

IN THE SUPREME COURT OF THE STATE OF OREGON

In the Matter of the Adoption of            )     Chief Justice Order 11-032  
Amendments to the Oregon Rules of        )  
Appellate Procedure                         )

**ORDER ADOPTING TEMPORARY AMENDMENTS**

Pursuant to ORAP 1.10(3), the Supreme Court may, from time to time, adopt temporary amendments to the Oregon Rules of Appellate Procedure. The Supreme Court by this order adopts temporary amendments to Oregon Rule of Appellate Procedure (ORAP) 12.08. The amendments are set out below with additions indicated in **boldface** and deletions indicated in ~~strikeout~~. The amendments adopted by this order is effective on the date the order is signed, and shall expire on December 31, 2011, if not previously adopted as a permanent amendment.

**Rule 12.08**  
**INTERLOCUTORY APPEAL OF ORDER**  
**CONCERNING CRIME VICTIM'S RIGHTS**

(1) A notice of interlocutory appeal filed in the Supreme Court pursuant to ORS 147.537 shall be substantially in the form illustrated in Appendix 12.08 and shall comply substantially with ORAP 2.05(1), (3), (4), (5), (6), (9), (10), and (11), except:

(a) The notice must be entitled "NOTICE OF INTERLOCUTORY APPEAL UNDER ORS 147.537";

(b) The notice must include a statement of why the notice is timely; and

(c) The notice must contain proof of service on persons identified in ORS 147.537(6).

(2) A notice of interlocutory appeal must be accompanied by:

(a) A copy of the order for which appellate review is sought;

(b) Excerpts of the record, as described in ORS 147.537(4);

(c) A memorandum of law with a statement of material facts and supporting arguments and citations, in a form in compliance with ORAP 7.10(1) and (2), except as provided by this rule.

(3) The appellant shall file an original and eight copies of the notice of interlocutory appeal with the Administrator. If the excerpts of the record include more than 50 pages, the appellant need file only two copies of the excerpts of the record.

(4) Notwithstanding ORAP 1.35(1)(c), a notice of interlocutory appeal and the response are deemed filed when those documents are physically received by the Administrator or, if the documents are filed electronically, as provided by ORAP 16.35.

**(5) Service**

**(a)** Notwithstanding ORAP 1.35(2)(b), the appellant shall serve a copy of the notice of interlocutory appeal and, if applicable, accompanying materials as provided in ORS 147.537(6) and (7).

**(b) In addition to any other method authorized by law, including electronic service of electronically filed documents under ORAP 16.45, service may be by:**

**(i) Facsimile transmission, if the person or entity being served is represented by an attorney and the attorney maintains such a device at the attorney's office and the device is operating at the time the service is made.**

**(ii) Electronic mail, if the person or entity being served is represented by an attorney, and the email has been sent to the email address that the attorney has listed with the Oregon State Bar.**

**(c) Where service is made by facsimile transmission or electronic mail, proof of service shall be made by affidavit or declaration of the person making service, or by certificate of an attorney or sheriff. Attached to such affidavit, declaration, or certificate shall be the printed confirmation of receipt of the message generated by the transmitting machine, if facsimile communication is used. If service is made by electronic mail, the person making service must certify that he or she received confirmation that the message was received, either by return electronic mail, automatically generated message, telephonic facsimile, or orally.**

(6) A respondent may file a response within seven days of the date the notice of interlocutory appeal is filed with the Supreme Court. A respondent shall file an original and eight copies of a response with the Administrator. The response shall comply with ORAP 7.10(1) and (2), except as otherwise provided by this rule. The response may contain a designation of parts of the trial court record not designated in the notice of interlocutory appeal.

(7) No reply shall be filed except with leave of the Supreme Court.

(8) Notwithstanding ORAP 6.15, either the appellant or respondent may request oral argument. The Supreme Court may grant or deny such a request or may order oral argument on its own motion.

(9) A petition for reconsideration of a Supreme Court decision under this rule shall comply with ORAP 9.25, except that it shall be filed within seven days of the date of the decision.

(10) A victim may request that the court use initials in lieu of his or her first name in the case caption. The court will grant such a request if filed within seven days of the notice of interlocutory appeal. Requests filed after seven days may be granted at the court's discretion.

Dated this 13<sup>th</sup> day of September, 2011.

  
Paul J. De Muniz, Chief Justice