 FAMILY LAW CONFIDENTIAL PERSONAL INFORMATION

- (1) Definitions. As used in this rule:
- (a) “Confidential personal information” means a party’s or a party’s child’s Social Security number; date of birth; driver license number; former legal names; and employer’s name, address, and telephone number.
 - (b) “Confidential Information Form” (CIF) means a document substantially in the form provided in UTCR Form 2.130.1.
 - (c) “Inspect” means the ability to review and copy a CIF to the same extent as any other document contained in a court file.
 - [(d) “Document” has the same meaning as used in UTCR 21.010(2).]

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(2) * * *

* * * * *

17. Form 2.130.1

Amend to conform rule to proposed amendment to UTCR 2.130.

ACTION TAKEN

Motion 26, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal makes changes to the form so that it is consistent with the proposed changes to UTCR 2.130 (see above).

PROPOSED AMENDMENT (see next page)

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

_____)
_____)
_____) Petitioner Co-Petitioner,
{} and { v.}
_____)
_____) Respondent Co-Petitioner.
_____)
_____) Child At Least 18 But Under 21
 Other _____)

Case No.: _____

{UTCR 2.130}[FAMILY LAW] CONFIDENTIAL INFORMATION FORM (CIF)
 Amended CIF

This document is not accessible to the public or other parties. Exceptions may apply. See UTCR 2.130.

ATTENTION COURT STAFF: THIS IS A RESTRICTED-ACCESS DOCUMENT.

The information below is about: Petitioner Respondent Co-Petitioner _____

Child at least 18 but under 21: _____

Other: _____

Name (Last, First, Middle): _____

The names of the parties and the children, as well as the children's ages, are NOT confidential.

| |
|---|
| Former Legal Name(s) (if applicable): |
| Date of Birth: |
| Social Security Number: |
| Driver License (Number and State): |
| Employer's Name, Address, and Telephone Number: |

| Children's Names (Last, First, Middle) | Date of Birth | Social Security Number |
|--|---------------|------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

Please attach an additional sheet if there are more than five children involved in the proceeding.

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.

Date: _____ Signature: _____

Type or Print Name: _____

COMPLETED AND SUBMITTED BY:

Petitioner Respondent Co-Petitioner _____

Child who is at least 18 and under 21: _____

Other: _____

NOTE TO COURT STAFF: Unless ordered or authorized under UTCR 2.130, this Confidential Information Form is not available to the opposing party or his/her attorney, or to the public; except for the state.

18. Form 2.130.2

Amend to conform rule to proposed amendment to UTCR 2.130.

ACTION TAKEN

Motion 27, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal makes changes to the form so that it is consistent with the proposed changes to UTCR 2.130 (see above).

PROPOSED AMENDMENT (see next page)

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

_____)
 _____)
 _____) Petitioner Co-Petitioner,
 _____) and v.)
 _____) Respondent Co-Petitioner.
 _____) Child At Least 18 But Under 21
 _____) Other _____)

Case No.: _____

NOTICE OF FILING OF
 CONFIDENTIAL INFORMATION FORM (CIF)
 AMENDED CIF

NOTICE: Confidential Information Form Has Been Filed

- Uniform Trial Court Rule (UTCRC) 2.130 requires that parties to domestic relations **{or other specified types of}** cases place certain information about themselves and other parties in a CIF when such information is required in a document filed with the court.
- The CIF is not available for public inspection except as authorized by law.
- Parties are allowed to see a CIF that contains information about them.
- A party who wants to see a CIF that contains information about another party must ask for permission from the court or the other party by following the procedures set out in UTCRC 2.130.

I am the (check one box):

Petitioner Respondent Co-Petitioner _____
 Child at least 18 but under 21: _____
 Other: _____

I filed Confidential Information Forms with the court about the following parties to this case (complete a section for each party for whom you have filled out a CIF):

1) Name (Last, First, Middle): _____
 Petitioner Respondent Co-Petitioner Adult Child Other: _____

Confidential Personal Information contained in CIF (check all that apply):

party's social security number, party's date of birth, children's social security number,
 children's date of birth, employer's name, address, and telephone number, driver license number, former legal name(s).

2) Name (Last, First, Middle): _____
 Petitioner Respondent Co-Petitioner Adult Child Other: _____

Confidential Personal Information contained in CIF (check all that apply):

- party's social security number, party's date of birth, children's social security number,
 children's date of birth, employer's name, address, and telephone number, driver license
number,
 former legal name(s).

3) Name (Last, First, Middle): _____
 Petitioner Respondent Co-Petitioner Adult Child Other: _____

Confidential Personal Information contained in CIF (check all that apply):

- party's social security number, party's date of birth, children's social security number,
 children's date of birth, employer's name, address, and telephone number, driver license
number,
 former legal name(s).

4) Name (Last, First, Middle): _____
 Petitioner Respondent Co-Petitioner Adult Child Other: _____

Confidential Personal Information contained in CIF (check all that apply):

- party's social security number, party's date of birth, children's social security number,
 children's date of birth, employer's name, address, and telephone number, driver license number,
 former legal name(s).

Dated this _____ day of _____, 20____

Signature

Print Name

Contact Address

City, State, Zip

Contact Telephone

19. 3.140

Amend to include “court contact information,” as defined in UTCR 1.110.

ACTION TAKEN

Motion 8, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Joshua Nasbe, Civil Law Staff Counsel, Oregon Judicial Department, on October 6, 2015. The proposal conforms the rule to UTCR 1.110 regarding court contact information.

PROPOSED AMENDMENT

3.140 RESIGNATION OF ATTORNEYS

- (1) An application to resign, a notice of termination, or a notice of substitution made pursuant to ORS 9.380 must contain the [*name, address and telephone number*] **court contact information under UTCR 1.110** of the party and of the new attorney, if one is being substituted, and the date of any scheduled trial or hearing. The attorney’s fax number and email address, if any, must also be included. It must be served on that party and the opposing party’s attorney. If no attorney has appeared for the opposing party, the application must be served on the opposing party. A notice of withdrawal, termination, or substitution of attorney must be promptly filed.
- (2) The attorney who files the initial appearance for a party, or who personally appears for a party at arraignment on an offense, is deemed to be that party’s attorney-of-record, unless at that time the attorney otherwise notifies the court and opposing party(ies) in open court or complies with subsection (1).
- (3) When an attorney is employed or appointed to appear in an already pending case, the attorney must immediately notify the court and the opposing party in writing or in open court. That attorney shall be deemed to be the attorney-of-record unless that attorney otherwise notifies the court.

20. 4.090

Amend to eliminate outdated provision.

ACTION TAKEN

Motion 29, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal deletes section (12). It is redundant under the Oregon eCourt Program since this is how all disclosable documents, not just electronic citations, will be provided to the public.

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PROPOSED AMENDMENT

4.090 ELECTRONIC CITATIONS

(1) * * *

* * * * *

[(12) *A member of the public may obtain from the circuit court a printed image of an electronic citation in the same manner as for a paper record of the circuit court. Fees applicable to court records apply to requests for images of electronically filed citations.*]

21. 4.090

Amend to conform to proposed amendment to UTCR 2.010.

ACTION TAKEN

Motion 23, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Joshua Nasbe, Civil Law Staff Counsel, Oregon Judicial Department, on September 22, 2015. The proposal removes the portion on electronic signatures because it has been included in the proposed changes to UTCR 2.010 (see above).

PROPOSED AMENDMENT

4.090 ELECTRONIC CITATIONS

(1) * * *

* * * * *

[(9) *A circuit court may issue judicial decisions and signatures electronically and may affix a judge's signature by electronic means.*

(a) *The trial court administrator must maintain the security and control of the methods for affixing electronic judicial signatures.*

(b) *Those methods must be accessible by only the signer and the trial court administrator or the trial court administrator's designee.*

[(10)]{(9)} Citations that are electronically filed or manually scanned, including those to which additional information, judicial orders, judgments, and judicial signatures have been added, are the original and legal court record.

[(11)]{(10)} SLR 4.091 is reserved for judicial districts to adopt a local rule regarding electronic citations.

[(12)]{(11)} A member of the public may obtain from the circuit court a printed image of an electronic citation in the same manner as for a paper record

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of the circuit court. Fees applicable to court records apply to requests for images of electronically filed citations.

22. 5.060

Amend to allow judicial district to identify stipulated or *ex parte* matter that must be filed conventionally.

ACTION TAKEN

Motion 30, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. During the statewide roll out of the Oregon eCourt Program, implementing courts adopted an SLR chapter 24 to address issues peculiar to eCourt. The roll out is scheduled to be completed in June, 2016. Important provisions of chapter 24, including this one, need to be added to the UTCR once the program is operative statewide. This proposal allows courts to adopt an SLR requiring conventional (paper) filing of certain *ex parte* and stipulated matters and it clarifies the process for conventional (paper) filing.

PROPOSED AMENDMENT

5.060 STIPULATED AND *EX PARTE* MATTERS

(1) **{A judicial district may adopt a local rule regarding specific stipulated or *ex parte* matters for which the documents must be presented conventionally as defined in UTCR 21.010 and may not be electronically filed. SLR 2.501 is reserved for judicial districts to adopt a local rule for that purpose.}**

{2}[1] Any stipulated or *ex parte* matter **{that may be presented conventionally}** may be delivered by mail or messenger to the trial court administrator for distribution to a judge for signature. An *ex parte* default, a stipulated order, or a stipulated judgment **{that may be presented conventionally}** also may be personally presented to a judge by the attorney or the attorney's agent. Other types of *ex parte* matters personally presented to a judge must be presented by the attorney.

{3}[2] A motion for an *ex parte* order must contain the term "*ex parte*" in the caption and must be accompanied by a proposed order.

{4}[3] *Ex parte* matters **{that are presented conventionally}** shall be presented anytime during court hours, except as modified by SLR promulgated pursuant to UTCR 1.050[*and except as provided in UTCR 21.080*]. Until such local rules are adopted, stipulated and *ex parte* matters may be personally presented anytime during court hours.

23. 6.050

Amend to eliminate specific, paper-based reference, and to require filed documents to be served on opposing parties.

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ACTION TAKEN

Motion 31, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. This proposal modernizes the rule and clarifies the procedure for submitting trial memoranda and trial exhibits.

PROPOSED AMENDMENT

6.050 SUBMISSION OF TRIAL MEMORANDA AND TRIAL EXHIBITS

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- (1) A party must file *[the original of]* any trial memorandum. The court also may require that a party submit a copy of the trial memo, in the manner and time that the court specifies. *[Trial memoranda, if any, must be filed with the trial court administrator, and copies must be delivered concurrently to the court and to opposing parties.]*
 - (2) **{All trial memoranda must be served on the opposing party.}** *[Trial exhibits must be delivered or submitted as ordered by the assigned judge and not filed with the clerk of court.]*

{(3) Trial exhibits must be delivered or submitted as ordered by the assigned judge and not filed with the clerk of court.}

24. 6.060

Amend to eliminate specific, paper-based reference, and to require filed documents to be served on opposing parties.

ACTION TAKEN

Motion 32, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. This proposal modernizes the rule and clarifies the procedure for submitting proposed jury instructions and verdict forms.

PROPOSED AMENDMENT

6.060 PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS

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- (1) **{A party must file any requested jury instruction or verdict form. The party must also submit a copy of the jury instructions and verdict forms to the trial judge in the manner and time specified by the judge}***[All requested jury instructions and verdict forms must be in writing and delivered concurrently to the trial judge and to opposing parties].*
 - (2) **{All requested jury instructions and verdict forms must be in writing and served on the opposing party}***[The original of the requested jury*

instructions and verdict forms must be submitted to the court. The court also may require that a party submit a copy of the jury instructions and verdict forms, in the manner and time that the court specifies].

- (3) Requested instructions may include any Uniform Oregon Jury Instruction by reference only to its instruction number and title: such as "Instruction No. 70.04 - Lookout." If the uniform instruction contains blanks or alternative choices, the appropriate material to complete the instruction must be supplied in the request.
- (4) Requested jury instructions, including references to Uniform Oregon Jury Instructions, must be prepared as follows:
 - (a) * * *
 - (c) Except for requested uniform instructions, not more than one proposed instruction must appear on each {page}[*sheet of paper*].
 - (d) * * *

* * * * *

25. 7.060

Amend to remove the word "special" from the rule.

ACTION TAKEN

Motion 9, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Brenda Wilson, OJD Statewide ADA Coordinator, Executive Services Division. The proposal deletes the word "special" from section (1) because that word is not used in the ADA, it adds nothing to the rule, and it may be interpreted as pejorative.

PROPOSED AMENDMENT

7.060 AMERICANS WITH DISABILITIES ACT (ADA)
ACCOMMODATION

- (1) If [*special*] {an} accommodation under the ADA is needed for an individual in a court proceeding, the party needing accommodation for the individual must notify the court in the manner required by the court as soon as possible, but no later than four judicial days in advance of the proceeding. For good cause shown, the court may waive the four-day advance notice.
- (2) * * *

26. 8.010

Amend to eliminate obligation of filer to file multiple copies of single document.

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ACTION TAKEN

Motion 33, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal adds a provision that the notice of dissolution is available on the OJD web site. It also eliminates the need to file multiple copies of the judgment. The need for that requirement was eliminated with implementation of the Oregon eCourt Program.

PROPOSED AMENDMENT

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

(1) Petitioners, when serving respondents, must attach to the petition a copy of the Notice to Parties of A Marriage Dissolution as required by ORS 107.092. Copies of the notice may be obtained from the trial court administrator's office **{or from the Oregon Judicial Department website}**.

(2) * * *

* * * * *

[(8) *Parties who have been requested to submit a proposed judgment must submit to the trial court administrator the following so the court may comply with its obligation to forward copies of these documents to the DCS.*

(a) *The original and one copy of the proposed judgment; and*

(b) *If personal information has been segregated pursuant to UTCR 2.130, one copy each of the most current confidential information form(s) required by UTCR 2.130(2) and (3).]*

[(8)[9] Parties to proceedings under ORS 107.085 or 107.485 must follow UTCR 2.130 to segregate all Social Security numbers from documents the parties submit in the proceedings so the numbers will be protected as required by ORS 107.840.

27. 8.010

Amend to establish earlier filing dates for support declarations.

ACTION TAKEN

Motion 63, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Craig Cowley, Attorney and Committee Member, on October 6, 2015. It changes the time to file a Uniform Support Declaration from at least 14 days before the hearing to within 30 days of

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service of the petition, absent SLR to the contrary. The new time line is intended to correspond to statutory discovery time frames and to distribute information sooner to prompt earlier settlement. The committee discussed eliminating the exception for contrary SLR in order to promote a more uniform practice, but decided against that change. The committee reorganized the proposal to eliminate redundant provisions.

PROPOSED AMENDMENT

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

(1) * * *

* * * * *

(3) In all contested dissolution of marriage, separate maintenance or annulment actions, each party must file with the trial court administrator and serve on the other party a statement listing all marital and other assets and liabilities, the claimed value for each asset and liability and the proposed distribution of the assets and liabilities. In the alternative, the parties may elect to file with the trial court administrator a joint statement containing this information.

(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.
- (b) In all such cases, the parties must also complete the schedules and the attachments required by the schedules if:
 - (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) If the Division of Child Support (DCS) of the Department of Justice or a district attorney child support office (DA) either initiates or responds to a proceeding falling under section (4) of this rule, the DCS or DA must be allowed to file and serve, in lieu of the Uniform Support Declaration, an affidavit which sets out the following information:

- (a) The name of the legal or physical custodian of the child(ren).
- (b) The name and date of birth of each child for whom support services is being sought.

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- (c) A statement of the amount of public assistance being provided.
 - (d) A statement of the value of food stamp benefits being provided.
 - (e) A statement of whether medical insurance (Medicaid) is being provided.
 - (f) A statement of any other known income of the physical custodian.
 - (g) A statement concerning any special circumstances which might affect the determination of support.
- (6) *[Except as required in UTCR 8.040(3), the documents required to be filed under subsections (3), (4), and (5) above must be filed and served:*
- (a) *at the time designated in the relevant SLR;*
 - (b) *in*{In} the absence of an SLR to the contrary, **{the documents required to be filed under subsection (3) above must be filed and served}** not less than 14 days before the hearing on the merits unless both parties stipulate otherwise, but in any event before the beginning of trial. **{Subject to the requirements of UTCR 8.040 or UTCR 8.050, when applicable, and in the absence of an SLR to the contrary, the documents required to be filed under subsections (4) and (5) above must be filed and served within 30 days of service of a petition or other pleading that seeks child support or spousal support on other than a temporary basis.}**

(7) * * *

* * * * *

28. 8.040

Amend to establish earlier filing dates for support declarations.

ACTION TAKEN

Motion 64, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Craig Cowley, Attorney and Committee Member, on October 6, 2015. It changes the time for the opposing party to file a Uniform Support Declaration from at least 7 days before the hearing to within 14 days of service of the motion for temporary support, absent SLR to the contrary. The new time line is intended to more closely match the requirement on the moving party and to distribute information sooner to prompt earlier settlement.

PROPOSED AMENDMENT

8.040 PREJUDGMENT RELIEF UNDER ORS 107.095(1)

- (1) An order for relief authorized by ORS 107.095(1) may be granted on motion supported by affidavit setting forth sufficient facts to establish a right to the requested relief.
- (2) Any motion regarding temporary custody of a minor child must be supported by an affidavit which must state the present location of the minor child, the person with whom the child presently resides, the persons with whom and the places where the child has resided for the last 6 months, including the length of time with each person and at each residence, and the reasons why a temporary custody order is sought.
- (3) Any motion regarding temporary support must be accompanied by 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 provided under subsection (4) of UTCR 8.010.
- (4) *[At least 7 days before the hearing, t{**T**he opposing party also must serve and file a Uniform Support Declaration on the moving party, when support is to be an issue. [A]{**The**} Uniform Support Declaration required by this subsection must be completed in the form specified in Form 8.010.5 in the UTCR Appendix of Forms and as provided for completion of the declaration under subsection (4) of UTCR 8.010. **The Uniform Support Declaration must be filed and served at the time designated in the relevant SLR. In the absence of an SLR to the contrary, the Uniform Support Declaration must be filed and served within 14 days of service of the motion regarding temporary support.**]*

29. 8.050

Amend to establish earlier filing dates for support declarations.

ACTION TAKEN

Motion 65, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Craig Cowley, Attorney and Committee Member, on October 6, 2015. It changes the time for the opposing party to file a Uniform Support Declaration from at least 7 days before the hearing to within 30 days of service of the order to show cause, absent SLR to the contrary. The new time line is intended to more closely match the requirement on the moving party and to distribute information sooner to prompt earlier settlement.

PROPOSED AMENDMENT

8.050 JUDGMENT MODIFICATION PROCEEDINGS

- (1) * * *

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* * * * *

(3) [At least 7 days before the hearing, t{**I**]he opposing party also must serve and file a Uniform Support Declaration on the moving party, when support is to be an issue. The Uniform Support Declaration must be completed in the form specified in Form 8.010.5 in the UTCR Appendix of Forms and as provided {**for completion of the declaration**}under subsection (4) of UTCR 8.010. **The Uniform Support Declaration must be filed and served at the time designated in the relevant SLR. In the absence of an SLR to the contrary, the Uniform Support Declaration must be filed and served within 30 days of service of the order to show cause.**}

(4) * * *

* * * * *

30. Form 8.080.2

Amend to clarify notice.

ACTION TAKEN

Motion 34, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal updates the form to eliminate confusing wording and to make it consistent with the companion form, Form 8.010.1

PROPOSED AMENDMENT (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.**
{YOU HAVE THE RIGHT TO A HEARING. }SEE INFORMATION
{BELOW}**{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.

31. 8.110

Adopt new rule creating filing and service requirements for limited scope representation in domestic relations cases.

ACTION TAKEN

Motion 54, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Samantha Benton, Family Law Analyst, Oregon Judicial Department. It is based on a suggestion from the State Family Law Advisory Board Committee. The committee discussed the following:

- this rule applies only to court appearances in family law cases (not preparation of documents and forms)
- good communication between the attorneys will alleviate improper contact issues
- termination of the representation can occur before judgment; and a limited scope written agreement may be a best practice.

The committee changed the structure of the rule for clarity, recommended placing the associated forms on the Oregon Judicial Department website instead of in the UTCR appendix, and suggested a grammatical change to the Notice of Limited Scope Representation form.

PROPOSED AMENDMENT

8.110 LIMITED SCOPE REPRESENTATION

(1) Applicability

This rule applies to limited scope representation in domestic relations cases when an attorney intends to appear in court on behalf of a party.

(2) Notice of Limited Scope Representation

When an attorney intends to appear in court on behalf of a party, the attorney shall file and serve, as soon as practicable, a Notice of Limited Scope Representation in substantially the form as set out on the Oregon Judicial Department website (<http://courts.oregon.gov/OJD/pages/index.aspx>).

(3) Termination of Limited Scope Representation

When the attorney has completed all services within the scope of the Notice of Limited Scope Representation, the attorney shall file and serve a Notice of Termination of Limited Scope Representation in substantially the form as set out on the Oregon Judicial Department website (<http://courts.oregon.gov/OJD/pages/index.aspx>), in accordance with UTCR 3.140.

(4) Service of Documents

After an attorney files a Notice of Limited Scope Representation in accordance with this section, service of all documents shall be made upon the attorney and the party represented on a limited scope basis.

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The service requirement terminates as to the attorney when a Notice of Termination of Limited Scope Representation is filed and served, or when an attorney withdraws.

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

Case No: _____

Petitioner

and

**NOTICE OF LIMITED
SCOPE REPRESENTATION**

Respondent

1. Attorney _____ and Party _____ have agreed that attorney will provide limited scope representation to Party.

2. Attorney will represent the Party in connection with the following court proceedings:
 the appearance on: _____ regarding _____ and for any continuance of that appearance.
 other: _____

3. Attorney is the attorney of record. Under UTCR 8.110, all court notices will be sent to Attorney and, for all filings in the case, service must be made on Attorney.

4. Additionally, under UTCR 8.110, all court notices will be sent to the Party directly, and, for all filings in the case, service must be made on the Party directly. The Party's name, address, and phone number are listed below for that purpose.

Name: _____

Address or Contact Address (for purposes of service):

Phone: _____ Fax: _____

5. A copy of this signed notice has been served on each party.

This notice accurately sets forth all matters in connection with court proceedings on which Attorney has agreed to serve as attorney of record for the party in this case. The information provided herein is not intended to set forth all of the terms and conditions of the agreement between the party and Attorney for limited scope representation.

Date

Attorney Signature

Attorney Name (printed)
OSB # _____

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

Case No: _____

Petitioner

And

**NOTICE OF TERMINATION
OF LIMITED SCOPE
REPRESENTATION**

Respondent

1. Attorney _____ and Party _____ previously agreed to a limited scope representation, as set out in a previously filed Notice of Limited Scope Representation.
2. Attorney has completed all services within the scope of the Notice of Limited Scope Representation and has completed all acts ordered by the court within the scope of that appearance.
3. Attorney and Party now terminate the representation referred to in the previously filed Notice of Limited Scope Representation.
4. Date of next hearing (if applicable): _____.
5. Under UTCR 8.110, all future court notices will be sent to the party, and all service must be made on the party:

Name: _____

Address or Contact Address (for purposes of service):

Phone: _____ Fax: _____

Date

Attorney Signature

Attorney Name (printed)

OSB # _____

32. 9.010

Amend to create an exception to the self-addressed, stamped envelope requirement.

ACTION TAKEN

Motion 35, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The rule requires submission of a self-addressed, stamped envelope. The proposal makes an exception to that requirement for electronically filed documents.

PROPOSED AMENDMENT

9.010 MAILING PROBATE MATERIALS TO THE COURT

{Except for a document that is electronically filed, any p}[P]etition[s], motion[s], order[s] **{or}**[and] judgment[s] not requiring a court appearance may be mailed to the trial court administrator, with **{a}** self-addressed stamped envelope[s] or postcard[s] for response[s].

33. 13.210

Amend to modify time within which an arbitrator must send award to parties.

ACTION TAKEN

Motion 10, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Jeffrey L. Pugh, Attorney, on May 26, 2015. He explained that the time requirements in UTCR 13.210 and 13.220 are too short and unworkable for arbitrators. The committee discussed:

- the unfairness of the time lines to the arbitrators
- the lack of compliance with the rule
- the amount of time needed after an award is issued to deal with requests for attorney fees and costs
- the impact of ORCP 68
- inconsistent wording in the rules
- the appropriate overall time to file an award and a subsequent award of attorney fees and costs to complete an arbitration.

PROPOSED AMENDMENT

13.210 FORM AND CONTENT OF AWARD

(1) * * *

* * * * *

(5) Within [7] **{28}** days after the conclusion of the arbitration hearing, the arbitrator shall send the award to the parties without filing with the court and shall establish procedures for determining attorney fees and costs.

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- (6) In dissolution cases, the arbitrator shall send the award to the parties within [7] **{28}** days after the conclusion of the arbitration hearing and shall direct a party to prepare and submit a form of judgment. The arbitrator, upon request of any party, shall give the parties an opportunity to be heard on the form of judgment. The arbitrator shall then approve a form of judgment and file the award, along with the approved form of judgment, per UTCR 13.220.

34. 13.220

Amend to modify time period applicable to filing of arbitration award and to account for attorney fee issues.

ACTION TAKEN

Motion 10, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Jeffrey L. Pugh, Attorney, on May 26, 2015. He explained that the time requirements in UTCR 13.210 and 13.220 are too short and unworkable for arbitrators. The committee discussed:

- the unfairness of the time lines to the arbitrators
- the lack of compliance with the rule
- the amount of time needed after an award is issued to deal with requests for attorney fees and costs
- the impact of ORCP 68
- inconsistent wording in the rules
- the appropriate overall time to file an award and a subsequent award of attorney fees and costs to complete an arbitration.

PROPOSED AMENDMENT

13.220 FILING OF AN AWARD

- (1) **{In all cases, t}**[7]he arbitrator shall file the award with the trial court administrator, together with proof of service of a copy of the award[,] upon each party{,} within **{42 days}**[*the following times*] after the **{conclusion}**[*completion*] of the arbitration hearing[:

(a) *In dissolution cases within 21 days.*

(b) *In all other cases within 14 days].*

- (2) * * *

* * * * *

35. 19.020

Amend to clarify filing requirements in remedial contempt cases.

ACTION TAKEN

Motion 36, to preliminarily recommend approval, passed by consensus.

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EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal clarifies the procedures a party must follow when seeking remedial contempt in an existing case. Due to current limitations in the eFiling system, a party must file the motion conventionally (paper filing, see UTCR 21.070(3)(d)) and the court must create a new case. The system relates the new case to the existing case. For subsequent filings in the contempt matter, the proposal requires parties to include the case number of the contempt proceeding and the case number of the existing, related case. Pursuant to ORS 33.145, the Oregon Supreme Court must approve changes to this rule.

PROPOSED AMENDMENT

19.020 INITIATING INSTRUMENT REQUIREMENTS AND MAXIMUM SANCTIONS

(1) * * *

(2) If a party is initiating a contempt proceeding under ORS 33.055 (remedial) and a related circuit court case exists, the party must initiate the contempt proceeding by filing a motion in the related case.

{(a) For purposes of the court's electronic case management system, the trial court administrator will treat the contempt proceeding as a separate case, but the motion and filings pertaining to the motion are deemed to have been filed in the related case within the meaning of ORS 33.055.}

{(b) Any subsequent filing by any party in the contempt proceeding must include both case numbers, with the contempt proceeding case number appearing first.}

(3) An initiating instrument in a contempt proceeding under ORS 33.055 (remedial) that initiates a new circuit court case must state, in the first paragraph:

(a) if arising from a justice court or municipal court proceeding, the court name, the case name and number, and a description of the nature of that proceeding;

(b) if arising from an agency proceeding other than a child support proceeding, the agency name, the agency case name and number, and a description of the nature of that proceeding; or

(c) if arising from an agency proceeding that is a juvenile proceeding, the information required in paragraph (b) of this section as to any applicable agency or department, and any applicable juvenile department petition number.

(4) * * *

* * * * *

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36. 21.010

Amend to conform to proposed definition of “document” in UTCR 1.110.

ACTION TAKEN

Motion 17, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal removes the definition of “document” from this rule. It is no longer necessary in light of the proposal to add a definition of document to UTCR 1.110 (see above), which will apply to the entire UTCR.

PROPOSED AMENDMENT

21.010 DEFINITIONS

The following definitions apply to this chapter:

(1) “Conventional filing” means a process whereby a filer files a paper document with the court.

[(2) “Document” means a pleading, a paper, a motion, a declaration, an application, a request, a brief, a memorandum, 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.]

[(2)[3] “Electronic filing” means * * *

[(3)[4] “Electronic filing system” means * * *

[(4)[5] “Electronic service” means * * *

[(5)[6] “Filer” means * * *

[(6)[7] “Service contact” means * * *

[(7)[8] “Other service contact” means * * *

37. 21.020

Amend to apply chapter 21 to all circuit courts.

ACTION TAKEN

Motion 37, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal removes section (1) from the rule. Section (1) was originally intended to make chapter 21 applicable to only those courts that had implemented the Oregon

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eCourt Program. Soon all circuit courts will have implemented the program so this section is no longer necessary.

PROPOSED AMENDMENT

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://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 1.050(1)(e) or {**UTCR**}4.090, governing the electronic filing and electronic service of documents.

38. 21.020

Amend to conform to proposed deletion of UTCR 1.050(1)(e).

ACTION TAKEN

Motion 13, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Joshua Nasbe, Civil Law Staff Counsel, Oregon Judicial Department, on September 15, 2015. The proposal removes the reference to UTCR 1.050(1)(e) from UTCR 21.020(2) because (1)(e) has been recommended for deletion from UTCR 1.050 (see above).

PROPOSED AMENDMENT

21.020 APPLICABILITY; LOCAL RULES OF COURT NOT PERMITTED

(1) * * *

(2) No circuit court may make or enforce any local rule, other than those local rules authorized by UTCR [1.050(1)(e) or]4.090, governing the electronic filing and electronic service of documents.

39. 21.040

Amend to include cross-reference to proposed amendment to UTCR 21.070.

ACTION TAKEN

Motion 38, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal clarifies the procedure for e-filing confidential attachments in filings that aren't

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otherwise confidential and it adds a cross-reference to UTCR 21.070(6) (see below for the proposed amendment to that rule).

PROPOSED AMENDMENT

21.040 FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY

(1) * * *

(2) Except as provided in subsections (a) ~~{or}~~*[through]* (~~{b}~~*[c]*) of this section, when a document to be electronically filed includes one or more attachments, including but not limited to a documentary exhibit, an affidavit, or a declaration, the electronic filing must be submitted as a unified single PDF file, rather than as separate electronically filed documents, to the extent practicable. An electronic filing submitted under this section that exceeds 25 megabytes must comply with section (1) of this rule.

- (a) If an electronic filing consists of a motion or similar document and a corresponding proposed order, judgment, or any other document that requires court signature, the filer must submit the document requiring court signature through the electronic filing system as a separate electronically filed document from the motion. A filer submitting separate documents under this subsection must include in the Filing Comments field for each submission a description that clearly identifies the filing, for example, “Motion for Summary Judgment” and “Proposed Order Granting Motion for Summary Judgment.”
- (b) If an electronic filing is not confidential but includes an attachment that is confidential or otherwise exempt from disclosure, the filer must submit the attachment through the electronic filing system as a separate electronically filed document. **{Unless UTCR 21.070(6) applies, a}***[A]* filer submitting a confidential document under this subsection must **{designate the document as}***[select the]* confidential **{in the eFiling system}***[checkbox after attaching the confidential document]*.
- (c) The reference in section (2) to an affidavit and a declaration applies to only an affidavit or a declaration that is an attachment to another document.

(3) * * *

* * * * *

40. 21.070

Amend to address filing issues.

ACTION TAKEN

Motion 39, to preliminarily recommend approval, passed by consensus.

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EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal includes a variety of changes to the rule:

- section (1) is updated to reflect that the Oregon eCourt Program will soon be implemented in all of the circuit courts
- section (2) is updated to account for mandatory efilers
- section (3)(n) adds an undertaking with a deposit as security to the list of items that must be conventionally (paper) filed
- sections (3)(o) and (p) add certain exhibits that were previously mentioned in section (4)
- section (4) is amended to require a party in a consolidated case to file documents separately in each of the cases that have been consolidated
- new section (6) establishes procedures for filing documents in confidential cases.

PROPOSED AMENDMENT

21.070 SPECIAL FILING REQUIREMENTS

(1) Courtesy Copies and Other Copies

(a) * * *

(c) **{If the petitioner i}** [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]*

(*i*) **{This subsection applies only if }** [T]{t}he underlying criminal case was filed on or after the date that the circuit court **{in which the conviction was entered }** began using the Oregon eCourt Case Information system.

{(ii)} The date that each [Oregon eCourt Case Information]circuit court began using **{the Oregon eCourt Case Information }**[that] system is available at <http://courts.oregon.gov/Oregonecourt/pages/oregonCourtMap.aspx>.

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(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 **{any party not already otherwise so required}***{all parties}* to file **{or}***{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) * * *

* * * * *

{(n) An undertaking that is accompanied by a deposit as security for the undertaking.}

{(o) A demonstrative or oversized exhibit.}

{(p) Trial exhibits, which must be submitted or delivered as provided in UTCR 6.050.}

(4) **{Consolidated Cases}***{Limits on Exhibits}*

{Unless provided otherwise by court order or SLR adopted under UTCR 2.090, a party electronically filing a document that is applicable to more than one case file must electronically file the document in each case using existing case numbers and captions.}

[(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

* * *

{(6) Filings in Confidential Cases}

{(a) Except as provided in subsection (b) of this section, if a case is confidential by statute, a filer submitting a document for filing in the case through the eFiling system must not designate the document as confidential, because the case itself is designated as confidential.}

{(b) Notwithstanding subsection (a) of this section, if a particular document type is deemed confidential by statute within a case type deemed confidential by statute, a filer must designate the document as confidential when submitting the document.}

(c) Subsection (b) of this section applies to a statement and all exhibits required under ORS 109.317 in an adoption proceeding. The statement must be filed as a single PDF file that includes only the statement and all exhibits required under ORS 109.317.

41. 21.100

Amend to update citation to ORCP and conform to proposed definition of “document” in UTCR 1.110.

ACTION TAKEN

Motion 18, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The rule includes citations to UTCR 21.010 and ORCP 10 that need to be updated.

PROPOSED AMENDMENT

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(~~7~~[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(~~7~~[8]).

(3) * * *

* * * * *

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(6) Applicability of ORCP 10 {B}[C]

Electronic service performed in accordance with this chapter is equivalent to service by mail as provided in ORCP 10 {B}[C].

(7) * * *

* * * * *

42. 21.100

Amend to clarify application of ORCP 10C to electronic service.

ACTION TAKEN

Motion 7, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by The Honorable Thomas Ryan, Multnomah County Circuit Court and committee member, on March 18, 2013. ORCP 10 B was amended to address electronic service so UCR 21.100(6) is no longer necessary and should be deleted.

PROPOSED AMENDMENT

21.100 ELECTRONIC SERVICE

(1) * * *

* * * * *

[(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.]

{(6)}[7] Proof of Electronic Service

A filer must attach at the end of any document submitted electronically a list of names 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.

{(7)}[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.

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43. 21.140

Amend to reflect statewide implementation of electronic filing system.

ACTION TAKEN

Motion 40, to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the Oregon eCourt Law and Policy Work Group, on August 31, 2015. The proposal updates the rule to reflect that all circuit courts will soon have implemented the Oregon eCourt Program and to make clear that the rule applies to members of the Oregon State Bar.

PROPOSED AMENDMENT

21.140 MANDATORY ELECTRONIC FILING

(1) An active member of the Oregon State Bar must file a document using the electronic filing system, instead of using conventional filing, **{unless:}***[if the document is not required to be conventionally filed under UTCR 21.070(3) and if it]*

(a) **{The document is required to be conventionally filed under UTCR 21.070(3)}***[is filed in any of the following circuit courts: Benton, Clatsop, Columbia, Crook, Jackson, Jefferson, Linn, Multnomah, Polk, Tillamook, or Yamhill]; or*

(b) **{The filer has obtained a waiver under subsection (2) of this rule}***[is filed in a circuit court not listed in subsection (a) of this section on or after the mandatory electronic filing date applicable to that court, as set out in section (2) of this rule].*

[(2) For purposes of subsection (1)(b), the “mandatory electronic filing date” of a circuit court is 30 business days after the date on which the court began using the electronic filing system. The mandatory electronic filing date is available, once the court begins using the electronic filing system, at: <http://courts.oregon.gov/Oregonecourt/pages/oregoneCourtMap.aspx>.]

{2}[3] {An active member of the Oregon State Bar}*[A person]* may seek a waiver of the requirement in section (1) of this rule as follows:

(a) The **{Bar member}***[person]* must file one of the following:

(i) A petition for waiver in all cases in a specific judicial district for a specific period of time.

(ii) A motion in an existing case for waiver in that specific case.

(b) A petition or motion must include an explanation describing good cause for the waiver.

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- (c) A separate petition for waiver [*under subsection (a)(i) of this section*] must be filed in each judicial district in which the person desires a waiver.
 - (d) If the court grants a petition **{for waiver}**[*filed under subsection (a)(i) of this section*], the **{Bar member}**[*person*] obtaining the waiver must
 - (i) File a copy of the court’s order in each case subject to the waiver; and
 - (ii) Include the words “Exempt from eFiling per Waiver Granted [DATE]” in the caption of all documents conventionally filed during the duration of the waiver.
 - (e) If the court grants a motion **{for waiver}**[*filed under subsection (a)(ii) of this section*], the **{Bar member}**[*person*] obtaining the waiver must include the words “Exempt from eFiling per Waiver Granted [DATE]” in the caption of all documents conventionally filed in the case.
- (~~3~~4) If the electronic filing system is continuously unavailable for a period of more than 24 hours, an active member of the Oregon State Bar may file documents using conventional filing until the end of the first full business day after the day on which the electronic filing system becomes available.
- (~~4~~5) If a filer submits a document for conventional filing in contravention of section (1) of this rule and the filer has not obtained a waiver pursuant to section (~~2~~3) of this rule nor is the electronic system unavailable as described in section (~~3~~4) of this rule, then court staff may, to the extent allowed by policy adopted by the presiding judge, take any of the following actions:
- (a) Direct the filer to the court’s kiosk to complete the filing electronically.
 - (b) Refuse to accept the document for filing.
 - (c) Return the document to the filer as unfiled.
 - (d) Refer the filing to a judge for consideration of sanctions under UTCR 1.090.

B. RECOMMENDATIONS OF DISAPPROVAL

1. 1.110

Amend definition of “Trial Court Administrator” to include court staff to whom duties have been delegated.

ACTION TAKEN

Motion 42, to preliminarily recommend disapproval, passed by consensus.

EXPLANATION

This proposal was submitted by Jim Nass, Appellate Commissioner and member of Oregon eCourt Law and Policy Work Group, on August 28, 2015. It is a response and a minority report to the proposed amendment to UTCR 1.160, which has been preliminarily recommended for approval (see above in the “Recommendation of Approval” section). The committee felt that the proposal was thoughtful, but that it would create more problems than it would solve.

PROPOSED AMENDMENT

1.110 DEFINITIONS

(1) * * *

* * * * *

(6) “Trail Court Administrator” [*means the court administrator, the administrative officer of the records section of the court, and where appropriate, the trial court clerk*]{**includes any employee to whom the trial court administrator has delegated any power of the office of trial court administrator**}.

2. 1.160

Amend to clarify when documents are considered filed.

ACTION TAKEN

Motion 43, to preliminarily recommend disapproval, passed by consensus.

EXPLANATION

This proposal was submitted by Jim Nass, Appellate Commissioner and member of Oregon eCourt Law and Policy Work Group, on August 28, 2015. It is a response and a minority report to the proposed amendment to UTCR 1.160, which has been preliminarily recommended for approval (see above in the “Recommendation of Approval” section). The committee felt that the proposal was thoughtful, but that it would create more problems than it would solve.

PROPOSED AMENDMENT

1.160 **{CONVENTIONAL}** FILING OF DOCUMENTS IN COURTS; LOCAL SLR

[(1) *Except as provided in subsection (2) of this rule, a document to be filed with the court or the clerk of court or the trial court administrator must be filed with the office of the local trial court administrator or designee. No document delivered to a judge, judge's staff, judge's mailbox, courtroom, or chambers is filed until it is received by the office of the trial court administrator or designee. For every document to be filed, other than an order or judgment submitted to a judge for signature, the original is to be delivered to the trial court administrator's office.*

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- (2) *Notwithstanding subsection (1) of this rule, local courts may adopt SLRs to allow filing of documents in places other than required by subsection (1). Such SLRs may allow such filing generally or in specific circumstances as convenient to the court adopting the SLR. SLR number 1.161 is reserved for the purposes of such SLRs.]*
- (3) *A judicial district must accept a filing that is substantially in the form of the corresponding document made available to the public on <http://courts.oregon.gov/OJD/forms>, if the proper fee is tendered when required and the document is filed in compliance with all applicable statutes and rules.]*

{(1) A document being conventionally filed with a court is considered filed when the original of a document is delivered to the trial court administrator, the trial court administrator receives the document, and the trial court administrator accepts the document for filing. If the trial court administrator accepts a document for filing, the filing date relates back to the date the document was delivered to the trial court administrator for filing.

(2) A court may adopt an SLR, to be numbered 1.161, to designate persons or specific places for delivery of a document for filing with the trial court administrator.

(3) No document delivered to a judge, judge's staff, courtroom, or chambers is considered filed until the document is received by the trial court administrator unless the court has adopted an SLR under subsection (2) so providing.

(4) A party may present a form of order or judgment to a judge in the courtroom. If the judge signs the order or judgment, the judge is responsible to ensure that the order or judgment is delivered to the trial court administrator for filing. If the judge does not sign the form of order or judgment and the party wants it to be part of the record, the party must deliver it to the trial court administrator for filing.

(5) If a party presents a motion or other document at an ex parte proceeding and the judge retains the document, the judge is responsible to ensure that the document is delivered to the trial court administrator for filing. If the judge does not retain the document, the party is responsible for delivering the document to the trial court administrator for filing. The filing date of the document relates back to the date the party presented the document at the ex parte proceeding.

(6) Definitions

(a) As used in this rule, "conventional filing" means delivery of a document for filing in person, including delivery in person, by attorney or other agent for a party in person, by U.S. Postal Service, or delivery service. Conventional filing excludes electronic filing under UTCR 21.060.

(b) As used in this rule, “trial court administrator” includes any employee of the trial court administrator to whom the trial court administrator has delegated the authority to receive a document for filing.

3. 2.010

Amend to remove line numbering requirement.

ACTION TAKEN

Motion 47, to preliminarily recommend disapproval, passed by consensus.

EXPLANATION

This proposal was submitted by Julie A. Smith, Attorney, on October 14, 2015. She has thought about:

- e-briefing and how it looks on a computer screen
- the trend to declutter these documents
- how it can be difficult to make the numbers line up properly
- how pleadings usually have paragraph numbers
- the notion that the Oregon federal courts do not have this requirement.

The committee discussed that:

- numbered lines are helpful in post-conviction relief cases, as well as other cases
- attorneys often cite to page and line
- judges find the lines useful
- the lines may be required by the ORCP for some motions.

PROPOSED AMENDMENT

The proponent did not submit specific wording for amendment of the rule.

4. 6.200

Amend rule to apply to criminal cases.

ACTION TAKEN

Motion 19, to preliminarily recommend disapproval, passed 9-4.

EXPLANATION

This proposal was submitted by Laura Fine Moro, Attorney, on April 15, 2015. The proposal would require the court to conduct a settlement conference in a criminal case upon the request of a party and it arises from an incident where a judge refused to grant her a settlement conference. The committee discussed:

- some counties already require a settlement conference in all cases
- this would create a significant workload issue in some counties with a large case load
- this would be create a significant workload issue in some counties with an individual docket
- the ORS already allows a presiding judge to order a settlement conference
- limiting the proposal to certain felonies
- whether this would impinge on a legislative policy issue
- whether this would foster delay

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PROPOSED AMENDMENT

6.200 PRETRIAL SETTLEMENT CONFERENCES

(1) Each judicial district may adopt an SLR 6.012, or an SLR in Chapter 12 if that chapter is dedicated to alternative dispute resolution, providing for a uniform pretrial settlement conference procedure for use in all circuit court civil cases, including dissolution of marriage and postjudgment modification proceedings{, **and criminal cases**}. The SLR shall be designed to most effectively meet the needs of the judges, lawyers, and litigants in each district and to promote early pretrial settlements.

(2) * * *

* * * * *

5. **21.010**

Amend to conform to proposed changes to UTCR 1.160.

ACTION TAKEN

Motion 44, to preliminarily recommend disapproval, passed by consensus.

EXPLANATION

This proposal was submitted by Jim Nass, Appellate Commissioner and member of Oregon eCourt Law and Policy Work Group, on August 28, 2015. It is a response and a minority report to the proposed amendment to UTCR 1.160, which has been preliminarily recommended for approval (see above in the "Recommendation of Approval" section). The committee felt that the proposal was thoughtful, but that it would create more problems than it would solve.

PROPOSED AMENDMENT

21.010 DEFINITIONS

The following definitions apply to this chapter:

(1) "Conventional filing" [*means a process whereby a filer files a paper document with the court*]{**has the same meaning as provided in UTCR 1.160**}.

(2) * * *

* * * * *

6. **21.060**

Amend to clarify trial court administrator's role in accepting filings.

ACTION TAKEN

Motion 45, to preliminarily recommend disapproval, passed by consensus.

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EXPLANATION

This proposal was submitted by Jim Nass, Appellate Commissioner and member of Oregon eCourt Law and Policy Work Group, on August 28, 2015. It is a response and a minority report to the proposed amendment to UTCR 1.160, which has been preliminarily recommended for approval (see above in the “Recommendation of Approval” section). The committee felt that the proposal was thoughtful, but that it would create more problems than it would solve.

PROPOSED AMENDMENT

21.060 FILES OF THE COURT

(1) Electronic Filing

[(a)]The electronic filing of a document is accomplished when a filer submits a document [*electronically to*]{**via**} the court{**’s electronic filing system**}, the electronic filing system receives the document, and the [*court*]{**trial court administrator**} accepts the document for filing. **{If the trial court administrator accepts the document for filing:**

(a) The filing date relates back to the date the filer submitted the document via the court’s electronic filing system; and

(b) [*When the court accepts the electronic document for filing, t*]{**T**he electronic document constitutes the court’s record of the document.

(2) Converting a Conventional Filing into an Electronic Format

The [*court*]{**trial court administrator**} may digitize, microfilm, record, scan, or otherwise reproduce a document that is filed conventionally into an electronic record, document, or image. The [*court*]{**trial court administrator**} subsequently may destroy a document that is filed conventionally in accordance with the protocols established by the State Court Administrator under ORS 8.125(11) and ORS 7.124.

7. 21.100

Amend to conform to proposed restructuring of UTCR 21.060.

ACTION TAKEN

Motion 46, to preliminarily recommend disapproval, passed by consensus.

EXPLANATION

This proposal was submitted by Jim Nass, Appellate Commissioner and member of Oregon eCourt Law and Policy Work Group, on August 28, 2015. It is a response and a minority report to the proposed amendment to UTCR 1.160, which has been preliminarily recommended for approval (see above in the “Recommendation of Approval” section). The committee felt that the proposal was thoughtful, but that it would create more problems than it would solve.

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PROPOSED AMENDMENT

21.100 ELECTRONIC SERVICE

(1) * * *

* * * * *

(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 section (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) * * *

* * * * *

C. OTHER ACTIONS

1. 5.100

Review out-of-cycle amendment of 5.100.

ACTION TAKEN

No action was needed nor taken.

EXPLANATION

The committee received an update on amendment of UTCR 5.100 (Submission of Proposed Orders or Judgments). The rule was amended by CJO 15-058, signed October 26, 2015, effective January 1, 2016. The intent is to require a detailed certificate of readiness so that a judge can more readily determine whether a proposed order or judgment is ready for signature. The rule is expanded to cover all proposed orders and judgments, not just those that are submitted in response to a ruling. A party submitting a proposed order or judgment must give notice to a self-represented party of the time period to object.

AMENDED RULE (effective January 1, 2016)

5.100 SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS

(1) **{Except as provided in subsection (3) of this rule, a}**[A]ny proposed judgment or proposed order submitted **{to}** [*in response to a ruling of*] the court must be:

(a) **{S}**[s]erved on opposing counsel not less than 3 days prior to submission to the court, or

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- (b) **{A}[a]** accompanied by a stipulation by opposing counsel that no objection exists as to the [*form of the*] judgment or order, or
 - (c) **{M}[m]** ailed to a self-represented party at the party's last known address not less than 7 days prior to submission to the court **{and be accompanied by notice of the time period to object.}**[, or]
- [(d) *presented in open court with the parties present.*]
- (2) **{The drafting party must attach to any proposed judgment or order a dated and signed certificate that describes:}** [*A certificate describing the manner of compliance with subsection (1)(a) or (1)(c) of this rule must be attached to a proposed judgment or order submitted to the court.*]

{(a) The manner of compliance with any applicable service requirement under this rule; and

(b) The reason that the submission is ready for judicial signature or otherwise states that any objection is ready for resolution, in substantially the following form:

“This proposed order or judgment is ready for judicial signature because:

“1. [] Each opposing party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.

“2. [] Each opposing party affected by this order or judgment has approved the order or judgment, as shown by signature on the document being submitted or by written confirmation of approval sent to me.

“3. [] I have served a copy of this order or judgment on all parties entitled to service and:

“a. [] No objection has been served on me.

“b. [] I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.

“c. [] After conferring about objections, [role and name of opposing party] agreed to independently file any remaining objection.

“4. [] The relief sought is against an opposing party who has been found in default.

“5. [] An order of default is being requested with this proposed judgment.

“6. [] Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.

“7. [] This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (4) of this rule.”}

(3) The requirements of subsection (1) of this rule do not apply to:

{(a) A proposed order or judgment presented in open court with the parties present;}

{(b) A proposed order or judgment that may be presented *ex parte* by law or rule and is so submitted;}

{(c) A proposed judgment when an order of default already has been entered or is simultaneously being requested against the opposing party;}

[(a)]{(d)} {A} proposed judgment[s] subject to UTCR 10.090{;}{, and]

[(b)]{(e)} {U}[u]ncontested probate and protective proceedings{; and}[.]

{(f) Matters certified to the court under ORS 416.422, ORS 416.430, ORS 416.435, and ORS 416.448.}

(4) Any proposed judgment containing an award of punitive damages shall be served on the Director of the Crime Victims' Assistance Section, Oregon Department of Justice, 1162 Court Street NE, Salem, OR 97301, not less than 3 days prior to submission to the court.

2. 7.020

Amend to modify time period for setting trial dates when venue changes.

ACTION TAKEN

Motion 11, to take no action, passed by consensus.

EXPLANATION

This proposal was submitted by David H. DeBlasio, Attorney, on July 29, 2015. His issue arose with the change from OJIN to Odyssey. Under OJIN, when a change of venue was granted the case got a new case number and the time for dismissal for want of prosecution started over. Under Odyssey, the case number stays the same and the time until dismissal does not restart. He finds that this is a problem in debt collection cases. His practice is to send a demand to the consumer at the last known address. If the consumer does not respond he files suit. If he then learns that the consumer moved before suit was filed he has to file a motion for change of venue. It is a violation of federal law to serve the defendant before venue has been changed so the time for dismissal continues to run. He then has to file a motion for an extension of time, which is often (but not always) granted. These motions add workload and cost to the plaintiff and court. He prefers to file suit in the consumer's county of residence, rather than where the cause of action arose, because it gives the consumer easier access to the court. He represents two debt buyers and this is a problem in approximately 30% of his cases. The committee discussed:

- plaintiff's need to file in the county where the consumer actually lives
- plaintiff's ability to file where the cause of action arose
- plaintiff's ability to overcome this problem by filing a motion for an extension of time (possibly at the same time as the motion for change of venue)

- workload issues with motions, orders, and restarting the time
- additional timelines may needlessly complicate the rule
- the need to know the number of cases in which this issue arises
- the likelihood that the Odyssey system will not permit a clerk to restart the time

The committee felt that it did not have enough information to make a recommendation on this proposal so they took no action and will revisit the issue at the spring meeting when they hope to have more information.

PROPOSED AMENDMENT

7.020 SETTING TRIAL DATE IN CIVIL CASES

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- (1) After service is made, the serving party must forthwith file the return or acceptance of service with the trial court administrator.
 - (2) If no return or acceptance of service has been filed by the 63rd day after the filing of the complaint, written notice shall be given to the plaintiff that the case will be dismissed for want of prosecution 28 days from the date of mailing of the notice unless proof of service is filed within the time period, good cause to continue the case is shown to the court on motion supported by affidavit and accompanied by a proposed order, or the defendant has appeared.
 - (3) If proof of service has been filed and any defendant has not appeared by the 91st day from the filing of the complaint, the case shall be deemed not at issue and written notice shall be given to the plaintiff that the case will be dismissed against each nonappearing defendant for want of prosecution 28 days from the date of mailing of the notice unless one of the following occurs:
 - (a) An order of default has been filed and entry of judgment has been applied for.
 - (b) Good cause to continue the case is shown to the court on motion supported by affidavit and accompanied by a proposed order.
 - (c) The defendant has appeared.
 - {(4) In the event that a motion for a change of venue has been granted and a necessary party has not been served, the plaintiff shall be granted, without a separate order of the court, an additional 60 days to serve the non-appearing party. Thereafter written notice shall be given to the plaintiff that the case will be dismissed for want of prosecution 28 days from the date of mailing of the notice unless proof of service is filed within the time period, good cause to continue the case is shown to the court on motion supported by affidavit and accompanied by a proposed order, or the defendant has appeared. Federal law prohibits the service of a consumer claim in a county other than the consumer's residence.}**

(~~5~~)[4] If all defendants have made an appearance, the case will be deemed at issue 91 days after the filing of the complaint or when the pleadings are complete, whichever is earlier.

(~~6~~)[5] The trial date must be no later than one year from date of filing for civil cases or six months from the date of the filing of a third-party complaint under ORCP 22 C, whichever is later, unless good cause is shown to the presiding judge or designee.

(~~7~~)[6] Parties have 14 days after the case is at issue or deemed at issue to:

- (a) Agree among themselves and with the presiding judge or designee on a trial date within the time limit set forth above.
- (b) Have a conference with the presiding judge or designee and set a trial date.

(~~8~~)[7] If the parties do neither (a) nor (b) of (6) above, the calendar clerk will set the case for trial on a date that is convenient to the court.

3. 13.120

Amend to modify manner in which arbitrators are compensated.

ACTION TAKEN

This proposal was withdrawn by the proponent after discussion with the committee.

EXPLANATION

This proposal was submitted by Jeffrey L. Pugh, Attorney, on May 26, 2015. He is concerned about the difficulties he has in getting paid as an arbitrator. He would like an amendment that allows an arbitrator to refuse to accept evidence from a party who fails to pay the arbitrator fee. He cites a Marion County SLR 13.095(4), which grants such authority. He would also like an amendment to make clear that an arbitrator can take the full fee from the amount tendered by one party (where another party has failed to pay). The committee discussed ORS 36.400(4), which may require an arbitrator to refuse to take evidence from a party who has not paid the fee. In light of that discussion, Mr. Pugh withdrew his proposal.

PROPOSED AMENDMENT

The proponent did not submit specific wording for amendment of the rule.

4. 13.170

Amend to preclude admission of evidence if arbitrator's fees remain unpaid.

ACTION TAKEN

This proposal was withdrawn by the proponent after discussion with the committee.

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EXPLANATION

This proposal was submitted by Jeffrey L. Pugh, Attorney, on May 26, 2015. He is concerned about the difficulties he has in getting paid as an arbitrator. He would like an amendment that allows an arbitrator to refuse to accept evidence from a party who fails to pay the arbitrator fee. He cites a Marion County SLR 13.095(4), which grants such authority. He would also like an amendment to make clear that an arbitrator can take the full fee from the amount tendered by one party (where another party has failed to pay). The committee discussed ORS 36.400(4), which may require an arbitrator to refuse to take evidence from a party who has not paid the fee. In light of that discussion, Mr. Pugh withdrew his proposal.

PROPOSED AMENDMENT

The proponent did not submit specific wording for amendment of the rule.

5. **Committee Membership**

Update.

ACTION TAKEN

No action was needed nor taken.

EXPLANATION

The committee received an update on membership. Committee member Matt Whitman will complete his service on the committee on December 31, 2015. The Chief Justice plans to appoint John Kaempf, an attorney in Portland, as Mr. Whitman's replacement.

6. **Spring 2016 Meeting**

Schedule meeting.

ACTION TAKEN

The committee scheduled their next meeting for April 8, 2016.

7. **Fall 2016 Meeting**

Schedule meeting.

ACTION TAKEN

The committee scheduled their fall meeting for October 14, 2016.

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