

**MINUTES OF MEETING**  
**COUNCIL ON COURT PROCEDURES**  
 Saturday, April 11, 2026, 9:30 a.m.  
 Zoom Meeting Platform

**ATTENDANCE**

Members Present:

Hon. Benjamin M. Bloom  
 Hon. Andrew Erwin  
 Hon. Christopher L. Garrett  
 Barry J. Goehler  
 Hon. Jonathan R. Hill  
 Melissa Hopkins  
 YoungWoo Joh  
 Lara Johnson  
 Eric Kekel  
 Derek Larwick  
 Julian Marrs  
 Hon. Thomas A. McHill  
 Hon. Michelle McIver  
 Hon. Melvin Oden-Orr  
 Bryce Whitman Passadoré  
 Hon. Robert Raschio  
 Michael Shin  
 Tom Spooner  
 Hon. Todd Van Rysselberghe  
 Alicia Wilson

Members Absent:

Nadia Dahab  
 Ryan Jennings  
 Hon. Scott Shorr

Guests:

Matt Shields, Oregon State Bar  
 Rachel Trickett, Oregon Judicial Department

Council Staff:

Shari C. Nilsson, Executive Assistant  
 Hon. Mark A. Peterson, Executive Director

ORCP/Topics Discussed this Meeting	ORCP/Topics Discussed & Not Acted on this Biennium		ORCP Amendments Promulgated this Biennium	ORCP/Topics to be Reexamined Next Biennium
<ul style="list-style-type: none"> <li>• ORCP 7</li> <li>• ORCP 9</li> <li>• ORCP 24</li> <li>• ORCP 36</li> <li>• ORCP 37</li> <li>• ORCP 38</li> <li>• ORCP 47</li> <li>• ORCP 67</li> </ul>	<ul style="list-style-type: none"> <li>• ORCP 60</li> <li>• Abusive Litigants in Probate Proceedings</li> <li>• Arbitration</li> <li>• Clarity</li> <li>• Civil Motion Practice</li> <li>• Contempt</li> <li>• Default Orders/Judgments</li> <li>• Depositions</li> <li>• Disclosures</li> <li>• Discovery</li> <li>• Ex Parte</li> </ul>	<ul style="list-style-type: none"> <li>• Federalization</li> <li>• Guardians Ad Litem</li> <li>• “How To” Guides</li> <li>• Offers of Judgment</li> <li>• Pleadings</li> <li>• Receiverships</li> <li>• Remote Appearance</li> <li>• Security Bonds</li> <li>• Self-Represented Litigants</li> <li>• Subpoenas</li> <li>• Summary Judgment</li> </ul>	<ul style="list-style-type: none"> <li>• Timelines</li> <li>• Trial Practice</li> <li>• Uniform Collaborative Law Act</li> <li>• UTCR</li> </ul>	

I. Call to Order

Mr. Goehler called the meeting to order at 9:30 a.m.

II. Approval of March 14, 2026, Minutes

Mr. Goehler called the Council's attention to the draft minutes from the March 14, 2026, meeting (Appendix A) and asked whether there were any suggestions for corrections. Mr. Joh asked for a clarification of his statement on page 10 of the draft minutes. He suggested that the sentence that reads, "Mr. Joh asked whether the committee had considered the fact that the defendant who is trying to bring in a third party would still have a claim, even if it is not within that case," would better read, "Mr. Joh asked whether the defendant who is trying to bring in a third party would still have a claim, even if it is not within that case."

Mr. Goehler asked for a motion to approve the minutes as amended. Judge Raschio made such a motion, Ms. Johnson seconded, and the motion was approved by voice vote.

III. Administrative Matters

A. Staff Comments

This topic was carried over to the May agenda.

IV. Old Business

A. Committee Reports

1. Declaration of Expert Opinion/Rule 47 E

Mr. Joh reported that the committee had met on March 23, 2026. He stated that the bulk of the discussion regarded a concern about the procedure in considering changes to the ORCP that were not raised in the Council's biennial survey. The attending members of the meeting voted 4-2 to recommend that the Council dissolve the committee. The committee's report (Appendix B) lays out some of the issues discussed. Mr. Joh explained that the report is not intended to serve as minutes of the meeting but, rather, a summary. At least one member wanted to include a summary of the substantive issues that he raised at the meeting, and that is included in the report. Another member had followed up in comments by email after a draft report was circulated, and that is also included.

Mr. Joh stated that he also included proposed edits to the report by Ms. Hopkins, and welcomed her to speak on that if she wished. Mr. Goehler asked Mr. Joh to further explain the parts of the report that were stricken through and in red text. Mr. Joh stated that the red line portion was the edited summary

submitted by Ms. Hopkins. He stated that he wanted to be sure to include her thoughts on what the report should reflect.

Judge Peterson asked to clarify the record due to the amount of consternation there has been with regard to how proposals for amendment to the Oregon Rules of Civil Procedure (ORCP) come to the Council. He explained that there is no rule or law that states that ideas need to be presented to the Council at the time of the biennial survey and at no other time. The biennial survey was not even a tool of the Council at the time he started as Executive Director. When he came on board, funds were tight with the state, the Council had irritated a lobbyist, and the Council had been zero funded for a biennium. The Legislature gave the Council a list of things to do as a state agency, one of which was to meet some key performance measures. The requirement to meet those measures has now gone by the wayside, but one measure that the Council has found to be useful and has kept doing is to conduct a survey of its performance. It has become not only a tool to measure performance but, also, a good way to bring in ideas from trial and appellate judges and members of sections and committees of the bar that are liable to have dealings in the state courts.

In this instance, the suggestion for a change to ORCP 47 E came to the Council via Judge Peterson after the survey. He does not solicit ideas from judges; however, some of the Multnomah County judges know of his work with the Council and will send him ideas from time to time. Judge Peterson noted that the survey brings both good ideas and inane ideas. It also brings suggestions for changes that were already made in previous biennia from lawyers who do not read the ORCP very carefully. The survey, therefore, ought not to be held up as something that is incredibly important. Judge Peterson stated that he has no position on whether the Council should make a change to Rule 47 E. However, the issue should be considered on its merits and not based on the method by which it was received by the Council.

Mr. Goehler thanked Judge Peterson for that explanation, which he suggested incorporating into the agenda for the first meeting of each new biennium. He stated that, in his 7 years on the Council, ideas for change have come from many places, including the survey, appellate court opinions inviting consideration, members of the public, members of the bar, colleagues of Council members, past Council members, and current Council members. The Council is broader rather than narrower in terms of where its input comes from. Mr. Goehler opined that it is good to remind ourselves of that. Likewise, as far as when an idea comes in, it is not necessary for it to happen at the beginning of the biennium, but that is a plus. A new suggestion toward the end of the biennial cycle that requires substantial research and effort may not be something that is reasonable for the Council to be able to take on until the following biennium. So, it is less a stricture of whether an idea came in through the survey and more just a reality of whether the Council is able to do the work necessary on a

suggestion within the limited time it has.

Ms. Hopkins clarified that the committee did discuss the substantive issues, and this is why she wanted to include Mr. Jennings' notes about them in her edits to the report. She stated that the vote of the committee reflects not only the discussion about how the issue came before the Council but, also, whether or not it actually is an issue that the Council should address. She wanted Mr. Jennings' comments to be included in the body of the report and not as an afterthought. She stated that four committee members chose to vote to disband the committee. Mr. Goehler asked Ms. Hopkins for a summary of the rationale for disbanding the committee. Ms. Hopkins stated that, in a nutshell, there is already a mechanism in the rule, section G, to address the issue of a false declaration being filed to thwart the motion for summary judgment. She stated that, if another Council member thinks differently, they need to explain why the way the rule is written right now is insufficient.

Mr. Shin stated that he is a committee member who was unable to attend the meeting. He noted that the report discusses what happened during the meeting, but he wanted to raise a procedural issue. He expressed concern over the fact that a plaintiff's side member of the committee made a motion to disband the committee and that all the members who voted to do so are on the plaintiffs' side, and the only other committee members present were one defense side member and one judge. He also raised a concern as to whether a committee can internally decide to disband on a motion from a committee member without the issue being heard and fully presented to the Council. Mr. Goehler thanked Mr. Shin for raising this issue and noted that, ultimately, the Council formed the committee and it is the Council that will decide whether to disband the committee or whether to move forward. He stated that he interprets the vote as a recommendation from the majority committee members to stay with the status quo. Mr. Goehler asked whether the Council wished to discuss the matter further.

Judge Peterson stated that he does not have a vote or a stake in the matter but, in terms of the purpose of the rule and the perceived problem, he wondered whether anyone has any data about how many cases are resolved by settlement as opposed to by trial. His guess would be that many more cases are resolved by settlement. He wondered how Rule 47 G comes into play if a Rule 47 motion is successfully thwarted and the case is then settled.

Ms. Johnson agreed with Mr. Goehler that the vote of the committee was to recommend that the committee table any further discussion to the Council as a whole. She stated that Rule 47 G does provide a solution, if there is a belief that there was a bad faith use of a Rule 47 E affidavit. She stated that she does not know if someone can better answer Judge Peterson's inquiry, but she thinks that, if the parties completely and totally resolve a case by settlement and

general dismissal, there will not be any remaining issues about how that settlement was achieved. She stated that she has never seen a party go back and attempt to raise questions about the legitimacy of a Rule 47 E affidavit after a general dismissal is entered and that she does not foresee it happening. Mr. Goehler agreed that settling the case means settling all issues and he did not see this as an issue.

Mr. Joh stated that he would like to provide his understanding of how the committee meeting proceeded. He agreed that there were substantive concerns that various members raised. He did not think that they were discussed in particular detail because the vote, as described in the report, was about tabling the issue because some of the members were concerned that the committee was looking for a problem. On some level, he thinks that discussion of the substantive concerns was somewhat premature, because there was no actual proposal for a substantive change before the committee. The committee's previous idea of conducting a survey was to find out what the specific concerns were before thinking about whether there were any changes that were appropriate to consider. That is among the reasons why he voted no on disbanding the committee. Mr. Joh pointed out that Judge Eric Dahlin had a concern, and it seems to him that the fact that the Council did not hear widespread complaints from the defense bar or otherwise in the survey is not necessarily indicative of there not being changes that can be made that would be good for the bench and bar.

Ms. Hopkins stated that her reason to table the issue is because it appeared that the committee was seeking to find things to change, rather than addressing needs expressed by practitioners. To her, that is a clear line that she found to be problematic, and why she agreed with Mr. Jennings' discussion in the committee report about how there is already a way to address concerns in the rule itself.

Mr. Marrs stated that he is a committee member but had been unable to attend the last meeting. His recollection from the committee meeting prior to that was that the committee had not actually focused on the concerns that Judge Dahlin expressed and determined definitively whether there is a problem with the rule. His understanding of Judge Dahlin's concerns boils down to two points. The first is that there is an incongruity between the Rule 47 E's use of the word "require," and what the appellate case law says the word means, so the rule should perhaps be conformed to what the appellate cases say. The second is, if there is reason to believe that there has been a bad faith affidavit made, what record does the court actually have to go back and look at to make that determination? In the case that Judge Dahlin references, it seems that he just used his best judgment, which may work most of the time, or all of the time, but the real next question is whether there should there be a mechanism in place for crystallizing what an expert actually has opinions on that will create an issue of fact so that the court has a record to go back and look at. He stated that he did not believe

that the committee has fully discussed and resolved whether there is an issue or not. He expressed concern that the necessary substantive review has not been done so that, if somebody went back and looked at the minutes, they could be assured that the Council has determined that the current language in the rule works. He stated that he would have voted no on dissolving the committee, because he does not think that the committee has done the work it was formed to do.

Judge Peterson noted that, at the first Council meeting, there was a suggestion regarding Rule 47 and when the expert's file should be disclosed. He noted that some Council members said that it is always the day before. However, it does not seem to be uniform, and Judge Peterson recalled that Mr. Joh had mentioned that it is confusing from court to court. Judge Peterson pointed out that this is clearly a procedural matter. He suggested that perhaps a change could be made to indicate that the expert file will be disclosed either by stipulation or by motion, so that everyone knows that either the parties stipulate or that somebody files a motion and the court will decide. Mr. Goehler recalled that there was some discussion about whether the expert file at trial testimony is tethered to the rule of evidence on expert testimony or whether it is tethered to trial court rules. If the Council puts an expert discovery rule into the ORCP, that would be a big change. Mr. Goehler stated that his thought is that it is probably tethered to a rule of evidence and trial practice.

Mr. Joh stated that, with respect to Judge Peterson's discussion of the expert file, he did not think that was within the scope of what the committee was looking at because it was not part of Judge Dahlin's suggestion. He stated that, the last time that issue came before the Council, the Council decided not to pursue it. Mr. Joh also pointed out that it was not a majority of the committee that voted to recommend disbanding the committee but, rather, a majority of the members present. He stated that he agreed with Mr. Marrs' articulation of the two primary issues raised by Judge Dahlin, and agreed that the committee did not really get into discussion of that, primarily because of the belief of the members that voted to dissolve the committee that, if there was an actual issue or concern, it would have come up in the biennial survey.

Ms. Johnson stated that she believes that Judge Shorr has addressed the second point that Mr. Marrs raised, which is the extent to which there needs to be clarification on the word "required." It was Judge Shorr's view that there has been appellate case law that provides clear guidance to practitioners on the context of that word. She stated that she does not believe that there needs to be clarification on that. She noted that she has been practicing for over 30 years and, in her experience, she has never had a practitioner bring a Rule 47 G allegation against her that a Rule 47 E affidavit was made in bad faith. She does not foresee that procedure being used because she thinks that Oregon practitioners, generally, submit those affidavits in good faith. She stated that her

concern was not merely the means by which the issue was brought to the attention of the Council. Firstly, she does not believe that there is a problem based on personal experience and the experience of her colleagues. Secondly, she thinks that starting with the expectation that Oregon practitioners are practicing in bad faith cheapens the practice of law in Oregon and ignores the common courtesies that are now exchanged within the bar.

Mr. Passadoré noted that the committee report states that any changes to the rule would be a solution in search of a problem that would increase costs and burden plaintiffs. He wondered why the Council would create new procedural hurdles that favor the defense based on an isolated complaint, rather than waiting to hear from the actual public and practitioners in the biennial survey.

Judge Hill observed that there seem to be strong feelings on different sides about this issue. He pointed out that nothing needs to be decided today. He suggested pausing and thinking about the suggestion of the committee and revisiting the issue at the next Council meeting. He noted that Judge Peterson has some good points that helped him to think about what Judge Dahlin was suggesting, and that there might be a need for some change.

Mr. Goehler agreed that this was good idea. He stated that this is a big issue and that any changes may have repercussions. He asked Ms. Nilsson to keep the item on the agenda for May. He noted that the committee is welcome to meet again if it wishes to, but that it is not necessary. He thanked the committee for its work so far.

## 2. Joinder/Rule 24

Judge Peterson reported that the draft amendment to Rule 24 before the Council (Appendix C) had already been approved by the Council for the September publication agenda, but that it had been placed on the agenda again so that it could be reviewed to ensure that no unintended consequences would arise from the changes.

Mr. Passadoré asked whether this proposed amendment would negatively affect a self-represented tenant's time to prepare for trial when they join a legitimate, equitable claim to an eviction action. Judge Peterson explained that, the way the rule is written, it prevents a plaintiff landlord from stacking on any claim other than a claim for possession, which is what receives the summary FED process. He stated that a tenant is permitted to raise certain counterclaims pursuant to ORS 90.370 and that, with those counterclaims included, the case remains on the summary track. The tenant can either join a claim or, if they feel they will not have sufficient time to prepare it adequately during a summary FED trial, they can choose to bring it as a separate claim.

Mr. Goehler pointed out that the publication vote will not be taken until September, so there is still time to consider whether any approved draft amendment raises any unintended consequences.

### 3. Judgments/Rule 67

Mr. Kekel stated that Council staff had incorporated new suggestions into the previous draft of Rule 67 that the committee had met and discussed. Judge Peterson pointed out that one obvious change in the new draft (Appendix D) from the previous version was to move the new proposed language regarding recitation of prior judgments from section B to a new section C. He stated that the new language did not fit very well into section B and that this version seems cleaner. Judge Peterson noted that, at the last Council meeting, there was concern about a difference in the language regarding recitation in regular judgments versus supplemental judgments. He stated that the two sentences regarding recitation are now parallel in requiring the date of entry of any previous judgment that has not been vacated, and not the substance. He recalled that there had been discussion within the committee and the Council that it might be nice to require inclusion of information such as limited judgments dismissing parties; however, there had been concern expressed that this could cause an impasse over whether the form of judgment is satisfactory. The new language takes it down to the minimum and, for supplemental judgments, does not require that every judgment not vacated prior to the general judgment to be listed.

Mr. Goehler stated that the new language reads more clearly to him and that it makes sense on the supplemental judgment side. It makes clear that a recitation of the substance of the judgment is not required. Judge Raschio stated that he appreciates the committee's work and thinks that the new language will be perfect for courts, particularly with longer domestic relations cases, and make their work easier. He made a motion to put the draft amendment on the publication agenda for September. Judge Hill seconded the motion.

Mr. Joh asked for clarification as to the difference in what is required of a supplemental judgment versus any other form of judgment. Mr. Goehler stated that his understanding is that the first sentence requires recitation of the date of all the prior judgments in order to keep track of what has happened before. However, with a supplemental judgment, there is no need to do a recitation of every past judgment, just back to the general judgment, because that is the only reference point that is needed. The general judgment disposes of all claims and all parties, but a supplemental judgment is usually just related to fees and costs or something along those lines so it only needs to refer back to the one general judgment. Judge Peterson and Mr. Kekel agreed with this assessment. Mr. Joh thanked them for this explanation and likened the requirement for supplemental judgments to the Cliff Notes version.

Mr. Passadoré agreed that the draft amendment might be convenient for judges, but expressed concern that a self-represented litigant trying to finalize a divorce or a protective proceeding might fall into an administrative trap if they were to miss listing a judgment, for example. He wondered whether a clerk would reject their final judgment if this were to happen. He did not want to prioritize judicial convenience over the public's ability to actually finish their case. Mr. Goehler pointed out that the public will also be on the receiving end judgments and will receive the benefit of having a summary of all judgments in front of them by the other party. He noted that, ultimately, the judge is going to be the one that signs a final judgment, so the accuracy is on the judge. Judge Peterson agreed that it is more work on whoever prepares the judgment. One of the points is to make sure that the party that submits the judgment does not miss anything. The judge will take a look at it, but it is up to both parties to sign off that it is an accurate statement.

Ms. Wilson stated that another thing that actually could benefit self-represented parties is having the history clearly laid out to assist with contempt or enforcement. Particularly with two self-represented parties, it would avoid one party later saying that they did not realize, for example, that a previous judgment had been modified. That argument would be diminished in a contempt procedure.

Mr. Goehler called for a vote on Judge Raschio's motion to put the proposed amendment on the September publication agenda. The motion was approved by voice vote with one vote in opposition.

#### 4. Out-of-State Depositions/Rule 38 C

Mr. Goehler reminded the Council that it had discussed Judge Peterson's proposed changes to Rule 38 (Appendix E) at the March meeting and had agreed that they were positive. However, since Ms. Wilson was not present at that meeting, the draft was carried over to the April meeting so that she could weigh in. Ms. Wilson thanked Judge Peterson for presenting those changes, which made sense to her. She suggested that the draft can be put on the September publication docket.

Judge Peterson stated that he believes that the changes help solve the issue brought to the Council by Mr. Kekel's partner: that the current Rule 38 does not spell out exactly what is required for those states that are not "states" under the rule because they have not adopted the Uniform Interstate Discovery and Deposition Act.

Judge Hill made a motion to move the draft to the September publication agenda. Judge Raschio seconded the motion, which was approved unanimously by voice vote.

## 5. Post-Judgment Subpoenas/Rule 55

Mr. Passadoré stated that the committee had met on March 31, 2026, and reviewed drafts of Rule 36 and Rule 55 (Appendix F). Among other matters, they discussed whether the phrase “action is pending” in Rule 55 allows for post-judgment subpoenas. He stated that he had expressed concern about clarifying the rule so that a self-represented litigant can confidently use a subpoena to collect what they are legally owed without being outmaneuvered by an attorney finding loopholes.

Judge Peterson noted that a committee member had wondered whether the word “action” covers everything, including probate cases. He stated that his assumption is that it does, but there was some discussion about how all-encompassing the word is. Mr. Goehler stated that he believes that there is a statutory definition of action. Mr. Marrs agreed and stated that Judge Erwin had found both the rule-based (ORCP 2) and statutory definition and resolved that issue.

Judge Peterson stated that this was a fairly well-written suggestion that came from the biennial survey and noted that both Rule 36 and Rule 55 might be implicated. He stated that there was a proposal with Rule 36 that might be sufficient to get the job done, but that he had also taken a look at Rule 55 in case a “belt and suspenders” approach is needed. He pointed out, however, that he thinks that the Council agreed at its last meeting that an action is still pending post-judgment, and that the court has the authority to enforce its judgments, so the Rule 36 proposed change may be sufficient. Mr. Goehler agreed that his recollection was that the Council’s consensus was that a change to Rule 36 would be sufficient. Judge Peterson stated that he hopes that the reference to Rule 55 in the proposed new subsection B(4) will be sufficient to address the concern that was raised.

Judge Peterson noted that he had raised a few additional questions in the committee’s report (Appendix F). One issue is whether judgments are immediately enforceable. He believes that they are, unless there is a stipulation between the parties, in which case this does not become a problem, or unless the court, in its discretion, stays execution of the judgment. Another question is what happens if there are multiple judgment debtors and one has a satisfactory undertaking but another does not. The committee thought that question should be flagged for the Council. He stated that it seems to him that, if any defendant has an adequate undertaking on a judgment with joint and several liability, that would take care of it. However, if defendants have apportioned liability, a particular judgment debtor’s undertaking would not necessarily protect the judgment creditor. He wondered whether the language needs to be modified to clarify that particular instance.

Mr. Larwick stated that he is a member of the committee and that he thinks it would be helpful for the committee to meet again to discuss some of these issues. Mr. Goehler agreed that this is a good idea. He suggested that the number one issue is whether the changes to Rule 36 are sufficient or whether something needs to be done with Rule 55. Judge Peterson asked any Council member who has experience with multiple judgment debtors to share that with the committee.

6. Service/Rules 7, 9, & 10

Judge Raschio reported that the committee was suggesting final changes to the summons language to the Council (Appendix G). He stated that there are also style and usage changes throughout Rule 7, such as to eliminate the word “shall,” and he thought that these are accurate based on past Council conversations and do not need to be discussed again. He stated that he believes that Rule 7 may be ready for the publication docket.

Judge Raschio stated that this is his first year on the Council and that he appreciates the amount of work and effort and thought that goes into each of these rules, and that he looks forward to seeing them all litigated in his courtroom at a later time.

Judge Peterson countered that he was not sure that Rule 7 is quite ready for the publication docket. He noted that Council staff and the committee have spent time on it between the last iteration and this one. The person who made the suggestion about cleaning up the summons from the biennial survey pointed out that some people are respondents, not defendants, so a change has been made to encompass both. It is now also now mentioned that there *may* be a filing fee. It is also made clear where the response should be filed – the court listed at the top of the summons. Changes have been made to all three summonses in the rule. Judge Peterson noted that there were some things missed in the changes to the second and third summons form in this draft that will need to be fixed.

Mr. Goehler suggested that the committee take another look and create a revised draft and bring it back to the Council next month for review and vote. Judge Raschio stated that the committee may not have to meet but, rather, may be able to circulate a new draft by email and vote on it.

Ms. Nilsson asked Council members for an opinion on the language on all three summonses that reads “Notice to Defendant.” She noted that a summons does not always go to a defendant and asked whether language such as “Notice to Recipient” would be more appropriate. Mr. Goehler suggested simply, “Notice.” The Council agreed.

Judge Peterson noted that he had made a suggestion for an amendment to Rule

9 that the committee had not agreed with. However, in reviewing the rule for that unsuccessful amendment, staff had made some cleanup changes, including removing indefinite pronouns to make the rule easier to read and changing some instances of the word “shall.” There is one change that defines personal service as well. None of the changes are intended to change the function of the rule, just to make it more readable, user-friendly, accurate, and consistent with modern drafting standards. He asked the Council to look carefully at the proposed draft of Rule 9 before the next meeting to ensure that it does not do any unintended harm.

#### 7. Third Party Practice/Rule 22

Mr. Goehler stated that Ms. Dahab had let him know that she was unable to attend today’s meeting and that she had asked that the Council not have any substantive discussion on the matter. The committee is still considering whether to recommend any changes to the Council.

#### B. Rule 37

Judge Peterson reminded the Council that the changes to Rule 37 (Appendix H) had been made because, initially, the post-judgment discovery committee had inserted some proposed language into that rule as an alternative to placing that language in Rule 36. Ms. Nilsson had noticed how poorly written the rule was in terms of Council standards and had asked to make some stylistic changes not intended to change the function or meaning of the rule. Staff wanted to ensure that the Council had enough time to review the rule to ensure that there are no unintended consequences.

Ms. Nilsson suggested including the draft on the May agenda as well to allow enough time for review. Mr. Goehler asked Ms. Nilsson to circulate the draft early. She stated that she would get an advance meeting packet out immediately after this meeting with the items that are already set so that everyone has plenty of time to review them.

#### C. Recommendation to Legislature re: ORS 46.415 - Making ORCP 35 Applicable in Small Claims Cases

Judge Peterson reported to the Council that its proposed change to ORS 46.415 is set for hearing before the Public Affairs Committee of the Oregon State Bar’s Board of Governors on April 16, 2026, at 4:00 p.m. He noted that he would be on an airplane at that time, so he had asked a former Council member, Judge Susie Norby, the principal drafter of Rule 35, to make a presentation. She is trying to clear her calendar. Judge Peterson asked whether any Council member would be available if Judge Norby is unable to present. Mr. Goehler stated that he would make himself available if Judge Norby is unable to do so.

#### V. New Business

#### A. Address Confidentiality Program and Service

Judge Peterson explained that a self-represented litigant with a protected address under Oregon's Address Confidentiality Program (ACP) had written to the Council with a problem she had encountered (Appendix I). Apparently the other side would not honor the provisions of the program, and the court had admonished her for trying to insist on her efforts to maintain her address as confidential. Judge Peterson stated that he is not familiar with the statute that established the ACP but, after a brief review, it appears that it allows victim of domestic violence or trafficking and certain other people, including some public officials, to use the Oregon Judicial Department (OJD) as their address rather than their personal address in order to protect their privacy for public records such as the Department of Motor Vehicles. He stated that he was unsure as to whether this would also be applicable to service in private litigation.

Mr. Goehler stated that he could see where it could be problematic to have a protected address that becomes part of a court file. Mr. Joh stated that he does not know whether the statute specifically applies to the courts. He looked at the statute and it relies on the definition of "public body," which does include a state governmental body, which presumably would include the OJD. Mr. Goehler stated that it is probably a good idea for the Council to take a look at the issue but, at this late stage of the biennium, the Council will likely not be able to devote the brainpower and research necessary to determine whether something can be done and whether the Council is the appropriate body to do it. If changes to the ORCP are appropriate, changes to many rules may be needed.

Judge Raschio stated that the OJD has been dealing with confidentiality issues in a couple of its other programs and has also been encountering questions with blue sky laws. He suggested that this may be a larger issue than just the ORCP. He agreed with Mr. Goehler that it may be too late in the biennium to take any action and suggested setting it over to the agenda for the first meeting of the next biennium. Mr. Goehler observed that there are also stakeholders outside of the civil litigation world, so the Council would be wise to study the matter carefully.

Judge Peterson asked whether one or two Council members might be willing to take a preliminary look to at least determine whether the statute means that a private litigant in a case cannot serve the defendant at their home address, or whether it means that the court has to redact that information in the public record. His first impression was that the statute does not appear to be directed toward private litigants, but agreed that the court is an agency of the state. If the Council were able to at least determine whether the statute applies to service in civil litigation, it could respond to the person who made the suggestion and let them know that the Council will look further into the issue next biennium or, alternately, point them in the appropriate direction.

Mr. Goehler noted that one pragmatic way to resolve the problem for a person in the

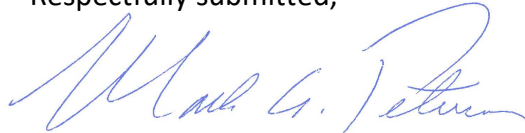
ACP might be to obtain a protective order to protect their address. He asked whether there were any volunteers to do some initial research into the issue and report back to the Council. Ms. Wilson volunteered. Judge Raschio suggested that Ms. Wilson reach out to Jackson County's Victims Assistance Program. She stated that she works in that office, so that will be convenient. Mr. Shields stated that, while he is not a member of the Council, he might look into the issue a bit as well.

Judge McIver noted that there has been a significant increase of Artificial Intelligence-generated civil lawsuits involving parties with domestic relations issues and restraining orders, and that this may be an interesting question to tackle more thoroughly in the future. Mr. Goehler agreed that this is an interesting issue. Judge Peterson noted that this has been an issue in the Court of Appeals.

#### VI. Adjournment

Mr. Goehler adjourned the meeting at 10:52 a.m.

Respectfully submitted,



Hon. Mark A. Peterson  
Executive Director

**DRAFT MINUTES OF MEETING**  
**COUNCIL ON COURT PROCEDURES**  
 Saturday, March 14, 2026, 9:30 a.m.  
 Zoom Meeting Platform

**ATTENDANCE**

Members Present:

Hon. Benjamin M. Bloom  
 Nadia Dahab  
 Hon. Andrew Erwin  
 Hon. Christopher L. Garrett  
 Barry J. Goehler  
 Hon. Jonathan R. Hill  
 Melissa Hopkins  
 Ryan Jennings  
 YoungWoo Joh  
 Lara Johnson  
 Eric Kekel  
 Derek Larwick  
 Julian Marrs  
 Hon. Thomas A. McHill  
 Hon. Melvin Oden-Orr  
 Hon. Robert Raschio  
 Michael Shin  
 Hon. Scott Shorr  
 Tom Spooner

Members Absent:

Hon. Michelle McIver  
 Hon. Todd Van Rysselberghe  
 Bryce Whitman Passadore  
 Alicia Wilson

Guests:

Matt Shields, Oregon State Bar  
 Rachel Trickett, Oregon Judicial Department

Council Staff:

Shari C. Nilsson, Executive Assistant  
 Hon. Mark A. Peterson, Executive Director

ORCP/Topics Discussed this Meeting	ORCP/Topics Discussed & Not Acted on this Biennium			ORCP Amendments Promulgated this Biennium	ORCP/Topics to be Reexamined Next Biennium
<ul style="list-style-type: none"> <li>• ORCP 7</li> <li>• ORCP 9</li> <li>• ORCP 24</li> <li>• ORCP 36</li> <li>• ORCP 37</li> <li>• ORCP 38</li> <li>• ORCP 47</li> <li>• ORCP 67</li> </ul>	<ul style="list-style-type: none"> <li>• ORCP 60</li> <li>• Abusive Litigants in Probate Proceedings</li> <li>• Arbitration</li> <li>• Clarity</li> <li>• Civil Motion Practice</li> <li>• Contempt</li> <li>• Default Orders/Judgments</li> <li>• Depositions</li> <li>• Disclosures</li> <li>• Discovery</li> <li>• Ex Parte</li> </ul>	<ul style="list-style-type: none"> <li>• Federalization</li> <li>• Guardians Ad Litem</li> <li>• “How To” Guides</li> <li>• Offers of Judgment</li> <li>• Pleadings</li> <li>• Receiverships</li> <li>• Remote Appearance</li> <li>• Security Bonds</li> <li>• Self-Represented Litigants</li> <li>• Subpoenas</li> <li>• Summary Judgment</li> </ul>	<ul style="list-style-type: none"> <li>• Timelines</li> <li>• Trial Practice</li> <li>• Uniform Collaborative Law Act</li> <li>• UTCR</li> </ul>		

I. Call to Order

Mr. Goehler called the meeting to order at 9:30 a.m.

II. Approval of February 7, 2026, Minutes

Mr. Goehler called the Council's attention to the draft minutes from the February 7, 2026, meeting (Appendix A) and asked whether there were any suggestions for corrections. Hearing none, he asked for a motion to approve the minutes. Judge Raschio made such a motion, Ms. Dahab seconded, and the motion was approved by voice vote.

III. Administrative Matters

A. Staff Comments

This topic was carried over to the April agenda.

IV. Old Business

A. Committee Reports

1. Declaration of Expert Opinion/Rule 47 E

Mr. Joh reported that the committee had not met since the February Council meeting. He reminded the Council that Judge Odin-Orr had drafted a survey with the intent of having the Council consider it and, at the last Council meeting, some Council members had suggested having the Council approve any survey with the intent of distributing it to judges at the Oregon Circuit Court Judges Association April conference. There was also a suggestion that the committee spend more time considering Judge Dahlin's concerns before even proposing a survey. Mr. Joh stated that he expects that the committee will discuss those issues at the next meeting and, with that in mind, it may be that there will not be a survey to propose to the Council at the April meeting. Mr. Goehler stated that it is important to make sure to be deliberate in what we are doing. He opined that it is more important to get things right than to have a survey ready in time for the judges' conference. The Council agreed.

2. Joinder/Rule 24

Judge Peterson stated that the Council had previously voted to put a draft amendment to Rule 24 on the September publication agenda, but that there had subsequently been feedback by Judge Susie Norby, who had originally suggested changes, so a revised amendment (Appendix B) had been approved for the September agenda. He explained that Council staff wanted to keep the draft on the agenda so that the Council could again review it to ensure that the

changes do no unintended harm.

Mr. Goehler reminded new Council members that each draft that is approved for the September agenda will be essentially in final form and will be part of the September meeting packet to be voted on for publication.

### 3. Judgments/Rule 67

Mr. Kekel reported that the committee had met. He reminded the Council that the committee had originally provided two alternative draft amendments to Rule 67 that would require including in a judgment any previous judgments that had been entered in the case. During the last committee meeting, the committee agreed that the language in Appendix C was preferable, and that is the language being recommended to the Council for feedback.

Mr. Kekel acknowledged some concern with trust and estate cases. He stated that he had checked with his partners who practice in that area and, at the end of the day, those practitioners do not necessarily follow Rule 67 because the probate statutes have their own requirements when it is time to close an estate. He noted that there may be an issue with respect to protective proceedings and that is probably something that the committee needs to look at a little further.

Mr. Goehler asked whether there are other concerns that need to be addressed, aside from the potential burden of needing to list a large number of prior judgments. Judge Peterson stated that he had contacted former Council chair Brooks Cooper, who specializes in probate. Mr. Cooper checked with his law partner, and they expressed no concern with regard to probate. There was some concern that Oregon Revised Statute (ORS) 111.200(2) and 111.200(3) make certain of the ORCP explicitly applicable or inapplicable to probate practice, so some follow up may need to be done by the committee with regard to that. There is also the question of whether the proposed change would be burdensome in family law cases.

Mr. Goehler asked whether there are a lot of judgments in protective proceedings or whether things are mostly handled by orders. Judge Bloom replied that guardianship cases are resolved by judgment. He stated that there may be many judgments in the domestic relations area; however, he thinks that this would be a good change to Rule 67. Too many times, a judge is looking at a supplemental judgment that just changes a couple of things and, inherent in that silent language, is the fact that the other judgments remain in effect to the extent they have not been altered. There is no way of knowing without searching the entire docket. Of course, the length of the case will dictate how many judgments there are, but he opined that the amendment is appropriate.

Judge Hill stated that he does have some concerns about the draft amendment

in both domestic relations cases and guardianship cases, but he also thinks that the change would make things easier for judges. He stated that, in his opinion, the Council should approve the draft and send it out for comment. Overall, he thinks that it would be a positive change, but there could be a workload impact in domestic relations cases. Mr. Goehler asked whether Judge Hill was referring to practitioner or court workload. Judge Hill stated that he was referring to practitioner workload, as he believes that the change would make things easier for judges.

Mr. Joh wondered whether there is a danger of parties arguing that reciting the previous judgment supersedes the previous judgment. If there is an inconsistency in the recitation of the previous judgment entered, which wording controls? Mr. Joh asked whether some wording could be added to the draft language to clarify this. Ms. Hopkins agreed with Mr. Joh. She stated that she had something like this happen to her in a civil case in which many limited judgments had been entered along the way. She made an attempt to include past judgments to keep the court apprised and to track how the case was moving along, and it was an actual battle with defense counsel to include them, even though she used the exact language on the prior partial judgments. Mr. Goehler agreed that the language in the draft, "recite any previous judgment," might be a little vague. He wondered whether that means a verbatim recital or just the date entered.

Judge Bloom noted that the Oregon Judicial Department (OJD) provides judgment forms for self-represented litigants. The form includes a space for judgments, and he thinks that all that is required is the number and the date. He stated that this is enough to help the court figure out what limited judgments have been entered. He stated that he thinks that the language in the draft requires that only the date of entry of the judgment and each judgment entered thereafter needs to be recited. He recognized what Ms. Hopkins said about disputes, but pointed out that there is no rule now. If Rule 67 is amended, it should alleviate that problem and hopefully make things easier.

Mr. Kekel stated that any judgment needs to be ultimately approved by both parties, if they can agree. If not, then competing judgments are submitted and the court decides which one is most appropriate. He thinks it is a fair point that the language "recite any previous judgment," probably does need to be more specific. He asked if it would be helpful to change the language to, "recite the date and effect of any previous judgment." Judge Bloom disagreed with that language. Mr. Goehler stated that the word "effect" might lead more to the fear that Mr. Joh expressed about changing the substance of a judgment. Judge Bloom stated that he thinks that the current language in the draft is simple and easy to understand. It is designed to provide notice and prevent the problem of shuffling through the case file to figure out what provisions remain in effect.

Mr. Goehler noted that the last sentence of the proposed language provides specifics for a supplemental judgment. He wondered what the scope of the recital is and whether it should be broader, considering that there could be both limited and general judgments. He also wondered why the last sentence is limited to supplemental judgments. Judge Hill also wondered why the last sentence is limited to supplemental judgments.

Judge Peterson stated that, frequently, a supplemental judgment is for costs and attorney fees. In his mind, any general judgment that is recited in the document ratifies that the general judgment remains in effect, except to the extent, if any, that this particular judgment form changes it. His thought was that, with supplemental judgments, rather than go back to year one, we could just go back to the general judgment, which theoretically resolved all claims as to all parties. It was just a thought to make it a little easier to do supplemental judgments in situations such as costs and fees.

Ms. Nilsson noted that it is unclear in the first sentence of the draft language whether the intent is to have the *language* of any previous judgment recited, or just the date. Mr. Goehler pointed out that it is specified what a recital is for a supplemental judgment, but stated that there is a potential ambiguity for anything that is not a supplemental judgment. He stated that this would be good thing to nail that down for a final draft. Mr. Kekel agreed with Ms. Nilsson that the language is unclear. Judge Bloom pointed out that including limited judgments in the supplemental judgment would be burdensome and not really necessary or helpful. However, in the context where general judgments come into play, either in civil or domestic relations cases, it is helpful to know. This is why he thinks that the existing draft language requiring date of entry is sufficient.

Mr. Joh pointed out that there is ambiguity because there is a difference in the wording of the first sentence and the second sentence. Unlike the second sentence, the first sentence suggests that to recite the previous judgment is something different than reciting the date of entry of each judgment. He suggested that making the language parallel to the supplemental judgment wording might help with clarifying that. Judge Bloom agreed. Ms. Nilsson suggested the following language:

“The first paragraph of any form of judgment submitted by a party must recite the type and date of entry of any previous judgment entered in the action that has not been vacated and the date of entry of each such judgment.”

Judge Bloom stated that this language looked good and that consistency is important.

Judge Peterson asked the Council about another issue the committee had discussed. He noted that it may be helpful in some courts to include in the rule a requirement to identify the judge who is to sign the judgment. He stated that Multnomah County has a Supplemental Local Rule [SLR 5.035(3)] requiring the name of the specific judge to be included in the caption; however, that SLR is apparently not very often followed. He had a cursory look, but did not find a similar SLR in other counties. Judge Hill stated opined that this is an issue that is better handled in SLR. Judge Erwin agreed. He stated that Washington County does not have this problem because all cases are individually assigned.

Mr. Goehler also pointed out a typographical error in the last sentence of the proposed language: the word judgment has an extra "e." Ms. Nilsson stated that she would correct the error.

#### 4. Out-of-State Depositions/Rule 38 C

Judge Peterson reminded the Council that, at the February meeting, he had suggested that a simple change to Rule 38 C could make it a bit clearer that a party must do a little bit of looking to find out whether they can use the streamlined procedure for those states that have signed on to the Uniform Interstate Discovery and Depositions Act (UIDDA) or the slightly different procedure provided for cases filed in the outliers, such as Missouri. He referred the Council to an amendment he drafted (Appendix D). He noted that Council staff had also made some stylistic changes not intended to affect the operation of the rule.

Judge McHill stated that the committee had not met, but that this sounds like a reasonable clarification. Mr. Goehler asked whether the Council would like to vote on the draft now or whether the matter should be carried over to the April meeting. Judge Peterson suggested that, since Ms. Wilson was not present at the meeting, the matter be carried over to April to give her a chance to review the draft amendment. The Council agreed.

#### 5. Post-Judgment Subpoenas/Rule 55

Judge Peterson reported that the committee had not met since the February Council meeting. He stated that, after reading the minutes from that meeting, he realized that the change that the committee had proposed to Rule 36 could be further improved. He referred the Council to a new draft (Appendix E).

Judge Peterson stated that he thinks that the Council generally agreed on making clear that post-judgment discovery is available. However, the person who raised this issue in the Council survey pointed out that Rule 36 and Rule 55 could conceivably be, and have been, read to not permit it, although there is a statute that permits such discovery. At the February Council meeting, Judge

Shorr raised the issue of bonded appeals. Judge Peterson stated that it does seem that discovery probably should not be obtained if execution on the judgment has been stayed. In that case, it may not make a lot of sense to allow non-parties to be hailed in for discovery. There is an attempt to address that concern in the new draft, which may or may not have been successful.

Judge Peterson noted that Mr. Joh had suggested that there are two kinds of relief, monetary and injunctive, and had wondered whether this kind of discovery can be used in post-judgment enforcement in an injunctive relief case. Judge Peterson also wondered whether the lead line “Discovery in aid of judgment,” which was taken directly from the federal rule, could be a little more clear. He stated that those are the remaining issues on which he would like to have input from the Council.

Mr. Goehler stated that, if that federal language is being borrowed, it would be nice to know what the scope is. Are we basically adopting federal case law, or do we want to define it differently? He stated that the scope may be fine, but the Council needs to know what that scope is in order to make that determination.

Judge Peterson also raised another issue. The new draft language indicates that discovery may be obtained “as provided in these rules.” The person who raised the concern in the biennial survey mentioned that Rule 55 could also be read not to permit post-judgment subpoenas. He observed that the draft language should perhaps also include language about obtaining a subpoena. Mr. Goehler asked whether there is any discovery that would not apply. He stated that we could spell out the rules that apply if there are some that we want to leave out, or include a “notwithstanding” clause, rather than making any changes to Rule 55.

Judge Peterson stated that the committee would meet again to consider these issues and report back to the Council at the April meeting.

#### 6. Service/Rules 7, 9, & 10

Judge Raschio referred the Council to Appendix F and focused on the proposed changes to the summons in Rule 7. He stated that he had worked with Council staff to come up with some cleaner and more succinct language for the summons and to ensure that, even with the change from a minimum 8-point font to a minimum 12-point font, it still can fit on one page. He noted that this was a concern at the February Council meeting. Judge Peterson stated that Ms. Nilsson had prepared a summons with the proposed draft language in both 8-point and 12-point font so that the Council could see the difference. Mr. Goehler stated that the difference is so stark that he wondered why 12-point font was not required before.

Mr. Spooner stated that he agrees with requiring 12-point font. He pointed out that his firm and many other firms have historically prepared summonses in a two-column format, with the required Rule 7 language in 8-point font in one column and other information in a larger font in the other column. That is perhaps a more historical context of why 8-point font was used. Judge Peterson stated that he and Ms. Nilsson had formatted the summons to comply with the UTCR 2.010 standards for pleadings, although UTCR 2.010(4) does not require the same things of documents other than pleadings and motions. It was an exercise to see if a summons could still fit on one page with a 2-inch top margin and a large caption and with double spacing on pleading paper, which it could.

Judge Peterson stated that staff also looked through Rule 7 and found some other suggested changes, many of which had to do with replacing the word “shall” with other appropriate words. He asked that Council members take a close look at the draft amendment to make sure that all of the suggested changes do not do harm or alter how the rule is intended to be used. He stated that the committee would benefit from having another meeting to look at any Council feedback.

Mr. Spooner stated that the proposed changes of the word “shall” to the word “will” in subsection F(4) and section G caught his attention. He stated that there are a number of appellate cases on how trial courts are to deal with actual notice, and noted that “shall” is a fairly clear word, for the most part, with lawyers. With that appellate history, he had concerns about whether using the word “will” would open up a new round of appellate cases about what a trial court should do when there is not perfect service. Judge Peterson noted that the word “shall” has been interpreted as “may” in some cases, which is a bit of a shock, and that is one of the reasons that it has been disfavored in legislative drafting. He pointed out that the deliberations of the Council and the staff comments on any rule changes would make clear that the changes would be to clarify the existing practice and not to change anything in terms of how the rule is applied. Ms. Nilsson asked if changing “shall” to “does” would make more sense in some instances. Mr. Goehler and Mr. Spooner agreed. Mr. Goehler did suggest that the committee take a closer look at the instances of “shall” in the rule during its upcoming meeting. Ms. Hopkins stated that she currently has a case in front of the Court of Appeals that addresses the word “shall.” She was unsure when oral argument would be scheduled and when an opinion would be rendered; perhaps next year. Ms. Nilsson asked that the Council take a look at all drafts where the word “shall” was replaced with another word to make sure that they were appropriately changed.

Judge Peterson pivoted to a discussion of the “three-day rule.” Although the committee had reached the consensus not to remove the three-day extension from Rule 10 B, he stated that one of the significant complaints about that extension is that, whereas email service usually is serviceable, there are

sometimes disputes over whether a request for production of documents has been received by email. He stated that he had made a suggestion at the last Council meeting to which the Council did not seem opposed, so he had drafted a proposed amendment to Rule 9. Currently, notices of deposition, as well as Rule 43 requests and responses to such requests, are not to be filed with the court. (The reason for excluding Rule 43 from the requirement to file was concern, back in the paper documents era, over filing space for responses.) Judge Peterson pointed out that the storage space required for requests for production under Rule 43 is typically pretty minimal. He stated that he had asked the court processing staff in Multnomah County whether it would cause difficulty for Rule 43 requests to be filed with the court. His thought is that, if Rule 43 requests for production are filed with the court, parties cannot complain that this is the one email that they did not receive. He stated that this would address the concern that was raised by one of the attorneys who addressed the Council in the September and October meetings about how the 3-day extension and email communication causes disputes and additional litigation expense.

Mr. Goehler pointed out that everything that gets filed in the Odyssey court filing system has to be clerk approved, so that would be an extra touch point for court staff. He stated that this is a consideration when making such a rule change. Judge Raschio stated that the committee can discuss this at its next meeting. He posited that, instead of the entire filing, perhaps there could be a requirement that a notice be filed with the court that a request for discovery has been filed and that there has been a response to discovery, as opposed to having those massive documents filed within the case.

#### 7. Third Party Practice/Rule 22

Mr. Goehler thanked the Rule 22 committee for the compressive materials it provided to the Council (Appendix G) which include a history of the rule. He stated that this information changed his view on what the Council should do this biennium. Ms. Dahab stated that the committee had met once since the last Council meeting. She noted that the suggestions presented by the committee in its materials are a work in progress and that the committee is not ready for a full Council vote at this point. The committee was hoping to get some feedback on where the Council might be leaning.

Ms. Dahab explained that the first document in Appendix G is a history of Rule 22, particularly Rule 22 C on third-party practice, as it has existed over the years. She stated that the committee wanted the Council to see the number and type of reviews and amendments the Council has undertaken, specifically with regard to the consent requirement. She stated that the committee had learned a few things, one being that the committee's cross-jurisdictional research made clear that the consent requirement in ORCP 22 C is unique to Oregon. Another thing learned is that there is very little Oregon case law about the consent

requirement. One case from the Court of Appeals touches on the right that the plaintiff has as “master of the complaint,” which is sort of at the heart of the consent requirement that Rule 22 C reflects. The consent requirement has been reviewed by the Council a few times over the years, most recently in 2018 when the Council undertook a review and published an amendment that would have eliminated the requirement. The published amendment did not receive a supermajority vote of the Council for promulgation. Prior to that, committees were convened a few times to look at the rule, but never got as far as a published amendment.

Ms. Dahab called the Council’s attention to the second document in Appendix G, which is a series of potential options for actions the Council might consider taking with regard to Rule 22 C. One option is making no change at all. The other options are various iterations of potential changes that the committee has discussed. The committee has not reached any consensus about a recommendation, and is currently split about whether the rule should be changed at all, and is hoping for feedback from the Council to help narrow the options to come to a recommendation.

Mr. Joh asked whether the committee had considered the fact that the defendant who is trying to bring in a third party would still have a claim, even if it is not within that case. Ms. Dahab agreed that there would still be a claim and that the defendant can file a separate case, which can sometimes be consolidated, sometimes not, depending on the status of the case and the decision of the court. Mr. Goehler stated that, many times, this might take the form of a standalone indemnity or contribution claim.

Judge Peterson congratulated the committee on ferreting out so many possible permutations and sub-permutations of a change. Including the costs and benefits of a separate action and consolidation might be a good addition, but otherwise the document is a marvelous trip through history and a recount of what options might be available. Ms. Dahab thanked Ms. Johnson for combing through the Council’s history, looking through every biennium on the website. Ms. Nilsson stated that a future goal is to better link all materials on each rule on the website so that research is easier.

Ms. Johnson stated that her research had found that, many years ago, the Oregon State Bar had a Practice and Procedure Committee (PPC) that sent out a pretty extensive survey to trial court judges. The PPC wrote an extensive memo after sending out the survey, and something like 73% of trial court judges at the time wanted to get rid of third-party practice. That number was pretty astonishing to her, and a strange concept to contemplate. As a result, there was some back and forth in the PPC about the rights of existing parties, and they suggested the language that is in proposal number 2 of Appendix G to help set some guardrails as to when trial courts should allow late third-party practice.

Mr. Goehler reiterated that his personal view had changed after reading through the materials. He had previously thought that a change to require either consent of the parties or leave of court would be advisable. However, reading through the history and discussion by former Council members, he thinks that the issue has been pretty well reviewed and compromises have been made, and he is currently leaning toward the view that no change is needed. Ms. Hopkins seconded this view. As a practitioner, she could only foresee problems if a change were made. She opined that the current rule works.

Judge Peterson recalled that, when he first became Executive Director of the Council, outgoing Executive Director Maury Holland was helping with his transition. A change to Rule 22 C was proposed and Mr. Holland had opined that it was a rock too heavy to lift. The suggestion did not get much traction at that time, but it has gotten traction since. While Judge Peterson does not think that the Council should publish draft amendments simply to have them consigned to the trash can of history, he noted that sometimes publishing a controversial draft amendment receives sufficient pushback that the issue does not get raised again for a while.

Mr. Joh asked for a refresher on the impetus for considering a change to the rule. Ms. Johnson recalled that it was one of Mr. Kekel's partners who raised the issue. Mr. Kekel agreed, and stated that not only people in his firm, but many people in the defense bar agree that they have run into issues with needing consent of the plaintiff as required in Rule 22 C. He thanked Ms. Johnson and Ms. Dahab for their work in putting the materials together, as well as Mr. Shin, who helped come up with various alternatives based on what some of the other states have done. He noted that Mr. Shin also has some opinions with respect to the rule and asked him to speak on those.

Mr. Shin stated that he agrees that there is a history and that the rule has been looked at a number of times. Part of his concern is that the rule should be looked at further in the context of some of the changes to the contributory versus comparative negligence scheme. Mr. Shin stated that many of times that the Council considered Rule 22 were prior to *Eclectic Inv., LLC v. Patterson* [357 Or 25 (2015)] and *Lasley v. Combined Transport* [351 Or 1 (2011)], which substantially changed how comparative fault claims are brought into a case and can be considered. In his opinion, the rule served a different purpose prior to that time. A third-party claim that was separately brought as an indemnity or a contribution claim prior to the comparative fault scheme as it stands today may have been acceptable, and one could either consolidate or not consolidate. He noted that, the last time this issue was considered, former Council member Jay Beattie had brought up the scenario of a defendant who is primarily at fault in a case but who does not have much money. A plaintiff could decide late in the case, after the 90-day period has passed, to dismiss this defendant. The remaining defendant would then have no way to bring a third-party claim and,

on the comparative fault verdict form, there would be no consideration of that now-dismissed party. Mr. Shin noted that this is a bit of a gaming situation that may be so far from reality that it is not an issue. However, he pointed out that there are certainly instances in complex cases where an additional defendant is discovered after 90 days and there is currently no way to bring them into the case unless the plaintiff agrees, and there are many circumstances where the plaintiff would not do so. He noted that no other jurisdiction has a similar rule. While there were historical reasons for it, given some of these counterbalances and pitfalls for defendants, he thinks that there is some reason to again consider it. He also mentioned that the committee has provided some alternatives that past Councils have not considered.

Judge Bloom stated that there are concerns from both the defense and the plaintiff perspective to making a change to Rule 22 C. There are also concerns from the court's perspective in wanting to keep control of dockets. He stated, however, that he thinks that those concerns should be left to the sound discretion of the trial court. He noted that there is no other rule like this that puts a stop on something because one party has not consented. He did not think that expanding the 90-day timeline would remedy the situation. In his opinion, it should still be handled by motion. In their response, the party opposed to the third-party practice can raise the reasons why the motion should not be granted. Judge Bloom noted that there may be substantial reasons, in some cases, to add a third party, and the party who wants to bring in that third party should be able to provide those reasons and it should be left to the court's discretion. The "gotcha" part of the rule, which no other jurisdiction has, seems wrong in light of the changes in comparative fault, and forcing people to file separate actions and argue about consolidation seems unnecessary. That issue can be addressed in the motion, and the courts can decide by balancing issues, like it always does. He opined that the hard and fast 90-day "gotcha" is inappropriate and is not serving the interest of justice in all cases.

Mr. Spooner stated that he is now somewhat removed from regular third-party practice but, from his experience in his defense practice, when there were multiple defendants in a case and he was representing a defendant that was pointing the finger at other defendants, he could and would file cross-claims for contribution indemnity. That would prevent a plaintiff from unilaterally settling and dismissing that person from the case and would still deal with division of liability as the case progresses. He stated that there were still times where, for a variety of reasons, he filed a separate action for contribution indemnity against a responsible party that was not known early on. He pointed out that, even if other defendants are known early on, a third-party complaint can be filed for contribution and indemnity. As far as the nature of the claims that he used to deal with, he did not see a need for a procedural change.

Ms. Johnson responded to Mr. Shin's comment about the rule not having been

considered prior to changes in the law regarding joint and several liability. She pointed out that a 2000 committee that included then-lawyer (and current Council member) Judge Bloom and lawyer William Gaylord specifically looked at the issue of how comparative fault and joint and several liability affected the rule. She stated that one possible change that was not included on the committee's list of possible changes is allowing a late addition by plaintiffs of parties who would be liable or responsible to them.

Mr. Joh stated that it seems like there are good arguments for leaving the rule in its current form. At the same time, he shared Judge Bloom's and Mr. Shin's concerns that, in the case of late-discovered tortfeasors, the 90-day limitation can serve to really constrain the discretion of the court in making sure that the case is fairly presented. It seems to him that, given those considerations, the second option presented by the committee is the least harmful proposal in terms of giving the court a valve for appropriate situations while also respecting the considered deliberation of former Council members.

Mr. Goehler stated that, in his practice, when he is outside of the 90-day time frame and he wants to add a third party, he usually picks up the telephone and talks with opposing counsel. He thinks that the rule in its current form promotes that. Most of the time, for a plaintiff that is looking for a monetary recovery, it is good to have additional pots of money, so bringing more people to the party is sometimes beneficial. Having to get consent drives the conversation and potentially leads to more collaboration, which is generally a good thing.

Ms. Dahab thanked the Council for the valuable discussion and perspectives. She stated that the committee would meet again with the aim of narrowing down the options, in the hope of a Council vote at the April meeting.

#### B. Jury Trials in FED Cases

Judge Peterson referred the Council to a memorandum he had written regarding the issue of jurors in forcible entry and detainer (FED) trials (Appendix H). He recalled that, during the last Council meeting, there did not seem to be a lot of momentum to amend Rule 56 B to include information regarding the number of jurors that should be impaneled in such cases. Based on the Council's input, Judge Peterson thought that this information might be better placed in a statute. He stated that he is a member of an OJD committee that is making recommendations on FED practice, including substantial changes to ORS Chapter 105. He noted that a change could be made to ORS 105.130, as proposed on page 3 of his memo, to make it clear that parties in an FED trial are entitled to a six-person jury.

Judge Peterson opined that it should be written down somewhere that there is a right to a jury trial in FED cases. He pointed out that there should be virtually no jury trials in these cases, as most of the cases would be taken away from the jury because there are

legal issues that do not go to a jury. Some cases also have equitable issues, but most eviction cases are decided basically on whether the tenancy has been terminated, and the judge is frequently going to decide that issue on undisputed facts. He stated that he does not anticipate an increase in jury trials if this statutory change were to be made.

Judge Peterson stated that people commonly think that a party has to demand a jury trial, when they are entitled to one, in the party's first pleading; however, in Oregon state court, that formal demand is not required. The advantage of his proposed statutory language would be that a party, typically a defendant, would need to make the demand for a jury known at the time the case is set for trial, rather than in an answer that comes later. Often, these cases will be assigned to a judge and receive a time and date of trial at that point, although every county probably does it differently. A demand for a jury after the trial is set would cause administrative issues in many courts.

Judge Oden-Orr pointed out that the ORCP do not talk about the right to a jury trial. Judge Peterson agreed that this is a substantive right and that one would expect to have the right to a jury trial on a claim at law but not on an equitable claim. That right goes back a long way. In certain cases, statutes can change that. Judge Oden-Orr and Ms. Dahab stated that they liked the idea of any change being in the statutes, and there was general agreement by the Council. Judge Peterson stated that he was glad that he had correctly interpreted the Council's sentiments at the last meeting. Mr. Goehler asked whether this is an issue for the Council to raise with the Legislature or perhaps a suggestion to make to the landlord-tenant section of the Bar. Judge Peterson noted that the Council does not need to make any recommendations, as the suggestion outlined in the memorandum has already gone to the OJD's general counsel. If approved, it will be part of the OJD's legislative package for changes to Chapter 105 of the ORS.

C. Recommendation to Legislature re: ORS 46.415

Judge Peterson noted that, as mentioned at the last Council meeting, if the Council wants to suggest to the Legislature an amendment to ORS 46.415 so that Rule 35 applies to small claims cases, it would be wise to ask the Bar to include this suggestion in its law improvement package. The suggestion that the Council made to the Legislature last biennium (Appendix I) was not picked up by the Legislature.

Mr. Goehler asked whether the Council would like to resubmit that proposal. Judge Peterson noted that the Bar has a deadline of April 1, 2026, for inclusions in its law improvement package. He pointed out that there is a fair amount of mischief that goes on in the small claims department and that someone was recently indicted for filing a large number of cases in that department that had no merit whatsoever.

Mr. Shields stated that he thought that, if the Bar included the suggestion in its law reform package, it would be likely to succeed. He noted that the Bar would probably

check with OJD just to make sure they do not want to make the suggestion themselves. He recalled that, last biennium, the suggestion did not make it in front of the Board of Governors (BOG) in time to be included in the Bar's package, and they did not find a bill to amend it into during the last long legislative session. He stated that, if the Council votes to approve the suggestion today, the Bar can get it on the calendar for the BOG meeting next month.

Judge Hill made a motion to ask the Bar to include the suggestion in its law reform package to the Legislature. Mr. Joh seconded the motion. The motion carried by voice vote with one opposing vote and one abstention.

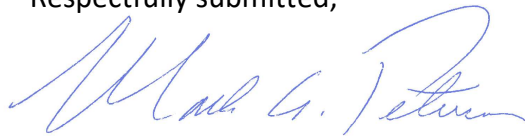
D. Rule 37

Judge Peterson reminded the Council that the post-judgment discovery committee had considered inserting language into either Rule 36 or Rule 37. Although the committee had decided on Rule 36, Council staff had taken a look at Rule 37 and decided that it had some room for improvement in terms of style. At the last Council meeting, the Council agreed that staff could make a proposal for stylistic changes to the rule, and that proposal is contained in Appendix J. The intent is to make Rule 37 conform with the rest of Council's rules, including proper subparagraphs, parts, subparts, and lead lines. Ms. Nilsson suggested that the proposal be left on the agenda for the April meeting so that Council members can take a close look to ensure that the changes do not do any unintentional damage. The Council agreed that this is a good idea.

V. Adjournment

Mr. Goehler adjourned the meeting at 11:02 a.m.

Respectfully submitted,



Hon. Mark A. Peterson  
Executive Director

**Council on Court Procedures  
Rule 47 E Committee  
Amended Report for Meeting on March 23, 2026**

The committee met at noon on March 23, 2026, via Zoom.

**Agenda:**

- Whether to recommend a survey
- If so, whether survey should begin with bench or also include practitioners
- Potential impacts of a rule change on professionalism

**Attending:**

- YoungWoo Joh – Defense side trial
- Nada Dahab – Plaintiff-side trial & appellate
- Lara Johnson – Plaintiff-side personal injury and products liability
- Judge Oden-Orr
- Ryan Jennings – Plaintiff-side personal injury
- Melissa Hopkins – Plaintiff-side trial & appellate; medmal and similar

**Summary:**

At the outset, LJ raised concerns that a rule change could encourage accusations against opposing counsel. LJ further pointed out that ORCP 47 G already provides a mechanism for enforcement against bad-faith ORCP 47 E declarations.

ND raised a concern with consistency in approaching potential rule changes. ND pointed out that Judge Dahlin's concerns were not raised to the Council via the biennial survey, and that the Council typically approaches potential rule changes by deciding whether to consider specific issues raised in that survey. ND stated that any work by the committee may be looking for a problem rather than addressing a specific problem raised to the Council.

MH agreed noting that Judge Dahlin's concerns were from an individual judge. LJ agreed and was concerned that the committee's work may lead to an expansion of work beyond the scope of the original task. Judge OO noted that the Council does sometimes consider issues brought to the Council's attention through Chair Peterson reaching out to a set of practitioners.

MH stated that if ORCP 47 E was a widespread problem, the Council would have heard about it in the biennial survey or through, for example, the defense bar. YJ stated that the fact that the complaint has not been made more broadly by the defense bar does not necessarily mean that there aren't problems, and that a survey would provide an opportunity for the committee and Council to obtain that information.

LJ called a vote on recommending that the Council dissolve the committee, and to recommend that the Council instead wait until the biennial survey to decide whether to take the issue up again. Four voted in favor, with two against:

- Ayes: ND, RJ, LJ, MH
- Nays: Judge OO, YJ

YJ circulated a draft committee report on April 4. After reviewing the draft report, two members provided the following comments by shared document or email:

- Ryan Jennings provided the following summary of the substantive comments he raised at the March 23 meeting: “RJ expressed the opinion that there likely is no problem that isn’t already addressed by the rule, as well as the observation that he had never actually seen a problem in the context of the nursing home and medical malpractice cases he has handled. RJ pointed out that 47 E states that motions under the rule are not designed to be discovery devices, and expressed a concern that changing the rule will lead to that. The misuse of the rule as a discovery device would increase costs / and burden on plaintiff’s and disproportionately favor the defense. Also, 47 E requires good faith declarations, and 47 G addresses what happens in the event the court is satisfied there may be bad faith – so any rule changes were viewed by RJ as a solution in search of a problem. So for the substantive reasons and not procedural reasons, RJ voted to not take any action.”
- Julian Marrs stated, “I don’t truly understand why we would not consider Judge Dahlin’s concerns before deciding to take action or not, so I would vote ‘no’ on dissolving the committee. It seems to me that we haven’t really run those issues to ground in a substantive way. I know that I missed the committee meeting, so maybe I also missed that discussion.”

Additionally, Melissa Hopkins and Ryan Jennings requested that RJ’s comments be included in the body of the draft report. YoungWoo Joh responded that he had difficulty seeing how to work the RJ’s summary into the main summary, due to the different level of detail in the summary as compared to the initial draft report. YJ offered to orally report on MH’s and RJ’s request at the Saturday Council meeting.

MH additionally requested that Julian Marrs’s comments be omitted from the report, on the basis that the notes are supposed to be a report from the meeting, which JM did not attend. As an additional reason, MH noted that she did not receive JM’s comments. YJ explained that he had mistakenly assumed that JM had included the other committee members on the email, and YJ provided a copy of the email to the committee.

MH submitted the following edits to the prior version of the draft report:

**Summary:**

~~This committee meeting largely focused on a broader question of whether the committee should be dissolved in favor of allowing the issue to be raised in what several members understood to be the normal~~

~~course, namely, the biennial end-of-year survey. Four members voted in favor of dissolution, and two voted nay.~~

~~At the outset,~~ LJ raised concerns that a rule change could encourage accusations against opposing counsel. LJ further pointed out that ORCP 47 G already provides a mechanism for enforcement against bad-faith ORCP 47 E declarations.

ND raised a concern with consistency in approaching potential rule changes. ND pointed out that Judge Dahlin's concerns were not raised to the Council via the biennial survey, and that the Council typically approaches potential rule changes by deciding whether to consider specific issues raised in that survey. ND stated that any work by the committee may be looking for a problem rather than addressing a specific problem raised to the Council.

MH agreed noting that Judge Dahlin's concerns were from an individual judge. LJ agreed and was concerned that the committee's work may lead to an expansion of work beyond the scope of the original task. Judge OO noted that the Council does sometimes consider issues brought to the Council's attention through Chair Peterson reaching out to a set of practitioners.

MH stated that if ORCP 47 E was a widespread problem, the Council would have heard about it in the biennial survey or through, for example, the defense bar. YJ stated that the fact that the complaint has not been made more broadly by the defense bar does not necessarily mean that there aren't problems, and that a survey would provide an opportunity for the committee and Council to obtain that information.

LJ called a vote on recommending that the Council dissolve the committee, and to recommend that the Council instead wait until the biennial survey to decide whether to take the issue up again.

RJ expressed the opinion that there likely is no problem that isn't already addressed by the rule, as well as the observation that he had never actually seen a problem in the context of the nursing home and medical malpractice cases he has handled. RJ pointed out that 47 E states that motions under the rule are not designed to be discovery devices, and expressed a concern that changing the rule will lead to that. The misuse of the rule as a discovery device would increase costs / and burden on plaintiff's and disproportionately favor the defense. Also, 47 E requires good faith declarations, and 47 G addresses what happens in the event the court is satisfied there may be bad faith – so any rule

changes were viewed by RJ as a solution in search of a problem. So for the substantive reasons and not procedural reasons, RJ voted to not take any action.

Four members voted in favor of waiting until the biennial survey to decide whether to take the issue up again, with two members against that plan:

- Ayes: ND, RJ, LJ, MH
- Nays: Judge OO, YJ

~~YJ circulated a draft committee report on April 4. After reviewing the draft report, two members provided the following comments by shared document or email:~~

- ~~• Ryan Jennings expressed the opinion that there likely is no problem that isn't already addressed by the rule, as well as the observation that he had never actually seen a problem in the context of the nursing home and medical malpractice cases he has handled. RJ pointed out that 47 E states that motions under the rule are not designed to be discovery devices, and expressed a concern that changing the rule will lead to that. The misuse of the rule as a discovery device would increase costs / and burden on plaintiff's and disproportionately favor the defense. Also, 47 E requires good faith declarations, and 47 G addresses what happens in the event the court is satisfied there may be bad faith — so any rule changes were viewed by RJ as a solution in search of a problem. So for the substantive reasons and not procedural reasons, RJ voted to not take any action.~~
- Julian Marrs stated, “I don't truly understand why we would not consider Judge Dahlin's concerns before deciding to take action or not, so I would vote 'no' on dissolving the committee. It seems to me that we haven't really run those issues to ground in a substantive way. I know that I missed the committee meeting, so maybe I also missed that discussion.”

1 **JOINDER OF CLAIMS**

2 **RULE 24**

3 **A Permissive joinder.** A plaintiff may join in a complaint, either as independent or as  
4 alternate claims, as many claims, legal or equitable, as the plaintiff has against an opposing  
5 party.

6 **B Forcible entry and detainer [*and rental due.*] actions.** If a plaintiff joins a claim of  
7 forcible entry and detainer [*and a claim for rental due are joined*] with any other claim for legal  
8 or equitable relief, the defendant [*shall*] will have the same time to appear as is provided by  
9 rule or statute in civil actions [*for the recovery of rental due.*] and the action will not be  
10 governed by the provisions of ORS 105.100 et seq.

11 **C Separate statement.** The claims joined must be separately stated and must not require  
12 different places of trial.

1 JUDGMENTS

2 RULE 67

3 **A Definitions.** "Judgment" as used in these rules has the meaning given that term in ORS  
4 18.005. "Order" as used in these rules means any other determination by a court or judge that  
5 is intermediate in nature.

6 **B Judgment for less than all claims or parties in action.** When more than one claim for  
7 relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third party  
8 claim, or when multiple parties are involved, the court may render a limited judgment as to  
9 one or more but fewer than all of the claims or parties. A judge may render a limited judgment  
10 under this section only if the judge determines that there is no just reason for delay.

11 **C Recitation of prior judgments. The first paragraph of any form of judgment submitted**  
12 **by a party must recite the date of entry of any previous judgment entered in the action that**  
13 **has not been vacated. A supplemental judgment must recite only the date of entry of the**  
14 **general judgment and any judgment entered in the action thereafter.**

15 **[C Relief granted.] D Relief Granted.** Every judgment [shall] **will** grant the relief to which  
16 the party in whose favor it is rendered is entitled. A judgment for relief different in kind from  
17 or exceeding the amount prayed for in the pleadings may not be rendered unless reasonable  
18 notice and opportunity to be heard are given to any party against whom the judgment is to be  
19 entered.

20 **[D Judgment in action for recovery of personal property.] E Judgment in action for**  
21 **recovery of personal property.** In an action to recover the possession of personal property,  
22 judgment for the plaintiff may be for the possession of the property, or for the value of the  
23 property in case a delivery cannot be had, and for damages for the detention of the property. If  
24 the property has been delivered to the plaintiff and the defendant claims a return of the  
25 property, judgment for the defendant may be for a return of the property, or **for** the value of  
26 the property in case a return cannot be had, and **for** damages for taking and withholding the

1 property.

2 ***[E Judgment in action against partnership, unincorporated association, or parties***  
3 ***jointly indebted.] F Judgment in action against partnership, unincorporated association, or***  
4 ***parties jointly indebted.***

5 ***[E(1) Partnership and unincorporated association.] F(1) Partnership and unincorporated***  
6 ***association.*** Judgment in an action against a partnership or unincorporated association that is  
7 sued in any name that it has assumed or by which it is known may be entered against that  
8 partnership or association and *[shall bind]* ***binds*** the joint property of all of the partners or  
9 associates.

10 ***[E(2) Joint obligations; effect of judgment.] F(2) Joint obligations; effect of judgment.*** In  
11 any action against parties jointly indebted *[upon]* ***on*** a joint obligation, contract, or liability,  
12 judgment may be taken against less than all of those parties and a default, dismissal, or  
13 judgment in favor of or against less than all of those parties in an action does not preclude a  
14 judgment in the same action in favor of or against the remaining parties.

15 ***[F Judgment by stipulation.] G Judgment by stipulation.***

16 ***[F(1) Availability of judgment by stipulation.] G(1) Availability of judgment by***  
17 ***stipulation.*** At any time after commencement of an action, a judgment may be given *[upon]* ***on***  
18 ***the*** stipulation that a judgment for a specified amount or for a specific relief may be entered.  
19 The stipulation *[shall]* ***must*** be by the party or parties against whom judgment is to be entered  
20 and the party or parties in whose favor judgment is to be entered. If the stipulation provides  
21 for attorney fees, costs, and disbursements, they may be entered as part of the judgment  
22 according to the stipulation.

23 ***[F(2) Filing; assent in open court.] G(2) Filing; assent in open court.*** The stipulation for  
24 judgment may be in a writing signed by the parties, their attorneys, or their authorized  
25 representatives. That writing *[shall]* ***must*** be filed in accordance with Rule 9. The stipulation  
26 may be subjoined or appended to, and part of, a proposed form of judgment. If not in writing,

1 the stipulation [*shall*] **must** be assented to by all parties thereto in open court.

2 **[G Judgment on portion of claim exceeding counterclaim.] H Judgment on portion of**  
3 **claim exceeding counterclaim.** The court may direct entry of a limited judgment as to that  
4 portion of any claim that exceeds a counterclaim asserted by the party or parties against whom  
5 the judgment is entered, if the party or parties have admitted the claim and asserted a  
6 counterclaim amounting to less than the claim.

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1 Evidence obtained in a foreign country in response to a letter rogatory need not be excluded  
2 merely for the reason that it is not a verbatim transcript or that the testimony was not taken  
3 under oath or for any similar departure from the requirements for depositions taken within the  
4 United States under these rules.

5 **C Foreign depositions and subpoenas.**

6 C(1) **Definitions.** For the purpose of this section:

7 C(1)(a) "Foreign subpoena" means a subpoena issued under authority of a court of  
8 record of any state other than Oregon.

9 C(1)(b) "State" means a state of the United States, the District of Columbia, Puerto Rico,  
10 the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular  
11 possession subject to the jurisdiction of the United [States.] **States that has enacted the**  
12 **Uniform Interstate Depositions and Discovery Act.**

13 C(2) **Issuance of subpoena.**

14 C(2)(a) To request issuance of a subpoena under this section, a party or attorney [*shall*]  
15 **must** submit a foreign subpoena to a clerk of court in the county in which discovery is sought  
16 to be conducted in this state.

17 C(2)(b) When a party or attorney submits a foreign subpoena to a clerk of court in this  
18 state, the clerk, in accordance with that court's procedure and requirements, [*shall*] **will** assign  
19 a case number and promptly issue a subpoena for service [*upon*] **on** the person to whom the  
20 foreign subpoena is directed. If a party to an out-of-state proceeding retains an attorney  
21 licensed to practice in this state, that attorney may assist the clerk in drafting the subpoena.

22 C(2)(c) A subpoena under this subsection [*shall*:] **must**:

23 C(2)(c)(i) Conform to the requirements of these Oregon Rules of Civil Procedure,  
24 including Rule 55, and conform substantially to the form provided in Rule 55 A(1) but may  
25 otherwise incorporate the terms used in the foreign subpoena as long as those terms conform  
26 to these rules; and

1 C(2)(c)(ii) Contain or be accompanied by the names, addresses, and telephone numbers  
2 of all counsel of record in the proceeding to which the subpoena relates and of any party not  
3 represented by counsel.

4 C(3) **Service of subpoena.** A subpoena issued by a clerk of court under subsection (2) of  
5 this section [*shall*] **must** be served in compliance with Rule 55.

6 C(4) **Effects of request for subpoena.** A request for issuance of a subpoena under this  
7 section does not constitute an appearance in the court. A request does allow the court to  
8 impose sanctions for any action in connection with the subpoena that is a violation of  
9 applicable law.

10 C(5) **Motions.** A motion to the court, or a response thereto, for a protective order or to  
11 enforce, quash, or modify a subpoena issued by a clerk of court pursuant to this section is an  
12 appearance before the court and [*shall*] **must** comply with the rules and statutes of this state.  
13 The motion [*shall*] **must** be submitted to the court in the county in which discovery is to be  
14 conducted.

15 C(6) **Uniformity of application and construction.** In applying and construing this section,  
16 consideration [*shall*] **will** be given to the need to promote the uniformity of the law with  
17 respect to its subject matter among states that enact it.

**TO: Council on Court Procedures**

**FR: Hon. Mark Peterson**

**DT: 3/31/2026**

**RE: POST-JUDGMENT DISCOVERY COMMITTEE MEETING SUMMARY**

---

The Rule 36/ Rule 55 (post-judgment discovery) committee met on March 31 via videoconference. Whitman Passadore (chair), Erwin, Larwick, Marrs, and Peterson attended; Hill was absent.

The committee reviewed the 03/21/26 draft of Rule 36, without specific suggestions for changes to the proposed subsection B(4). General questions were raised. First, are all judgments immediately enforceable unless a supersedeas undertaking has been posted (other than by a stipulation of the parties)? ORCP 72 A would seem to indicate that execution on a judgment is immediate, absent a court's discretionary stay. Second, from Mr. Joh's question at a prior Council meeting, would the need for and tools of post judgment discovery be different if the action is for injunctive relief only, as opposed to an action for money damages? Finally, if there are multiple judgment debtors and less than all judgment debtors have posted adequate security, can or should post judgment discovery be available against nonparties since the undertaking was posted by some but not all of the judgment debtors? Should such discovery be on motion with good cause? Peterson noted that the lead line no longer copies the FRCP rule as a nod to plain language and to reflect that this amendment is not an adoption of the federal rule but will reflect the collective experience and wisdom of the Council.

The committee briefly reviewed the 03/21/26 draft of Rule 55. Peterson had a concern that an amendment to Rule 36 may possibly leave open an argument that the discovery rules do not, in themselves, resolve the "action is pending" language in Rule 55 and may be argued to not permit the use of subpoenas in post judgment enforcement. The Council had discussed the "action is pending" language in Rule 55 and it seemed that there was general agreement that "pending" would include post judgment matters—entry of a general judgment does not equate to a not pending status. There was some concern within the committee as to whether "action" is the right word, and specifically whether "action" encompasses all court cases and proceedings, e.g., probate matters.

1 **SUMMONS**

2 **RULE 7**

3 **A Definitions.** For purposes of this rule, "plaintiff" [shall include] **includes** any party  
4 issuing **a** summons and "defendant" [shall include] **includes** any party on whom service of **a**  
5 summons is sought. For purposes of this rule, a "true copy" of a summons and complaint  
6 means an exact and complete copy of the original summons and complaint.

7 **B Issuance.** Any time after the action is commenced, **the** plaintiff or **the** plaintiff's  
8 attorney may issue as many original summonses as either may elect and deliver such  
9 summonses to a person authorized to serve summonses under section E of this rule. A  
10 summons is issued when subscribed by **the** plaintiff or an active licensee of the Oregon State  
11 Bar.

12 **C Contents, time for response, and required notices.**

13 **C(1) Contents.** The summons [shall] **must** contain:

14 **C(1)(a) Title.** The title of the cause, specifying the name of the court in which the  
15 complaint is filed and the names of the parties to the action.

16 **C(1)(b) Direction to defendant.** A direction to the defendant requiring **the** defendant to  
17 appear and defend within the time required by subsection C(2) of this rule and a notification to  
18 **the** defendant that, in case of failure to do so, the plaintiff will apply to the court for the relief  
19 demanded in the complaint.

20 **C(1)(c) Subscription; post office address.** A subscription by the plaintiff or by an active  
21 licensee of the Oregon State Bar, with the addition of the post office address at which papers  
22 in the action may be served by mail.

23 **C(2) Time for response.** If the summons is served by any manner other than publication,  
24 the defendant [shall] **must** appear and defend within 30 days from the date of service. If the  
25 summons is served by publication pursuant to subparagraph D(6)(a)(i) of this rule, the  
26 defendant [shall] **must** appear and defend within 30 days from the date stated in the

1 summons. The date so stated in the summons *[shall be]* **is** the date of the first publication.

2 **C(3) Notice to party served.**

3 C(3)(a) In general. All summonses, other than a summons referred to in paragraph  
4 C(3)(b) or C(3)(c) of this rule, *[shall]* **must** contain a notice printed in type size equal to at least  
5 *[8-point type]* **12-point type** that may be substantially in the following form:

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7 **NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!**

8 You must “appear” in this case or the *[other side]* **plaintiff or petitioner** will win  
9 automatically. To *[“appear”]* **appear** you must file *[with the court]* a legal document called a  
10 *[“motion” or “answer.”]* **“motion,” “answer,” or “response” within 30 days of the date you**  
11 **receive this summons.** *[The “motion” or “answer” must be given to the court clerk or*  
12 *administrator within 30 days along with the required filing fee.]* **To file, you must give your**  
13 **legal document to the clerk of the court that appears at the top of this summons. You may**  
14 **need to pay a filing fee.** *[It must be in proper form and have proof of service on the plaintiff’s*  
15 *attorney or, if the plaintiff does not have an attorney, proof of service on the plaintiff.]* **Your**  
16 **legal document must be in proper form as required by the Oregon Rules of Civil Procedure**  
17 **(ORCP) and the Uniform Trial Court Rules. You must serve your legal document, as required**  
18 **by ORCP 7 D, on the attorney for the plaintiff or petitioner, or on the plaintiff or petitioner if**  
19 **they do not have an attorney. You must also file “proof of service.” Proof of service is a**  
20 **signed statement describing when and how your legal document was served.**

21 If you have questions, *[you should see]* **contact** an attorney immediately. If you need  
22 help *[in]* finding an attorney, you may contact the Oregon State Bar’s Lawyer Referral *[Service*  
23 *online at [www.oregonstatebar.org](http://www.oregonstatebar.org) or by calling (503) 684-3763 (in the Portland metropolitan*  
24 *area) or toll-free elsewhere in Oregon at (800) 452-7636.]* **Service:**

25 **[www.oregonstatebar.org](http://www.oregonstatebar.org) / (800) 452-7636**

26 **For more information you may find helpful in understanding this case, visit:**

2 \_\_\_\_\_  
3 C(3)(b) **Service for counterclaim or cross-claim.** A summons to join a party to respond to  
4 a counterclaim or a cross-claim pursuant to Rule 22 D(1) [*shall*] **must** contain a notice printed in  
5 type size equal to at least [*8-point type*] **12-point type** that may be substantially in the  
6 following form:  
7 \_\_\_\_\_

8 **NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!**

9 You must "appear" to protect your rights in this matter. To [*"appear"*] **appear** you must  
10 file with the court a legal document called a "motion," a "reply" to a counterclaim, or an  
11 "answer" to a cross-claim. [*The "motion," "reply," or "answer" must be given to the court clerk*  
12 *or administrator within 30 days along with the required filing fee.*] **To file, you must give your**  
13 **legal document to the clerk of the court that appears at the top of this summons. You may**  
14 **need to pay a filing fee.** [*It must be in proper form and have proof of service on the defendant's*  
15 *attorney or, if the defendant does not have an attorney, proof of service on the defendant.*]  
16 **Your legal document must be in proper form as required by the Oregon Rules of Civil**  
17 **Procedure (ORCP) and the Uniform Trial Court Rules. You must serve your legal document, as**  
18 **required by ORCP 7 D, on the attorney for the party that signed the summons, or on that**  
19 **party if they do not have an attorney. You must also file "proof of service." Proof of service is**  
20 **a signed statement describing when and how your legal document was served.**

21 If you have questions, [*you should see*] **contact** an attorney immediately. If you need help  
22 [*in*] finding an attorney, you may contact the Oregon State Bar's Lawyer Referral [*Service online*  
23 *at [www.oregonstatebar.org](http://www.oregonstatebar.org) or by calling (503) 684-3763 (in the Portland metropolitan area) or*  
24 *toll-free elsewhere in Oregon at (800) 452-7636.*] **Service:**

25 **[www.oregonstatebar.org](http://www.oregonstatebar.org) / (800) 452-7636**

26 **For more information you may find helpful in understanding this case, visit:**

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3 C(3)(c) **Service on persons liable for attorney fees.** A summons to join a party pursuant  
4 to Rule 22 D(2) [*shall*] **must** contain a notice printed in type size equal to at least [*8-point type*]  
5 **12-point type** that may be substantially in the following form:  
6 \_\_\_\_\_

7 **NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!**

8 You may be liable for attorney fees in this case. Should plaintiff in this case not prevail, a  
9 judgment for reasonable attorney fees may be entered against you, as provided by the  
10 agreement to which defendant alleges you are a party.

11 You must "appear" to protect your rights in this matter. To [*"appear"*] **appear** you must  
12 file with the court a legal document called a "motion" or "reply." [*The "motion" or "reply" must*  
13 *be given to the court clerk or administrator within 30 days along with the required filing fee.*] **To**  
14 **file, you must give your legal document to the clerk of the court that appears at the top of**  
15 **this summons. You may need to pay a filing fee.** [*It must be in proper form and have proof of*  
16 *service on the defendant's attorney or, if the defendant does not have an attorney, proof of*  
17 *service on the defendant.*] **Your legal document must be in proper form as required by the**  
18 **Oregon Rules of Civil Procedure (ORCP) and the Uniform Trial Court Rules. You must serve**  
19 **your legal document, as required by ORCP 7 D, on the attorney for the party that signed the**  
20 **summons, or on that party if they do not have an attorney. You must also file "proof of**  
21 **service."** **Proof of service is a signed statement describing when and how your legal**  
22 **document was served.**

23 If you have questions, [*you should see*] **contact** an attorney immediately. If you need  
24 help [*in*] finding an attorney, you may contact the Oregon State Bar's Lawyer Referral [*Service*  
25 *online at [www.oregonstatebar.org](http://www.oregonstatebar.org) or by calling (503) 684-3763 (in the Portland metropolitan*  
26 *area) or toll-free elsewhere in Oregon at (800) 452-7636.*] **Service:**

1 [www.oregonstatebar.org](http://www.oregonstatebar.org) / (800) 452-7636

2 For more information you may find helpful in understanding this case, visit:

3 [www.oregonlawhelp.org](http://www.oregonlawhelp.org)

4 \_\_\_\_\_  
5 **D Manner of service.**

6 D(1) **Notice required.** Summons [*shall*] **must** be served, either within or without this  
7 state, in any manner reasonably calculated, under all the circumstances, to apprise the  
8 defendant of the existence and pendency of the action and to afford a reasonable opportunity  
9 to appear and defend. Summons may be served in a manner specified in this rule or by any  
10 other rule or statute on the defendant or on an agent authorized by appointment or law to  
11 accept service of summons for the defendant. Service may be made, subject to the restrictions  
12 and requirements of this rule, by the following methods: personal service of true copies of the  
13 summons and the complaint on defendant or an agent of defendant authorized to receive  
14 process; substituted service by leaving true copies of the summons and the complaint at a  
15 person's dwelling house or usual place of abode; office service by leaving true copies of the  
16 summons and the complaint with a person who is apparently in charge of an office; service by  
17 mail; or service by publication.

18 **D(2) Service methods.**

19 D(2)(a) **Personal service.** Personal service may be made by delivery of a true copy of the  
20 summons and a true copy of the complaint to the person to be served.

21 D(2)(b) **Substituted service.** Substituted service may be made by delivering true copies of  
22 the summons and the complaint at the dwelling house or usual place of abode of the person to  
23 be served to any person 14 years of age or older residing in the dwelling house or usual place  
24 of abode of the person to be served. Where substituted service is used, the plaintiff, as soon as  
25 reasonably possible, [*shall*] **must** cause to be mailed by first class mail true copies of the  
26 summons and the complaint to the defendant at defendant's dwelling house or usual place of

1 | abode, together with a statement of the date, time, and place at which substituted service was  
2 | made. For the purpose of computing any period of time prescribed or allowed by these rules or  
3 | by statute, substituted service [*shall be*] **is** complete on the mailing.

4 |         D(2)(c) **Office service.** If the person to be served maintains an office for the conduct of  
5 | business, office service may be made by leaving true copies of the summons and the complaint  
6 | at that office during normal working hours with the person who is apparently in charge. Where  
7 | office service is used, the plaintiff, as soon as reasonably possible, [*shall*] **must** cause to be  
8 | mailed by first class mail true copies of the summons and the complaint to the defendant at  
9 | defendant's dwelling house or usual place of abode or defendant's place of business or any  
10 | other place under the circumstances that is most reasonably calculated to apprise the  
11 | defendant of the existence and pendency of the action, together with a statement of the date,  
12 | time, and place at which office service was made. For the purpose of computing any period of  
13 | time prescribed or allowed by these rules or by statute, office service [*shall be*] **is** complete on  
14 | the mailing.

15 |         D(2)(d) **Service by mail.**

16 |         D(2)(d)(i) **Generally.** When service by mail is required or allowed by this rule or by  
17 | statute, except as otherwise permitted, service by mail [*shall*] **must** be made by mailing true  
18 | copies of the summons and the complaint to the defendant by first class mail [*and*] **as well as**  
19 | by any of the following: certified, registered, or express mail with return receipt requested. For  
20 | purposes of this paragraph, "first class mail" does not include certified, registered, or express  
21 | mail, return receipt requested, or any other form of mail that may delay or hinder actual  
22 | delivery of mail to the addressee.

23 |         D(2)(d)(ii) **Calculation of time.** For the purpose of computing any period of time provided  
24 | by these rules or by statute, service by mail, except as otherwise provided, [*shall be*] **is**  
25 | complete on the day the defendant, or other person authorized by appointment or law, signs a  
26 | receipt for the mailing, or 3 days after the mailing if mailed to an address within the state, or 7

1 days after the mailing if mailed to an address outside the state, whichever first occurs.

2 D(3) **Particular defendants.** Service may be made on specified defendants as follows:

3 D(3)(a) **Individuals.**

4 D(3)(a)(i) **Generally.** On an individual defendant, by personal delivery of true copies of  
5 the summons and the complaint to the defendant or other person authorized by appointment  
6 or law to receive service of summons on behalf of the defendant, by substituted service, or by  
7 office service. Service may also be made on an individual defendant or other person authorized  
8 to receive service to whom neither subparagraph D(3)(a)(ii) nor D(3)(a)(iii) of this rule applies  
9 by a mailing made in accordance with paragraph D(2)(d) of this rule provided the defendant or  
10 other person authorized to receive service signs a receipt for the certified, registered, or  
11 express mailing, in which case service [*shall be*] **is** complete on the date on which the  
12 defendant signs a receipt for the mailing.

13 D(3)(a)(ii) **Minors.** On a minor under 14 years of age, by service in the manner specified  
14 in subparagraph D(3)(a)(i) of this rule on the minor; and additionally on the minor's father,  
15 mother, conservator of the minor's estate, or guardian, or, if there be none, then on any  
16 person having the care or control of the minor, or with whom the minor resides, or in whose  
17 service the minor is employed, or on a guardian ad litem appointed pursuant to Rule 27 B.

18 D(3)(a)(iii) **Incapacitated persons.** On a person who is incapacitated or is financially  
19 incapable, as both terms are defined by ORS 125.005, by service in the manner specified in  
20 subparagraph D(3)(a)(i) of this rule on the person and, also, on the conservator of the person's  
21 estate or guardian or, if there be none, on a guardian ad litem appointed pursuant to Rule 27  
22 B.

23 D(3)(a)(iv) **Tenant of a mail agent.** On an individual defendant who is a "tenant" of a  
24 "mail agent" within the meaning of ORS 646A.340, by delivering true copies of the summons  
25 and the complaint to any person apparently in charge of the place where the mail agent  
26 receives mail for the tenant, provided that:

1 D(3)(a)(iv)(A) the plaintiff makes a diligent inquiry but cannot find the defendant; and  
2 D(3)(a)(iv)(B) the plaintiff, as soon as reasonably possible after delivery, causes true  
3 copies of the summons and the complaint to be mailed by first class mail to the defendant at  
4 the address at which the mail agent receives mail for the defendant and to any other mailing  
5 address of the defendant then known to the plaintiff, together with a statement of the date,  
6 time, and place at which the plaintiff delivered the copies of the summons and the complaint.  
7 Service [shall be] is complete on the latest date resulting from the application of subparagraph  
8 D(2)(d)(ii) of this rule to all mailings required by this subparagraph unless the defendant signs a  
9 receipt for the mailing, in which case service is complete on the day the defendant signs the  
10 receipt.

11 **D(3)(b) Corporations including, but not limited to, professional corporations and**  
12 **cooperatives.** On a domestic or foreign corporation:

13 D(3)(b)(i) **Primary service method.** By personal service or office service on a registered  
14 agent, officer, or director of the corporation; or by personal service on any clerk on duty in the  
15 office of a registered agent.

16 D(3)(b)(ii) **Alternatives.** True copies of the summons and the complaint may be served:

17 D(3)(b)(ii)(A) by substituted service on the registered agent, officer, or director;

18 D(3)(b)(ii)(B) by personal service on any clerk or agent of the corporation;

19 D(3)(b)(ii)(C) by mailing in the manner specified in paragraph D(2)(d) of this rule true  
20 copies of the summons and the complaint to: the office of the registered agent or to the last  
21 registered office of the corporation, if any, as shown by the records on file in the office of the  
22 Secretary of State; or, if the corporation is not authorized to transact business in this state at  
23 the time of the transaction, event, or occurrence on which the action is based occurred, to the  
24 principal office or place of business of the corporation; and, in any case, to any address the use  
25 of which the plaintiff knows or has reason to believe is most likely to result in actual notice; or

26 D(3)(b)(ii)(D) on the Secretary of State in the manner provided in ORS 60.121 or 60.731.

1 D(3)(c) **Limited liability companies.** On a limited liability company:

2 D(3)(c)(i) **Primary service method.** By personal service or office service on a registered  
3 agent, manager, or (for a member-managed limited liability company) member of a limited  
4 liability company; or by personal service on any clerk on duty in the office of a registered agent.

5 D(3)(c)(ii) **Alternatives.** True copies of the summons and the complaint may be served:

6 D(3)(c)(ii)(A) by substituted service on the registered agent, manager, or (for a  
7 member-managed limited liability company) member of a limited liability company;

8 D(3)(c)(ii)(B) by personal service on any clerk or agent of the limited liability company;

9 D(3)(c)(ii)(C) by mailing in the manner specified in paragraph D(2)(d) of this rule true  
10 copies of the summons and the complaint to: the office of the registered agent or to the last  
11 registered office of the limited liability company, if any, as shown by the records on file in the  
12 office of the Secretary of State; or, if the limited liability company is not authorized to transact  
13 business in this state at the time of the transaction, event, or occurrence on which the action is  
14 based occurred, to the principal office or place of business of the limited liability company;  
15 and, in any case, to any address the use of which the plaintiff knows or has reason to believe is  
16 most likely to result in actual notice; or

17 D(3)(c)(ii)(D) on the Secretary of State in the manner provided in ORS 63.121.

18 D(3)(d) **Limited partnerships.** On a domestic or foreign limited partnership:

19 D(3)(d)(i) **Primary service method.** By personal service or office service on a registered  
20 agent or a general partner of a limited partnership; or by personal service on any clerk on duty  
21 in the office of a registered agent.

22 D(3)(d)(ii) **Alternatives.** True copies of the summons and the complaint may be served:

23 D(3)(d)(ii)(A) by substituted service on the registered agent or general partner of a  
24 limited partnership;

25 D(3)(d)(ii)(B) by mailing in the manner specified in paragraph D(2)(d) of this rule true  
26 copies of the summons and the complaint to: the office of the registered agent or to the last

1 registered office of the limited partnership, if any, as shown by the records on file in the office  
2 of the Secretary of State; or, if the limited partnership is not authorized to transact business in  
3 this state at the time of the transaction, event, or occurrence on which the action is based  
4 occurred, to the principal office or place of business of the limited partnership; and, in any  
5 case, to any address the use of which the plaintiff knows or has reason to believe is most likely  
6 to result in actual notice; or

7 D(3)(d)(ii)(C) on the Secretary of State in the manner provided in ORS 70.040 or 70.045.

8 D(3)(e) **General partnerships and limited liability partnerships.** On any general  
9 partnership or limited liability partnership by personal service on a partner or any agent  
10 authorized by appointment or law to receive service of summons for the partnership or limited  
11 liability partnership.

12 D(3)(f) **Other unincorporated associations subject to suit under a common name.** On  
13 any other unincorporated association subject to suit under a common name by personal  
14 service on an officer, managing agent, or agent authorized by appointment or law to receive  
15 service of summons for the unincorporated association.

16 D(3)(g) **State.** On the state, by personal service on the Attorney General or by leaving  
17 true copies of the summons and the complaint at the Attorney General's office with a deputy,  
18 assistant, or clerk.

19 D(3)(h) **Public bodies.** On any county; incorporated city; school district; or other public  
20 corporation, commission, board, or agency by personal service or office service on an officer,  
21 director, managing agent, or attorney thereof.

22 D(3)(i) **Vessel owners and charterers.** On any foreign steamship owner or steamship  
23 charterer by personal service on a vessel master in the owner's or charterer's employment or  
24 any agent authorized by the owner or charterer to provide services to a vessel calling at a port  
25 in the State of Oregon, or a port in the State of Washington on that portion of the Columbia  
26 River forming a common boundary with Oregon.

1        **D(4) Particular actions involving motor vehicles.**

2        **D(4)(a) Actions arising out of use of roads, highways, streets, or premises open to the**  
3 **public; service by mail.**

4        D(4)(a)(i) In any action arising out of any accident, collision, or other event giving rise to  
5 liability in which a motor vehicle may be involved while being operated on the roads, highways,  
6 streets, or premises open to the public as defined by law of this state if the plaintiff makes at  
7 least one attempt to serve a defendant who operated such motor vehicle, or caused it to be  
8 operated on the defendant's behalf, by a method authorized by subsection D(3) of this rule  
9 except service by mail pursuant to subparagraph D(3)(a)(i) of this rule and, as shown by its  
10 return, did not effect service, the plaintiff may then serve that defendant by mailings made in  
11 accordance with paragraph D(2)(d) of this rule addressed to that defendant at:

12        D(4)(a)(i)(A) any residence address provided by that defendant at the scene of the  
13 accident;

14        D(4)(a)(i)(B) the current residence address, if any, of that defendant shown in the driver  
15 records of the Department of Transportation; and

16        D(4)(a)(i)(C) any other address of that defendant known to the plaintiff at the time of  
17 making the mailings required by parts D(4)(a)(i)(A) and D(4)(a)(i)(B) of this rule that reasonably  
18 might result in actual notice to that defendant. Sufficient service pursuant to this subparagraph  
19 may be shown if the proof of service includes a true copy of the envelope in which each of the  
20 certified, registered, or express mailings required by parts D(4)(a)(i)(A), D(4)(a)(i)(B), and  
21 D(4)(a)(i)(C) of this rule was made showing that it was returned to sender as undeliverable or  
22 that the defendant did not sign the receipt. For the purpose of computing any period of time  
23 prescribed or allowed by these rules or by statute, service under this subparagraph [shall be] is  
24 complete on the latest date on which any of the mailings required by parts D(4)(a)(i)(A),  
25 D(4)(a)(i)(B), and D(4)(a)(i)(C) of this rule is made. If the mailing required by part D(4)(a)(i)(C) of  
26 this rule is omitted because the plaintiff did not know of any address other than those

1 specified in parts D(4)(a)(i)(A) and D(4)(a)(i)(B) of this rule, the proof of service [*shall*] **must** so  
2 certify.

3 D(4)(a)(ii) Any fee charged by the Department of Transportation for providing address  
4 information concerning a party served pursuant to subparagraph D(4)(a)(i) of this rule may be  
5 recovered as provided in Rule 68.

6 D(4)(a)(iii) The requirements for obtaining an order of default against a defendant served  
7 pursuant to subparagraph D(4)(a)(i) of this rule are as provided in Rule 69 E.

8 D(4)(b) **Notification of change of address.** Any person who; while operating a motor  
9 vehicle on the roads, highways, streets, or premises open to the public as defined by law of this  
10 state; is involved in any accident, collision, or other event giving rise to liability [*shall*] **must**  
11 forthwith notify the Department of Transportation of any change of the person's address  
12 occurring within 3 years after the accident, collision, or event.

13 D(5) **Service in foreign country.** When service is to be effected on a party in a foreign  
14 country, it is also sufficient if service of true copies of the summons and the complaint is made  
15 in the manner prescribed by the law of the foreign country for service in that country in its  
16 courts of general jurisdiction, or as directed by the foreign authority in response to letters  
17 rogatory, or as directed by order of the court. However, in all cases service [*shall*] **must** be  
18 reasonably calculated to give actual notice.

19 D(6) **Court order for service by other method.** When it appears that service is not  
20 possible under any method otherwise specified in these rules or other rule or statute, then a  
21 motion supported by affidavit or declaration may be filed to request a discretionary court  
22 order to allow alternative service by any method or combination of methods that, under the  
23 circumstances, is most reasonably calculated to apprise the defendant of the existence and  
24 pendency of the action. If the court orders alternative service and the plaintiff knows or with  
25 reasonable diligence can ascertain the defendant's current address, the plaintiff must mail true  
26 copies of the summons and the complaint to the defendant at that address by first class mail

1 and any of the following: certified, registered, or express mail, return receipt requested. If the  
2 plaintiff does not know, and with reasonable diligence cannot ascertain, the current address of  
3 any defendant, the plaintiff must mail true copies of the summons and the complaint by the  
4 methods specified above to the defendant at the defendant's last known address. If the  
5 plaintiff does not know, and with reasonable diligence cannot ascertain, the defendant's  
6 current and last known addresses, a mailing of copies of the summons and the complaint is not  
7 required.

8 **D(6)(a) Non-electronic alternative service.** Non-electronic forms of alternative service  
9 may include, but are not limited to, publication of summons; mailing without publication to a  
10 specified post office address of the defendant by first class mail as well as either by certified,  
11 registered, or express mail with return receipt requested; or posting at specified locations. The  
12 court may specify a response time in accordance with subsection C(2) of this rule.

13 **D(6)(a)(i) Alternative service by publication.** In addition to the contents of a summons as  
14 described in section C of this rule, a published summons must also contain a summary  
15 statement of the object of the complaint and the demand for relief, and the notice required in  
16 subsection C(3) of this rule must state: "The motion or answer or reply must be given to the  
17 court clerk or administrator within 30 days of the date of first publication specified herein  
18 along with the required filing fee." The published summons must also contain the date of the  
19 first publication of the summons.

20 **D(6)(a)(i)(A) Where published.** An order for publication must direct publication to be  
21 made in a newspaper of general circulation in the county where the action is commenced or, if  
22 there is no such newspaper, then in a newspaper to be designated as most likely to give notice  
23 to the person to be served. The summons must be published four times in successive calendar  
24 weeks. If the plaintiff knows of a specific location other than the county in which the action is  
25 commenced where publication might reasonably result in actual notice to the defendant, the  
26 plaintiff must so state in the affidavit or declaration required by paragraph D(6) of this rule,

1 and the court may order publication in a comparable manner at that location in addition to, or  
2 in lieu of, publication in the county in which the action is commenced.

3 D(6)(a)(ii) **Alternative service by posting.** The court may order service by posting true  
4 copies of the summons and complaint at a designated location in the courthouse where the  
5 action is commenced and at any other location that the affidavit or declaration required by  
6 subsection D(6) of this rule indicates that the posting might reasonably result in actual notice  
7 to the defendant.

8 D(6)(b) **Electronic alternative service.** Electronic forms of alternative service may include,  
9 but are not limited to: e-mail; text message; facsimile transmission as defined in Rule 9 F; or  
10 posting to a social media account. The affidavit or declaration filed with a motion for electronic  
11 alternative service must include: verification that diligent inquiry revealed that the defendant's  
12 residence address, mailing address, and place of employment are unlikely to accomplish  
13 service; the reason that plaintiff believes the defendant has recently sent and received  
14 transmissions from the specific e-mail address or telephone or facsimile number, or maintains  
15 an active social media account on the specific platform the plaintiff asks to use; and facts that  
16 indicate the intended recipient is likely to personally receive the electronic transmission. The  
17 certificate of service must verify compliance with subparagraph D(6)(b)(i) and subparagraph  
18 D(6)(b)(ii) of this rule. An amended certificate of service must be filed if it later becomes  
19 evident that the intended recipient did not personally receive the electronic transmission.

20 D(6)(b)(i) **Content of electronic transmissions.** If the court allows service by a specific  
21 electronic method, the case name, case number, and name of the court in which the action is  
22 pending must be prominently positioned where it is most likely to be read first. For e-mail  
23 service, those details must appear in the subject line. For text message service, they must  
24 appear in the first line of the first text. For facsimile service, they must appear at the top of the  
25 first page. For posting to a social media account, they must appear in the top lines of the  
26 posting.

1 D(6)(b)(ii) **Format of electronic transmissions.** If the court allows alternative service by  
2 an electronic method, the summons, complaint, and any other documents must be attached in  
3 a file format that is capable of showing a true copy of the original document. When an  
4 electronic method is incapable of transferring transmissions that exceed a certain size, the  
5 plaintiff must not exceed those express size limitations. If the size of the attachments exceeds  
6 the limitations of any electronic method allowed, then multiple sequential transmissions may  
7 be sent immediately after the initial transmission to complete service.

8 D(6)(c) **Unknown heirs or persons.** If service cannot be made by another method  
9 described in this section because defendants are unknown heirs or persons as described in  
10 Rule 20 I and J, the action will proceed against the unknown heirs or persons in the same  
11 manner as against named defendants served by publication and with like effect; and any  
12 unknown heirs or persons who have or claim any right, estate, lien, or interest in the property  
13 in controversy at the time of the commencement of the action, and who are served by  
14 publication, will be bound and concluded by the judgment in the action, if the same is in favor  
15 of the plaintiff, as effectively as if the action had been brought against those defendants by  
16 name.

17 D(6)(d) **Defending before or after judgment.** A defendant against whom service pursuant  
18 to this subsection is ordered or that defendant's representatives, on application and sufficient  
19 cause shown, at any time before judgment will be allowed to defend the action. A defendant  
20 against whom service pursuant to this subsection is ordered or that defendant's  
21 representatives may, on good cause shown and on any terms that may be proper, be allowed  
22 to defend after judgment and within one year after entry of judgment. If the defense is  
23 successful, and the judgment or any part thereof has been collected or otherwise enforced,  
24 restitution may be ordered by the court, but the title to property sold on execution issued on  
25 that judgment, to a purchaser in good faith, will not be affected thereby.

26 D(6)(e) **Defendant who cannot be served.** Within the meaning of this subsection, a

1 defendant cannot be served with summons by any method authorized by subsection D(3) of  
2 this rule if service pursuant to subparagraph D(4)(a)(i) of this rule is not applicable, the plaintiff  
3 attempted service of summons by all of the methods authorized by subsection D(3) of this rule,  
4 and the plaintiff was unable to complete service; or if the plaintiff knew that service by these  
5 methods could not be accomplished.

6 **E By whom served; compensation.** A summons may be served by any competent person  
7 18 years of age or older who is a resident of the state where service is made or of this state and  
8 is neither a party to the action, corporate or otherwise, nor any party's officer, director,  
9 employee, or attorney, except as provided in ORS 180.260. However, service pursuant to  
10 subparagraph D(2)(d)(i), as well as the mailings specified in paragraphs D(2)(b) and D(2)(c) and  
11 part D(3)(a)(iv)(B) of this rule, may be made by an attorney for any party. Compensation to a  
12 sheriff or a sheriff's deputy in this state who serves a summons [*shall be*] **is** prescribed by  
13 statute or rule. If any other person serves the summons, a reasonable fee may be paid for  
14 service. This compensation [*shall be*] **is** part of disbursements and [*shall be*] **is** recovered as  
15 provided in Rule 68.

16 **F Return; proof of service.**

17 **F(1) Return of summons.** The summons [*shall*] **must** be promptly returned to the clerk  
18 with whom the complaint is filed with proof of service or mailing, or that defendant cannot be  
19 found. The summons may be returned by first class mail.

20 **F(2) Proof of service.** Proof of service of summons or mailing may be made as follows:

21 **F(2)(a) Service other than publication.** Service other than publication [*shall*] **must** be  
22 proved by:

23 **F(2)(a)(i) Certificate of service when summons not served by sheriff or deputy.** If the  
24 summons is not served by a sheriff or a sheriff's deputy, the certificate of the server indicating:  
25 the specific documents that were served; the time, place, and manner of service; that the  
26 server is a competent person 18 years of age or older and a resident of the state of service or

1 | this state and is not a party to nor an officer, director, or employee of, nor attorney for any  
2 | party, corporate or otherwise; and that the server knew that the person, firm, or corporation  
3 | served is the identical one named in the action. If the defendant is not personally served, the  
4 | server [shall] **must** state in the certificate when, where, and with whom true copies of the  
5 | summons and the complaint were left or describe in detail the manner and circumstances of  
6 | service. If true copies of the summons and the complaint were mailed, the certificate may be  
7 | made by the person completing the mailing or the attorney for any party and [shall] **must** state  
8 | the circumstances of mailing and the return receipt, if any, [shall] **must** be attached.

9 | F(2)(a)(ii) **Certificate of service by sheriff or deputy.** If the summons is served by a sheriff  
10 | or a sheriff's deputy, the sheriff's or deputy's certificate of service indicating: the specific  
11 | documents that were served; the time, place, and manner of service; and, if defendant is not  
12 | personally served, when, where, and with whom true copies of the summons and the  
13 | complaint were left or describing in detail the manner and circumstances of service. If true  
14 | copies of the summons and the complaint were mailed, the certificate [shall] **must** state the  
15 | circumstances of mailing and the return receipt, if any, [shall] **must** be attached.

16 | F(2)(b) **Publication.** Service by publication [shall] **must** be proved by an affidavit or by a  
17 | declaration.

18 | F(2)(b)(i) A publication by affidavit [shall] **must** be in substantially the following form:

19 | \_\_\_\_\_

20 | **Affidavit of Publication**

21 | State of Oregon )

22 | ) ss.

23 | County of )

24 | I, \_\_\_\_\_, being first duly sworn, depose and say that I am the \_\_\_\_\_ (here set forth the  
25 | title or job description of the person making the affidavit), of the \_\_\_\_\_, a newspaper of  
26 | general circulation published at \_\_\_\_\_ in the aforesaid county and state; that I know from my





1 | not violate the due process rights of the party against whom the summons was issued.

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IN THE DISTRICT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

PATTY PLAINTIFF,	)	
	)	
Plaintiff,	)	CASE NO 123-4567
	)	
v.	)	SUMMONS
	)	<b>C(3)(a)</b>
DOUG DEFENDANT,	)	
	)	
Defendant.	)	

To: Doug Defendant  
123 SE Smith Lane  
Portland OR 97204

**NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!**

You must “appear” in this case or the plaintiff or petitioner will win automatically. To appear you must file a legal document called a “motion,” “answer,” or “response” within 30 days of the date you receive this summons. To file, you must give your legal document to the clerk of the court that appears at the top of this summons. You may need to pay a filing fee. Your legal document must be in proper form as required by the Oregon Rules of Civil Procedure (ORCP) and the Uniform Trial Court Rules. You must serve your legal document, as required by ORCP 7 D, on the attorney for the plaintiff or petitioner, or on the plaintiff or petitioner if they do not have an attorney. You must also file “proof of service.” Proof of service is a signed statement describing when and how your legal document was served.

If you have questions, contact an attorney immediately. If you need help finding an attorney, you may contact the Oregon State Bar’s Lawyer Referral Service:

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**[courts.oregon.gov](http://courts.oregon.gov) OR [www.oregonlawhelp.org](http://www.oregonlawhelp.org)**

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Larry Lawyer, OSB No. 99xxxx  
620 SW 5<sup>th</sup> Ave, Suite 1225  
Portland OR 97204  
(503) 999-9999  
larry@lawyer.com

IN THE DISTRICT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

PATTY PLAINTIFF,	)	
	)	
Plaintiff,	)	CASE NO 123-4567
	)	
v.	)	SUMMONS
	)	<b>C(3)(b)</b>
DOUG DEFENDANT,	)	
	)	
Defendant.	)	

To: Patty Plaintiff  
123 SE Jones Lane  
Portland OR 97206

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You must "appear" to protect your rights in this matter. To appear you must file with the court a legal document called a "motion," a "reply" to a counterclaim, or an "answer" to a cross-claim. To file, you must give your legal document to the clerk of the court that appears at the top of this summons. You may need to pay a filing fee. Your legal document must be in proper form as required by the Oregon Rules of Civil Procedure (ORCP) and the Uniform Trial Court Rules. You must serve your legal document, as required by ORCP 7 D, on the attorney for the party that signed the summons, or on that party if they do not have an attorney. You must also file "proof of service." Proof of service is a signed statement describing when and how your legal document was served.

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IN THE DISTRICT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

PATTY PLAINTIFF,	)	
	)	
Plaintiff,	)	CASE NO 123-4567
	)	
v.	)	SUMMONS
	)	<b>C(3)(c)</b>
DOUG DEFENDANT,	)	
	)	
Defendant.	)	

To: Josh Wilson  
123 SE Peters Lane  
Portland OR 97212

**NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!**

You may be liable for attorney fees in this case. Should plaintiff in this case not prevail, a judgment for reasonable attorney fees may be entered against you, as provided by the agreement to which defendant alleges you are a party.

You must "appear" to protect your rights in this matter. To appear you must file with the court a legal document called a "motion" or "reply." To file, you must give your legal document to the clerk of the court that appears at the top of this summons. You may need to pay a filing fee. Your legal document must be in proper form as required by the Oregon Rules of Civil Procedure (ORCP) and the Uniform Trial Court Rules. You must serve your legal document, as required by ORCP 7 D, on the attorney for the party that signed the summons, or on that party if they do not have an attorney. You must also file "proof of service." Proof of service is a signed statement describing when and how your legal document was served.

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1 bring a party into contempt [*may be only on that party personally.*] **must be by personal**  
2 **service on that party.**

3 **C Filing; proof of service.**

4 C(1) **Generally.** Except as provided by section D of this rule, all documents required to be  
5 served on a party by section A of this rule [*shall*] **must** be filed with the court within a  
6 reasonable time after service. Except as otherwise provided in Rule 7 [*and*] **or** Rule 8, proof of  
7 service of all documents required or permitted to be served may be by written  
8 acknowledgment of service, by affidavit or declaration of the person making service, or by  
9 certificate of an attorney. Proof of service may be made on the document served or as a  
10 separate document attached thereto.

11 C(2) **Proof of service by facsimile communication.** If service is made by facsimile  
12 communication under section F of this rule, proof of service [*shall*] **must** be made by affidavit  
13 or by declaration of the person making service, or by certificate of an [*attorney*] **attorney**, and  
14 the person making service [*shall*] **must** attach to the affidavit, declaration, or certificate printed  
15 confirmation of receipt of the message generated by the transmitting technology.

16 C(3) **Proof of service by e-mail.** If service is made by e-mail under section G of this rule,  
17 proof of service [*shall*] **must** be made by affidavit or by declaration of the person making  
18 service, or by certificate of an attorney, stating either that the other party has consented to  
19 service by e-mail or that [*he or she*] **the sender** received confirmation that the message and  
20 **any** attachment were received by the designated recipient and specifying the method by which  
21 the sender received confirmation. An automatically generated message indicating that the  
22 recipient is out of the office or is otherwise unavailable cannot support the required  
23 certification, nor can an automatically generated e-mail delivery status notification.

24 C(4) **Proof of service by electronic service.** If service is made by electronic service under  
25 section H of this rule, proof of service [*shall*] **must** be made by affidavit or by declaration of the  
26 person making service, or by certificate of an attorney, specifying that service was completed

1 by electronic service.

2 C(5) **Proof of service on a party without a service address.** Service on a party who has  
3 appeared without providing an appropriate address for service [*shall*] **must** be by affidavit or  
4 by declaration of the person filing the document, or by certificate of an attorney, that service  
5 by filing as provided in section B of this rule is appropriate.

6 ***[D When filing not required.] D Documents not to be filed.*** Notices of deposition,  
7 requests made pursuant to Rule 43, and answers and responses thereto [*shall not be*] **are not**  
8 **to be** filed with the court. This rule [*shall*] **does** not preclude their use as exhibits or as  
9 evidence on a motion or at trial. Offers to allow judgment made pursuant to Rule 54 E [*shall*  
10 *not be*] **are not to be** filed with the court except as provided in Rule 54 E(3).

11 **E Filing with the court defined.** The filing of pleadings and other documents with the  
12 court as required by these rules [*shall*] **must** be made by filing them with the clerk of the court  
13 or the person exercising the duties of that office. The clerk or the person exercising the duties  
14 of that office [*shall*] **will** endorse on the pleading or document the time of day, the day of the  
15 month, the month, and the year. The clerk or person exercising the duties of that office is not  
16 required to receive for filing any document unless a caption that includes the name of the  
17 court; the case number of the action, if one has been assigned; the title of the document; and  
18 the names of the parties [*are*] **is** legibly displayed on the front of the document, nor unless the  
19 contents of the document are legible. Further, the clerk is not required to receive for filing any  
20 document that does not include the name, address, and telephone number of the **filing** party  
21 or the attorney for the party, if the **filing** party is represented.

22 **F Service by facsimile communication.** Whenever under these rules service is required or  
23 permitted to be made on a party, and that party is represented by an attorney, the service may  
24 be made on the attorney by means of facsimile communication if the attorney has such  
25 technology available and said technology is operating at the time service is made. Service in  
26 this manner [*shall be*] **is** subject to Rule 10 B. Facsimile communication includes: a telephonic

1 facsimile communication device; a facsimile server or other computerized system capable of  
2 receiving and storing incoming facsimile communications electronically and then routing them  
3 to users on paper or via e-mail; or an internet facsimile service that allows users to send and  
4 receive facsimiles from their personal computers using an existing e-mail account.

5 **G Service by e-mail.** Whenever under these rules service is required or permitted to be  
6 made on a party, unless the party or the party's attorney is exempted from service by e-mail by  
7 an order of the court, the service may be made by means of e-mail. Service is complete under  
8 this rule on confirmation of receipt of the e-mail or, if the receiving party has consented to  
9 service by e-mail, on transmission of the e-mail. Any party or any party's attorney must provide  
10 the name and e-mail address of that party or that attorney and that attorney's designee, if any,  
11 on any document served by e-mail. Any party or attorney who has communicated by e-mail or  
12 by electronic service must notify the other parties in writing of any changes to that party's or  
13 that attorney's e-mail address. Service in this manner [*shall be*] **is** subject to Rule 10 B.

14 **H Service by electronic service.** As used in these rules, "electronic service" means using  
15 an electronic filing system provided by the Oregon Judicial Department and in the manner  
16 prescribed in rules adopted by the Chief Justice of the Oregon Supreme Court.



1 and must show:

2 A(1)(a) that the petitioner, or the petitioner's personal representatives, heirs,  
3 beneficiaries, successors, or assigns are likely to be a party to an action cognizable in a court  
4 of this state and are presently unable to bring such an action or defend it, or that the  
5 petitioner has an interest in real property or some easement or franchise therein, about  
6 which a controversy may arise, that would be the subject of such action;

7 A(1)(b) the subject matter of the expected action and petitioner's interest therein and  
8 a copy, attached to the petition, of any written instrument the validity or construction of  
9 which may be called into question or that is connected with the subject matter of the  
10 expected action;

11 A(1)(c) the facts that petitioner desires to establish by the proposed testimony or other  
12 discovery and petitioner's reasons for desiring to perpetuate;

13 A(1)(d) the names or a description of the persons petitioner expects will be adverse  
14 parties and their addresses so far as one is known;

15 A(1)(e) the names and addresses of the parties to be examined or from whom  
16 discovery is sought and the substance of the testimony or other discovery that petitioner  
17 expects to elicit and obtain from each; and,

18 A(1)(f) a request for an order:

19 A(1)(f)(i) authorizing the petitioner to take the depositions of the parties to be  
20 examined for the purpose of perpetuating their testimony; or

21 A(1)(f)(ii) allowing discovery under Rule 43 or Rule 44 from the persons from whom  
22 discovery is sought for the purpose of preserving evidence.

23 A(2) **Notice and service.** The petitioner [*shall*] **must** thereafter serve a notice [*upon*] **on**  
24 each person named in the petition as an expected adverse party, together with a copy of the  
25 petition, stating that the petitioner will apply to the court at a time and place named therein,  
26 for the order described in the petition. The notice [*shall*] **must** be served either within or

1 without the state in the manner provided for service of summons in Rule 7. [7, but if] **if** such  
2 service cannot with due diligence be made [upon] **on** any expected adverse party named in the  
3 petition, the court may make such order as is just for service by publication or [otherwise, and  
4 shall] **otherwise. The court must** appoint, for persons not served with summons in the manner  
5 provided in Rule 7, an attorney [who shall] **to** represent [them and] **them**, whose services  
6 [shall] **must** be paid for by petitioner in an amount fixed by the court, [and, in case they are not  
7 otherwise represented, shall] **to** cross examine the deponent. Testimony and evidence  
8 perpetuated under this rule [shall] **will** be admissible against expected adverse parties not  
9 served with notice only in accordance with the applicable rules of evidence. If any expected  
10 adverse party is a minor or incompetent, the provisions of Rule 27 apply.

11 **A(3) Order and examination.** If the court is satisfied that the perpetuation of the  
12 testimony or other discovery to perpetuate evidence may prevent a failure or delay of justice,  
13 [it shall make an order designating or describing] **discovery may be had in accordance with**  
14 **these rules on the court's order, which must:**

15 **A(3)(a) designate or describe** the persons whose depositions may be taken and  
16 specifying the subject matter of the examination and whether the depositions [shall] **will** be  
17 taken [upon] **on** oral examination or written questions; [or shall make an order designating or  
18 describing]

19 **A(3)(b) designate or describe** the persons from whom discovery may be sought under  
20 Rule 43 specifying the objects of such discovery; or [shall make an order]

21 **A(3)(c) set** [for] a physical or mental examination as provided in Rule 44.

22 **A(4) Applicable discovery rules.** For the purpose of applying these rules to discovery  
23 before action, each reference therein to the court in which the action is pending [shall] **will** be  
24 deemed to refer to the court in which the petition for such discovery was filed.

25 **B Pending appeal.** If an appeal has been taken from a judgment of a court to which these  
26 rules apply or before the taking of an appeal if the time therefor has not expired, the court in

1 | which the judgment was rendered may allow the taking of the depositions of witnesses to  
2 | perpetuate their testimony or may allow discovery under Rule 43 or Rule 44 for use in the  
3 | event of further proceedings in such court. In such case the party who desires to perpetuate  
4 | the testimony or obtain the discovery may make a motion in the court therefor [*upon*] **on** the  
5 | same notice and service thereof as if the action was pending in the circuit court. [*The motion*  
6 | *shall show: (1) the names and addresses of the persons to be examined or from whom other*  
7 | *discovery is sought and the substance of the testimony or other discovery which the party*  
8 | *expects to elicit from each; and (2) the reasons for perpetuating their testimony or seeking such*  
9 | *other discovery. If the court finds that the perpetuation of the testimony or other discovery is*  
10 | *proper to avoid a failure or delay of justice, it may make an order as provided in subsection (3)*  
11 | *of section A of this rule and thereupon discovery may be had and used in the same manner and*  
12 | *under the same conditions as are prescribed in these rules for discovery in actions pending in the*  
13 | *circuit court.*]

14 | **B(1) Contents of motion. The motion must show:**

15 | **B(1)(a) the names and addresses of the persons to be examined or from whom other**  
16 | **discovery is sought and the substance of the testimony or other discovery which the party**  
17 | **expects to elicit from each; and**

18 | **B(1)(b) the reasons for perpetuating their testimony or seeking such other discovery.**

19 | **B(2) Order of the court. If the court finds that the perpetuation of the testimony or**  
20 | **other discovery is proper to avoid a failure or delay of justice, it may make an order as**  
21 | **provided in subsection A(3) of this rule. Thereupon, discovery may be had and used in the**  
22 | **same manner and under the same conditions as are prescribed in these rules for discovery in**  
23 | **actions pending in the circuit court.**

24 | **C Perpetuation by action.** This rule does not limit the power of a court to entertain an  
25 | action to perpetuate testimony.

26 | **D Filing of depositions.** Depositions taken under this rule [*shall*] **must** be filed with the

1 | court in which the petition is filed or the motion is made.

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March 31, 2026

Mark A. Peterson, Executive Director  
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**Subject:** PUBLIC SUGGESTION FOR THE 2025–2027 BIENNIUM: CLARIFYING ORCP 7, 9, 10, AND 12 REGARDING SERVICE ON ADDRESS CONFIDENTIALITY PROGRAM PARTICIPANTS

Dear Mr. Peterson and Members of the Council:

I am writing to submit a public suggestion for the Council's consideration during the 2025–2027 biennium. My suggestion concerns a structural gap across at least four Oregon Rules of Civil Procedure—ORCP 7, 9, 10, and 12—that has created significant confusion in circuit court practice regarding service on participants in Oregon's Address Confidentiality Program (ACP), established under ORS 192.820–192.868.

I raise this issue from direct experience as a certified ACP participant and a current pro se litigant in Yamhill County Circuit Court. However, this problem is not unique to Yamhill County. I have encountered similar judicial conclusions—often described as "unpersuasive"—that the ACP Program is not integrated into the Oregon Rules of Civil Procedure, and that the "as otherwise provided by law" language in the ORCP does not apply to ACP participants in civil litigation. These interpretations appear to conflict with ORS 174.010's prohibition on inserting limitations into statutes or administrative rules that the Legislature did not enact. The result has been repeated violations of my rights and safety due to private attorneys' refusal to comply with ACP service or protection requirements (e.g., disclosing actual physical addresses without segregating protected information under UTCR 2.100).

Yesterday, during oral argument, I presented what I believe was a well-supported analysis of statutory authority, case law, and federal interpretation of state ACP programs. The ACP's service-of-process framework—including the Attorney General's designation as statutory agent for all legal process under ORS 192.822(2)—is incorporated into the ORCP through ORCP 7 D(1)'s reference to an "agent authorized by law," and, independently, overrides conflicting procedural rules by express legislative directive. See ORS 1.745. However, the court struck my defenses to a motion to compel, finding it had jurisdiction despite the defense's failure to provide legal service of process under the ACP statutes.

Defense counsel successfully argued that ORCP 9 G authorizes email as the default method of post-complaint service; that my objection to email service constituted proof of receipt; and that requiring compliance with the ACP's statutory service framework would constitute an "alternative method of service" requiring a court order. The court adopted this position. I was reprimanded<sup>1</sup> for insisting that service be made in accordance with the ACP statutes and administrative rules. No authority was cited for the proposition that ORCP 9 G displaces a statutory service-agent designation, because none exists. Defense also ignored UTCR 2.080, which requires that written communications to the court be simultaneously mailed or delivered to opposing parties—treating ORCP 9 G email service as satisfying that delivery requirement.

The practical effect is that a statute enacted to protect survivors of domestic violence, sexual assault, stalking, and human trafficking was subordinated to a procedural rule. A certified ACP participant was told, in open court, that the program's protections do not apply to post-complaint service. The implication is that an ACP participant must either obtain a court order for substitute service or be forced into email-only service with no verifiable paper service at the statutory agent's address.

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<sup>1</sup> IN THE INTEREST OF FULL DISCLOSURE: DEFENSE COUNSEL ALLEGED WITHOUT BASIS THAT I USED ARTIFICIAL INTELLIGENCE TO FABRICATE LEGAL AUTHORITY AND GENERATE PLEADINGS AND MISLEAD THE COURT. THE COURT STRUCK ALL MY DEFENSES WITHOUT VERIFICATION THAT DEFENSE HAD MIS-CITED CASE LAW HOLDINGS ITSELF.

I am not writing to relitigate the court's finding that substantive due process rights were "non-existent," nor the court's acceptance of the defense's argument that I was raising service objections merely to force the defense to respond, thereby increasing their litigation costs. I am writing because the ORCP's silence on this issue made the defense's argument possible, and the same argument will inevitably be raised in other courts against other ACP participants. In my view, the ruling issued in Yamhill County is detrimental to all ACP participants statewide.

The gap lies in the rules, and this Council is the body empowered to address it. A clarifying amendment—whether in ORCP 7, 9, 10, 12, or a cross-reference provision—would ensure that ACP service requirements are uniformly recognized and enforced, consistent with legislative intent and the program's purpose.

## **I. THE STATUTORY FRAMEWORK**

ORS 192.822(2) provides that the Attorney General “shall designate a substitute address for a program participant and act as the agent of the program participant for purposes of service of all legal process in this state.” The Department of Justice has promulgated implementing rules at OAR 137-079-0210(2) that personal service may be delivered to the Department of Justice at 1162 Court Street NE, Salem, and the Program shall track and forward personal service, in sum, as the authorized agent.

ORS 192.856 adds five days to any response period of ten days or less when service is effected properly by mail through the ACP—a provision that would be surplusage if the Legislature did not intend legal process to flow through the ACP system.

## **II. THE PROBLEM ACROSS FOUR RULES**

In active circuit court litigation, the following arguments have been raised successfully to circumvent the ACP statutory service framework:

1. **ORCP 7.** Rule 7 D(1) provides that service may be made “by any other rule or statute on the defendant or upon an agent authorized by appointment or law to

accept service of summons for the defendant.” This language accommodates the ACP’s statutory agent designation, but only for initial service of summons on a Defendant. The rule does not expressly state that ORS 192.822(2)’s designation of the Attorney General as agent for “all legal process”—which is broader than summons—carries forward into post-complaint service under Rule 9, which captures service on a Plaintiff or a Defendant.

2. **ORCP 9.** Rule 9 G provides that email service is available “unless the party or the party’s attorney is exempted from service by e-mail by an order of the court.” Defense counsel argued that this makes email the default and exclusive method for post-complaint service, and that requiring service through the Attorney General under ORS 192.822(2) constitutes an “alternative method” that requires a court order to activate. This argument treats the ORCP as superior to the ACP statute, inverting the hierarchy established by ORS 1.745. Rule 9 A opens with the qualifier “Except as otherwise provided in these rules,” but contains no cross-reference to statutory service-agent designations. For the court to accept the defense’s proposition, it allows ORCP 9 G to defeat state legislative intent under OAR 137-079-0170 (Responsibility of Public Bodies to Use Substitute Address) and OAR 137-079-0110 (Authority and Purpose), which provides for “the responsibility of public agencies to use the substitute address provided by the Address Confidentiality Program... service of process on a participant.”
3. **ORCP 10.** Rule 10 B adds three days to response periods when service is by mail, email, facsimile, or electronic service. ORS 192.856 adds a separate five days to response periods of ten days or less when service is by mail through the ACP. The current ORCP text does not acknowledge this statutory overlay or clarify how the two provisions interact. A court that permits email service on an ACP participant bypasses ORS 192.856 entirely, eliminating a timing protection the Legislature specifically enacted. In my case the court not only allowed the defense to file an ORCP 79 B(4) motion to hail me into court 200 miles away with less than 18 hours’ notice when procedure required 48 hours’ notice or a court order to shorten, but the procedural violation was a substantive one under ORS 192.856.

4. **ORCP 12 B.** Rule 12 B provides that defects in service not affecting the substantial rights of adverse parties shall be disregarded. This has been disregarded in entirety because defense argued ORCP 9 G defeated the ACP Program. Thus, defense made no error in failing—despite actual notice—to use the 1162 Court Street address. However, the Oregon Supreme Court in *Jordan v. Wisner*, 302 Or. 50 (1986), held that unauthorized service is not a defect—it is no service—and that actual notice does not cure it. The ORCP text does not clarify whether bypassing a statutory service-agent designation constitutes a “defect” under Rule 12 B or a nullity under *Jordan*. The court in *Murray v. Meyer*, 81 Or. App. 432 (1986), confirmed that ORCP 9 B specifies a manner of service that is impervious to collateral attack and had to reconcile ORCP 9 B with ORCP 12 B; the court determined the rules are not inconsistent. Failure to follow statutory legal process, and indeed the contractual agreement between the DOJ and an ACP participant to designate the State AG as agent for “all legal process,” is a substantive right.

### **III. THE PRACTICAL CONSEQUENCES**

ACP participants have an unambiguous program to make legal service easy and affordable for the serving party. When a court permits email service in lieu of paper service through the statutory agent, it:

- INCREASES THE FINANCIAL BURDEN ON THE ACP PARTICIPANT TO PRINT PLEADINGS AND EXHIBITS;
- UNDERMINES THE LEGISLATIVE INTENT;
- DISREGARDS DEPARTMENT OF JUSTICE RULES;
- DISREGARDS THE PUBLIC POLICY EXPRESSED BY THE LEGISLATURE IN ORS 192.820 THROUGH 192.868;
- RENDERS ORS 192.856’S TIMING PROTECTIONS A NULLITY;
- PLACES THE COURT IN THE POSITION OF APPEARING TO CHOOSE BETWEEN A PROCEDURAL RULE AND A STATUTE—A CONFLICT THAT DOES NOT ACTUALLY EXIST IN THE LEGAL HIERARCHY, BUT THAT THE CURRENT ORCP TEXT DOES NOTHING TO PREVENT.

The ORCP’s silence on this issue creates an environment in which an incorrect but confident procedural argument will prevail over a correct but unfamiliar statutory one—particularly when the party raising the statutory argument is unrepresented.

#### **IV. ARGUMENT DISREGARDED BY YAMHILL COUNTY CIRCUIT COURT**

##### ***i. Oregon Was a Founding Member of the National Association of Address Confidentiality Programs***

Of the multiple states that have enacted ACP statutes, few have had to address this precise question. Where jurisdictions have, the question has been raised upon a parallel, if not uniform, ACP statute and has reached the same conclusion urged here.

Oregon and California are founding members of the National Association of Confidential Address Programs (NACAP), making California’s construction of its parallel statute uniquely persuasive.

*Grewal v. Martin*, No. B193640 (Cal. Ct. App. Mar. 3, 2008): The court held that service of discovery on an ACP participant required delivery to the Secretary of State at the designated physical address; mailing to the ACP PO Box was necessary but not sufficient. Unpublished; cited as persuasive authority on a question of first impression in Oregon. No published decision in any jurisdiction has directly addressed post-complaint service on an ACP participant under a materially parallel statute.

##### ***ii. State Case Law***

Under *Ann Sacks Tile & Stone, Inc. v. Dept. of Revenue*, 352 Or. 380, 392 (2012), service in the prescribed manner is jurisdictional. ORS 192.822(2) is unambiguous: the Attorney General shall act as agent for service of all legal process. OAR 137-079-0210(2) specifies the mechanism: deliver to the Oregon Department of Justice, 1162 Court Street NE, Salem, Oregon. *Perlenfein and Perlenfein*, 316 Or. 16 (1993)—statutory construction applies to OARs; omitted terms cannot be added. Neither the ORS nor the

OAR permits an exception to authorized service. To the extent that a court order would be contemplated under ORCP 9 G, it would be to allow alternative service on an attorney in lieu of the State AG, as the ORS and OAR are silent on allowing a participant’s attorney to receive service on their behalf.

Under *Hobbs v. McLean*, 117 U.S. 567, 582 (1886): “When a provision is left out of a statute, either by design or mistake of the legislature, the courts have no power to supply it. To do so would be to legislate and not to construe.” The Oregon Supreme Court held in *State v. Wolf*, 17 Or. 119, 129 (1888), that courts cannot extend statutory language beyond what the legislature enacted. *State ex rel. Everding v. Simon*, 20 Or. 365, 373–74 (1891), quoting *Hobbs v. McLean*, reiterated that courts cannot supply omitted provisions.

*Jordan v. Wisner* remains good law<sup>2</sup>, having been cited approvingly in *Murphy v. Price*, 131 Or. App. 693, 699 (1994), and reaffirmed in *Davis Wright Tremaine v. Menken*, 181 Or. App. 332, 339 (2002). The U.S. Supreme Court has held that waiver of statutory rights—particularly those enacted to protect the public interest—is inappropriate when “inconsistent with the provision creating the right sought to be secured.” *New York v. Hill*, 528 U.S. 110, 116 (2000). Forcing an ACP participant into waiver of substantive due process rights is unconstitutional. Defense counsel argued that they were not required, as officers of the court, to provide mail service at the address the participant provided for legal service. Further counsel inserted a public body limitation from one ACP statute into a separate one to allege no compliance requirement.

### **iii. Federal Implementation of State ACP Programs**

The ACP service framework is also recognized at the federal level. In FIN-2009-RO03 (2009), the Financial Crimes Enforcement Network held under the Bank Secrecy Act that ACP participants “shall be treated as not having a residential or business street address” and that institutions must use “the street address of the ACP sponsoring

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<sup>2</sup> Defense alleged *Jordan* was overturned by *Baker v. Foy*, 310 Or. 221 (1990). However, the Supreme Court clarified in *Murphy* that *Baker* did not overturn the service holding in *Jordan*.

agency” for compliance purposes. Federal regulators recognize the State ACP agent’s physical address as the only lawful channel for official contact. Defendants’ position that was accepted by Yamhill County Circuit Court—that email service overrides the ACP framework—has no support in Oregon law, in any appellate authority from any jurisdiction, or in federal regulatory interpretation.

## **V. SUGGESTED CLARIFICATIONS**

I respectfully suggest the Council consider the following clarifications. They use the ORCP’s existing internal framework to close the gap with the ACP statutes and administrative rules.

### **ORCP 1 (Scope; Construction; Application):**

*“Service on a certified participant in the Address Confidentiality Program shall be made in the manner prescribed by Rule 7 D(3)(g). No other method of service provided by these rules supersedes this requirement. When service is made in accordance with Rule 7 D(3)(g), additional response time may be prescribed by statute. See ORS 192.856.”*

### **ORCP 7 D(3)(g). Add a new subpart:**

*“Upon a certified participant in the Address Confidentiality Program, by personal service upon the Attorney General or by leaving true copies at the Attorney General’s office with a deputy, assistant, or clerk.”*

### **ORCP 9. Add to section B or as a new subsection:**

*“Service of documents subsequent to the original summons and complaint on a certified participant in the Address Confidentiality Program shall be made in the manner provided by Rule 7 D(3)(g).”*

**ORCP 10. Add to section B or as a new provision:**

*“When service on a certified participant in the Address Confidentiality Program is made in accordance with Rule 7 D(3)(g), additional response time may be prescribed by statute. See ORS 192.856.”*

- THIS PROVISION SERVES AS THE TIMING FLAG FOR THE ACP OVERLAY. THE COUNCIL MAY DETERMINE IT APPROPRIATE TO REPEAT THIS REFERENCE AT SPECIFIC SHORT-DEADLINE PROVISIONS THROUGHOUT THE ORCP, SUCH AS RULE 79 B(4), WHERE THE STATUTORY ADDITIONAL RESPONSE TIME WOULD APPLY. DUE TO PRACTICAL REALITIES OF EMERGENT PROCEEDINGS, A NON-WAIVER OF RIGHTS IS INCLUDED IN ORCP 12 BELOW.

**ORCP 12. Add to section B or as a new provision:**

*“Failure to serve a certified participant in the Address Confidentiality Program in the manner prescribed by Rule 7 D(3)(g) is not a defect subject to disregard under this section. A certified participant who responds to, appears for, or otherwise engages with a document or proceeding initiated by service not in compliance with Rule 7 D(3)(g) or ORS 192.856 does not thereby waive the right to require service in accordance with that rule, and such response or appearance does not constitute consent to service by any other method.”*

**VI. SUPPORTING MATERIALS**

1. The National Association of Confidential Address Programs (NACAP)  
[www.nacap.org](http://www.nacap.org)
2. By-Laws of States who have joined the NACAP.
3. *Grewal v. Martin*, No. B193640 (Cal. Ct. App. Mar. 3, 2008) (unpublished)  
California Appellate Case addressing ACP service under equivalent of ORCP 9.

4. FIN-2009-R003 (2009) covers federal implementation of State ACP Programs and related CFR's.

## **VII. CONCLUSION**

The suggested amendments do not alter the ACP statute or administrative rules, nor do they fundamentally alter the Oregon Rules of Civil Procedure. They clarify what “as otherwise provided for by law” means in the context of the Address Confidentiality Program. Such clarification will clarify related provisions in the Uniform Trial Court Rules. The recommended revisions would clarify the ORCP’s relationship to existing law to make the matter unambiguous in the civil context, thereby reducing confusion for litigants, attorneys, and courts. The gap is not in the law—the hierarchy under ORS 1.745 is clear—but in the ORCP’s silence, the quiet has permitted arguments that procedural rules override substantive due process protections. This conflicts with Oregon’s express legislative policy to provide an Agent for all legal process and the separation of powers between the Legislature and the Judiciary.

Thank you for your consideration. The Council’s work maintaining the ORCP is invaluable, and I appreciate the opportunity to contribute to that process.

/s/ Kelly A Barnett

Kelly A Barnett

**BYLAWS OF  
NATIONAL ASSOCIATION OF CONFIDENTIAL ADDRESS PROGRAMS  
(NACAP)**

- Article I. Name and Purpose.
- Article II. Definitions.
- Article III. Membership.
- Article IV. Board of Directors.
- Article V. Meetings and Annual Conference.
- Article VI. Voting.
- Article VII. Committees.
- Article VIII. Amendments and Policies.

**ARTICLE I  
NAME AND PURPOSE**

**Section I – Name**

The name of this organization shall be the National Association of Confidential Address Programs (NACAP) (herein known as the “Association”).

**Section II – Mission Statement**

Our mission is to collaborate, strengthen, educate, and advocate for the interests of state and territory confidential address programs and therefore the people they serve.

**Section III – Goals**

Our goals are to strengthen and support confidential address programs by:

- A. Creating greater accessibility and visibility;
- B. Building foundations of a common identity while respecting states’ and territories’ individual needs;
- C. Being the common voice on emerging issues impacting programs; Providing education and awareness; and
- D. Identifying and communicating best practices.

**ARTICLE II  
DEFINITIONS**

- A. A confidential address program is a state or territory program whose core services include providing a substitute address and mail forwarding services to victims of crime and protected persons.
- B. A state is defined as one of the recognized 50 states of the United States of America and the District of Columbia.
- C. A territory is defined as a territory of the United States of America.

## **ARTICLE III MEMBERSHIP**

### **Section I – Membership Categories**

All membership categories shall be subject to the provisions of the Association’s bylaws where applicable. All entities seeking to become a member under any category may be subject to review and verification by the Board of Directors prior to membership being granted.

- A. Associate – Associate membership is available to all states and territories with a confidential address program as defined in Article II of these bylaws. Associate membership applies to the confidential address program and not to an individual of the program.
  - 1. Associate members shall pay an annual fee of an amount determined by the Executive Committee.
  - 2. Each Associate member shall be eligible to appoint one voting representative to cast the Associate member’s vote in Association elections.
  - 3. Associate members shall have full rights and privileges as described in these bylaws and in accordance with their membership benefits.
  - 4. Associate members shall strive to participate in issues, discussions, on-boarding mentorship, trainings, and events presented by the Association.
- B. Affiliate – Affiliate membership is available to any state, territory, or government entity working to establish a confidential address program as defined in Article II of these bylaws.
  - 1. Affiliate members shall pay an annual fee of an amount determined by the Executive Committee.
  - 2. Affiliate members shall not have a vote in any Association matters or be eligible to hold any office on the Board.
  - 3. Affiliate members shall have a limited presence in accordance with their membership benefits.
- C. Ally – Ally membership is available to any non-profit or government entity with a vested interest in services provided to victims of crime and protected persons. This includes, but is not limited to, domestic and sexual violence coalitions, local programs that provide victim services, and law enforcement agencies.
  - 1. Ally members shall pay an annual fee of an amount determined by the Executive Committee.
  - 2. Ally members shall not have a vote in any Association matters or be eligible to hold any office on the Board.
  - 3. Ally members shall have a limited presence in accordance with their membership benefits.

### **Section II – Annual Dues**

- A. The annual dues for members of the Association shall be as determined by the Executive Committee. Dues cover the calendar year January 1 – December 31.
- B. New Associate members and new Affiliate members who join the Association after July 1<sup>st</sup> shall have their initial membership dues pro-rated.
- C. Monetary and Gift donations may be accepted by the Association. The use of the

donation will be determined by the Board unless the donation is for use at the Annual Conference.

- D. The Association will not accept pledges or gift agreements.

### **Section III – Non-voting Membership**

The Board shall have the authority to establish and define non-voting categories of membership.

### **Section IV – Membership Principles**

- A. A member shall support and uphold the mission and vision of the Association.
- B. A member shall reflect a positive image of the Association.
- C. A member cannot independently enter into contracts on behalf of the Association without approval from the Board.
- D. A member shall respect the differences in each state's and each territory's program.
- E. A member shall not, without prior discussion and approval of the Board of Directors, independently purport to administer a best practice of a confidential address program in a manner that represents the Association's interest, nationwide best practices, or any other confidential address program.

## **ARTICLE IV BOARD OF DIRECTORS**

### **Section I – Board of Directors**

- A. Board of Directors shall consist of a President, Vice President, Treasurer, Secretary and three At-Large Members, all of whom shall be an administrator, manager, director of a confidential address program, or a program approved designee who is involved in the day-to-day operations and decisions.
- B. A Secretary of State, Deputy Secretary of State, Chief of Staff, Attorney General or likewise elected or high-ranking official of any state or territory office is not eligible to be a Board Member unless that person is directly involved in the daily implementation and operations of that state's address confidentiality program functions.

### **Section II – Duties of the Board**

- A. President – The President shall convene regularly scheduled meetings, shall preside or arrange for other members of the Executive Committee to preside at each meeting in the following order: Vice-President, Secretary, Treasurer. The President is the Chair of the Executive Committee that has general management and control of the business and direction of Association. In addition to serving on the Executive Committee, the President shall serve on at least one committee that is not ad hoc. The President shall report annually to the members on the activities of the Association.
- B. Vice President – The Vice President shall assume the duties of the President in the event of absence, incapacity, resignation, or removal of the President, and shall be responsible for the filing of the annual report to renew the of articles of incorporation. The Vice President shall ensure historical documents, such as monthly Board minutes, the Annual Report, Conference session documents, etc, for the calendar year are submitted for digital archiving and chair at least one committee.

- C. Secretary – The Secretary shall keep the minutes of the Association, Board of Directors, and Executive Committee meetings, support/assist the President with preparing the annual report, and in addition to serving on the Executive Committee, shall serve on at least one committee that is not ad hoc. The Secretary will communicate at least quarterly with the Membership Committee regarding Association membership if the Secretary is not serving on the Membership Committee.
- D. Treasurer – The Treasurer shall be responsible for the safekeeping of Association funds, for maintaining adequate financial records, and for depositing all monies with a reliable banking company in the name of the Association. The Treasurer will collect dues, shall create and submit to the Board an annual budget report based on the calendar year, and shall be responsible for the annual tax filing.
- E. At-Large Members – The At-Large Member serves as a member of the Board and provides guidance and expertise to the Board and serves to represent the interests of the larger Association. The At-Large Member shall serve on at least one committee that is not ad hoc.

### **Section III – Term of Office**

- A. All officers and the At-Large Members shall be elected for a two-year term. All officers and At-Large Members are eligible for reelection for a consecutive full term.
- B. When a Board member fills a vacancy, that period does not count toward the two-year term limit.

### **Section IV – Board of Directors Code of Conduct**

- A. Members of the Board of Directors are held to the standards of membership principles as stated in Article III, Section IV.
- B. Board Members are expected to exercise duties and responsibilities with integrity and care. This includes:
  1. Making attendance at all meetings of the Board and Committee meetings a high priority and attending at least nine of the twelve meetings during each year of service.
  2. Being prepared to discuss the issues and business on the agenda.
  3. Cooperating with and respecting the opinions of fellow Board Members.
  4. Supporting actions of the Board even when the Board Member personally did not support the action taken.
  5. Putting the interests of the Association above personal interests.
  6. Striving to ensure that procedures are consistent with Association policy.
  7. Maintaining lines of communication and assisting in requests for information.

### **Section V – Elections and Board Vacancies**

- A. Officers and At-Large Members shall be elected at the annual conference by Associate members of the Association. Elections shall be by ballot cast at the conference or by absentee ballot received by the Chair of the Elections Committee one week prior to the conference start date. A majority of the votes cast shall elect.
- B. The President, Secretary, and one At-Large Member shall be elected in odd-numbered calendar years.
- C. The Vice President, Treasurer, and two At-Large Members shall be elected in even-

numbered calendar years.

- D. When a vacancy of the Executive Committee occurs, natural succession will take place, if practicable, until a vote for the replacement at the next election. If natural succession is not practicable, the vacancy may be filled by the prior successor, if possible, or may be filled by the affirmative majority vote of the Board of Directors from nominees selected by the Executive Committee until a vote for the replacement at the next election.
- E. The position of Treasurer may be excluded from the general order of natural succession.
- F. When an At-Large vacancy on the Board exists mid-term, the Secretary or designee must receive nominations for new members from present Board Members two weeks in advance of the regular meeting. Vacancy nominations shall be sent out to Associate members with the next meeting announcement, to be voted upon at the next regular meeting. Vacancies will be filled only to the end of the Board Members' term.

### **Section VI – Board Resignations, Absences, and Removal**

- A. Resignation from the Board must be in writing and received by the Secretary or designee.
- B. A Board Member may be terminated from the Board due to more than three absences from Board meetings during one year of service.
- C. A Board Member may be removed for reasons other than absences by a three-fourths vote of the remaining officers/directors.
- D. Any violations of the Board of Directors code of conduct may be reported to the President, or any officer in order of succession as needed or applicable. Any criminal activity will be reported immediately to the authorities. Any Association violations shall be presented to the remaining Board Members with a possibility of a vote for removal.
  - 1. Accused Board Members shall be given an opportunity to defend themselves.
  - 2. Discussion, attempts, and terms for a positive resolution may be made prior to a vote for removal.
  - 3. Record of the accusation, discussion and any resulting vote will be made in the meeting minutes.
  - 4. A copy of the meeting minutes shall be available upon request to the Secretary or designee.

## **ARTICLE V MEETINGS AND ANNUAL CONFERENCE**

### **Section I – Membership Meetings**

- A. Business meetings of Associate members shall be held at a minimum of once a year, at a time to be designated by the President. Business meetings may be held via web meeting portal, teleconference or in person.
- B. Special meetings may be called by the President, the Executive Committee, or a simple majority of the Board.
- C. Notice of meetings shall be provided to each voting member electronically not less than two weeks prior to the scheduled meeting.
- D. All issues to be voted on shall be decided by a simple majority of those present at the meeting in which the vote takes place.

## **Section II – Board Meetings**

- A. Regular Board meetings shall be held at a time to be designated by the Board. Meetings may be held via web meeting portal, teleconference, or in person.
- B. Notice of regular board meetings shall be provided to each Board member electronically not less than two weeks prior to the scheduled meeting.
- C. Special meetings may be called by the President, the Executive Committee, or a simple majority of the Board.

## **Section III – Annual Conference**

A conference shall take place annually. The specific time, date, and location of which will be designated by the Board of Directors. At the annual conference, the annual Association election shall take place.

## **ARTICLE VI VOTING**

### **Section I - Voting and quorum requirements shall be determined by category.**

- A. Membership votes – Each Associate member is eligible to cast a vote in Association elections for members of the Board of Directors or issues as presented and appropriate. A quorum shall be a simple majority of members responding by voting in person, by teleconference, by video conference or absentee ballot. No response from an Associate member indicates forfeiting a vote in that election.
- B. Board of Directors votes – The Board of Directors shall vote on items properly noticed and placed on the meeting agenda, not relating to removing an officer, bylaw changes or an emergency circumstance. A quorum shall be a simple majority of Board Members participating in person, by teleconference or by video conference. An absentee ballot may be accepted.
- C. Vote to remove a Board Member – For this vote to take place, every Board Member eligible to vote must participate. A three-fourths majority vote is required to remove a Board Member.
- D. Amendment to the bylaws vote – This requires a two-thirds majority vote of the Board.
- E. Emergency votes – An emergency vote request shall be sent to an Executive Committee member. A determination shall be made. In the event of an emergency vote, members shall be notified and given a deadline for the return of their vote. Action may be taken at the time of the deadline with a simple majority vote of those responding. The issue and action shall be reviewed at the next meeting as is reasonable.
- F. Other votes – The Board of Directors shall have the authority to establish a new voting category as needed for the good of the Association.

## **ARTICLE VII COMMITTEES**

### **Section I – Committees**

- A. The Executive Committee, the Budget Committee, the Communications Committee, the Conference Planning Committee, the Data Committee, and the Membership Committee shall be standing committees.

- B. At a minimum, standing committees shall meet quarterly.
- C. The Chair, or other designee in the Chair's absence, of each standing committee and each special committee shall submit a report of the committee's work, goals, and accomplishments for each Board meeting.
- D. Ad hoc committees can be established during the calendar year by either the Executive Committee or the Board of Directors.
- E. Subcommittees are ad hoc committees and are not subject to the quarterly meeting requirements of standing committees and special committees.
- F. The majority of a committee shall be comprised of Associate Members. Other members may sit on a committee but cannot chair or vote on committee issues.
- G. The goals and projects of a committee shall be considered when a non-Associate member requests to join a committee.

### **Section II – Executive Committee**

The President, Vice President, Treasurer and Secretary serve as the members of the Executive Committee. The President is the Chair of the Executive Committee. Except for the power to amend the Articles of Incorporation and bylaws, the Executive Committee shall have the powers and authority of the Board in the intervals between meetings of the Board and is subject to the direction and control of the full Board. The Executive Committee may approve expenditures of funds in accordance with the Financial Manual and shall appoint members to committees.

### **Section III – Budget Committee**

The Treasurer is the Chair of the Budget Committee, which shall include a minimum of two additional Associate Members, one of whom shall be a Board Member. The Budget Committee is responsible for developing and reviewing fiscal procedures, creating, and managing the annual budget, and any fundraising opportunities for the Association.

### **Section IV- Communications Committee**

The Communications Committee is responsible for developing, maintaining, and reviewing communications with members and non-members.

### **Section V- Conference Planning Committee**

The Conference Planning Committee is responsible for planning and implementing the annual Conference with a goal of obtaining at least one monetary donation.

### **Section VI – Data Committee**

The Data Committee is responsible for collecting and maintaining statistics from member programs.

### **Section VII – Membership Committee**

The Membership Committee is responsible for member outreach and engagement, new member applications, membership renewals, and maintaining a list of members.

### **Section VIII – Special Committee**

- A. By December 31<sup>st</sup> of each calendar year, one or more special committees for the

following calendar year shall be determined by a majority vote of the Board, if deemed necessary to accomplish the Association's objectives and goals.

- B. At minimum, a special committee shall meet quarterly.

## **ARTICLE VIII AMENDMENTS AND POLICIES**

### **Section I – Adoption of Rules and Amendments**

Bylaws and member benefits shall be reviewed by the Board of Directors at least once annually. The bylaws and member benefits may be amended when necessary, by two-thirds majority of the Board. Proposed amendments must be submitted to the Secretary to be sent out with regular Board announcements.

### **Section II – Policies**

Policies of the Association can be adopted by a two-thirds majority vote of the Board.

1. Proposed policies may be submitted to the Board by the membership.
2. Adopted policies will be maintained with official records of the Association.
3. Adopted policies must be made available to all members.
4. Amendments to policies are subject to the provisions of this section.

## Ruling

**FIN-2009-R003**

**Issued: November 3, 2009**

**Subject: Customer Identification Program Rule – Address Confidentiality Programs**

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I am responding to your letter dated January 16, 2009, to the Financial Crimes Enforcement Network (FinCEN), in which you seek guidance on customer identification (CIP) requirements as they relate to customers who are issued a post office box address as part of their participation in the [name of state] program, an address confidentiality program (ACP).<sup>1</sup>

In the situation you have described, [name of state ACP] participants who use [your institution] are having difficulty establishing accounts or changing their address to the post office box that has been assigned to them by [name of state ACP]. [Name of state ACP] is administered by the secretary of state, which maintains a post office box through which program participants receive mail.<sup>2</sup> Under [name of state] law “when a program participant presents the address designated by the secretary of state to any person, that address must be accepted as the address of the program participant” and a program participant may use the designated address as their business address.<sup>3</sup>

The rules implementing the Bank Secrecy Act require a [financial institution] to implement a CIP that includes, at a minimum, risk-based policies and procedures that enable the [financial institution] to form a reasonable belief that it knows the true identity of its customers.<sup>4</sup> The rules also require that a [financial institution] obtain from an individual customer a residential or business street address.<sup>5</sup> If the individual customer does not have a residential or

<sup>1</sup> ACPs are offered by 31 States; these programs provide a substitute address for victims of domestic violence, sexual assault and stalking and help a participant keep his/her physical address confidential. Substitute addresses are accepted by state and local agencies. *See, e.g.*, Washington Secretary of State Additional Information About ACP <http://www.secstate.wa.gov/acp/aboutus.aspx> (last visited Oct. 13, 2009).

<sup>2</sup> *See, e.g.*, Oklahoma Secretary of the State Address Confidentiality Program [http://www.sos.state.ok.us/acp/acp\\_welcome.htm](http://www.sos.state.ok.us/acp/acp_welcome.htm) (last visited Oct. 13, 2009). For example, in the State of Oklahoma (“State”), the State issues the same post office box number to all participants in its ACP. Under the ACP, mail received at the substitute address is forwarded by first-class mail to the customer’s actual address by the State and the secretary of state serves as the customer’s agent for service of process and for receipt of mail.

<sup>3</sup> *See, e.g.*, Minn. Stat. §5B.05 (a) and (b) (2008).

<sup>4</sup> *See* 31 C.F.R. §§ 103.121 – 103.123 and 103.131.

<sup>5</sup> *See* 31 C.F.R. § 103.121(b)(2)(i)(3)(i), §103.122(b)(2)(i)(A)(3)(i), §103.123(b)(2)(i)(A)(3)(i) and §103.131(b)(2)(i)(A)(3)(i). *See also* Customer Identification Programs, 68 Fed. Reg. 25090 (May 9, 2003) (Treasury determined that law enforcement should be able to contact an individual customer at a physical location, rather than solely through the mail).

business street address, then the rules permit the individual customer to provide a “residential or business street address of next of kin or of *another contact individual*.”<sup>6</sup>

A [financial institution] would not be in compliance with the rules if it accepts the [name of state ACP] post office box address to fulfill CIP requirements. However, FinCEN understands the need to protect victim anonymity. Under the terms of 31 U.S.C. § 5318(a)(5) and 31 CFR § 103.55, FinCEN has the authority to provide exceptive relief from the requirements of 31 CFR part 103. Such exceptions may be conditional or unconditional and may apply to particular persons or classes of persons, but only to the extent that it is expressly stated in the order of authorization.<sup>7</sup> Moreover, exceptions may be revoked at FinCEN’s discretion.<sup>8</sup>

Accordingly, in an effort to support [name of state ACP] requirements, as well as similar requirements that may arise in other states that have established an ACP, under 31 U.S.C. § 5318(a)(5) and 31 C.F.R. § 103.55(a), FinCEN authorizes the following exception to the requirement that a [financial institution] obtain a customer’s residential or business street address: a customer who participates in a state-created ACP shall be treated as not having a residential or business street address and a secretary of state, or other state entity serving as a designated agent of the customer consistent with the terms of the ACP, will act as *another contact individual* for the purpose of complying with FinCEN’s rules. Therefore, a [financial institution] should collect the street address of the ACP sponsoring agency for purposes of meeting its CIP address requirement.

We have relied upon the accuracy and completeness of the representations made in your letter. Nothing precludes FinCEN from taking other action should circumstances change, or if any of the information you have provided proves inaccurate or incomplete. We reserve the right, after redacting your name and address to publish this letter as guidance in accordance with our regulations. Please inform us within fourteen (14) days from the date of this letter of any other information that you believe should be redacted from this letter and the legal basis for redaction.

If you have questions regarding this letter, please contact [FinCEN’s regulatory helpline at (800) 949-2732.]

Sincerely,

//signed//

Jamal El-Hindi  
Associate Director  
Regulatory Policy and Programs Division

<sup>6</sup> See 31 C.F.R. §103.121(b)(2)(i)(3)(ii), §103.122(b)(2)(i)(A)(3)(ii), §103.123(b)(2)(i)(A)(3)(ii) and §103.131(b)(2)(i)(A)(3)(ii) (Emphasis added).

<sup>7</sup> 31 CFR § 103.55(a).

<sup>8</sup> *Id.*



## Grewal v. Martin

### **Grewal v. Martin**

03:07:2008

#### **Grewal v. Martin**

Filed 3/3/08 Grewal v. Martin CA2/3

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

Council on Court Procedures  
April 11, 2026, Meeting  
Appendix I-21

DIVISION THREE

ANTOINETTE GREWAL,

B193640

Plaintiff and Appellant,

(Los Angeles County

v.

Super. Ct. No. BC282804)

W. JOHN MARTIN et al.,

Defendants and Respondents.

APPEAL from a judgment of the [Superior Court of Los Angeles County](#), James R. Dunn, Judge. Affirmed.

Chance E. Gordon for Plaintiff and Appellant.

Carroll, Kelly, Trotter, Franzen & McKenna, Richard D. Carroll and David P. Pruett for Defendants and Respondents W. John Martin and W. John Martin, a Medical Corporation.

DAntony, Doyle & Moore, Geoffrey T. Moore and Marisa L. Terrill for Defendant and Respondent University of Southern California.

INTRODUCTION

Plaintiff Antoinette Grewal appeals a judgment entered after the trial court granted the [motion for judgment](#) on the pleadings of defendants W. John Martin, W. John Martin, a Medical Corporation, and the University of Southern California (USC). We find that defendants request for admissions and defendants motion for an order deeming the request for admissions admitted, and the notice of the trial courts order granting the motion for an order deeming the request for admissions admitted, were validly served on plaintiff. Consequently, we reject plaintiffs claim that she was not legally required to respond to defendants request for admissions, that defendants improperly filed the motion to have request for admissions deemed admitted, and that the trial courts order granting that [motion was invalid](#). We affirm the judgment.

FACTUAL AND PROCEDURAL HISTORY

On October 4, 2002, plaintiff Antoinette Grewal filed a verified complaint for personal injury, alleging multiple causes of action for fraud, negligence, and intentional infliction of emotional distress against W. John Martin, W. John Martin, a Medical Corporation, the Center for Complex Infectious Diseases, and the University of Southern California. Grewal filed an [amended verified complaint](#) on November 12, 2002, and a first amended complaint on April 25, 2003, alleging causes of action for fraud, negligence, and violation of Business and Professions Code section 17200. Defendants filed a motion for summary judgment, which the trial court granted, with judgment filed on February 2, 2004. Grewal appealed that judgment, and in its decision [filed on March 30, 2005](#) the court

reversed the judgment and remanded the matter to the trial court for further proceedings. On September 23, 2005, the trial court granted Grewals motion for leave to file a third amended complaint, and ordered that third amended complaint deemed filed.

The third amended complaint alleged causes of action for fraud and for violation of Business and Professions Code sections 17200 and 17500. These causes of action were based on allegations that Martin, a USC Medical School professor, fraudulently represented to Grewal that she had contracted a contagious, fatal virus called Martin Stealth Virus, which did not exist; falsely stated that Epione, a drug that supposedly cured the Martin Stealth Virus, was close to the New Drug Application stage of FDA approval; and that in justifiable reliance on these representations, Grewal was induced to work, fundraise, promote, engage in project development, and contribute money to what the defendants called the Epione research project.

On March 7, 2006, defendant Martin served a request for admissions (set one) and interrogatories on Grewal by overnight/express mail and by first class mail at P. O. Box 1198, Sacramento, California. This was the address on Grewals complaint and verified amended complaint.

On April 21, 2006, Martins attorney left a voicemail giving notice to Grewal that Martin would appear ex parte on April 24, 2006, for an order that the request for admissions (set one) be deemed admitted and for an order shortening time for hearing on that motion. On April 24, 2006, Martin filed an ex parte application for an order compelling request for admissions (set one) be deemed admitted, based on Grewals failure to respond to the request for admissions, and for an order shortening time for hearing on that motion.

Also on April 24, 2006, defendant Martin filed a [notice of motion](#) that on May 2, 2006, Martin would move to have request for admissions (set one) served on Grewal be deemed admitted. On April 24, 2006, this motion was served on Grewal at the Office of the Secretary of State, 1500 11th Street, 4th Floor, Suite 460, Sacramento, California by hand delivery/personal service, and was served by overnight/express mail on Grewal at P.O. Box 1198, Sacramento, California and at 532 W. Oliver Street, San Pedro, California.[1]

Grewal appeared at the April 24, 2006, hearing, at which the trial court granted Martins ex parte application, in part, by shortening time to hear the motion to have the request for admissions be deemed admitted on May 2, 2006, and ordered: All motions are to be filed and served this date in court upon plaintiff, who is present in court this date.

On May 2, 2006, the trial court granted defendant Martins motion and ordered Martins request for admissions (set one) deemed admitted.

On May 8, 2006, defendant Martin filed an [ex parte](#) application for a motion for judgment on the pleadings, based on Grewals admissions that refuted the causes of action in her Third Amended Complaint.[2] On May 23, 2006, USC filed a motion to have the request for admissions deemed admitted. The trial court granted defendants motion for judgment on the pleadings on June 19, 2006.

Judgments in favor of W. John Martin and W. John Martin, a Medical Corporation, and in favor of USC were filed on July 26, 2006.

Grewal filed a timely [notice of appeal](#) from the judgments.

ISSUE

Grewal claims on appeal that defendants service of the request for admissions, motion for an order deeming request for admissions admitted, and the order granting that motion did not comply with service requirements of Government Code section 6206,

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subdivision (a)(5)(A), which made the orders deeming the request for admissions admitted and granting judgment on the pleadings invalid.

## DISCUSSION

Grewal asserts her membership in the Confidential Address Program. A person who is a victim of domestic violence, sexual assault, or stalking who fears for his or her safety may apply to the Secretary of State to have an address designated by the Secretary of State serve as the persons address[.] (Gov. Code, 6206, subd. (a).) An applicant for this program designates the Secretary of State as agent for service of process and receipt of mail. (*Id.* at subd. (a)(5).) Service on the Secretary of State of any summons, writ, notice, demand, or process shall be made by delivering to the address confidentiality program personnel of the Office of the Secretary of State two copies of the summons, writ, notice, demand, or process. (*Id.* at subd. (a)(5)(A).) When a summons, writ, notice, demand, or process is served on the Secretary of State, the Secretary of State forwards a copy to the program participant. (*Id.* at subd. (a)(5)(B).

Grewal claims that defendants request for admissions and motion for an order deeming the request for admissions admitted, and the order granting the motion for an order deeming the request for admissions admitted, were not served in compliance with Government Code section 6206, subdivision (a)(5)(A).

### *a. The Request for Admissions (Set One) Was Validly Served on Grewal*

With regard to the request for admissions (set one), the proof of service shows that on March 7, 2006, this document was served on Grewal at P.O. Box 1198, Sacramento, California (1) by first class mail and (2) by overnight/express mail. Defendant argues that this is a post office box managed by the California Secretary of State; there is evidence that documents served on USC's counsel and on the trial court showed Grewal's address of record was P. O. Box 1198, Sacramento, California 95812. Grewal's verified complaint and verified amended complaint also used P. O. box 1198, Sacramento, California as Grewal's address. Moreover, Grewal appeared at the April 24, 2006, hearing on defendant's ex parte motion for an order shortening time to hear the motion to have the request for admissions deemed admitted; a copy of the request for admissions was handed to Grewal in court. On April 25, 2006, two sets of documents (including the request for admissions (set one)), were served on Grewal at the Office of the Secretary of State, 1500 11th Street, 4th Floor, Suite 460, Sacramento California.

Thus Grewal received two copies of the request for admissions (set one) at a post office box managed by the California Secretary of State, and two copies at the Office of the Secretary of State. This satisfied the requirement of Government Code section 6206, subdivision (a)(5)(A). Moreover, because Grewal received one copy of the request for admissions (set one) by personal delivery in court on April 24, 2006, Grewal had actual notice, which supports the trial court's finding of valid service of the request for admissions (set one) on Grewal. [I]n deciding whether service was valid, the statutory provisions regarding service of process should be liberally construed to effectuate service and uphold the jurisdiction of the court if actual notice has been received by the defendant. (*Gibble v. Car-Lene Research, Inc.* (1998) 67 Cal.App.4th 295, 313.)

### *b. The Motion for an Order Deeming the Request for Admissions Admitted Was*

#### *Validly Served on Grewal*

With regard to the motion for an order deeming the request for admissions admitted, this document was served on April 24, 2006, by hand delivery to Grewal at the Office of the Secretary of State, 1500 11th Street, 4th Floor, Suite 460, in Sacramento California, and by overnight/express mail on Grewal at P. O. Box 1198, Sacramento, California and at 532 W. Oliver Street, San Pedro, California. This document was also personally served on Grewal in court at the April 24, 2006, hearing. On April 25, 2006, two sets of documents (including the motion to have request for admissions deemed admitted) were served on Antoinette Grewal at the office of the Secretary of State, 1500 11th Street, 4th Floor, Suite 460, Sacramento California.

Thus Grewal received one copy of the motion at a post office box managed by the California Secretary of State, and two copies at the Office of the Secretary of State. This satisfied the requirement of Government Code section 6206, subdivision (a)(5)(A). Grewal also received one copy of the motion by personal delivery in court on April 24, 2006. Thus Grewal had actual notice, which supports the trial courts finding of valid service on Grewal of the motion for an order deeming the request for admissions admitted. (*Gibble v. Car-Lene Research, Inc.*, *supra*, 67 Cal.App.4th at p. 313.)

*c. The Notice of Ruling of the Order Granting the Motion for an Order Deeming*

*the Request for Admissions Admitted Was Validly Served on Grewal*

With regard to the May 2, 2006, order granting the motion for an order deeming the request for admissions admitted, Martins counsel filed a notice of ruling on discovery motions (reflecting, inter alia, the trial courts granting of the motion to have request for admissions deemed admitted) on May 2, 2006. This notice of ruling on discovery motions was served on Grewal at P. O. Box 1198, Sacramento, California, and at 532 W. Oliver Street in San Pedro, California. On May 2, 2006, two copies of this notice of ruling were served on Grewal by delivery to Tom Lease, Safe at Home Program Specialist, Office of the Secretary of State, 1500 11th Street, Room 460, Sacramento California.

Thus Grewal received one copy of the notice of ruling at a post office box managed by the California Secretary of State, and two copies at the Office of the Secretary of State. This satisfied requirements of Government Code section 6206, subdivision (a)(5)(A), and supports the trial courts finding of valid service on Grewal of the notice of ruling of the order granting the motion for an order deeming the request for admissions admitted.

*d. Conclusion*

Valid service of the request for admissions (set one), the motion for an order deeming the request for admissions admitted, and the notice of ruling of the order granting the motion for an order deeming the request for admissions admitted means that we reject Grewals claim that she was not legally required to respond to defendants March 7, 2006, request for admissions. We find that the April 24, 2006, motion to have the request for admissions deemed admitted was properly filed, and that the trial courts May 2, 2006, order was valid. We affirm the judgment.

DISPOSITION

The judgment is affirmed. Costs on appeal are awarded to defendants University of Southern California, W. John Martin, and W. John Martin, a Medical Corporation.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

KITCHING, J.

We concur:

KLEIN, P. J.

ALDRICH, J.

Publication Courtesy of [California free legal resources](#).

Analysis and review provided by [Spring Valley Property line attorney](#).

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[1] On April 25, 2006, two sets of this motion (and other documents) were personally delivered to the Secretary of State, 1500 11th Street, 4th Floor, Suite 460, Sacramento, California. The Secretary of States record indicated that mail received, described as service of process, was forwarded to Grewal by certified mail on April 25, 2006, and a signed receipt was received.

[2] Defendant USC served a copy of this motion on Grewal at P. O. Box 280586, Northridge, California, and at 532 West Oliver Street, San Pedro, California, and served two copies of this motion on Grewal c/o State of California Confidential Address Program, P. O. Box 1198, Sacramento, California.

**Description** Plaintiff Antoinette Grewal appeals a judgment entered after the trial court granted the motion for judgment on the pleadings of defendants W. John Martin, W. John Martin, a Medical Corporation, and the University of Southern California (USC). We find that defendants request for admissions and defendants motion for an order deeming the request for admissions admitted, and the notice of the trial courts order granting the motion for an order deeming the request for admissions admitted, were validly served on plaintiff. Consequently, Court reject plaintiffs claim that she was not legally required to respond to defendants request for admissions, that defendants improperly filed the motion to have request for admissions deemed admitted, and that the trial courts order granting that motion was invalid. Court affirm the judgment.

**Rating**  
0/5 based on 0 votes.



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### **History**

In 1991, the state of Washington created the first address confidentiality program. This unique and innovative program provided victims and survivors of domestic violence an opportunity to keep their home address protected from public records. Twenty-two years later, over 30 programs have assisted victims of domestic violence, sexual offenses, stalking and other crimes. In 2013, ten states (AZ, CA, CO, ME, MN, MO, OK, OR, PA and WA) came together to create an organization that could enhance all of the programs in the country. Its mission was simple: to collaborate, educate, and provide awareness about these amazing programs.

### **Founding Members**

In 2016, the National Association of Confidential Address Programs was launched as a formal membership organization with the following states joining as Founding Members:

- Arizona Secretary of State
- California Secretary of State
- Colorado Department of Personnel & Administration
- Florida Secretary of State
- Iowa Secretary of State
- Kentucky Secretary of State
- Maine Secretary of State
- Maryland Secretary of State
- Minnesota Secretary of State
- Missouri Secretary of State
- North Carolina Department of Justice
- Oregon Department of Justice
- Texas Attorney General
- Vermont Secretary of State
- Virginia Attorney General
- Washington Secretary of State
- West Virginia Secretary of State
- Wisconsin Department of Justice

### **Bylaws**

[NACAP Bylaws amended 8/20/2024](#)

## FAQs

### **What is NACAP?**

The National Association of Confidential Address Programs (NACAP) is a membership organization with the mission to collaborate, strengthen, educate, and advocate for the interests of state and territory confidential address programs and, therefore, the people they serve.

### **What is an ACP?**

An address confidentiality program (ACP) is a government-administered program designed for victims of crime and other statutorily protected persons by providing a designated substitute address that participants can use in place of their actual physical address. They also provide a mail-forwarding service and serve as legal agent to receive service of process for program participants.

### **Are ACPs the same as witness protection?**

No, ACPs are not witness protection programs. They are programs that assign substitute addresses, provide mail-forwarding, and serve as a legal agent for service of process. They do not provide relocation or other protection services.

### **Does NACAP provide direct services to survivors?**

No. NACAP is a membership organization to support address confidentiality programs that do provide direct services.

### **Where can I find information about specific member states?**

Contact information for NACAP member programs can be found on the [membership page](#).

### **Where can I find information about other ACPs?**

Information can be found on the [Address Confidentiality Programs by State](#) resource list.

National Association of Confidential Address Programs  
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Phoenix, AZ 85005-6009  
[info@nacap.org](mailto:info@nacap.org)

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