

IN THE COURT OF APPEALS OF THE STATE OF OREGON

In the Matter of )  
Procedural Changes in the )  
Court of Appeals )  
Due to COVID-19 )  
 )  
 )  
 )

CHIEF JUDGE ORDER  
No. 20-03

**PROCEDURAL CHANGES IN THE  
COURT OF APPEALS DUE TO  
COVID-19**

Due to emergency conditions that have resulted from the spread of the COVID-19 virus, I am ordering several procedural changes in the Court of Appeals. Because circumstances are rapidly evolving, I may issue additional orders with further changes, as required.

Consistently with Chief Justice Order 20-006 (Amended), ORS 2.550(3) (providing that the Chief Judge, "to facilitate exercise of administrative authority and supervision over the court and consistent with applicable provisions of law, may make rules, issue orders and take other action appropriate to that exercise"), and ORAP 1.20(5) (providing that, "[f]or good cause, the court on its own motion \* \* \* may waive any rule"), I HEREBY ORDER the following changes to Court of Appeals procedure.

1. Motions
  - a. Except in the case of a filing governed by ORAP 7.35, motions requesting up to a 60-day extension of time due to circumstances related to COVID-19 will be liberally granted.
  - b. Motions requesting an extension of time due to circumstances related to COVID-19 must contain a statement addressing whether opposing counsel objects to, concurs in, or has no position regarding the motion. If the moving party has not been able to ascertain opposing counsel's position on the motion, then the motion must so state.
  - c. Parties should prominently include "COVID-19" in the caption of their motions when circumstances related to COVID-19 have occasioned the motion.
  
2. Oral Arguments
  - a. The court continues to explore remote means of conducting oral argument by telephone, other two-way electronic communication device, or simultaneous electronic transmission. However, for the time being, parties with arguments scheduled from April 13 to June 1, 2020, will be contacted by the Appellate Court Records Section and offered two options:

- i. postpone argument in the case, with the court resetting it to a later date no earlier than July 1, 2020; or
- ii. opt to have their cases submitted on briefs with the understanding that
  - (a) the court will entertain motions to file supplemental briefing;
  - (b) when necessary, the court will order supplemental memoranda addressing questions that the court has concerning the case; and
  - (c) if all parties do not agree to the submission of a case on the briefs, the court will reset oral argument for a date no earlier than July 1, 2020.
- b. On motion of the parties and a demonstration of extraordinary circumstances, the Chief Judge may order that an oral argument proceed if the Chief Judge determines that the oral argument must occur before July 1, 2020; that the proceeding can be conducted by remote means or that sufficient social distancing can be maintained if not conducted by remote means; and that the Chief Judge can order other reasonable precautions to protect the health of the participants, including court staff. Due to the current emergency conditions resulting from COVID-19, the bar for demonstrating extraordinary circumstance is a high one.
- c. On its own motion, the court may order that an oral argument take place before July 1, 2020, if the Chief Judge determines that the oral argument must occur; that the proceeding can be conducted by remote means or that sufficient social distancing can be maintained if not conducted by remote means; and that the Chief Judge can order other reasonable precautions to protect the health of the participants, including court staff.

This order takes effect immediately and will continue until further order.

Dated this 30<sup>th</sup> day of March 2020.



**JAMES C. EGAN**  
CHIEF JUDGE, COURT OF APPEALS