

**NOTICE OF PUBLIC MEETING**  
**COUNCIL ON COURT PROCEDURES**  
Saturday, October 1, 2011, 9:30 a.m.  
Oregon Coast Community College  
400 SE College Way, Room 140  
Newport, OR 97366

**AGENDA**

- I. Call to Order (Mr. Cooper)
- II. Introduction of Guests
- III. Approval of September 10, 2011, Minutes (Mr. Cooper)
- IV. Administrative Matters
  - A. Website Report (Ms. Nilsson)
- V. Old Business (Mr. Cooper)
  - A. Issues Requiring Further Inquiry
    - 1. ORCP 55 F(3): Subpoenas for Inmates
    - 2. ORCP 36 and ORCP 39: whether ORCP applies to Family Abuse Prevention Act and Elderly and Disabled Persons Abuse Prevention Act as depositions could be used to intimidate a petitioner
  - B. Committee Updates/Reports
    - 1. ORCP 1 E: Language of Declarations
    - 2. ORCP 19 B, 24: Affirmative Defenses and Compulsory Counterclaims
    - 3. ORCP 44: Medical Examinations
    - 4. ORCP 57 F: Alternate Jurors
    - 5. ORCP 68: Cost Bills - Multiple Issues
    - 6. ORCP 27 B: Guardians Ad Litem
    - 7. ORCP 36 C(6): Require Designations of the Deponent in Advance of the Deposition
    - 8. ORCP 43: Electronic Discovery
    - 9. ORCP 47: Summary Judgment - Multiple Issues
    - 10. ORCP 59 H(1): Exceptions to Jury Instructions
- VI. New Business (Mr. Cooper)
  - A. Potential Amendments Submitted Since December 11, 2010, Meeting II - The OSB Survey Attorney Suggestions
    - 1. ORCP 7: Service of Summons Rules Unduly Difficult
    - 2. ORCP 7: Clarification of Service of Process (when to use 1<sup>st</sup> class mail,

- certified mail, personal service)
3. ORCP 7: Service by other means clarified
  4. ORCP 7: Inadequate service by pro se litigants who then get a TRO
  5. ORCP 7: Provide for service as with FRCP 4(d)
  6. ORCP 7: Motor vehicle service confusing
  7. ORCP 9: Clarification for service of amended complaints
  8. ORCP 9 F, G: Service of pleadings and correspondence via e-mail
  9. ORCP 9 F, G: Electronic service of pleadings automatically acceptable
  10. ORCP 9 F, G: Faxes and e-mails not treated as same-day service
  11. ORCP 18 A: Notice pleading
  12. ORCP 21: Remove requirement to confer on Rule 21 motions
  13. ORCP 21: Make true conferral mandatory, describing efforts in an affidavit
  14. ORCP 21: Tougher sanctions for serial Rule 21 motions
  15. ORCP 21 G: Statute of limitations waived if not pleaded, but good cause allowance in later pleadings confusing
  16. ORCP 43: Mandatory early disclosure of discoverable information analogous to FRCP
  17. ORCP 43: Clarify forms of request and proper objections
  18. ORCP 43: Closer supervision by judges (mandatory discovery conferences)
  19. ORCP 43: Mandatory production of documents like federal court
  20. ORCP 43: Verifications on discovery responses
  21. ORCP 43: Excessive costs in small cases, e.g. detailed responses to requests for production
  22. ORCP 43: Clarify formal appearance not required to respond to a RFP
  23. ORCP 43 & 46: Automatic rule, if documents not produced, can't produce at trial. Motions to compel expensive and make take more time than the case allows, especially in domestic relations
  24. ORCP 53: Streamlining consolidation practice
  25. ORCP 54 E: make rule bilateral
  26. ORCP 55 H: Change rule to protect privilege; documents produced to non-requesting attorney to create privilege log
  27. ORCP 55 H: Require production of medical and other related records to cut down on gamesmanship
  28. ORCP 69: Require formal notice rather than simple letter before seeking default
  29. ORCP 69: Preclusion of default in less time than otherwise allowed to respond
  30. ORCP 81-85: Extraordinary Remedies - detail in rules does not prevent extraordinary relief from being regularly allowed; it should
  31. ORCP 81-85: TROs, injunctions, receiverships should be more uniform

and clear

32. Rule to protect unrepresented litigants from lawyers overreaching, e.g. presenting inadmissible evidence
  33. Adopt quality management approach for each rule; publish a Wiki for voting on rules; upon commencement or end of each case, conduct an attorney survey on rules
  34. Clarify rules on ex parte contact, e.g. submitting orders without advising opponent
  35. Court-annexed arbitration adds expense; parties use arbitration as discovery and to increase costs
  36. More unified rules, differences between counties are confusing and costly
  37. Assign all cases randomly to a judge at the time of filing
  38. Clarify interaction of ORCP and UPC (UTCR?)
  39. Assign trial dates within 30 days of answer, and no trial dates beyond 14 months
  40. Swift procedure for responding to defenses that do not meet specific pleading standards (e.g. boilerplate)
  41. Encourage more settlement conferences
  42. Require notice of filing of the record on appeal, including docket entries and identify trial court exhibits
  43. Allow post-jury interviews; concern of misconduct
  44. Clarify probate/trust litigation
  45. Adopt federal court formatting
  46. Limited judgments in family law are relegated to support and temporary parenting; artificially labeled "orders"; ORS 107.095 should make clear support awards can be combined with custody and parenting time in one document
- B. New Suggested Amendments Received Since September 10, 2011, Meeting
1. ORCP 54 A: amend to conform with FRCP 41(a)

VII. Adjournment