

**NOTICE OF PUBLIC MEETING
COUNCIL ON COURT PROCEDURES**

Saturday, September 12, 2009, 9:30 a.m.

Oregon State Bar Center

16037 SW Upper Boones Ferry Rd.

Tigard, Oregon

AGENDA

- I. Call to Order (Mr. Corson)
- II. Introductions (all)
 - A. Guests
 - B. Welcome of new members
 - C. Hand out current roster and note corrections
- III. Approval of December 13, 2008, Minutes (Mr. Corson)
- IV. Council Rules of Procedure per ORS 1.730(2)(b) (Mr. Corson)
 - A. Review
 - B. Vote on proposed amendments
 - C. Council timeline
- V. Annual election of officers per ORS 1.730(2)(b) (Mr. Corson)
 - A. Chair
 - B. Vice Chair
 - C. Treasurer
- VI. Reports Regarding Last Biennium (Chair)
 - A. Promulgated rules (Prof. Peterson)
 - B. 75th Legislative Assembly's ORCP amendments outside of Council amendments (Prof. Peterson)
- VII. Administrative Matters (Chair)
 - A. Funding (Prof. Peterson/Mr. Nebel)
 - B. Website Report (Ms. Nilsson)
- VIII. Old Business (Chair)
- IX. New Business (Chair)
 - A. Potential amendments carried over from last biennium
 - 1. ORCP 7D(4): question of why serving insurance carriers was moved to ORCP 69A(2)

2. ORCP 9C & D: Potential conflict between ORCP 9C & D and Council's 2008 amendment of ORCP 54E
 3. ORCP 18A: allow Optional Form Pleadings for Personal Injury (and Other) Complaints
 4. ORCP 38B&C: Uniform Interstate Depositions & Discovery Act
 5. ORCP 54A: confidentiality agreement at settlement
 6. ORCP 68: attorney fees in certain actions such as probate & supplemental requests
 7. ORCP 69B(1): whether clerks enter default judgments; reorganize
- B. Potential amendments submitted since December, 2008, meeting
1. ORCP 7D(3)(a)(iv): correct ORS reference [*see* HB 2284 - passed]; service via post office box
 2. ORCP 7E: allow self-represented parties to effect service of summons by mail under 7D(2)(d)(i) to the same extent that attorneys have this authority
 3. ORCP 9F: eliminate 3 day period for facsimile service; faxes confirmed received after 5:00 pm treated as hand delivered next business day
 4. ORCP 54E: make offer of judgment mutual, *i.e.* allow plaintiff to make offer on plaintiff's claim
 5. ORCP 54E(2): liberalize 3 day period for offers of judgment
 6. ORCP 71B(1)(c): allow intrinsic as well as extrinsic fraud as basis for relief from judgment
 7. Allow counterclaims to be included in responses to domestic relations motions
 8. OSB Procedure & Practice Committee: amend ORCP to address the issue of electronically stored information
- C. Other potential amendments
1. Moving venue from ORS chapter 14 to ORCP 11
 2. ORCP 36B(2): disclosure of documents affecting coverage
 3. Fast-tracking cases for the elderly/very sick
 4. ORCP 13B: how to handle a situation where there has been an "appearance" but no answer
 5. Review time periods specified in ORCP and make most or all time periods divisible by 7, *i.e.* weeks
- D. Potential amendments raised in COCP Survey
1. ORCP 1E: allow declaration in place of notarizing
 2. ORCP 7: clarify rules for personal service and require court order for service by mail
 3. ORCP 9: electronic filing (*see* HB 2814, section 1)
 4. ORCP 14: require at least 24 hours before *ex parte* motion presented
 5. ORCP 18A: enforce fact pleading
 6. ORCP 36B/43A: limit number of discovery requests (like federal)
 7. ORCP 39: limit number of depositions and number of hours per deposition

8. ORCP 43: electronic discovery like federal, California, Washington
 9. ORCP 43B(2)(a): clarify how to match documents produced to the corresponding request
 10. ORCP 46: make discovery sanctions mandatory, not discretionary
 11. ORCP 46A(2): eliminate requirement to set out at the beginning of a motion to compel the items that a party seeks to discover - complaint: requires retype of all of ORCP 43 RPD
 12. ORCP 47: liberalizing granting of summary judgment
 13. ORCP 54A(1): explicitly allow dismissal of fewer than all claims/parties - not just “an action”
 14. ORCP 55: subpoenas confusing
 15. ORCP 71: make standards for setting aside defaults mandatory, not discretionary
 16. Pre-trial disclosures
 17. Making ORCP more like FRCP
 18. Adding expert discovery (*see* HB 3397, sections 21 & 22 and SB 680 sections, 21 & 22; *see also* ORCP 47E)
 19. Adding interrogatories
- E. Appointment of committees regarding any items listed in IX A-D
 - F. Survey of Oregon attorneys from the Institute for the Advancement of the American Legal System at the University of Denver
(http://gssw.qualtrics.com/SE?SID=SV_4JIEpLZciMRCsLO&SVID=Prod)
- X. Schedule Future Meeting Dates/Locations (Chair)
 - A. Hand out calendar with potential schedule
- XI. Adjournment