

NOTICE OF PUBLIC MEETING
COUNCIL ON COURT PROCEDURES
Saturday, November 5, 2011, 9:30 a.m.
Oregon State Bar Center
16037 SW Upper Boones Ferry Rd.
Tigard, Oregon

AGENDA

- I. Call to Order (Mr. Cooper)
- II. Introduction of Guests
- III. Approval of October 1, 2011, Minutes (Mr. Cooper)
- IV. Administrative Matters
 - A. Website Report (Ms. Nilsson)
 - B. Legislator Matrix (Ms. David)
- V. Old Business (Mr. Cooper)
 - A. Issues Requiring Further Inquiry
 - 1. 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 (Prof. Peterson)
 - B. Committee Updates/Reports
 - 1. ORCP 19 B, 24: Affirmative Defenses and Compulsory Counterclaims (Ms. Leonard)
 - 2. ORCP 27 B: Guardians Ad Litem (Mr. Cooper)
 - 3. ORCP 39 C(6): Require Designations of the Deponent in Advance of the Deposition (Ms. Gates)
 - 4. ORCP 43: Electronic Discovery (Ms. David)
 - 5. ORCP 44: Medical Examinations
 - 6. ORCP 47: Summary Judgment - Multiple Issues (Ms. David)
 - 7. ORCP 57 F: Alternate Jurors (Ms. O'Leary)
 - 8. ORCP 59 H(1): Exceptions to Jury Instructions (Ms. Leonard)
 - 9. ORCP 68: Cost Bills - Multiple Issues (Ms. David)
- VI. New Business (Mr. Cooper)
 - A. Potential Amendments Submitted Since December 11, 2010, Meeting II - The OSB Survey Attorney Suggestions (carried over from October 1, 2011, agenda)
 - 1. ORCP 7: Service of Summons Rules Unduly Difficult
 - 2. ORCP 7: Clarification of Service of Process (when to use 1st 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) (carried over from October 1, 2011, agenda)

VII. Adjournment