

NOTICE OF MEETING

The Oregon Council on Court Procedures will be meeting at the Red Lion Inn in Medford, Oregon, on February 11, 1984, at 9:30 a.m.

The Council on Court Procedures is responsible for promulgation, amendment, or modification of the Oregon Rules of Civil Procedure.

Comment from the public, bench, and bar is invited.

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A G E N D A

COUNCIL ON COURT PROCEDURES

Meeting

9:30 a.m., Saturday, February 11, 1984

Red Lion Inn (Douglas Fir Room)

Medford, Oregon

1. Public comments
2. Proposed rule changes
 - a) ORCP 7 C. (2)
 - b) ORCP 16 B.
 - c) ORCP 21 E.
 - d) ORCP 32 H.
 - e) ORCP 47 C.
3. Proposed legislation (HB 2309 and HB 2370)
4. Meeting schedule
5. New business

COUNCIL ON COURT PROCEDURES

Meeting Schedule - 1984

February 11, 1984 9:30 a.m.	Second Congressional District	Red Lion Motor Inn Medford, Oregon
April 14, 1984 9:30 a.m.	Third Congressional District	Portland East (meeting place to be announced)
June 9, 1984 9:30 a.m.	Fifth Congressional District	Location to be announced
August 11, 1984 9:30 a.m.	First Congressional District	Location to be announced
October 13, 1984 9:30 a.m.	Fourth Congressional District	Location to be announced
December 8, 1984 9:30 a.m.	Second Congressional District	Bend (meeting place to be announced)

The February 11 meeting in Medford will be held at the Red Lion. A block of rooms is being held for members of the Council for the meeting of February 11. In making reservations to stay at the Red Lion, telephone 779-5811, please indicate that you are with the Council on Court Procedures (this will qualify you for the government discount).

M E M O R A N D U M

TO: COUNCIL ON COURT PROCEDURES

FROM: Douglas A. Haldane, Executive Director

DATE: February 7, 1984

RE: Cancellation of February 11 meeting
in Medford

Due to our inability to have a quorum, Mr. Kilpatrick has asked me to cancel the February 11, 1984 meeting in Medford. The next meeting of the Council will be April 14. We will let you know the meeting location as soon as appropriate arrangements have been made.

DAH:gh

MEMORANDUM

TO: COUNCIL ON COURT PROCEDURES:

Joe D. Bailey
John H. Buttler
J. R. Campbell
John M. Copenhaver
William M. Dale
Jeffrey P. Foote
Robert H. Grant
John J. Higgins
John F. Hunnicutt
William L. Jackson
Roy Kilpatrick
Sam Kyle

Douglas McKean
Edward L. Perkins
James E. Redman
E. B. Sahlstrom
William F. Schroeder
J. Michael Starr
Wendell H. Tompkins
John J. Tyner
James W. Walton
William W. Wells
Bill L. Williamson

FROM: Douglas Haldane, Executive Director

DATE: February 6, 1984

RE: February 11, 1984 Council Meeting
Red Lion Inn (Douglas Fir Room)
Medford, Oregon

Enclosed are proposed rule changes, as well as copies of HB 2309 and HB 2370, which will be the subject of Council consideration at the February 11 meeting in Medford. Additionally, there will be discussion of proposed changes to awards for costs, judgments by confession, and third party practice.

DAH:gh

Enclosures

House Bill 2309

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Oregon State Bar)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Requires opposing party in civil court proceedings to provide to other party upon request a written list of names and addresses of all persons known by opposing party to have knowledge of subject matter of litigation. Excludes from list contents of statements from such persons.

A BILL FOR AN ACT

1
2 Relating to production of documents in civil court proceedings; amending ORCP 43 A.

3 **Be It Enacted by the People of the State of Oregon:**

4 SECTION 2. ORCP 43 A. is amended to read:

5 **A. Scope.** Any party may serve on any other party a request: (1) to produce and permit the party making
6 the request, or someone acting on behalf of the party making the request, to inspect and copy, any designated
7 documents (including writings, drawings, graphs, charts, photographs, phono-records, and other data
8 compilations from which information can be obtained, and translated, if necessary, by the respondent through
9 detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things
10 which constitute or contain matters within the scope of Rule 36 B. and which are in the possession, custody, or
11 control of the party upon whom the request is served; [*or*] (2) to permit entry upon designated land or other
12 property in the possession or control of the party upon whom the request is served for the purpose of
13 inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object
14 or operation thereon, within the scope of Rule 36 B.; and (3) to produce a written list of the names and addresses
15 of all persons known by the opposing party to have knowledge of relevant facts or observations concerning the
16 subject matter of the litigation. Such written list shall not include contents or any statements from such persons
17 absent the showing required under ORCP 36 B.(3).

NOTE: Matter in bold face in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.

House Bill 2370

Sponsored by COMMITTEE ON JUDICIARY (at the request of Commission on the Judicial Branch)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Establishes standards for questioning prospective jurors in civil action by court and parties. Requires court to regulate questioning according to standards.

A BILL FOR AN ACT

1
2 Relating to jurors; amending ORCP 57 C.

3 Be It Enacted by the People of the State of Oregon:

4 SECTION 1. ORCP 57 C. is amended to read:

5 C. Examination of jurors. The full number of jurors having been called shall thereupon be examined as to
6 their qualifications. The court may examine the prospective jurors to the extent it deems appropriate, and
7 thereupon the court shall permit the parties to examine each juror, first by the plaintiff, and then by the
8 defendant. Examination shall be directed toward the background and qualifications of the prospective jurors, and
9 shall be conducted so as not to create unnecessary delay. The court shall regulate examination of jurors according
10 to these standards, and may prohibit examination designed principally to influence the outcome of the case.

NOTE: Matter in bold face in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.



SUMMONS

RULE 7

C.(2) **Time for response.** If the summons is served by any manner other than publication, the defendant shall appear and defend within 30 days from the date of service. If the summons is served by publication pursuant to subsection D.†5†(6) of this rule, the defendant shall appear and defend within 30 days from a date stated in the summons. The date so stated in the summons shall be the date of the first publication.

FORM OF PLEADINGS

RULE 16

B. Concise and direct statement; paragraphs; separate statement of claims or defenses. Every pleading shall consist of plain and concise statements in consecutively numbered paragraphs paragraphs consecutively numbered in arabic numerals, the contents of which shall be limited as far as practicable to a statement of a single set of circumstances, and a paragraph may be referred to by number in all succeeding pleadings. Separate claims or defenses shall be separately stated and numbered.

DEFENSES AND OBJECTIONS;
HOW PRESENTED; BY PLEADING OR MOTION;
MOTION FOR JUDGMENT ON THE PLEADINGS

RULE 21

E. Motion to strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these rules, upon motion made by a party within 10 days after the service of the pleading upon such party or upon the court's own initiative at any time, the court may order stricken: (1) any sham, frivolous, or irrelevant pleading or defense or any pleading containing more than one claim or defense not separately stated; (2) any insufficient defense or any sham, frivolous, irrelevant, or redundant matter inserted in a pleading. If, on a motion under this section, the facts supporting the motion do not appear on the face of the pleading or defense and matters outside the pleading or defense, including affidavits and other evidence, are presented to the court, all parties shall be given a reasonable opportunity to present evidence and affidavits, and the court may determine the existence or nonexistence of the facts supporting such motion if such facts are not materially disputed or may defer such determination until further discovery or until the trial on the merits.

CLASS ACTIONS

RULE 32

H. Notice and demand required prior to commencement of action for damages.

H.(1) Thirty days or more prior to the commencement of an action for damages pursuant to the provisions of subsection (3) of section B. of this rule, the potential plaintiffs' class representative shall:

H.(1)(a) Notify the potential defendant of the particular alleged cause of action; and

H.(1)(b) Demand that such person correct or rectify the alleged wrong.

H.(2) Such notice shall be in writing and shall be sent by certified or registered mail, return receipt requested, to the place where the transaction occurred, such person's principal place of business within this state, or, if neither will effect actual notice, the office of the Secretary of State in the case of a corporation or limited partnership not authorized to transact business in this state, to the principal office or place of business of the corporation or limited partnership, and to any address the use of which the class representative knows, or on the basis of reasonable inquiry, has reason to believe is most likely to result in actual notice.

SUMMARY JUDGMENT

RULE 47

C. Motion and proceedings thereon. The motion shall be served at least 10 20 days before the time fixed for the hearing. The adverse party, not less than five days prior to the day of the hearing, may serve opposing affidavits. The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.