

AMENDMENTS

TO ORCP 8

promulgated by

COUNCIL ON COURT PROCEDURES

1980 to 2016

RULE 8

PROCESS

A. Process. All process authorized to be issued by any court or officer thereof shall run in the name of the State of Oregon and be signed by the officer issuing the same, and if such process is issued by a clerk of court, the seal of office of such clerk shall be affixed to such process. Summonses and subpoenas are not process and are covered by Rules 7 and 55, respectively.

B. Where county is a party. Process in an action where any county is a party shall be served on the county clerk or the person exercising the duties of that office, or if the office is vacant, upon the chairperson of the governing body of the county, or in the absence of the chairperson, any member thereof.

C. Service or execution. Any civil process may be served or executed on Sunday or any other legal holiday. No limitation or prohibition stated in ORS 1.060 shall apply to such service or execution of any civil process on a Sunday or other legal holiday.

D. Telegraphic transmission of writ, order, or paper, for service; procedure. Any writ or order in any civil action, and all other papers requiring service, may be transmitted by telegraph for service in any place, and the telegraphic copy as defined in ORS 757.631, of such writ, order, or paper so transmitted may be served or executed by the officer or person to whom it is sent for that purpose, and returned by such officer or person if any return be requisite, in the same manner and with the same force and effect in

all respects as the original might be if delivered to such officer or person. The officer or person serving or executing the same shall have the same authority and be subject to the same liabilities as if the copy were the original. The original, if a writ or order, shall also be filed in the court from which it was issued, and a certified copy thereof shall be preserved in the telegraph office from which it was sent. In sending it, either the original or a certified copy may be used by the operator for that purpose.

E. Proof of service or execution. Proof of service or execution of process shall be made as provided in Rule 7 F.

COMMENT

This rule is based primarily on ORS 16.760, 16.820, 16.830, and 16.840. A separate section for process is necessary, as subpoenas and summonses not issued by a court are not court process. The only substantial change is section 8 C., which is the modification of ORS 16.830 suggested to the last legislature by the Oregon State Bar. ORS 16.880 and 16.765 are eliminated entirely. The rule only covers matters relating to process presently in ORS Chapter 16. Persons who may serve process and manner of service are covered in the various sections of ORS relating to such process. The Council plans to consider other rules relating to process in the future.

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