

In the Matter of Out-of-Cycle  
Amendment of UTCR Chapter 21  
Title, UTCR 21.040, 21.060, 21.070,  
and 21.100

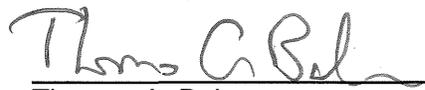
) CHIEF JUSTICE ORDER  
) No. 16-027

) ORDER OF OUT-OF-CYCLE AMENDMENT OF  
) UTCR CHAPTER 21 TITLE , UTCR 21.040,  
) 21.060, 21.070, AND 21.100  
)

I HEREBY ORDER, pursuant to ORS 1.002 and UTCR 1.020, that:

1. Good cause has been shown and the effective date, requirements, and time limits established by UTCR 1.020(2), (3), and (4) are waived to make changes to the UTCR necessary for the Oregon eCourt Program implementation process.
2. The following UTCR, as approved by Chief Justice Order 16-019, dated May 17, 2016, to be effective August 1, 2016, are amended out-of-cycle, effective August 1, 2016, as shown in Attachment A to this order: UTCR Chapter 21 Title, UTCR 21.040, 21.060, 21.070, and 21.100. For the convenience of the reader, deleted wording is shown in [*brackets and italics*] and new wording is show in {**braces, underline, and bold**}.
3. Pursuant to UTCR 1.020(5), the UTCR Reporter will take the steps necessary to post these UTCR changes for public comment as soon as practicable and shall place the changes on the agenda of the next UTCR Committee meeting.
4. This order takes effect August 1, 2016.

Dated this 15th day of June, 2016.



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Thomas A. Balmer  
Chief Justice

**CHAPTER 21—Filing and Service by Electronic Means{; Electronic Files of the Court}**

21.040 FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY

- (1) A document submitted electronically to the court must be in the form of a text-searchable Portable Document Format (PDF) or a text-searchable Portable Document Format/A (PDF/A) file that does not exceed 25 megabytes. A document that exceeds the size limit must be broken down and submitted as separate files that do not exceed 25 megabytes each. A filer submitting separate files under this section must include in the Filing Comments field for each submission a description that clearly identifies the part of the document that the file represents, for example, “Motion for Summary Judgment, part 1 of 2.”
- (2) Except as provided in subsections (a) or (b) of this section, when a document to be electronically filed **{incorporates}***[includes one or more attachments, including but not limited to]* a documentary exhibit, an affidavit,*[ or]* a declaration, **{a certificate of service, or another document, }**the electronic filing must be submitted as a unified single PDF file, rather than as separate electronically filed documents, to the extent practicable. An electronic filing submitted under this section that exceeds 25 megabytes must comply with section (1) of this rule.
  - (a) If an electronic filing consists of a motion or similar document and a corresponding proposed order, judgment, or any other document that requires court signature, the filer must submit the document requiring court signature through the **{eFiling}***[electronic filing]* system as a separate electronically filed document from the motion. A filer submitting separate documents under this subsection must include in the Filing Comments field for each submission a description that clearly identifies the filing, for example, “Motion for Summary Judgment” and “Proposed Order Granting Motion for Summary Judgment.”
  - (b) If an electronic filing is **{filed in a case that is }**not confidential**{ by statute or rule, }** but includes an **{incorporated document}***[attachment]* that is confidential or otherwise exempt from disclosure, the filer must submit the **{incorporated document}***[attachment]* through the **{eFiling}***[electronic filing]* system as a separate electronically filed document. **{When submitting a confidential document through the eFiling system under this subsection}***[Unless UTCR 21.070(6) applies]*, a filer *[submitting a confidential document under this subsection]* must designate the document as confidential*[ in the eFiling system]*. A filer submitting separate documents under this subsection must include in the Filing Comments field for each submission a description that clearly identifies the filing, for example, “Motion for Stay” and “Confidential Attachment to Motion for Stay.” **{ A filer otherwise eFiling any confidential document, or any document in a case that is confidential by statute or rule, also must comply with UTCR 21.070(6) and (7). }**
  - (c) The reference in section (2) to an affidavit and a declaration applies to only an affidavit or a declaration that is an **{incorporated}***[attachment to another]* document.

- (3) A proposed order or judgment, or any other document that requires court signature that is submitted electronically, must include, for the purpose of affixing a signature and signature date, a blank space of not less than 1.5 inches and a blank line following the last line of text.

Example:

Petitioner's motion for a stay is granted. The proceedings in this action are held in abeyance pending further notification from petitioner of completion of the conditions set out in this order.

*(at least 1.5 inches of blank space following last line of text)*

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- (4) When viewed in an electronic format and when printed, a submitted document must comply with the requirements of ORCP 9 E and UTCR 2.010 except as to any requirement that a document bear a physical signature when filed.
- (5) When submitting an electronic filing that creates a new case or adds a party to an existing case,
  - (a) A filer must enter into the "Add Party" screen the names of all known parties or all parties being added; and
  - (b) A filer must enter party names in proper case, for example, "John Doe" and not "JOHN DOE."
- (6) The court may reject submitted documents that do not comply with these provisions as provided in UTCR 21.080(5).

## 21.060 FILES OF THE COURT

- (1) Electronic Filing
  - (a) The electronic filing of a document is accomplished when a filer submits a document electronically to the court, the electronic filing system receives the document, and the court accepts the document for filing.
  - (b) When the court accepts the electronic document for filing, the electronic document constitutes the court's record of the document.
- (2) Converting a Conventional Filing into an Electronic Format

The court may digitize, microfilm, record, scan, or otherwise reproduce a document that is filed conventionally into an electronic record, document, or image. The court subsequently

may destroy a document that is filed conventionally in accordance with the protocols established by the State Court Administrator under ORS 8.125(11) and ORS 7.124.

**{(3) Register of Actions**

**The following apply whether or not a document is electronically filed with the court:**

**(a) For the purpose of ORS 7.020(1) and (2), the date that a document was filed displays in the date column of the register of actions for the case in the court's electronic case management system.**

**(b) For the purpose of ORS 7.020(2), entry occurs on the date an event is created in the register of actions.**

21.070 SPECIAL FILING REQUIREMENTS

(1) Courtesy Copies and Other Copies

- (a) The court may require that a filer submit, in the manner and time specified by the court, a copy of the document that was filed electronically and a copy of the submission or acceptance email from the electronic filing system.
- (b) When a filer submits a document for conventional filing or electronic filing, the filer need not submit for filing additional copies of that document unless otherwise required by the court.
- (c) If the petitioner in a post-conviction relief proceeding filed under ORS 138.510 intends to rely on the contents of the underlying circuit court criminal case file to support the allegations in the petition filed under ORS 138.580, then the petitioner must so state in the petition. If the petitioner intends to rely on some, but not all, of the contents of the underlying case file, then the petitioner must identify with reasonable specificity the materials on which the petitioner intends to rely. The petitioner need not attach to the petition, as part of evidence supporting the allegations, any document from the underlying case file.
  - (i) This subsection applies only if the underlying criminal case was filed on or after the date that the circuit court in which the conviction was entered began using the Oregon eCourt Case Information system.
  - (ii) The date that each circuit court began using the Oregon eCourt Case Information system is available at <http://courts.oregon.gov/oregonecourt/pages/Implementation-Schedule.aspx>.

(2) Court Order Requiring Electronic Filing and Electronic Service

Except for any document that requires service under ORCP 7 or that requires personal service, the court may, on the motion of any party or on its own motion, order any party not already otherwise so required to file or serve all documents electronically, after finding that such an order would not cause undue hardship or significant prejudice to any party.

(3) Documents that Must be Filed Conventionally

The following documents must be filed conventionally:

- (a) An accusatory instrument that initiates a criminal action, except as otherwise provided by ORS 133.073.
- (b) A petition that initiates a juvenile delinquency proceeding under ORS 419C.250.
- (c) A document that initiates an extradition proceeding under ORS 133.743 to 133.857.
- (d) An initiating instrument in a contempt proceeding, including for purposes of this rule a motion and supporting documentation filed contemporaneously with the motion under ORS 33.055 (remedial) or an accusatory instrument that initiates a contempt proceeding and supporting documentation filed contemporaneously with the initiating instrument under ORS 33.065 (punitive).
- (e) A notice of appeal from a justice court or municipal court judgment under ORS 138.057 or ORS 157.020(1), a justice court order under ORS 157.020(2), or a municipal court conviction under ORS 221.359.
- (f) A document that initiates an action that is accompanied by an application for a waiver or deferral of a required fee.
- (g) A document filed under seal or subject to in camera inspection, including a motion requesting that a simultaneously filed document be filed under seal or subject to in camera inspection, except that a document may be electronically filed in an adoption case.
- (h) Except as provided in UTCR 21.090(4), a document that is required by law to be filed in original form, such as, but not limited to, an original will, a certified document, or a document under official seal.
  - (i) If applicable law requires an original document to be filed simultaneously with another document that is electronically filed, the filer must electronically file an image of the original document with the other electronically filed document and then conventionally file the original document within 7 business days after submitting the electronic filing. An original document conventionally filed under this paragraph is deemed filed on the date of filing of the electronically filed image of the same document.
  - (ii) If the filer elects to electronically file an image of an original document as set out in paragraph (h)(i) of this subsection, the filer must include in the Filing Comments field a statement that the electronic filing submission includes an image of an original document and that the filer will conventionally file the original document within 7 business days.
  - (iii) If the filer elects to electronically file an image of an original document as set out in paragraph (h)(i) of this subsection, when conventionally filing the original document, the filer must include a notification to the court that the image was previously electronically filed.

- (i) A negotiable instrument tendered under UTCR 2.060 for entry of notation of judgment.
  - (j) A document delivered to the court under ORCP 55 (H)(2)(c).
  - (k) A Driver and Motor Vehicle Services Branch of the Oregon Department of Transportation (DMV) record, as defined in UTCR 10.020(1).
  - (l) A petition or motion for waiver of the mandatory eFiling requirement, as set out in UTCR 21.140(3).
  - (m) Any stipulated or *ex parte* matter listed in SLR 2.501 in a Judicial District's Supplementary Local Rules.
  - (n) An undertaking that is accompanied by a deposit as security for the undertaking.
  - (o) A demonstrative or oversized exhibit.
  - (p) Trial exhibits, which must be submitted or delivered as provided in UTCR 6.050.
- (4) Consolidated Cases

Unless provided otherwise by court order or SLR adopted under UTCR 2.090, a party electronically filing a document that is applicable to more than one case file must electronically file the document in each case using existing case numbers and captions.

(5) Expedited Filings

A filer **{who submits an expedited filing through the eFiling system:**

**(a) M***[m]*ust include the words "EXPEDITED CONSIDERATION REQUESTED" in the Filing Comments field when **{submitting}***[preparing an expedited]* **{the}** filing *[for submission through the electronic filing system]***}; and***[.]*

**{(b) May notify the court by email or telephone, as designated on the court's judicial district website, that an expedited filing has been eFiled in the case.}**

(6) Filings in Confidential Cases **{ Made Confidential by Statute or Rule, and Other Confidential Filings }**

(a) Except as provided in subsection (b) of this section, if a case is confidential by statute **{ or rule }**, a filer submitting a document *[for filing]* in the case through the eFiling system must not designate the document as confidential, because the case itself **{already}** is designated as confidential.

(b) Notwithstanding subsection (a) of this section, **{and as additionally provided in section (7) of this rule,}** if a particular document type is deemed confidential by statute **{or rule}** within a case type deemed confidential by statute **{or rule}**, a filer **{submitting such a document through the eFiling system}** must designate the document as confidential *[when submitting the document]*.

- (c) {If a confidential document is being submitted in a case that is not confidential by statute or rule, a filer submitting such a document through the eFiling system must designate the document as confidential}*[Subsection (b) of this section applies to a statement and all exhibits required under ORS 109.317 in an adoption proceeding. The statement must be filed as a single PDF file that includes only the statement and all exhibits required under ORS 109.317].*

**{(7) Filings in Adoption Cases**

- (a) Initiating documentation in an adoption case must be submitted as a unified single PDF file, rather than as separate electronically filed documents, to the extent practicable and except as otherwise provided in subsection (c) of this section. An electronic filing submitted under this subsection that exceeds 25 megabytes must comply with UTCR 21.040(1).
- (b) The petition and related exhibits required under ORS 109.315(3) and 109.385(9) must be filed as a unified single PDF. Filers in adoption proceedings initiated under ORS 419B.529 must submit the initiating document and related exhibits as a unified single PDF. When submitting a filing identified in this subsection through the eFiling system, a filer must not designate the filing as confidential, because the case type “adoption” already is designated as confidential.
- (c) An Adoption Summary and Segregated Information Statement (ASSIS) and related exhibits filed under ORS 109.317(2), ORS 109.385(10), and ORS 419B.529(2) must be filed separately from the petition or initiating document and related exhibits as a unified single PDF that includes both the ASSIS and any ASSIS exhibit. When submitting a filing identified in this subsection through the eFiling system, a filer must designate the document as confidential because the unified document containing the ASSIS and any ASSIS exhibit is segregated from other documents in the case file.

21.100 ELECTRONIC SERVICE

- (1) Consent to Electronic Service and Withdrawal of Consent
- (a) A filer who electronically appears in the action by filing a document through the electronic filing system that the court has accepted is deemed to consent to accept electronic service of any document filed by any other registered filer in an action, except for any document that requires service under ORCP 7 or that requires personal service.
- (b) A filer who is dismissed as a party from the action or withdraws as a lawyer of record in the action may withdraw consent to electronic service by removing the filer’s contact information as provided in subsection (2)(a) of this rule.
- (c) Except as provided in subsection (b) of this section, a filer may withdraw consent to electronic service only upon court approval based on good cause shown.

(2) Contact Information

- (a) At the time of preparing the filer's first electronic filing in the action, a filer described in section (1) of this rule must enter in the electronic filing system the name and service email address of the filer, designated as a service contact on behalf of an identified party in the action. If the filer withdraws consent to electronic service under subsection (1)(b) or (1)(c) of this rule, then the filer must remove the filer's name and service email address as a designated service contact for a party.
- (b) A filer described in subsection (1)(a) of this rule may enter in the electronic filing system, as an other service contact in the action:
  - (i) an alternative email address for the filer; and
  - (ii) the name and email address of any additional person whom the filer wishes to receive electronic notification of documents electronically served in the action, as defined in UTCR 21.010(7). If a lawyer enters a client's name and contact information as an other service contact under this subsection, then the lawyer is deemed to have consented for purposes of Rule of Professional Conduct 4.2 to delivery to the client of documents electronically served by other filers in the action.
- (c) A filer is responsible for updating any contact information for any person whom the filer has entered in the electronic filing system as either a service contact for a party or as an other service contact in an action.
- (d) A filer may seek court approval to remove a person entered by another filer as an other service contact in an action if the person does not qualify as an other service contact under UTCR 21.010(7).

(3) Selecting Service Contacts and Other Service Contacts

When preparing an electronic filing submission with electronic service, a filer is responsible for selecting:

- (a) the appropriate service contacts in the action, for the purpose of accomplishing electronic service as required by law of any document being electronically filed; and
- (b) the appropriate other service contacts in the action, if any, for the purpose of delivering an electronic copy of any document being electronically filed.

(4) Court Notification and Transmission Constituting Service

When the court accepts an electronic document for filing under UTCR 21.060(1)(a), the electronic filing system sends an email to the email address of each person whom the filer selected as a service contact or other service contact under section (3) of this rule. The email contains a hyperlink to access the document or documents that have been filed electronically. Transmission of the email by the electronic filing system to the selected service contacts in the action constitutes service.

(5) Completion and Time of Electronic Service

Electronic service is complete when the electronic filing system sends the email to the selected service contacts in the action.

(6) Proof of [*Electronic*] Service

A filer must {incorporate}[attach] at the end of any document submitted electronically a {dated and signed certificate that describes the manner of service. If the opposing party was electronically served by the eFiling system, the certificate must state that service was accomplished at the party's email address as recorded on the date of service in the eFiling system and need not include the party's email address or postal address}*{list of names of all parties requiring conventional paper service, followed by a clearly identified list of the names of all parties requiring service that will be served electronically by the electronic filing system}*. { If the opposing party was not electronically served by the eFiling system, the certificate must include the postal address at which the opposing party was served or, if served by email or facsimile, the email address or telephone number at which the opposing party was served.}

(7) Service Other than by Electronic Means

The filing party is responsible for accomplishing service in any manner permitted by the Oregon Rules of Civil Procedure and for filing a proof of service with the court for the following documents:

- (a) a document required to be filed conventionally under this chapter;
- (b) a document that cannot be served electronically on a party who appeared in the action; and
- (c) a document subject to a protective order.