

**Chief Judge David V. Brewer, Oregon Court of Appeals
Testimony - January 2009, Legislative Hearing on Oregon eCourt**

It's my privilege to represent the Chief Justice and the Judicial Department in today's informational hearing regarding the status of Oregon's e-court project. The Chief Justice knows, from our longstanding collegial relationship and our co-sponsorship of the Oregon Appellate Case Management System project, which has been successfully implemented and is performing exactly as designed, that I share his commitment to a rigorous business planning model for projects like this. So, thank you very much for scheduling this opportunity to discuss a critical project at a critical time—both for this program and for the State. Today, we plan to address with you the status of the program deliverables that the Assembly has requested, and our plan to move forward with Oregon e-Court on a limited basis. That revised plan addresses both the concerns that the Legislature has identified over the last eight months as well as Oregon's current budget situation.

The benefits of a statewide e-court system are many. There is no doubt that the Judicial Department needs this technology in order to adequately perform its constitutional obligation to provide undelayed public justice in the 21st Century. But how the project unfolds means everything. The Chief Justice keenly appreciates that in undertaking such a complex and sophisticated project, failure is not an option. We are grateful for the legislature's work to help this project succeed. We know that work on this program has taken a substantial amount of time and energy on the part of members and staff over the last year, and we appreciate your willingness to make that investment. I am impressed both with the efforts of the Legislative Fiscal Office staff and our QA vendors, InfoSentry Services, to help steer the E-court ship in the right direction. Those efforts have resulted in the acknowledgement by the Judicial Department, which I reiterate today, that there have been a number of planning, timetable and other deficiencies in this project that must be corrected. Our staff indicates that the remediation plan currently is on track, and you will be assured by witnesses today that the required future deliverables will be provided on schedule. I convey the Chief Justice's commitment to hold the Judicial Department accountable for that performance.

A functional partnership between this assembly and the judiciary also requires timely, regular, direct, collaborative, and transparent communication. The Judicial Department must hold up our end of that commitment in order to earn and preserve your trust and confidence. The Chief is committed to that partnership.

Part of developing and preserving your trust must be a demonstration of success in companion projects and the leverage of lessons learned from those projects. Let me give you one important example. As I mentioned, in the Court of Appeals, an effective partnership between ETSD, our vendor, and court staff, led to the development of a complex, state of art case management system that includes powerful business planning tools that I use every day in managing my court. Among other lessons, we have learned that effective design and implementation partnerships require a delicate balance between a court's business needs and the benefits of scale that come from standardization. The individual courts must embrace and learn the necessary technology, and ETSD and the technology vendors must understand the workflows and operational needs of the courts. We learned that it is an absolutely critical success factor for each partner to have capable people who can bridge that interface. That same balance must be played out on a much larger scale in the statewide e-court project. Our trial courts are the engines of justice on the ground in Oregon. To succeed, the e-court project must have a carefully calibrated court-centered focus. And, we need an ample pool of staff in the individual courts, ETSD, and on the vendor side, who speak each others' business languages. If we don't have that, we won't deliver the right product on time.

My final introductory point is this. We must approach this project with clear-eyed pragmatism. The e-court plan for the next biennium calls for a scaled-back modular sub project that includes several of the remaining e-court components: e-filing, electronic content management, and e-payment for civil cases, and the complete implementation of a statewide web portal. You will hear that those elements, as the plan is conceived, are the next logical steps in progression and can produce substantial freestanding benefits if an off ramp must be taken at a particular point in the process.

But we acknowledge that they are not risk free. The Judicial Department appreciates that the risks associated with this plan are considerably amplified in a declining budget environment. We are committed to the principle that the core functions associated with adjudicating cases are more important than anything else we do and cannot be sacrificed on the altar of technology, no matter how desirable that technology is. In a climate where budget cuts of 20% or more are foreseeable, the Judicial Department cannot layoff or furlough employees who perform critical functions and expect the remaining employees to do that extra work and have to make significant contributions to e-court implementation as well. You will hear that that risk has been fully analyzed and mitigated in this plan. Moreover, we understand that precious resources necessary to keep our courts functioning and

our regular staff employed cannot be shifted to support the hiring of technology and education support staff for e-court. That would make no sense, and our presenters will tell you that the plan would not permit it.

Today, you will hear from representatives of two courts that are pilot and first tier courts for e-court implementation. They will tell you that they will be able to implement these phases of e-court and still adequately perform their core functions and that their courts will obtain many benefits in the bargain. That also must be true for the state's other trial courts, many of which will need more encouragement and greater support than these cutting edge leaders to successfully implement their e-court functionality. Mr. Borja will be prepared to address how the plan protects the needs and circumstances of those courts as well.

With that preface, it's time to get to the substance of our presentation. I will return to close and be happy to make sure you get answers to your questions along the way. At this time, I'll introduce our ETSD director Bud Borja, and project co-sponsor, Doug Bray, who is the trial court administrator for Multnomah County. Thanks you for your courtesy and attention.