

**NOTICE SEEKING PUBLIC COMMENT ON
PROPOSED UNIFORM TRIAL COURT RULES CHANGES FOR 2019**

I. INTRODUCTION

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

The UTCRC Committee makes recommendations to the Chief Justice of the Oregon Supreme Court. At its fall meeting on October 5, 2018, the committee made preliminary recommendations on several proposed changes. The committee will review public comment and make final recommendations at its next meeting on March 8, 2019.

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 UTCRC Reporter by 5:00 p.m. on February 22, 2019.

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

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

If you wish to appear at the spring meeting, please contact the UTCRC 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 August 1, 2019. Following adoption, the rules will be posted on the Oregon Judicial Department website listed above. Additional information on the UTCRC process can be found at the same web address.

II. FUTURE MEETINGS

The committee plans to meet twice in 2019.

SPRING MEETING: March 8, 2019, 9:00 a.m., at the OJD Enterprise Technology Services Division, 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 UTCRC to take effect

August 1, 2019. The committee may reconsider these proposals, the corresponding recommendations, and any other committee action.

FALL MEETING: October 18, 2019, 9:00 a.m., at the OJD Enterprise Technology Services Division, 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, 2020. 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 2018 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
Amend section (1)(b) to remove superfluous wording.
2. 1.160
Amend to use consistent terminology and to make clear it is applicable to both electronically filed and conventionally filed documents.
3. 21.010
Amend section (1) regarding definition of “conventional filing.” **See Item A.2.**
4. 2.010
Amend section (7) to remove the Certificate of Document Preparation requirement.
5. Form 2.010.7
Repeal the Certificate of Document Preparation form. **See Item A.4.**
6. Form 2.100.4a
Amend to conform to the proposed amendment of UTCR 2.010(7). **See Item A.4.**
7. Form 2.100.8
Amend to conform to the proposed amendment of UTCR 2.010(7). **See Item A.4.**
8. Form 2.110.4a
Amend to conform to the proposed amendment of UTCR 2.010(7). **See Item A.4.**
9. Form 8.080.3
Amend to conform to the proposed amendment of UTCR 2.010(7). **See Item A.4.**

10. 2.010
Amend section (9) to add a provision requiring English translations of exhibits that are in a foreign language.
11. 2.010
Amend section (13) to change the case name citation requirement from underlined to *italicized*, consistent with the Oregon Appellate Courts Style Manual.
12. 2.100
Amend sections (2)(b)(i), (2)(b)(ii), (2)(b)(iii), (3)(c)(ii), (3)(d)(ii), and (7)(d) to update citations to the public record statutes.
13. 2.110
Amend section (3)(c)(ii) to update citation to the public record statutes. **See Item A.12.**
14. 2.130
Amend sections (6)(g), (6)(h), and (11)(b)(iii) to update citations to the public record statutes. **See Item A.12.**
15. 2.100
Amend sections (4)(b), (4)(c), (4)(e), (5)(b), (6)(b), (8)(a), (9)(a), and (9)(b)(ii), to replace “affidavit” with “request” for consistency with the related forms.
16. 2.110
Amend sections (4)(a), (4)(b), (4)(e), and (5)(b) to replace “affidavit” with “request” for consistency with the related forms. **See Item A.15.**
17. 5.150
Amend the rule to make changes regarding the rule name, time to trial, pretrial conferences, written discovery agreements, limitations on discovery, deadline for completion of discovery, discovery disputes, trial stipulations, and the related forms.
18. Form 5.150.1a
Amend the form to conform to proposed amendment to UTCR 5.150 and move the form from the UTCR Appendix to the Oregon Judicial Department website. **See Item A.17.**
19. Form 5.150.1b
Amend the form to conform to proposed amendment to UTCR 5.150 and move the form from the UTCR Appendix to the Oregon Judicial Department website. **See Item A.17.**
20. 6.050
Amend section (3) to exempt exhibits in juvenile cases.
21. 6.120
Amend to exempt exhibits in juvenile cases. **See Item A.20.**

22. 11.110
Adopt a rule regarding local rules on the submission of exhibits in juvenile cases. **See Item A.20.**
23. 11.120
Adopt a rule governing maintenance of exhibits in juvenile cases. **See Item A.20.**
24. 21.020
Amend to allow an exception for proposed UTCR 11.110. **See Item A.20.**
25. 21.070
Amend section (3)(p) to conform with proposed UTCR 11.110. **See Item A.20.**
26. 8.010
Amend sections (5), (7)(a), (7)(b), and (7)(c) to allow use of a declaration in lieu of an affidavit.
27. 8.040
Amend sections (1) and (2) to allow use of a declaration in lieu of an affidavit.
Amend sections (3) and (4) to clarify when a Uniform Support Declaration must be filed. **See Item A.26.**
28. 8.090
Amend to change the location of the certificate and related information.
29. 10.020
Amend to require electronic filing of the DMV record.
30. 21.070
Amend section (3)(k) to remove DMV records from the list of documents that must be conventionally filed. **See Item A.29.**
31. 21.020
Amend to allow an exception for supplementary local rules adopted pursuant to the proposed amendment to UTCR 10.020. **See Item A.29.**
32. 21.070
Amend section (3) to add extreme risk protection order (ERPO) petitions, and supporting affidavits, to the list of documents that must be conventionally filed.
33. 21.070
Amend section (5) to allow judicial districts to adopt SLR requiring electronic filers to notify the court when an expedited matter has been filed electronically. **See Item B.2.**
34. 23.020
Amend section (5) to eliminate the requirement that parties provide copies of the court file to the assigned Oregon Complex Litigation Court (OCLC) judge.
35. Chapter 24
Adopt statewide rules for post-conviction relief (PCR) cases. **See Item B.4.**

36. 2.130
Amend section (1)(a) to conform to related forms.

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. 1.160
Amend to require submission of original, signed documents for conventional filing.
2. 1.170
Amend section (2) to require courts to post a contact phone number or email address on the court's website. **See Item A.33.**
3. 21.090
Amend section (4) to eliminate applicability to declarations to allow electronic signatures on declarations.
4. 24.240
Adopt a rule addressing the process for *Church v. Gladden/Bogle v. State* claims. **See Item A.35.**

C. OTHER ACTIONS

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

1. 5.180
Adopt a new rule governing consumer debt collection cases.
2. 21.080
Review section (5) for conflict with ORS 21.100 considering the Appellate Commissioner's ruling in *Otnes v. PCC Structural, Inc.*, A167525.
3. 21.100
Discuss electronic service issues.
4. 3.010
Review public comment on out-of-cycle amendment.
5. Committee Membership
Update
6. Spring 2019 Meeting
Schedule spring meeting (March 8, 2019).
7. Fall 2019 Meeting
Schedule fall meeting (October 18, 2019).

IV. DESCRIPTION OF FALL 2018 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

Amend section (1)(b) to remove superfluous wording.

ACTION TAKEN

Motion to preliminarily recommend approval, passed by consensus.

EXPLANATION

This proposal was submitted by Bruce Miller, UTCR Reporter, on August 1, 2018. The purpose of this proposal is to eliminate an unnecessary cross reference in 1.050(1)(b) to 1.050(1)(e). Subsection (e) allowed a special set of SLR that were necessary during the implementation phase of the Oregon eCourt Program. Subsection (e) was deleted effective August 1, 2016, upon completion of that implementation. Therefore, reference to subsection (e) is no longer necessary or appropriate.

PROPOSED AMENDMENT

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

(1) Promulgation of SLR

(a) * * *

(b) A court must incorporate into its SLR any local practice, procedure, form, or other requirement (“local practice”) with which the court expects or requires parties and attorneys to comply. [*Except as provided in paragraph (e), a*]{**A**} court may not adopt SLR that duplicate or conflict with the constitutions, statutes, ORCP, UTCR, Chief Justice Orders, Supreme Court Orders, disciplinary rules for lawyers, judicial canons, or ORAP. A court may not adopt SLR that establish internal operating procedures of the court or trial court administrator that do not create requirements or have potential consequences for parties or attorneys.

(c) * * *

* * * * *

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2. **1.160**

Amend to use consistent terminology and to make clear it is applicable to both electronically filed and conventionally filed documents.

ACTION TAKEN

Motion to change “filing” to “document” passed by consensus. Motion to preliminarily recommend approval of the proposal, as modified by the committee, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the OJD Law and Policy Work Group, on August 30, 2018. The purpose of this proposal is to update the wording in the rule to more accurately and clearly apply to both electronically and conventionally filed documents. Item A.3 amends similar wording in 21.010 in conformance with this proposal.

PROPOSED AMENDMENT

1.160 **{SUBMITTING DOCUMENTS FOR}**FILING [OF DOCUMENTS]
WITH COURTS; LOCAL SLR

- (1) A document **{submitted for filing}**[to be filed] with the court, including any document submitted to a judge or judicial staff, is not considered filed until it is accepted by court staff designated by the trial court administrator to accept court filings.
- (2) A local court may adopt an SLR to designate where a **{document}**[filing] may be submitted**{for filing}**. SLR 1.161 is reserved for **{that purpose}**[courts to designate where filings may be submitted].
- (3) Proposed orders and judgments **{submitted for}**[awaiting] judicial signature may be delivered to a judge or judicial staff as otherwise permitted or required under these rules.
- (4) A **{court}**[judicial district] must accept a **{document submitted for}** filing that is substantially in the form of the corresponding document made available to the public on <http://www.courts.oregon.gov/forms/Pages/default.aspx>, if the proper fee is tendered when required and the document is **{submitted for filing}**[filed] in compliance with all applicable statutes and rules.

3. **21.010**

Amend section (1) regarding definition of “conventional filing.”

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.2.

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PROPOSED AMENDMENT

21.010 DEFINITIONS

The following definitions apply to this chapter:

- (1) “Conventional filing” means a process whereby a filer **{submits}***[files]* a paper document **{for filing}** with the court.

* * * * *

4. 2.010

Amend section (7) to remove the Certificate of Document Preparation requirement.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the OJD Law and Policy Work Group, on August 30, 2018. The purpose of this proposal is to remove the certificate of document preparation, which indicates whether a litigant received assistance in completing the document and whether they paid for that assistance. The proponent noted that the certificate of document preparation was originally intended to deter the unauthorized practice of law. However, the data included in the certificate has never been compiled or analyzed for this purpose, and the certificate has been a source of confusion and additional workload for some self-represented litigants and legal aid providers. Items A.5 through A.9 are conforming amendments that remove the certificate of document preparation from various forms.

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.

* * * * *

- (7) Attorney or Litigant Information

All documents must include the author’s court contact information under UTCR 1.110(1) and, if prepared by an attorney, the name, email address, and the Bar number of the author and the trial attorney assigned to try the case.*[Any document not bearing the name and Bar number of an attorney as the author or preparer of the document must bear or be accompanied by a certificate in substantially the form as set out in Form 2.010.7 in the UTCR Appendix of Forms.]*

* * * * *

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5. Form 2.010.7

Repeal the Certificate of Document Preparation form.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.4.

PROPOSED DELETION (see next page)

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Certificate of Document Preparation. I certify that (check all boxes and complete all blanks that apply):

- A. I chose this document for myself, and I completed it without paid help.
- B. A court facilitator helped me choose or complete this document.
- C. A free legal help organization helped me choose or complete this document.
- D. I paid or will pay _____ for help to complete this document.
- E. I used the court's interactive online form system to choose and complete this document, and I did not pay anyone to review the completed document.

(Signature)

6. Form 2.100.4a

Amend to conform to the proposed amendment of UTCR 2.010(7).

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.4.

PROPOSED AMENDMENT (see next page)

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

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

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

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

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

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

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

PERSON MAKING REQUEST MUST COMPLETE ALL THE FOLLOWING AS INDICATED:

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

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

Date _____
OSB# *(if applicable)* _____

Signature _____
Type or print name _____

For office use:

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

Date: _____

TRIAL COURT ADMINISTRATOR
By _____

7. Form 2.100.8

Amend to conform to the proposed amendment of UTCR 2.010(7).

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.4.

PROPOSED AMENDMENT (see next page)

3. Confirming additional requirements completed:

[a. (Initial to confirm, "na" if not applicable) _____ If this document was prepared by someone who is not an attorney, I have attached a completed document preparation certification that applies to both this request and the attached form as required by UTCR 2.010(7).]

{a}[b]. (Initial to confirm) _____ I have mailed or delivered copies of this request to the following persons required by UTCR 2.080 (list names): _____.

{b}[c]. (Initial to confirm) _____ I understand that I will be responsible for any costs resulting from the court responding to this request except those costs for which I have obtained a waiver, and will advance money to cover those costs if requested by the court.

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

Date _____
OSB# (if applicable) _____

Signature _____
Type or print name _____

For Office use:

Request to inspect _____ granted OR _____ denied (state reason) _____
Related comments: _____

Date: _____

TRIAL COURT ADMINISTRATOR
By _____

8. Form 2.110.4a

Amend to conform to the proposed amendment of UTCR 2.010(7).

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.4.

PROPOSED AMENDMENT (see next page)

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

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

Case name: _____)
)
Plaintiff Name _____)
 V. _____)
)
1ST Defendant Name _____)
)

CASE No. _____

**UTCR 2.110 REQUEST TO REDACT
PROTECTED PERSONAL INFORMATION
FROM DOCUMENT EXISTING IN CASE FILE**

IMPORTANT NOTE TO PERSON COMPLETING THIS REQUEST: Except as specifically ordered by a court, this request and UTCR Form 2.100.4b **cannot be used for contact information** (addresses, telephone numbers, employer identification, and similar information that can be used to contact someone, see *UTCR 2.110*). The type of information that can be protected by this form is limited to what is listed in UTCR 2.100.

To the court: Pursuant to UTCR 2.110, I request that the protected personal information in the form attached to this request be redacted from a document in the case file for the case noted above that the general public can see.

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

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

PERSON MAKING REQUEST MUST COMPLETE ALL THE FOLLOWING AS INDICATED:

1. *(Initial to confirm)* _____. The specific protected personal information described above is provided on the attached UTCR 2.100 segregated information sheet.
2. The specific protected personal information is in the document in the case file that the following identifies:
 - a. Case file number where found: _____.
 - b. Description of document containing the information: _____.
 - c. Page number *(identification)* of the page(s) containing the information: _____.
 - d. A copy of the object page(s) showing specifically the information to be redacted is attached *(required)*:
__ Yes __ No
3. I have attached the required fee of \$_____ per page for all of the _____ *(number of pages)* pages I have requested be redacted for a total amount of \$_____ *(total amount of check or money order attached)*.
__ Yes __ No
4. I *(initial one)* _____ have OR _____ have not attached a self-addressed, stamped postcard with language required by UTCR 2.110 so that the court can inform me of its response to this request.
5. *(Initial to confirm)* _____. I understand that while the protected personal information may be withheld from the general public if this request is granted, it may still be available to some persons and government agencies for purposes described in UTCR 2.100.
- [6. *(Initial to confirm, write "na" if not applicable)* _____. *If this document was prepared by someone who is not an attorney, I have attached a completed document preparation certification that applies to both this request and the attached form as required by UTCR 2.010(7).*]
- {6}[7]. *(Initial to confirm)* _____. I have mailed or delivered copies of this request *(not including the attached UTCR Form 2.100.4b and its attachments)* to the persons required by UTCR 2.080.

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

Date _____
OSB# *(if applicable)* _____

Signature _____
Type or print name _____

For office use:

Segregation ____ granted OR ____ denied *(state reason)* _____

Date: _____

TRIAL COURT ADMINISTRATOR
By _____

9. Form 8.080.3

Amend to conform to the proposed amendment of UTCR 2.010(7).

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.4.

PROPOSED AMENDMENT (see next page)

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

Petitioner
and

Respondent

Case No: _____

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

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

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

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

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

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

Certificate of Document Preparation. Check all that apply:

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

Date

Signature

Name (printed)

Contact Address

City / State / ZIP

Contact Phone]

Certificate of Mailing

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

Date

Signature

Print Name

10. 2.010

Amend section (9) to add a provision requiring English translations of exhibits that are in a foreign language.

ACTION TAKEN

Motion to amend the proposal to clarify that a court interpreter shall not translate or interpret an exhibit during a proceeding, but may interpret testimony regarding the content of an exhibit, passed 12-1 with one abstention. Motion to preliminarily recommend approval of the proposal as amended, passed 12-1 with one abstention.

EXPLANATION

This proposal was submitted by Kelly Mills, Program Manager of the Oregon Judicial Department Court Language Services (CLAS), on November 7, 2017. This proposal requires a person submitting a foreign language exhibit to simultaneously submit an English translation with a declaration signed by the translator. During a court proceeding, interpreters are often asked to transcribe foreign language exhibits into English and to translate foreign language audio exhibits such as 911 recordings. The proponent explained that these tasks pose the following difficulties for interpreters:

- Interpreters are trained to interpret spoken word, not written word;
- Transcription often requires additional resources that are not available during a court proceeding due to lack of time, the prevalence of slang and abbreviations in offered documents, and the inability of the interpreter to ask for clarification from the maker of the document;
- Audio recordings are often of poor quality, making it difficult to translate them “on the fly” without the opportunity to rewind and replay;
- Interpreters are often asked to perform these tasks during court breaks, resulting in the deprivation of a needed rest period;
- When an interpreter is asked to provide a transcription for one party, the interpreter loses the appearance of neutrality, which conflicts with the interpreter’s ethical obligations and makes them a potential witness.

The committee discussed many aspects of the proposal including:

- A potential solution currently used in many counties which allows the party offering the exhibit to read the exhibit into the court record while the interpreter simultaneously interprets the oral testimony. One committee member expressed concern that this approach will not work for audio recordings. Another was concerned that this would prevent verification of the document;
- The potential increased expense to self-represented and indigent litigants and the Public Defense Services Commission;
- Concern that some relevant evidence could be excluded if parties are unaware of the translation requirement prior to the date of the hearing or are unable to comply;
- Limiting the proposal to a simple prohibition stating that interpreters are prohibited from transcribing documents;

- Concern that some exhibits offered for an ancillary purpose (such as to show that a contract was signed or notarized) could be excluded from evidence or from jury view.

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.

(1) * * *

* * * * *

(9) Exhibits

- (a) When an exhibit is appended to a filed document, each page of the exhibit must be identified by the word “Exhibit” or “Ex” to appear at the bottom right-hand side of the exhibit, followed by an Arabic numeral identifying the exhibit. Each page number of the exhibit must appear in Arabic numerals immediately below the exhibit number;
e.g.: “Exhibit 2
Page 10”
- (b) Exhibits appended to a pleading may be incorporated by reference in a later pleading.
- (c) Except where otherwise required by statute, an exhibit appended to a document must be limited to only material, including an excerpt from another document, that is directly and specifically related to the subject of, and referred to in, the document. A responding party may timely file an additional excerpt or the complete document that the party believes is directly and specifically related. The court may require a party to file an additional excerpt or the complete document.
- (d) A party shall not file a non-documentary exhibit without prior leave of the court. A non-documentary exhibit consisting of an electronic recording may be transcribed and filed in documentary format consistent with this rule. If the court grants leave to file a non-documentary exhibit, the exhibit must be conventionally filed on a medium, including appropriate software where necessary, that allows the exhibit to be played or viewed on existing court equipment. Non-documentary exhibits may be returned to the custody of counsel for the submitting party pursuant to UTCR 6.120. The court may charge a reasonable fee to restore or clean, pursuant to Judicial Department policy and standards, court equipment used to play or view a non-documentary electronic exhibit. This rule does not apply to evidence submitted in electronic format pursuant to UTCR 6.190.

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{(e) A court interpreter shall not translate or interpret an exhibit during the course of a proceeding. An interpreter may interpret oral testimony regarding the content of an exhibit. A person submitting an exhibit, including a non-documentary exhibit or electronic recording, that is in a language other than English must submit at the same time an English translation and a declaration under penalty of perjury from the translator:

(i) certifying that the translation is accurate and true; and

(ii) describing the translator’s qualifications.}

(10) * * *

* * * * *

11. 2.010

Amend section (13) to change the case name citation requirement from underlined to *italicized*, consistent with the Oregon Appellate Courts Style Manual.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

This proposal was submitted by Bruce Miller, UTCR Reporter, on August 1, 2018. The purpose of this proposal is to change the required format for case name citations from underlined to italicized to align trial court citations with the citation format used in the appellate courts. One committee member noted that many attorneys already italicize case citations in the trial courts and that this change will conform the rule to current practice.

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.

(1) * * *

* * * * *

(13) Citation of Oregon Cases

In all matters submitted to the circuit courts, Oregon cases must be cited by reference to the Oregon Reports as: [*Blank v. Blank*]{**Blank v. Blank**}, ___ Or ___ (year) or as [*State v. Blank*]{**State v. Blank**}, ___ Or App ___ (year). Parallel citations may be added.

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(14) * * *

* * * * *

12. 2.100

Amend sections (2)(b)(i), (2)(b)(ii), (2)(b)(iii), (3)(c)(ii), (3)(d)(ii), and (7)(d) to update citations to the public record statutes.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

This proposal was submitted by Bruce Miller, UTCR Reporter, on August 1, 2018. The purpose of the proposal is to update citations to public record statutes where the statutes have been renumbered. The substance of the rule remains unchanged. Items A.13 and A.14 update citations to public record statutes in 2.110 and 2.130.

PROPOSED AMENDMENT

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

(1) * * *

* * * * *

(2) Information Covered. As used in this rule:

(a) * * *

(b) "Protected personal information" includes, but is not limited to:

(i) Social Security numbers, credit card numbers, bank or other financial account numbers, bank or other financial account locations, driver license numbers, financial account access numbers, or similar information that is used for financial transactions and can be kept confidential under ORS [192.502(2)]{**192.355(2)(a)**}.

(ii) Maiden names, birth dates, and places of birth that can be kept confidential under ORS [192.502(2)]{**192.355(2)(a)**}.

(iii) Facts about a person's identity or the identity of the person's financial activities that is other than contact information and that can be exempt from public inspection under the Oregon Public Records Law (OPRL, ORS [192.410]{**192.311**} to [192.505]{**192.431**}).

(iv) * * *

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* * * * *

(3) Relationship to Other Law. The following all apply to this rule:

(a) * * *

* * * * *

(d) Nothing in this rule affects or applies to procedures for identifying and protecting contact information:

(i) * * *

(ii) That can be made confidential under ORS 25.020(8)(d), 109.767(5), 110.575, or [192.445]{**192.368**}.

(4) * * *

* * * * *

(7) Limits on Protection. When the court grants a request under this rule, the court will protect the submitted Form 2.100.4b from being placed where the general public can inspect it. However, the following limits apply to this confidentiality:

(a) * * *

* * * * *

(d) Courts will share the information sheets and attachments with other government agencies as required or allowed by law, without court order or application under subsection (8) of this rule, for purposes of the business of those agencies. Those agencies are required to maintain the information as confidential as provided under ORS [192.502(10)]{**192.355(10)**}.

(e) * * *

* * * * *

13. 2.110

Amend section (3)(c)(ii) to update citation to the public record statutes.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.12.

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PROPOSED AMENDMENT

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

(1) * * *

* * * * *

(3) Relationship to Other Law. The following all apply to this rule:

(a) * * *

* * * * *

(c) Nothing in this rule affects or applies to procedures for identifying and protecting contact information:

(i) * * *

(ii) That can be made confidential under ORS 25.020(8)(d), 109.767(5), 110.575, or [192.445]{**192.368**}.

(4) * * *

* * * * *

14. 2.130

Amend sections (6)(g), (6)(h), and (11)(b)(iii) to update citations to the public record statutes.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.12.

PROPOSED AMENDMENT

2.130 CONFIDENTIAL PERSONAL INFORMATION IN FAMILY LAW AND CERTAIN PROTECTIVE ORDER PROCEEDINGS

(1) * * *

* * * * *

(6) Access and Confidentiality

(a) * * *

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* * * * *

- (g) 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)]{**192.355(10)**}.
- (h) 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)]{**192.355(10)**}.
- (i) * * *

* * * * *

(11) Other Court Orders

- (a) This rule is not the exclusive means for a court to protect personal information from public inspection.
- (b) Nothing in this rule:
 - (i) Precludes a court from protecting information by appropriate court order.
 - (ii) Limits procedures for identifying and protecting contact information of crime victims that is submitted to courts for processing restitution payments when restitution is sought and the information about a crime victim is kept confidential under ORS 18.048(2)(b).
 - (iii) Limits the availability of procedures for protecting information, other than confidential personal information protected by this rule, under ORS 25.020(8)(d), 109.767(5), 110.575, [192.445]{**192.368**}, or any other rule or law.

15. 2.100

Amend sections (4)(b), (4)(c), (4)(e), (5)(b), (6)(b), (8)(a), (9)(a), and (9)(b)(ii), to replace “affidavit” with “request” for consistency with the related forms.

ACTION TAKEN

Motion to amend to include a requirement that the forms contain a declaration under penalty of perjury, passed by consensus. Motion to preliminarily recommend approval of the proposal, as modified by the committee, passed by consensus.

EXPLANATION

This proposal was submitted by Michelle Leonard, Trial Court Administrator for Union and Wallowa County Circuit Courts, on April 30, 2018. UTCR 2.100 currently requires an “affidavit” whereas the related forms refer to a “request.”

The purpose of this proposal is to align the wording in the rule with the titles of the forms. Item A.16 amends 2.110 in conformance with this proposal.

PROPOSED AMENDMENT

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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*]{**a request**} in substantially the form provided in UTCR Form 2.100.4a. The [*affidavit*]{**request**} must describe generally the protected personal information and set out the legal authority for protecting the information. { **The request must include a declaration under penalty of perjury, in substantially the same form as specified in ORCP 1E.** }
 - (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*]{**request**} 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*]{**request**} only, and not the information sheet or any attachments to the information sheet.
- (5) More Than Once in a Case. If a court segregates specific protected personal information from a specific document under this rule:
- (a) * * *
 - (b) As long as the specific protected personal information remains current, a person need not submit [*an affidavit*]{**a request**} and information sheet under this rule each subsequent time the already

segregated information would be submitted in that case. The person may simply add a written notation to any document subsequently submitted to the effect that the information has already been submitted in that case under UTCR 2.100.

- (6) Court Response. When a completed request is filed under this rule and the court grants the request to segregate, the court will do the following:
 - (a) * * *
 - (b) Keep the [affidavit]{request} in the case file.
 - (c) * * *
- (7) * * *
- (8) Inspecting or Copying Protected Personal Information.
 - (a) Except as specifically provided in subsection (7) of this rule, any person who seeks to inspect or copy information segregated and kept from public inspection under this rule must make the request by using a form substantially like UTCR Form 2.100.8 and copy the requestor shown on the [affidavit]{request} and parties to the case as required by UTCR 2.080. **UTCR Form 2.100.8 must include a declaration under penalty of perjury, in substantially the same form as specified in ORCP 1E.** A court will only grant a request if the person requesting has a right by law, including this rule, to see the information. The court will indicate on the form its response to the request and maintain a copy of all the request forms, with its response, in the case file as a public record.
 - (b) * * *

* * * * *
- (9) Denied Requests. If a court denies a request under this rule:
 - (a) For every piece of personal information on a UTCR Form 2.100.4b, the court will attach the [affidavit]{request} and form to the document from which the information was segregated and place all in the case file.
 - (b) For only some of the personal information on a UTCR Form 2.100.4b, the court will:
 - (i) Create a copy of the form where the information to be protected is redacted,
 - (ii) Protect the original form as otherwise provided in this rule, and
 - (iii) Attach the [affidavit]{request} and the redacted copy of the form to the document from which the information was

segregated and place the [affidavit]{request} and redacted copy of the form in the case file.

16. 2.110

Amend sections (4)(a), (4)(b), (4)(e), and (5)(b) to replace “affidavit” with “request” for consistency with the related forms.

ACTION TAKEN

Motion to amend to include a requirement that the forms contain a declaration under penalty of perjury, passed by consensus. Motion to preliminarily recommend approval of the proposal, as modified by the committee, passed by consensus.

EXPLANATION

See Item A.15.

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]{a request} in substantially the form provided in UTCR Form 2.110.4a. The [affidavit]{request} must:

(i) Describe generally the protected personal information and set out the legal authority for protecting the information.

(ii) Specifically identify the case file, document in the case file, and the page number of the page that is sought to be redacted.

{(iii) Include a declaration under penalty of perjury, in substantially the same form as specified in ORCP 1E.}

{(iii){iv}} Be 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

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be submitted as a separate document, not as an attachment to the [affidavit]{request} 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]{request} only and not the information sheet or any attachments to the information sheet.
- (5) Court Response. When a completed request is filed under this rule and granted by the court, the court will do the following:
- (a) * * *
 - (b) Separate and maintain the information sheet and any attachments as not subject to public inspection. Once the information sheet is separated, place the [affidavit]{request} in the case file.
 - (c) * * *
- * * * * *

17. 5.150

Amend the rule to make changes regarding the rule name, time to trial, pretrial conferences, written discovery agreements, limitations on discovery, deadline for completion of discovery, discovery disputes, trial stipulations, and the related forms.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

This proposal was submitted by the Civil Justice Improvements Task Force, on behalf of Chief Justice Martha L. Walters, on August 30, 2018. The purpose of this proposal is to amend the expedited trial rule to encourage utilization of the streamlined civil jury trial process. The committee discussed:

- The goal is to improve the rule so that it is used more;
- The name of the process is changed from “expedited” to “streamlined” consistent with recommendations from the Conference of Chief Justices;
- Litigant complaints about the expedited civil jury trial pilot programs, including that the restrictions on discovery were too rigid;
- Whether the streamlined civil jury trial should be an “opt in” or an “opt out” process and whether there should be a threshold for cases of a certain value (\$50,000 or \$100,000).

Items A.18 and A.19 amend forms 5.150.1a and 5.150.1b in conformance with this proposal.

PROPOSED AMENDMENT

5.150 [EXPEDITED]{**STREAMLINED**} CIVIL JURY CASES

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- (1) A civil case eligible for jury trial may be designated as [*an expedited*]{**a streamlined**} case. The availability of the designation may vary by judicial district and is dependent on the availability of staff, judges, and courtrooms. A party seeking the designation must confer with the court to determine whether the designation is available. If it is available, a party seeking the designation must do all of the following:
 - (a) Obtain the agreement of all other parties to designate the case as [*an expedited*]{**a streamlined**} civil jury case.
 - (b) Submit a joint motion and an order to the presiding judge in substantially the form [*of UTCR Forms 5.150.1a and 5.150.1b*]{**as set out on the Oregon Judicial Department website (<http://www.courts.oregon.gov/Pages/default.aspx>)**}.
- (2) The decision to accept or reject a case for designation as [*an expedited*]{**a streamlined**} case is within the sole discretion of the presiding judge or designee. The judge will consider the request on an expedited basis, when possible, and enter an order granting or denying the motion. If the judge grants the motion and designates the case as [*an expedited*]{**a streamlined**} case, the judge will:
 - (a) Exempt or remove the case from mandatory arbitration, pursuant to ORS 36.405(2)(a) and (b), and from all court rules requiring mediation, arbitration, and other forms of alternative dispute resolution.
 - (b) Set a trial date certain no later than [*four months*]{**180 days**} from the date of the order [*with a pretrial conference to be set no later than 14 days before trial*].
- (3) [*The parties in an expedited case may file a written agreement with the court, in substantially the form of UTCR Form 5.150.1a, section 4, stating all of the following:*]
 - (a) [*The scope, nature, and timing of discovery.*]{**Within 30 days of the designation, each party must provide to all other parties:**
 - (i) **The names and, if known, addresses and telephone numbers of all persons, other than expert witnesses, likely to have knowledge that the party may use to support its claims or defenses, unless the use would be solely for impeachment;**
 - (ii) **A copy of all unprivileged ORCP 43 A(1) documents and tangible things that the party has in its possession, custody or control and may use to support its claims or defenses, unless the use would be solely for impeachment; and**

(iii) A copy of all insurance agreements and policies discoverable pursuant to ORCP 36 B(2).

(b) The [date by which discovery will be complete, which must be not later than 21 days before trial]{**parties may, and are encouraged to, file stipulations regarding the scope, nature, and timing of discovery**}.

(c) [Stipulations regarding the conduct of the trial, which may include stipulations for the admission of exhibits and the manner of submission of expert testimony]{**The parties must complete discovery no later than 14 days before trial**}.

{(d) The parties may request, and the court may utilize streamlined procedures for resolving any discovery dispute.}

(4) **{No later than 3 days before trial, the parties must file stipulations regarding the admission of exhibits, the manner for submitting expert testimony, the use of deposition excerpts (if any), and the conduct of the trial.}** [If the parties in an expedited case do not file a discovery agreement pursuant to subsection (3) of this rule, then each party must do all of the following:

(a) Provide to all other parties within four weeks of the expedited case designation:

(i) The names and, if known, addresses and telephone numbers of all persons, other than expert witnesses, likely to have knowledge that the party may use to support its claims or defenses, unless the use would be solely for impeachment.

(ii) A copy of all unprivileged ORCP 43 A(1) documents and tangible things that the party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

(iii) A copy of all insurance agreements and policies discoverable pursuant to ORCP 36 B(2).

(b) Take no more than two depositions after a party has requested an expedited case designation.

(c) Serve no more than one set of requests for production after a party has requested an expedited case designation.

(d) Serve no more than one set of requests for admission after a party has requested an expedited case designation.

(e) Serve all discovery requests no later than 60 days before the trial date.

(f) Complete all discovery no later than 21 days before trial.]

- (5) After an order designating the case as [*an expedited*]{**a streamlined**} case, a party shall not file a pretrial motion without prior leave of the court.
- (6) A party's failure to request or respond to discovery is not a basis for that party to seek postponement of the [*expedited*]{**streamlined**} case trial date.

18. Form 5.150.1a

Amend the form to conform to proposed amendment to UTCR 5.150 and move the form from the UTCR Appendix to the Oregon Judicial Department website.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.17.

PROPOSED AMENDMENT (see next page)

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

Plaintiff)
) Case No. _____
)
v.) **MOTION FOR [AN EXPEDITED]{A**
) **STREAMLINED} CIVIL JURY CASE**
) **DESIGNATION**

Defendant)

1. The parties move the court for an order designating this case as [*an expedited*]{**a streamlined**} civil jury case and exempting or removing it from mandatory arbitration, pursuant to ORS 36.405(2)(a) and (b), and from all court rules requiring mediation, arbitration, and other forms of alternative dispute resolution.

2. Each party agrees:

a. To fully comply with [*any agreements set forth in section 4 of this motion as to the scope, nature, and timing of discovery or, if there are no such agreements, to fully comply with the requirements of UTCR 5.150(4)*]{**section (3)(a) of UTCR 5.150, regarding mandatory disclosures to be made within 30 days of the date of this order**}.

b. That all discovery will be completed by _____ (which must be no later than [21]{**14**} days before the trial date).

c. That [*they*]{**the parties**} have consulted with the office of the trial court administrator and have agreed on a trial date of _____. (The trial date must be no later than [120]{**180**} days from the date of this request and is based on the understanding that [*ECJC*]{**streamlined**} designation will occur expeditiously.)

{d. To fully comply with section (4) of UTCR 5.150, regarding the filing of stipulations due no later than 3 days before trial.}

3. **{(If applicable): }**The parties agree**{ to the following additional discovery provisions}**: [*(Check one)*]

To conduct discovery in accordance with section 4 of this motion. The terms of section 4 supersede UTCR 5.150(4).

To conduct discovery in accordance with the requirements of UTCR 5.150(4).

4. *If the parties agree to the scope, nature, and timing of discovery pursuant to UTCR 5.150(3), those discovery provisions are stated here and supersede UTCR 5.150(4).*

a. Document discovery
____ Set(s) of Requests for Production per party
Serve by _____ (date)
Produce by _____ (date)

- b. Depositions
 _____ Depositions per party
 Complete by _____ (date)
- c. Requests for admissions
 _____ Sets of Requests for Admission per party
 Serve by _____ (date)
 Serve response by _____ (date)
- d. Exchange names, and if known, the addresses and phone numbers, of witnesses
 Describe categories of witnesses _____ (e.g., those described in
 UTCR 5.150([4]{3})(a)(i), percipient, lay, expert, all)
 Exchange by _____ (date)
- e. Exchange existing witness statements
 Describe categories of witnesses _____ (e.g., those described in
 UTCR 5.150([4]{3})(a)(i), percipient, lay, expert, all)
 Exchange by _____ (date)
- f. Insurance agreements and policies discoverable pursuant to ORCP 36 B(2)
 Produce by _____ (date)
- g. Other, if any:
 _____ (describe)
 Produce by _____ (date)

[5. *The parties agree that expert testimony will be submitted at trial by (specify all that apply):*

- Report (specify date for exchange) _____*
- An alternative to in-person testimony _____ (describe)*
- In-person testimony*

6.]{4.} To expedite the trial, the parties further agree as follows (describe stipulations such as those concerning marking and admissibility of exhibits, damages, and other evidentiary issues):

DATED this _____ day of _____, 20_____.

 Attorney for _____

 Attorney for _____

 Attorney for _____

19. Form 5.150.1b

Amend the form to conform to proposed amendment to UTCR 5.150 and move the form from the UTCR Appendix to the Oregon Judicial Department website.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.17.

PROPOSED AMENDMENT (see next page)

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

_____)	Case No. _____
Plaintiff)	
v.)	ORDER DESIGNATING [AN
_____)	EXPEDITED]{A STREAMLINED} CIVIL
Defendant)	JURY CASE

I HEREBY ORDER that:

1. This case is designated as [*an expedited*]{**a streamlined**} civil jury case.
2. Good cause having been shown, pursuant to ORS 36.405(2)(a) and (b), this case is
 - exempt
 - removed
 from mandatory arbitration and from all court rules requiring mediation, arbitration, and other forms of alternative dispute resolution.
2. Trial is set for _____ (date) at _____ (time).
3. [If applicable] This case is assigned to Judge _____, and the parties are directed to call the judge and arrange for a pretrial conference if feasible.
4. This order takes effect immediately.

DATED this _____ day of _____, 20_____.

Circuit Court Judge

20. 6.050

Amend section (3) to exempt exhibits in juvenile cases.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

This proposal was submitted by Megan Hassen on behalf of the Juvenile Exhibits Work Group, on August 24, 2018. The purpose of this proposal is to develop statewide rules to aid litigants and the circuit courts in complying with changes to ORS 419A.255 which require trial courts to maintain a “record of the case” and a “supplemental confidential file,” including hearing and trial exhibits, for each juvenile case. The proponent explained that the Oregon Department of Justice, the Office of Public Defense Services, and Appellate Commissioner Jim Nass have continued to report issues in the appellate process caused by delay in the transmission of exhibits from the trial courts to the Court of Appeals. The proposal requires each judicial district to establish a process by SLR or presiding judge order for the submission of exhibits in juvenile proceedings. The committee discussed the possibility of implementing one statewide rule but determined that courts need flexibility according to their budget and staffing availability. Therefore, the proposal allows counties to choose whether to require attorneys in juvenile cases to electronically file exhibits, or to require court staff to scan the exhibits and return the hardcopies to litigants. Items A.20 through A.25 exempt juvenile cases from general rules regarding exhibits and set out new rules governing the submission and maintenance of exhibits in juvenile cases.

PROPOSED AMENDMENT

6.050 SUBMISSION OF TRIAL MEMORANDA AND TRIAL EXHIBITS

- (1) A party must file 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.
- (2) All trial memoranda must be served on the opposing party.
- (3) Trial exhibits must be delivered or submitted as ordered by the assigned judge and not filed with the court{ **except as required by UTCR 11.110**}.

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21. 6.120

Amend to exempt exhibits in juvenile cases.

ACTION TAKEN

Motion to amend the proposal to change “tapes” to “recordings” passed by consensus. Motion to delete duplicative wording passed by consensus. Motion to preliminarily recommend approval of the proposal, as modified by the committee, passed by consensus.

EXPLANATION

See Item A.20.

PROPOSED AMENDMENT

6.120 DISPOSITION OF EXHIBITS

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- (1) Unless otherwise ordered or except as otherwise provided in ORS 133.707{ **and 419A.255(1)(a)**}, all exhibits shall be returned to the custody of counsel for the submitting parties upon conclusion of the trial or hearing. Such counsel must sign an acknowledgment of receipt for the exhibits returned. Counsel to whom any exhibits have been returned must retain custody and control until final disposition of the case unless the exhibits are returned to the trial court pursuant to subsections (2) or (3) of this rule. Both documentary and nondocumentary exhibits submitted by parties not represented by counsel shall be retained by the trial court, subject to subsection (4) of this rule.
- (2) Upon the filing of a notice of appeal by any party, the trial court administrator promptly shall notify all counsel that they are required to return all documentary exhibits in their custody to the trial court within 21 days of receipt of the trial court's request. All counsel are required to comply with the notice. The trial court promptly will transmit the documentary exhibits to the appellate court, when requested to do so by the appellate court, under ORAP 3.25.
- (3) Upon request by an appellate court for transmission of nondocumentary exhibits, under ORAP 3.25, the trial court shall notify the party in whose custody the nondocumentary exhibits have been placed. The party must resubmit the designated exhibits to the custody of the trial court for transmittal to the appellate court.
- (4) Exhibits not returned to the parties shall be processed as follows:
 - (a) Such exhibits shall be retained by the trial court until the appeal period has elapsed and there is a final disposition of the case.
 - (b) After final disposition of the case, a notice shall be sent to the parties of record that, unless they withdraw their respective exhibits within 30 days, the exhibits will be disposed of by the court.
- (5) Nothing contained in this rule shall prevent parties to any matter before the court from seeking the release or return of exhibits before the times specified in this rule.
- (6) Exhibits in the court's custody shall not be removed from the trial court administrator's control except by stipulation or by order of the court.
- (7) For purposes of this rule, "documentary exhibits" include text documents, photos and maps, if not oversized, and audio and video [tapes]{**recordings**}. An oversized document is one larger than standard letter size or legal size.
- {(8) Exhibits submitted in juvenile cases are subject to the requirements in UTCR 11.120 and are exempted from the requirements of this rule.}**

22. 11.110

Adopt a rule regarding local rules on the submission of exhibits in juvenile cases.

ACTION TAKEN

Motion to extend the deadline for submitting exhibits from “within 24 hours” to “by the end of the next judicial day” passed by consensus. Motion to preliminarily recommend approval of the proposal, as modified by the committee, passed by consensus.

EXPLANATION

See Item A.20.

PROPOSED NEW RULE

11.110 SUBMISSION OF EXHIBITS

- (1) The trial court shall establish a process by supplemental local rule or presiding judge order by which exhibits in juvenile cases will be submitted to the court.
- (2) If the trial court requires counsel to submit exhibits through electronic filing under subsection (1), the following requirements apply:
 - (a) The court shall maintain an exhibit log for each hearing or trial listing each exhibit offered and whether or not it was received. The log shall be maintained in the record of the case.
 - (b) Each exhibit that is electronically filed must comply with the format requirements of UTCR 21.040. The filer shall provide the party role, hearing or trial date and exhibit number or numbers in the comment field.
 - (c) Exhibits shall be electronically filed on the day of the hearing or trial or by the end of the next judicial day. If the exhibits are not filed at the time of the hearing, counsel shall be required to sign an acknowledgment that provides counsel agrees to:
 - (i) Retain the exhibits pending submission of the exhibits by electronic filing; and
 - (ii) Electronically file the exhibits by the end of the next judicial day.

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23. 11.120

Adopt a rule governing maintenance of exhibits in juvenile cases.

ACTION TAKEN

Motion to amend the proposal to update “tapes” to “recordings” passed by consensus. Motion to preliminarily recommend approval of the proposal, as modified by the committee, passed by consensus.

EXPLANATION

See Item A.20.

PROPOSED NEW RULE

11.120 MAINTENANCE OF EXHIBITS

- (1) For purposes of maintaining exhibits pursuant to ORS 419A.255(1)(a), the trial court shall maintain in the record of the case all documentary and nondocumentary exhibits offered at a hearing or trial in accordance with Oregon Judicial Department policy and any order entered under ORS 7.120.
- (2) Exhibits in the court's custody shall not be removed from the trial court's control except by stipulation or order of the court, except as otherwise provided in this rule.
- (3) Nothing contained in this rule shall prevent parties from seeking the release or return of exhibits before the times specified in this rule.
- (4) Upon the filing of a notice of appeal by any party, the trial court will promptly transmit the documentary and nondocumentary exhibits to the appellate court, when requested to do so by the appellate court under ORAP 3.25.
- (5) For purposes of this rule, "documentary exhibits" includes text documents, photos and maps, if not oversized, and audio and video recordings. An oversized document is one larger than standard letter size or legal size.

24. 21.020

Amend to allow an exception for proposed UTCR 11.110.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.20.

PROPOSED AMENDMENT

21.020 LOCAL RULES OF COURT NOT PERMITTED

No circuit court may make or enforce any local rule, other than those local rules authorized by UTCR 4.090 **{and 11.110}**, governing the electronic filing and electronic service of documents.

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25. 21.070

Amend section (3)(p) to conform with proposed UTCR 11.110.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.20.

PROPOSED AMENDMENT

21.070 SPECIAL FILING REQUIREMENTS

(1) * * *

* * * * *

(3) Documents that Must be Filed Conventionally

The following documents must be filed conventionally:

- (a) An accusatory instrument that initiates a criminal action, except as otherwise provided by ORS 133.073.
- (b) A petition that initiates a juvenile delinquency proceeding under ORS 419C.250.
- (c) A document that initiates an extradition proceeding under ORS 133.743 to 133.857.
- (d) An initiating instrument in a contempt proceeding, including for purposes of this rule a motion and supporting documentation filed contemporaneously with the motion under ORS 33.055 (remedial) or an accusatory instrument that initiates a contempt proceeding and supporting documentation filed contemporaneously with the initiating instrument under ORS 33.065 (punitive).
- (e) A notice of appeal from a justice court or municipal court judgment under ORS 138.057 or ORS 157.020(1), a justice court order under ORS 157.020(2), or a municipal court conviction under ORS 221.359.
- (f) A document that initiates an action that is accompanied by an application for a waiver or deferral of a required fee.
- (g) A document filed under seal or subject to *in camera* inspection, including a motion requesting that a simultaneously filed document be filed under seal or subject to *in camera* inspection, except that a document may be electronically filed in an adoption case.

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- (h) Except as provided in UTCR 21.090(4), a document that is required by law to be filed in original form, such as, but not limited to, an original will, a certified document, or a document under official seal.
 - (i) If applicable law requires an original document to be filed simultaneously with another document that is electronically filed, the filer must electronically file an image of the original document with the other electronically filed document and then conventionally file the original document within 7 business days after submitting the electronic filing. An original document conventionally filed under this paragraph is deemed filed on the date of filing of the electronically filed image of the same document.
 - (ii) If the filer elects to electronically file an image of an original document as set out in paragraph (h)(i) of this subsection, the filer must include in the Filing Comments field a statement that the electronic filing submission includes an image of an original document and that the filer will conventionally file the original document within 7 business days.
 - (iii) If the filer elects to electronically file an image of an original document as set out in paragraph (h)(i) of this subsection, when conventionally filing the original document, the filer must include a notification to the court that the image was previously electronically filed.
- (i) A negotiable instrument tendered under UTCR 2.060 for entry of notation of judgment.
- (j) A document delivered to the court under ORCP 55 (H)(2)(c).
- (k) A Driver and Motor Vehicle Services Branch of the Oregon Department of Transportation (DMV) record, as defined in UTCR 10.020(1).
- (l) A petition or motion for waiver of the mandatory eFiling requirement, as set out in UTCR 21.140(3).
- (m) Any stipulated or *ex parte* matter listed in SLR 2.501 in a Judicial District's Supplementary Local Rules.
- (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{, **except as provided in UTCR 11.110**}.
- (q) A non-documentary exhibit filed pursuant to UTCR 2.010(9)(d).

26. 8.010

Amend sections (5), (7)(a), (7)(b), and (7)(c) to allow use of a declaration in lieu of an affidavit.

ACTION TAKEN

Motion to preliminarily recommend approval passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the OJD Law and Policy Work Group, on August 30, 2018. The purpose of this proposal is to allow the use of a declaration as an alternative to an affidavit for filings in certain family law proceedings. In recent years, the committee has moved away from affidavit requirements in favor of declarations. Affidavit requirements make it difficult for litigants to complete and use the electronic interactive forms offered on the OJD website. Use of a declaration in place of an affidavit allows a filer to use the online forms without taking a hard copy of the form to a notary.

PROPOSED AMENDMENT

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

(1) * * *

* * * * *

(4) In all proceedings under ORS chapter 107, 108, or 109 wherein child support or spousal support is contested, each party must file with the trial court administrator and serve on the other party a Uniform Support Declaration in the form specified at <http://www.courts.oregon.gov/forms/Pages/default.aspx>. 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 **or a declaration under penalty of perjury** 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.
- (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.

* * * * *

- (7) No judgment under this chapter shall be signed, filed or entered without the filing with the trial court administrator of all relevant documents, including all of the following:
 - (a) An affidavit **{or a declaration under penalty of perjury}** of completed service.
 - (b) An affidavit **{or a declaration under penalty of perjury}** of nonmilitary service and the proposed order of default, if the respondent is in default.
 - (c) The affidavit **{or declaration under penalty of perjury}** described in ORS 107.095(4) if the matter is uncontested.
 - (d) A completed Oregon State Health Division Record of Dissolution of Marriage form.
 - (e) If child support or spousal support is an issue, a Uniform Support Declaration for each party, except where that issue is resolved by stipulation or default. A Uniform Support Declaration required by this paragraph must be completed as provided under subsection (4) of this rule.
 - (f) If child support is an issue, the Division of Child Support (DCS) work sheets described under UTCR 8.060.
 - (g) A proposed judgment.

* * * * *

27. **8.040**

Amend sections (1) and (2) to allow use of a declaration in lieu of an affidavit. Amend sections (3) and (4) to clarify when a Uniform Support Declaration must be filed. **See Item A.26.**

ACTION TAKEN

Motion to amend the proposal in several respects to improve readability and consistency was passed by consensus. Motion to preliminarily recommend approval of the proposal, as modified by the committee, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the OJD Law and Policy Work Group, on August 30, 2018. One purpose of this proposal is to allow a party seeking prejudgment relief under ORS 107.095(1) to file a declaration as an alternative to an affidavit. Another purpose is to reduce the filing of duplicative Uniform Support Declarations (USD). So, this proposal amends the rule to no longer require a party filing a motion seeking temporary support to file a USD with the motion if the same party is simultaneously filing a pleading under UTCR 8.010(4) that attaches a USD, or filed such a pleading within the prior 30 days and the circumstances have not changed. The proposal also eliminates the allowance of Supplementary Local Rules (SLR) that establish a time requirement different from the requirement in current UTCR 8.040(4).

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 {**an**} affidavit **{or a declaration under penalty of perjury}** 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 **{or declaration under penalty of perjury.}** 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 at <http://www.courts.oregon.gov/forms/Pages/default.aspx>. A Uniform Support Declaration required by this subsection must be completed as provided under subsection (4) of UTCR 8.010.]* **{Except as provided in subsection (4), when a party seeks temporary support under ORS 107.095(1), each party must file a Uniform Support Declaration (USD), as follows:**

- (a) The party seeking temporary support must include a USD as a documentary exhibit to the motion.**

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(b) To oppose the request for support, the opposing party must file and serve a USD on the moving party within 14 days of service of the motion.

(c) Any USD must be completed as provided under UTCR 8.010(4), in the form specified at <http://www.courts.oregon.gov/forms/Pages/default.aspx>.

(4) [The 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 required by this subsection must be completed in the form specified at <http://www.courts.oregon.gov/forms/Pages/default.aspx> 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.]{**Exceptions to USD requirement:**

(a) A party filing a motion for temporary support, or the opposing party, need not file a USD under subsection (3) if

(i) The party is simultaneously filing a pleading under UTCR 8.010(4) that incorporates a USD; or

(ii) Within the prior 30 days, the party already filed a pleading under UTCR 8.010(4) that incorporated a USD and the information therein has not changed.

(b) If an exception applies, the motion must:

(i) Under subsection (4)(a)(i), identify the accompanying pleading and state that it includes a USD; or

(ii) Under subsection (4)(a)(ii), identify the earlier pleading and state that it included a USD, that it was filed within the prior 30 days, and that the information therein has not changed.

28. 8.090

Amend to change the location of the certificate and related information.

ACTION TAKEN

Motion to change “indicating” to “stating” passed by consensus. Motion to preliminarily recommend approval of proposed alternative A, as modified by the committee, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, on behalf of the OJD Law and Policy Work Group, on August 30, 2018. The purpose of this proposal is to restructure and streamline 8.090 to make it more readable, and to address

difficulties that judges may have in locating additional detail about existing proceedings in the body of a motion or petition. The proposal also moves the certificate above the declaration to clarify that the declaration applies to the certificate and the motion or petition. The committee discussed whether to adopt alternative B, which would have changed the “certificate” to a “statement.” However, the committee determined that because that change would also require a change to the statute, the committee should wait to see if the legislature effects that change before recommending a conforming amendment to the rule.

PROPOSED AMENDMENT

8.090 CERTIFICATE REGARDING PENDING CHILD SUPPORT PROCEEDINGS AND/OR EXISTING CHILD SUPPORT ORDERS AND/OR JUDGMENTS

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[A certificate regarding other pending child support proceedings and existing orders or judgments shall be placed at the end, immediately before the signature line, of any motion or petition filed pursuant to ORS 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, and 125.025, as required by ORS 107.085(3), 107.135(2)(b), 107.431(2)(b), 108.110(4), 109.100(3), 109.103(3), 109.165(3), and 125.025(4)(b). The certificate must indicate whether any pending child support proceeding, or any child support order or judgment, exists between the parties. The pleading also must include the name of the court or agency handling a pending proceeding, the case number, and date of any existing order or judgment, but that information need not be included in the certificate. A model form containing the information required by this rule is available on OJD’s website (<http://www.courts.oregon.gov/forms/Pages/default.aspx>).]

- {(1) This rule applies to information about other pending child support orders, judgments, or proceedings, as required by ORS 107.085(3), 107.135(2)(b), 107.431(2)(b), 108.110(4), 109.100(3), 109.103(3), 109.165(3), and 125.025(4)(b), in any motion or petition filed pursuant to ORS 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, and 125.025.**
- (2) In any motion or petition described in subsection (1), a filer must include a certificate stating whether any pending child support proceeding, or child support order or judgment, exists between the parties. The certificate must be placed at the end of the motion or petition, immediately above the declaration line.**
- (3) The motion or petition also must include the name of the court or agency handling a pending proceeding, the case number, and date of any existing order or judgment. That information may be included in the certificate described in subsection (2) or may be set out elsewhere in the motion or petition. If set out elsewhere, the filer must specifically identify the information provided as involving a pending child support proceeding, or an existing order or judgment.**

(4) A model form containing the information required by this rule is available on OJD's website (<http://www.courts.oregon.gov/forms/Pages/default.aspx>).

29. 10.020

Amend to require electronic filing of the DMV record.

ACTION TAKEN

Motion to amend the proposal to remove superfluous words passed by consensus. Motion to preliminarily recommend approval of the proposal, as modified by the committee, passed by consensus.

EXPLANATION

This proposal was submitted by Hon. Stephen K. Bushong, Multnomah County Circuit Court, on July 10, 2018, and analyzed by the Law and Policy Work Group (LPWG), on August 30, 2018. Currently, the DMV record is exempt from electronic filing requirements and must be filed conventionally. The purpose of Item A.29 is to require DMV to electronically file the record when a final order of suspension is appealed to a circuit court. The proposal allows each circuit court to adopt its own Supplementary Local Rule (SLR) describing how and in what form the DMV record must be submitted. Item A.30 removes the DMV record from the list of documents which must be conventionally filed. Item A.31 amends 21.020 to create an exception to the general rule that circuit courts are not allowed to make or enforce a rule governing the electronic filing of documents.

The committee discussed:

- The workload associated with court staff scanning conventional filings;
- Whether one statewide rule would be preferable to allowing each county to adopt its own SLR;
- Whether the committee should approve additional exceptions to UTCR 21.020 (which generally prohibits local rules governing electronic filing of documents);
- Whether the record is filed by DMV or DOJ; and
- Whether the DMV record should be electronically filed without redaction given the personal information which is often included.

PROPOSED AMENDMENT

10.020 PREPARATION AND DELIVERY OF THE RECORD ON REVIEW

- (1) When a petition is served on the DMV, the DMV must prepare the record of the proceeding, including a transcription of the oral proceedings, or the agreed portion thereof if the parties have stipulated to shorten the record, and all exhibits introduced and made a part of the record at the hearing. The DMV must serve certified true copies of the record on the petitioner and the Attorney General.

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{(2)} The DMV must *[file]***{submit}** the *[original]* record *[with]***{to}** the trial court administrator within 30 days of service of the petition for review. The record must be accompanied by proof of service. On good cause shown, the court may extend the time for filing of the record.**{ A court may adopt a supplementary local rule describing how and in what form the DMV record must be submitted. If submitted in paper form, the record must be the original record.}**

{(2){3}} The record**{ must be}***[,]* preceded by an index of its contents*[, must be securely fastened in a suitable cover or folder showing on the outside the title and agency number of the case, the name of the administrative law judge, and the date and location of the hearing.]***{, and t}**he pages of the record must be consecutively numbered at the bottom center of each page.**{ If submitted in paper form, the record must be securely fastened in a suitable cover or folder that shows on the outside the title and agency number of the case, the name of the administrative law judge, and the date and location of the hearing. If electronically filed, the record must include a cover sheet that shows that same information.}**

{(3){4}} When the court has entered its judgment and the period for appeal has elapsed without an appeal being taken, the **{court will return the }**record *[will be returned]* to the agency, **{if submitted in paper form, }**unless the court otherwise directs.

30. 21.070

Delete section (3)(k) to remove DMV records from the list of documents that must be conventionally filed.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.29.

PROPOSED DELETION

21.070 SPECIAL FILING REQUIREMENTS

(1) * * *

* * * * *

(3) Documents that Must be Filed Conventionally

The following documents must be filed conventionally:

(a) * * *

* * * * *



[(k) A Driver and Motor Vehicle Services Branch of the Oregon Department of Transportation (DMV) record, as defined in UTCR 10.020(1).]

[(l){k}] A petition or motion for waiver of the mandatory eFiling requirement, as set out in UTCR 21.140(3).

[(m){l}] Any stipulated or *ex parte* matter listed in SLR 2.501 in a Judicial District's Supplementary Local Rules.

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

[(o){n}] A demonstrative or oversized exhibit.

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

[(q){p}] A non-documentary exhibit filed pursuant to UTCR 2.010(9)(d).

(4) * * *

* * * * *

31. 21.020

Amend to allow an exception for supplementary local rules adopted pursuant to the proposed amendment to UTCR 10.020.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

See Item A.29.

PROPOSED AMENDMENT

21.020 LOCAL RULES OF COURT NOT PERMITTED

No circuit court may make or enforce any local rule, other than those local rules authorized by UTCR 4.090{ **and 10.020**}, governing the electronic filing and electronic service of documents.

32. 21.070

Amend section (3) to add extreme risk protection order (ERPO) petitions, and supporting affidavits, to the list of documents that must be conventionally filed.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

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EXPLANATION

This proposal was submitted by Lisa Norris-Lampe on behalf of the Law and Policy Work Group, on August 30, 2018. The purpose of this proposal is to add extreme risk protection order (ERPO) petitions to the list of documents that must be conventionally filed. The proponent explained that ORS 166.527(2) requires circuit courts to issue or deny ERPO orders on the day the petition is filed or on the judicial day immediately following. This proposal aids the circuit courts in compliance because courts can respond more quickly to documents which are conventionally filed. The committee also discussed the fact that many law enforcement agencies are filing ERPO petitions using the search warrant process. This process allows the affidavit and request to be received by the judge on a mobile electronic device, at all hours of the day or night. The judge has the ability grant the petition immediately, if appropriate. The committee expressed a desire to preliminarily approve this proposal as long as law enforcement agencies can continue to submit ERPO petitions using the existing electronic filing method for search warrants.

PROPOSED AMENDMENT

21.070 SPECIAL FILING REQUIREMENTS

(1) * * *

* * * * *

(3) Documents that Must be Filed Conventionally

The following documents must be filed conventionally:

(a) * * *

* * * * *

{(r) A petition that requests an extreme risk protection order under ORS 166.527(1) and any supporting affidavit.}

(4) * * *

* * * * *

33. 21.070

Amend section (5) to allow judicial districts to adopt SLR requiring electronic filers to notify the court when an expedited matter has been filed electronically.

See Item B.2.

ACTION TAKEN

Motion to adopt alternate proposed 21.070 and make no change to 21.020 was approved by consensus. Motion to preliminarily recommend approval of the proposal, as modified by the committee, passed by consensus.

EXPLANATION

This proposal was submitted by the Hon. Kirsten E. Thompson, Washington County Circuit Court, on June 1, 2018, and analyzed by the Law and Policy

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Work Group (LPWG), on August 30, 2018. The purpose of the original proposal was to require an electronic filer to notify the court via phone or email when an expedited matter has been electronically filed. The proponent noted that unlike in the appellate court filing system, there is no mechanism in Odyssey to allow the flagging or marking of an expedited filing so the court may not be aware that the matter must be expedited. The committee discussed:

- Concerns that this change could result in additional workload for court staff; some smaller courts do not fully monitor phone lines from 8:00 a.m. to 5:00 p.m. due to limited staffing;
- Whether a pending new version of Odyssey can be configured to allow expedited matters to be flagged;
- Whether to allow circuit courts to adopt their own SLRs in lieu of adopting a statewide rule requiring notification to the court; the committee ultimately adopted this approach to give courts flexibility.

PROPOSED AMENDMENT

21.070 SPECIAL FILING REQUIREMENTS

(1) * * *

* * * * *

(5) Expedited Filings

{(a)} A filer who submits an expedited filing through the eFiling system:

{(a){i}} Must include the words “EXPEDITED CONSIDERATION REQUESTED” in the Filing Comments field when submitting the filing; and

{(a){ii}} May notify the court by email or telephone, as designated on the court’s judicial district website, that an expedited filing has been eFiled in the case.

{(b) A judicial district may adopt a Supplementary Local Rule that requires a filer submitting an expedited filing through the eFiling system to separately notify the court that an expedited filing has been submitted.}

(6) * * *

* * * * *

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34. 23.020

Amend section (5) to eliminate the requirement that parties provide copies of the court file to the assigned Oregon Complex Litigation Court (OCLC) judge.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe on behalf of the Law and Policy Work Group, on August 30, 2018. The purpose of this proposal is to remove the requirement that parties to a case assigned to the Oregon Complex Litigation Court (OCLC) must share the cost of copying and providing the trial court file to the assigned OCLC judge. The proponent noted that this provision is no longer needed because the OCLC judge can access the pre-existing electronic file. The proposal allows the OCLC judge to, if necessary, direct the parties to provide copies of documents, in a manner the judge specifies.

PROPOSED AMENDMENT

23.020 ASSIGNMENT OF CASES TO THE OCLC

- (1) Assignment of a case to the OCLC requires agreement of the parties, the presiding judge or designee of the court with venue, and the managing panel of the OCLC.
- (2) The following must occur for a case to be considered for assignment to the OCLC:
 - (a) The parties and the presiding judge or designee of the court with venue must confer to determine whether there is agreement to assign the case to the OCLC and to determine the special needs, facts, and issues of the case.
 - (b) The presiding judge or designee of the court with venue and the managing panel of the OCLC must confer to discuss whether the case is appropriate for assignment to the OCLC and to discuss the special needs, facts, and issues of the case.
- (3) If the agreement required by UTCR 23.020(1) is reached and the managing panel accepts a case into the OCLC, the parties must submit a stipulated order for assignment of the case to the OCLC to the presiding judge or designee of the court with venue over the case and to the managing panel of the OCLC.
- (4) Once a case is accepted into the OCLC, the managing panel of the OCLC will assign the case to a single OCLC judge.
- (5) **{After assignment of the case to the OCLC judge, t}**^[T]he parties must:
 - (a) **{File all documents in the court with venue; and}**^[Share equally, unless otherwise agreed, the cost of copying and providing the entire court file to the OCLC judge assigned to the case.]

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- (b) **{If directed by the OCLC judge, provide copies of all filed documents to that judge in the manner that the judge directs.}***[Make all necessary arrangements to have a copy of the entire court file delivered to the OCLC judge within 14 days of assignment of the case to the OCLC judge.]*
- (c) *Continue, after assignment of the case to the OCLC judge, to file all documents in the court with venue and provide copies of all filed documents to the OCLC judge.]*

35. Chapter 24

Adopt statewide rules for post-conviction relief (PCR) cases. **See Item B.4.**

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

This proposal was submitted by a UTCR committee workgroup consisting of Hon. Lung Hung, Malheur County Circuit Court, Hon. Charles M. Zennaché, Lane County Circuit Court, and Deputy Public Defender Zachary L. Mazer (OPDS). The purpose of this proposal is to create statewide rules for post-conviction relief (PCR) cases that would replace current Supplemental Local Rules (SLR) on post-conviction relief. Other goals of the proposal include filling in gaps in the current SLR and reducing both internal and external redundancy. Representatives from the Department of Justice, who regularly represent the state in post-conviction relief cases, were present to discuss the proposals. The committee discussed:

- Whether to extend the deadline to file an amended petition from 120 days to 150-180 days, as preferred by Oregon Post-Conviction Consortium;
- That PCR attorneys tend to practice in multiple judicial districts;
- Whether this should be addressed by the Legislative Assembly and whether it is better suited for the Oregon Law Commission;
- The number of litigants who request an extension to amend the petition;
- Whether it is appropriate to require that only relevant portions of the record be attached given that the standard practice is to submit the entire record;
- Concerns that the proposed PCR rules don't contain any wording relating to appearance at, or viewing of, PCR proceedings by victims.

PROPOSED NEW RULES

24.200 POST-CONVICTION RELIEF – CASE INITIATION; DEFENDANT'S MOTION, DEMURRER, OR ANSWER

- (1) (a) Counsel appointed for the petitioner shall have 120 days from the date of appointment to file an amended petition, a notice that the petitioner will proceed on the original petition, or, if unable to plead a viable claim for relief or proceed on the original petition, an affidavit pursuant to ORS 138.590(5).

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- (b) Extension of time to file an amended petition, a notice that petitioner will proceed on the original petition, or an affidavit pursuant to ORS 138.590(5) shall only be granted upon demonstrated good cause.
 - (c) Counsel's written notification to the court that the case will proceed on the original petition constitutes counsel's ORCP 17 C certification of the original petition filed by petitioner when self-represented.
 - (d) Counsel shall attach to the filing of an amended petition, affidavit pursuant to ORS 138.590(5), or notice that the petitioner will proceed on the original petition proof of mailing demonstrating that said filing was mailed to the petitioner prior to or concurrent with the filing of such document with the court.
- (2) (a) (i) For cases with court-appointed counsel, the defendant shall not file an answer, demurrer, or motion until the petitioner has filed a notice that the petitioner will proceed on the original petition, has filed an amended petition, or has filed an affidavit pursuant to ORS 138.590(5), or the time for filing has expired.
 - (ii) The defendant shall have 30 days after the notice, amended petition, or affidavit is entered in the court register or from the expiration of the time for filing to file an answer, demurrer, or motion against the pleadings.
 - (iii) The defendant may file a motion to dismiss as time-barred or successive at any time after appointed counsel has appeared on the case.
 - (b) If the petition is filed by counsel, or if the petitioner files the petition *pro se* and does not seek appointment of counsel, the defendant shall have 30 days from the date the petition is entered in the court register to file an answer, demurrer, or motion against the pleadings.
 - (c) Extension of time to file an answer, motion, or demurrer shall only be granted upon demonstrated good cause.
- (3) If the defendant files a demurrer or motion against the pleadings, the petitioner shall have 30 days to file a response.
 - (4) If the petitioner files a response to the defendant's demurrer or motion against the pleadings, the defendant shall have 20 days to file a reply to the petitioner's response.
 - (5) If the court grants the defendant's demurrer or motion against the pleadings and if it appears to the court that there is a reasonable expectation that the petitioner will be able to cure the defect, the court shall grant petitioner 30 days to file an amended petition. The court may allow additional time to file the amended petition with good cause shown.
 - (6) If the court denies the defendant's motion against the pleadings, the defendant shall have 14 days to file an answer.

- (7) Any motion for an extension of any filing deadline under this section must reflect in the caption the number of extensions that have been requested, including the current request. If filed by petitioner's counsel, a motion for an extension of a filing deadline must reflect that petitioner has been informed of the motion.

24.205 SCHEDULING IN COMPLEX CASES WITH APPOINTED COUNSEL

In a complex case, including, but not limited to, criminal homicide as defined in ORS 163.005 or aggravated murder as defined in ORS 163.095, counsel for either party may request a scheduling conference within 60 days of appointed counsel's appearance. At the conference, the court, in its discretion, may issue an order modifying any deadlines set forth in these rules.

24.210 EXHIBITS

- (1) Only the portions of the trial transcript or other documents that are directly relevant to petitioner's claims shall be attached to the petition or amended petition as an exhibit.
- (2) Unless otherwise ordered by the court, all documentary exhibits must be submitted electronically pursuant to UTCR 21.040 and UTCR 21.070(1)(c).
- (3) References in pleadings relying on previously filed exhibits shall expressly describe the exhibits, the earlier pleadings with which they were filed, and the date the earlier pleading was originally filed.

24.220 ADDITIONAL MOTIONS, BRIEFING, AND EXHIBITS

Unless otherwise ordered by the court:

- (1) All substantive pre-trial motions shall be filed at least 60 days prior to commencement of trial. The court may allow a late filing for good cause shown.
- (2) Petitioner's trial memoranda, including legal memoranda, and any additional exhibits not already filed with the court must be filed not later than 30 days before trial.
- (3) Defendant's trial memoranda, including any legal memoranda, and any additional defense exhibits not already filed with the court must be filed not later than 20 days prior to trial.
- (4) Not later than 10 days prior to trial, the petitioner may respond to the defendant's memoranda and exhibits with a further memorandum and additional exhibits.

24.230 DISCLOSURE OF WITNESSES PURSUANT TO ORS 138.615

Unless otherwise ordered by the court for good cause shown, the disclosure of witness information required under ORS 138.615 shall be made not later than 60 days prior to trial.

24.240 FILING OF DOCUMENTS WHEN PETITIONER IS REPRESENTED BY COUNSEL; *CHURCH* NOTICE

[THIS RULE INTENTIONALLY LEFT BLANK]

24.250 APPEARANCE AT HEARINGS AND TRIAL

- (1) Unless the court orders otherwise, a petitioner in custody shall appear by simultaneous electronic transmission.
- (2) Unless the court orders otherwise, if a petitioner is not in custody, or is released from custody while the petition is pending, the petitioner shall immediately notify the court and the petitioner shall appear in person at scheduled hearings and trial.
- (3) Counsel may appear in person or by simultaneous electronic transmission in accordance with ORS 138.622.
- (4) Public access to the proceedings shall be provided at the circuit court in which the petition is pending, and the proceeding shall be deemed to take place at that location.
- (5) Unless otherwise ordered by the court, all witnesses, except original trial counsel, appellate counsel, and law enforcement officers, shall appear at the circuit court in which the petition is pending.
- (6) Any party requiring the services of a court interpreter for a hearing or trial must request a court interpreter in accordance with UTCR 7.070 and any supplemental local rules enacted pursuant to that section. If a party fails to comply with UTCR 7.070, and any supplemental local rules enacted pursuant to that section, the party is responsible for obtaining court-certified interpreter services at the party's own expense.

24.260 CONTINUANCES

- (1) Motions to continue a hearing or trial may be made to the judge presiding over the hearing or trial or such other judge as may be designated by supplemental local rules. The judge may allow a continuance for good cause shown.
- (2) Any motion for continuance by a represented party shall include a certification by the moving counsel that

- (a) Counsel has conferred with the opposing counsel and whether opposing counsel objects or agrees to the motion; and
- (b) If the motion is filed by petitioner's counsel and is beyond one year from the filing of the original petition, a statement that petitioner's counsel has conferred with petitioner and has authorization to request the continuance. If petitioner does not authorize the request, counsel must note petitioner's objections together with counsel's reason for requesting the continuance despite petitioner's objections.

24.270 PRESIDING POST-CONVICTION JUDGE

By supplemental local rule, a judicial district may assign a judge to serve as Presiding Post-Conviction Judge for purposes of pretrial case management. The Presiding Post-Conviction Judge may conduct status conferences, hear pretrial motions, and engage in other duties as provided by local rules enacted under this section.

24.280 TRIALS

- (1) Trials will be scheduled as soon as possible after the defendant's answer is filed or after the date for filing an answer has passed but, without the consent of the parties, trial shall not be scheduled sooner than 90 days after the date the answer is filed or the date for filing an answer has passed.
- (2) Trials will be scheduled for 30 minutes and without the expectation of live witness testimony other than petitioner. If the trial will take longer than 30 minutes, or if witnesses other than petitioner will be called, the party requesting additional time must notify the court not later than 45 days prior to the trial date.

36. 2.130

Amend section (1)(a) to conform to related forms.

ACTION TAKEN

Motion to preliminarily recommend approval of the proposal, passed by consensus.

EXPLANATION

The purpose of this proposal is to conform the wording in 2.130 to forms 2.130.1 and 2.130.2. Effective August 1, 2017, these forms were amended to require entry of "Any other names used, now or in the past," instead of "Former Legal Name(s)." Although both forms were moved from the UTCR Appendix to the OJD Forms Center webpage effective August 1, 2018, the committee expressed a desire to continue to align the wording of the rule with the wording of the forms.

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PROPOSED AMENDMENT

2.130 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]{**any other names used, now or in the past**}; and employer’s name, address, and telephone number.

(b) * * *

* * * * *

(2) * * *

* * * * *

B. RECOMMENDATIONS OF DISAPPROVAL

1. 1.160

Amend to require submission of original, signed documents for conventional filing.

ACTION TAKEN

Motion to preliminarily recommend disapproval of the proposal, passed by consensus.

EXPLANATION

This proposal was submitted by Richard Moellmer, Washington County Circuit Court Trial Administrator, on April 23, 2018. Mr. Moellmer suggested amendment of UTCR 1.160 to require all conventionally filed documents to be originals, signed in blue ink. The committee noted that this proposal seems designed to rectify an issue with one particular litigant and does not appear to address a widespread problem. The committee expressed a general preference to allow judges to deal with this issue on a case-by-case, or document-by-document, basis when there is a bona fide reason for requiring an original document.

PROPOSED AMENDMENT

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

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2. **1.170**
Amend section (2) to require courts to post a contact phone number or email address on the court's website. **See Item A.33.**

ACTION TAKEN

Motion to preliminarily recommend disapproval of the proposal, passed by consensus.

EXPLANATION

This proposal was submitted by Lisa Norris-Lampe on behalf of the Law and Policy Work Group on August 30, 2018. The purpose of this proposal is to ensure that litigants have convenient access to court contact information in light of the proposed amendment to 21.070 (Item A.33), which would require a litigant to notify the court by phone or email when filing a document which is designated "expedited." The committee discussed the possibility that courts could receive a lot of spam, or even harassing or threatening emails, that the proposal could result in additional workload for court staff, and that some courts monitor phones for only part of the day due to lack of staff. The committee noted that each court's phone number is now readily available online, as the court websites were recently revamped and reorganized.

PROPOSED AMENDMENT

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

- (1) SLR 1.171 is reserved for each judicial district to identify the website addresses of its court. Links to these websites may also be found at the Oregon Judicial Department website:
<http://www.courts.oregon.gov/Pages/default.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.
- {(3) Each judicial district also must announce on its website a phone number or email address to serve as contact information about case filings.}**

3. **21.090**
Amend section (4) to eliminate applicability to declarations to allow electronic signatures on declarations.

ACTION TAKEN

Motion to preliminarily recommend disapproval of the proposal, passed by consensus. The committee formed a workgroup to study the issue and to consider proposals regarding the use of electronic signatures.

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EXPLANATION

This proposal was submitted by Kristin LaMont, Salem attorney, on August 31, 2018. The purpose of this proposal is to allow the use of electronic signatures on declarations. The proponent discussed the following issues:

- Many other professions and industries such as banking and real estate now allow or even require electronic signatures;
- The proponent's desire to align the process for signing declarations with the process for signing other documents in her practice, such as retainer agreements;
- The availability of metadata which can be used to verify the authenticity of an electronic signature;
- Electronic signatures are more convenient for clients who work or live out of state, or who have busy schedules;
- Electronic signatures allow law firms to go paperless, and to save the time and expense of mailing hard copies.

The committee discussed the following issues regarding the proposal:

- Some litigants and witnesses may not appreciate the seriousness of signing a declaration absent the formalities associated with paper copies;
- Electronic signatures may make it more difficult to verify the authenticity of the signature, as they can be easily replicated;
- The possible need to require an attorney certification of the signature;
- Concerns regarding the expense and availability of electronic signature software;
- Potential issues regarding the compatibility of electronic signature software with Odyssey.

Although the committee felt that it was too soon to recommend a proposal allowing electronic signatures, the committee is interested in studying the issue and potential proposals to move toward using electronic signatures in the future. The committee formed a workgroup to study the issue.

PROPOSED AMENDMENT

21.090 ELECTRONIC SIGNATURES

(1) * * *

* * * * *

- (4) Except as provided in section (5) of this section, when a document to be electronically filed requires a signature [*under penalty of perjury, or the signature*] of a notary public, the [*declarant or*] notary public shall sign a printed form of the document. The printed document bearing the original signatures must be imaged and electronically filed in a format that accurately reproduces the original signatures and contents of the document. The original document containing the original signatures and content must be retained as required in UTCR 21.120.

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- (5) When the filer is the same person as the declarant named in an electronically filed document for purposes of ORCP 1 E, the filer must include in the declaration an electronic symbol intended to substitute for a signature, such as a scan of the filer’s handwritten signature or a signature block that includes the typed name of the filer preceded by an “s/” in the space where the signature would otherwise appear.

Example of a signature block with “s/”:

s/ John Q. Attorney
JOHN Q. ATTORNEY

4. 24.240

Adopt a rule addressing the process for *Church v. Gladden/Bogle v. State* claims. **See Item A.35.**

ACTION TAKEN

Motion to preliminarily recommend disapproval of the proposal, passed 10-2. One member abstained and one member was excused.

EXPLANATION

This proposal was submitted by a UTCR committee workgroup consisting of Hon. Lung Hung, Malheur County Circuit Court, Hon. Charles M. Zennaché, Lane County Circuit Court, and Deputy Public Defender Zachary L. Mazer (OPDS). Representatives from the Department of Justice, who regularly represent the state in post-conviction relief cases, were present to discuss the proposal. The purpose of this proposal is to specifically address the procedures a PCR court must afford to a petitioner who disagrees with counsel’s decision(s) about what claims to assert in the PCR case. These procedures are outlined in part in *Church v. Gladden*, 244 Or 308 (1966), and *Bogle v. Nooth*, 363 Or 455 (2018). The committee discussed concerns that proposed 24.240 may oversimplify the court’s holding in *Bogle*, and that it does not fully encompass the court’s ruling. Some concern was expressed over the procedures that the phrase “reasonable professional skill and judgment” may trigger. There was also discussion about the fact that *Bogle* is a fairly recent Supreme Court opinion, and forthcoming appellate opinions in PCR cases are likely to shed more light on application of *Bogle*. The majority of the committee felt that it was too soon to move forward on this issue without public comment and additional discussion with attorneys and judges who regularly work with these rules.

PROPOSED AMENDMENT

24.240 FILING OF DOCUMENTS WHEN PETITIONER IS REPRESENTED BY COUNSEL

- (1) Except as otherwise provided in this rule, counsel is the sole representative of the petitioner and all documents filed in the case must be signed and filed by counsel.
- (2) When the petitioner is represented by court-appointed counsel, a petitioner may personally file a motion requesting substitution of counsel or an order that appointed counsel include particular claims in the petition.

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- (a) The purpose of a motion under this section is to determine whether appointed counsel has exercised reasonable professional skill and judgment in declining to raise particular claims in the case.
 - (b) A motion under this section must identify the claims that appointed counsel has not included in the petition and the legal and factual basis for each claim.
 - (c) The petitioner bears the burden of demonstrating that appointed counsel has failed to exercise reasonable professional skill and judgment in declining to raise the claim or claims.
 - (d) A motion under this section is the petitioner's personal work product. If the petitioner requests the assistance of counsel in preparing the motion, counsel's obligation shall be limited to correcting obvious typographical errors, preparing copies of the motion, serving the appropriate parties, and filing the motion with the court. If the petitioner prepares and files the motion without the assistance of counsel, in addition to serving all other parties to the case, the petitioner shall serve a copy of the motion on counsel.
- (3) The court may hold a hearing on the petitioner's motion in any case where the court believes a hearing would benefit its resolution of the motion.
 - (4) After considering the motion, if the court finds that appointed counsel has failed to exercise reasonable professional skill and judgment in declining to raise one or more claims set out in the motion, the court may order substitution of counsel or may order that appointed counsel include the particular claim or claims in an amended petition.
 - (5) A motion under this section must be filed within 60 days of the filing of the first amended petition or the notice that the petitioner will proceed on the original petition filed under UTCR 24.200(1). A motion filed after the time limit established in this section, or a second or subsequent motion filed under this section, must demonstrate good cause as to why the motion could not reasonably have been timely filed.

C. OTHER ACTIONS

1. 5.180

Adopt a new rule governing consumer debt collection cases.

ACTION TAKEN

Motion to post for public comment without recommendation passed by consensus. Motion to form a workgroup passed by consensus.

EXPLANATION

This proposal was submitted by the Civil Justice Improvements Task Force (CJI) on behalf of Chief Justice Martha L. Walters, on August 23, 2018. The CJI, and this proposal, arose from a 2016 report to the national Conference of Chief Justices.

The CJI grouped consumer debt collection cases into two categories: those filed by debt buyers (and debt collectors acting on their behalf); and those filed by debt collectors. The CJI studied House Bill 2356 (2017), which established requirements for legal actions filed by debt buyers (or by debt collectors acting on their behalf) to collect on purchased debt. This UTCR proposal is meant to provide consumers and the court with necessary information about the claim. This is particularly important if a default judgment is sought by the plaintiff.

Proposed UTCR 5.180:

- Applies to those consumer debt collection cases filed by debt buyers (and debt collectors acting on their behalf) and those filed by debt collectors;
- Requires the plaintiff to include in the action title certain identifying information to aid the courts in identifying these case types;
- Requires the plaintiff to include in the body of the initiating pleading a reference to debt collection case information on the OJD website;
- Requires the plaintiff to include with the initiating pleading a completed Consumer Debt Collection Disclosure Statement (to be made available by OJD);
- Directs the court to issue a notice of dismissal to the plaintiff if the Consumer Debt Collection Disclosure Statement requirement is not met;
- Provides the plaintiff 30 days from the date of mailing of the notice of dismissal to meet that requirement; and
- Requires the plaintiff, when seeking a default judgment, to include a declaration under penalty of perjury that the plaintiff has complied with certain pleading requirements.

Interested persons present to discuss this proposal included Chris Bevans (attorney, Professional Credit), Thomas Cuomo (lobbyist, Oregon Collectors Association) Cheryl Hiemstra, (attorney, Department of Justice, Consumer Protection), and Brian Watkins (collector, Southern Oregon Credit Service).

The committee discussed whether:

- The rule and the form should apply to debt collectors or only to debt buyers;
- The rule should be amended to apply to small claims cases;
- The form should be changed;
- Debt collector and debt buyer plaintiffs should be required to fill out a form in addition to including the information in the pleadings;
- The initial pleading screening requirements would increase workload for court staff;
- OJD should provide informational assistance to defendant debtors;
- The additional workload for plaintiffs in debt collection cases would increase the cost of credit or decrease the availability of credit for economically disadvantaged individuals.

The committee

- Heard testimony on the
 - nature of work done by debt collectors;
 - impact of this proposal on actions filed by debt collectors;
 - differences between debt buyers and debt collectors; and
 - history of HB 2356 (2017);
- Expressed a desire to receive public comment before issuing a recommendation; and
- Established a workgroup to study the issues and to propose amendments to the rule and the form.

PROPOSED AMENDMENT

5.180 CONSUMER DEBT COLLECTION

- [Click Here to Comment on This Rule](#)
- (1) Definitions. As used in this rule, unless otherwise indicated:
 - (a) “Consumer” means a natural person who purchases or acquires property, services or credit for personal, family, or household purposes.
 - (b) “Debt” means an obligation or alleged obligation that arises out of a consumer transaction.
 - (c) “Debt collector” means any person whose principal business purpose is the collection or attempted collection of debts owed to another.
 - (2) Applicability. This rule applies to an action for collection of a debt that:
 - (a) Is an action under ORS 646A.670, when the plaintiff is either a debt-buyer as defined in ORS 646.639(1)(g) or is a debt collector as defined in ORS 646.639(1)(h), bringing the action on a debt-buyer’s behalf; or
 - (b) Involves a plaintiff who is a debt collector as defined in subsection (1)(c) of this rule, but the action otherwise does not satisfy the requirements of subsection (2)(a) of this rule.
 - (3) The following requirements apply to an action under subsection (2)(a) of this rule:
 - (a) The initiating pleading must:
 - (i) In the title, contain the words, “SUBJECT TO ORS 646A.670(1) and UTCR 5.180(3)”;
 - (ii) In the body, include a statement to the following effect: “See the Oregon Judicial Department’s website for information about debt-collection cases”; and

- (iii) Attach and incorporate by reference a completed Consumer Debt Collection Disclosure Statement in substantially the form as set out on the Oregon Judicial Department website (<http://www.courts.oregon.gov/Pages/default.aspx>), including a statement that the plaintiff has complied with ORS 646A.670(1).
 - (b) If the initiating pleading does not comply with subsection (3)(a)(iii) of this rule, written notice shall be given to the plaintiff that the case will be dismissed 30 days from the date of mailing of the notice, unless the plaintiff complies with subsection (3)(a)(iii) by that time.
 - (c) If the plaintiff moves for entry of a judgment of default, the motion must include a declaration, under penalty of perjury, that the initial pleading complied with ORS 646A.670(1).
- (4) The following requirements apply to an action under subsection (2)(b) of this rule:
- (a) The initiating pleading must:
 - (i) In the title, contain the words, "SUBJECT TO UTCR 5.180(4)";
 - (ii) In the body, include a statement to the following effect: "See the Oregon Judicial Department's website for information about debt-collection cases."
 - (iii) Attach and incorporate by reference a completed Consumer Debt Collection Disclosure Statement in substantially the form as set out on the Oregon Judicial Department website (<http://www.courts.oregon.gov/Pages/default.aspx>).
 - (b) If the initiating pleading does not comply with subsection (4)(a)(iii) of this rule, written notice shall be given to the plaintiff that the case will be dismissed 30 days from the date of mailing of the notice, unless the plaintiff complies with subsection (4)(a)(iii) by that time.
 - (c) If the plaintiff moves for entry of a judgment of default:
 - (i) The plaintiff's motion must include a declaration, under penalty of perjury, that the initial pleading complied with UTCR 5.180(4)(a)(iii).
 - (ii) The court may not enter judgment for a plaintiff who has not complied UTCR 5.180(4)(a)(iii).

PROPOSED CONSUMER DEBT COLLECTION DISCLOSURE STATEMENT

[Check all that apply]

1. I am the plaintiff, and
 - I am a debt buyer, and this is an action seeking collection on a debt under ORS 646A.670. (UTCR 5.180(3))
 - I have complied with ORS 646A.670(1).
 - I am a debt collector, and this is an action seeking collection on a debt, and on a debt-buyer's behalf, under ORS 646A.670. (UTCR 5.180(3))
 - I have complied with ORS 646A.670(1).
 - I am a debt collector seeking collection on a debt, but this action is not subject to ORS 646A.670(1). (UTCR 5.180(4))

2. I provide the following information about the debt sought to be collected:

A. Original creditor's name, as used in dealings with debtor:

B. Name, address, and telephone number of the person that owns the debt:

C. Last four digits of the original creditor's account number for the debt, if the account had four or more digits:

D. If this action is subject to ORS 646A.670 and UTCR 5.180(3), the date on which the debt buyer purchased the debt:

(Continued on next page)

- E. If this action is subject to ORS 646A.670 and UTCR 5.180(3):

Either:

- i. The following information applies:

Payment Information (check which applies):

- The debtor made at least one payment:

Amount debtor last paid:

Date of last payment:

Amount and date of debtor's last payment before debtor's default or before debt became charged-off debt:

- The debtor made no payment

Balance Information:

The balance due on the debt, on the date it became charged-off debt: _____

Other Information (check all that apply):

- The amount and rate of interest, any fees, and any charges that the original creditor imposed, if known to plaintiff:

(Continued on next page)

- The amount and rate of interest, any fees, and any charges, that the debt-buyer imposed, or any previous owner imposed, if known to plaintiff:

The fees that plaintiff seeks, if expected to recover fees:

Any other fee, cost, or charge that the debt buyer seeks to recover:

Or:

- ii. See the attached detailed and itemized statement that shows the information described in section 2.E.i.

- F. If this action is subject to UTCR 5.180(4), the following information applies:

Payment Information (check which applies):

- The debtor made at least one payment:

Amount debtor last paid:

Date of last payment:

Amount and date of debtor's last payment before debt became delinquent:

- The debtor made no payment

(Continued on next page)

Balance Information:

The balance due on the debt, on the date it became delinquent:

Other Information (check all that apply):

- The amount and rate of interest, any fees, and any charges that the original creditor imposed, if known to plaintiff:

The attorney fees that plaintiff seeks, if expected to recover fees:

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND ARE SUBJECT TO PENALTY FOR PERJURY.

DATED this _____ day of _____, 20 _____.

My (printed) Name Is _____, Plaintiff.

SIGNATURE

2. 21.080

Review section (5) for conflict with ORS 21.100 considering the Appellate Commissioner's ruling in *Otnes v. PCC Structural, Inc.*, A167525.

ACTION TAKEN

By consensus, the committee agreed to take no action.

EXPLANATION

Review of 21.080(5)(a) was requested by committee member Janet Schroer on behalf of Matthew Kalmanson, attorney, on October 4, 2018. The UTCR committee discussed the rule and the Appellate Commissioner's ruling in *Otnes v. PCC Structural, Inc.*, A167525. In that case, the Appellate Commissioner ruled that the trial court did not err when it refused to allow relation back of a document for which the filing fee had not been paid. Mr. Kalmanson felt that this ruling identified a conflict between ORS 21.100 and UTCR 21.080(5) and that some amendment to UTCR 21.080(5) might be necessary to notify litigants that relation back may not be granted if the filing fee has not been paid. The committee discussed these issues and felt that there is no clear conflict between UTCR 21.080(5) and ORS 21.100 because UTCR 21.080(5) does not guarantee that a request for relation back will be granted.

PROPOSED AMENDMENT

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

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3. 21.100

Discuss electronic service issues.

ACTION TAKEN

No action was needed or taken.

EXPLANATION

This issue was submitted for discussion by committee member Gene Hallman, on July 10, 2018, and analyzed by the Law and Policy Work Group (LPWG), on August 30, 2018. The proponent noted that his law firm frequently runs into the issue that other attorneys have not entered their service information in the electronic filing system as required by 21.100(2)(a). The committee discussed that this is a known and common issue; filers may believe that their service information is automatically added to the system and they may not realize that additional action is required for each new case.

PROPOSED AMENDMENT

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

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4. 3.010

Review public comment on amendment to the rule adopted out-of-cycle pursuant to Chief Justice Order 18-014, dated March 22, 2018, and effective on the same date.

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on This Issue](#)

ACTION TAKEN

No action was needed or taken.

EXPLANATION

Amendment of 3.010 was requested by Michael T. Purcell, attorney, on December 5, 2016. The UTCR committee discussed the proposal at the October 20, 2017, meeting. The proposal was posted for public comment and the committee received 174 comments in favor of the proposed amendment (and none in opposition). Former Chief Justice Balmer considered the public comment and authorized out-of-cycle adoption of the amendment. Pursuant to Chief Justice Order 18-014, the amendment took effect on March 22, 2018. The committee received two public comments, but the comments did not indicate a need to further amend the rule.

5. **Committee Membership**

Update

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ACTION TAKEN

No action was needed nor taken.

EXPLANATION

The committee received an update on membership. Committee members Hon. Wells Ashby, Hon. Tracy Prall and Craig Cowley will complete their service on the committee on December 31, 2019. Next fall, OJD will advertise for experienced applicants to fill these positions. Members are appointed by the Chief Justice.

6. **Spring 2019 Meeting**

Schedule spring meeting.

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ACTION TAKEN

The committee scheduled its next meeting for March 8, 2019.

7. **Fall 2019 Meeting**

Schedule fall meeting.

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ACTION TAKEN

The committee scheduled its fall meeting for October 18, 2019.