CHAPTER 19—Contempt Proceedings

NOTE: The rules in UTCR Chapter 19 were adopted pursuant to ORS 33.145 by the Oregon Supreme Court. They were originally adopted as Temporary Oregon Contempt Rules (TOCR) by the Supreme Court on the 27th of September, 1991, by Supreme Court Order No. 91-078. Although not originally adopted as UTCR, these rules were amended by the Supreme Court and added to the UTCR effective August 1, 1993, by Supreme Court Order No. 93-035. Even though added to the UTCR for purposes of citation, comment, and proposed changes, the rules in this UTCR chapter will continue to be changed only by action of the Supreme Court as provided under ORS 33.145.

19.010 SCOPE, CONSTRUCTION, APPLICATION

(1) The rules in this UTCR chapter govern contempt proceedings under ORS 33.015 to 33.155 and are intended to promote efficient and fair resolution of contempt proceedings. The rules in this chapter will be changed only by action of the entire Supreme Court.

(2) The rules in this chapter do not preclude courts from exercising their inherent authority in contempt proceedings over matters not covered by rule or statute, so long as that exercise fosters efficient and fair resolution of the matter.

19.020 INITIATING INSTRUMENT REQUIREMENTS

(1) In addition to any other requirements for initiating instruments, the initiating instrument in a contempt proceeding under ORS 33.055 (remedial) or ORS 33.065 (punitive), must state:

(a) the maximum sanction(s) that the party seeks;

(b) whether the party seeks a sanction of confinement; and

(c) as to each sanction sought, whether plaintiff considers the sanction remedial or punitive.

(2) Maximum Penalty Imposed

The court shall not impose a sanction greater than the sanction sought. A punitive sanction is presumed greater than a remedial sanction. A punitive sanction of confinement is presumed greater than other punitive sanctions. A remedial sanction of confinement is presumed greater than other remedial sanctions.

19.030 ALLOWING REMEDIAL SANCTIONS

Rules that apply to allowing remedial sanctions in a proceeding for only remedial sanctions under ORS 33.055 also apply to allowing remedial sanctions in a proceeding for punitive sanctions under ORS 33.065.

19.040 APPLICABILITY OF ORCP AND OTHER UTCR

(1) To the extent rules in this chapter are inconsistent with other applicable rules, the rules in this chapter govern contempt proceedings under ORS 33.015 to 33.155. Except as otherwise provided in this chapter:

(a) Oregon Rules of Civil Procedure (ORCP) and Oregon Rules of Appellate Procedure (ORAP) apply respectively to original and appellate contempt proceedings for remedial sanctions under ORS 33.055;

(b) UTCR that govern civil proceedings apply to original proceedings for remedial sanctions under ORS 33.055;

(c) UTCR and ORAP that govern criminal proceedings apply respectively to original and appellate contempt proceedings for punitive sanctions under ORS 33.065.

(2) On its own motion or that of a party in a contempt proceeding for remedial sanctions, a court may determine that a specific rule of procedure would not foster the fair and efficient resolution of the contempt proceeding.

(a) When a court makes that determination, it may modify the specific rule or adopt a different rule for all or part of the proceeding, so long as the modified or new rule fosters the fair and efficient resolution of the proceeding. Under this rule, the court may increase or decrease time limits or may limit or exclude responsive pleadings, or both, and may also modify other rule provisions.

(b) The court must give all parties to the proceeding notice that describes the modified or new rule. The notice must be in writing or on the record or both.

19.050 EXCEPTIONS TO AND LIMITATIONS ON APPLICABLE ORCP IN REMEDIAL PROCEEDINGS

Notwithstanding UTCR 19.040, in contempt proceedings for remedial sanctions:

(1) Unless the court determines that other claims should be joined for fair resolution of the contempt matter, only the following claims may be joined with a contempt claim:

(a) claims that arise out of the order or judgment that the contemnor allegedly violated;

(b) claims that involve facts and issues that would necessarily be determined in the contempt proceeding; and

(c) other claims for contempt arising out of a related matter.

(2) ORCP references to "complaint" include the initiating instrument in a contempt proceeding.

(3) ORCP applicable to juries and jury trials apply only when a statute or constitution provides a specific right to jury trial in a contempt proceeding and a party claims that right.

(4) A party may amend a pleading only on motion and with the court's approval.

(5) The following ORCP do not apply: 3, 5, 21 C, 21 D, 21 E, 23 A, 24 A, 24 B, 25 A, 32, 54 A(1), 54 E, 66, 73, 81 A, 81 C, 82 A(3), 84, and 85.

BAS:BCM:sh/2004UTCR
5/5/04