

PROPOSED REVISIONS TO RULES OF THE OREGON TAX COURT

As part of its annual rules revision process, the Oregon Tax Court solicited rule revision suggestions internally and from the public through a variety of publications. After careful consideration of those suggestions, the court proposes the following revisions to the rules of the Oregon Tax Court Regular Division. New text is underlined in bold-face and deleted text is italicized within brackets. Comments should be made in writing, received by October 12, 2012, and sent to Derek N. Dizney, Law Clerk, Oregon Tax Court, 1163 State Street, Salem, Oregon 97301. These rules will become effective January 1, 2013.

PREFACE

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The Regular Division will not accept or file communications in excess of 10 pages that are transmitted to the court by facsimile. Facsimile communications **in excess of 10 pages** transmitted to the court shall incur a charge of **\$2.00 for the 11th page and \$1.00 for each additional page** [*\$0.25 per page in excess of 10 pages*] and the sender will be billed. The Regular Division will not accept electronic mail regarding pending matters.

Suggestions for improvements in the rules are welcome.

RULE 9 SERVICE AND FILING OF PLEADINGS AND OTHER DOCUMENTS

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G Filing by Facsimile Communication. The court will not accept or file communications in excess of 10 pages submitted to the court by facsimile. Communications submitted to the court by facsimile that are in excess of 10 pages shall incur a charge of [*\$0.25 per page for every page in excess of 10 pages*] **\$2.00 for the 11th page and \$1.00 for each additional page** and the sender will be billed. Under no circumstances shall documents requiring a fee be accepted or filed if they are submitted to the court by facsimile communication.

RULE 14 MOTIONS

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F(2) Contents of Request. Any party requesting oral argument shall specify the amount of time required for argument, whether appearance by telecommunication is requested, **and** the names and telephone numbers of all parties served with the motion or response[, *and whether official court reporting services are requested for the hearing*].

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RULE 16
FORM OF PLEADINGS

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E Style. The form set forth below should be followed:

IN THE OREGON TAX COURT
REGULAR DIVISION
(Type of Tax; *e.g.*, Income, Property, Timber Severance, etc.)

PLAINTIFF'S NAME(S),)		
)		
)	Plaintiff(s),	Case No.
)		
)	v.	
)		
DEFENDANT'S NAME(S),)		
)		(TYPE OF PLEADING
Defendant(s).)		<i>e.g.</i> , Complaint, Motion, etc.)

Any paper presented for filing should be typewritten, double-spaced, on 8 1/2" X 11" paper[, *with writing on one side only*]. Lines of each page of a pleading shall be numbered. The attorney shall place his or her name, address, Oregon State Bar number, and office telephone number on any pleading presented for filing. The title and page number of each page filed should be set out on the last line or lower edge of each page.

RULE 56
EXHIBITS; VIEW OF PROPERTY

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B Exchange of Exhibits. *[To avoid confusion and delay, each party shall provide opposing parties with copies of all documents that will be offered as evidence in support of that party's case-in-chief. "Documents" includes all writings, photographs, maps, and other similar materials. If the document is a book, journal, or other published material commonly available, only that portion particularly relevant need be exchanged. Computer produced documents shall be accompanied by a written explanation of the printout formatting, disclosing underlying assumptions. In valuation cases, "documents" includes appraisal reports, field notes, work papers, and all other documents relied upon by the appraiser, whether or not such documents are introduced into evidence.]*

B(1) Exchange Generally. **To avoid confusion and delay, each party shall provide opposing parties with copies of all documents that will be offered as evidence in support of that party's case-in-chief. "Documents" includes all writings, photographs, maps, and other similar materials. If the document is a book, journal, or other published material commonly available, only that portion particularly relevant need be exchanged. Computer**

produced documents shall be accompanied by a written explanation of the printout formatting, disclosing underlying assumptions.

B(2) Exchange in Valuation Cases.

B(2)(a) In valuation cases, for purposes of TCR B(1) “documents” includes appraisal reports, field notes, work papers, computer files, and all other documents relied upon by the appraiser, whether or not such documents are introduced into evidence.

B(2)(b) If an appraiser testifying in a valuation case relies upon the use of a computer database in forming an opinion on the value of property at issue in that case, the appraiser must disclose the use of that database to the opposing party at or before the time for exchanging appraisal reports and associated documents. A party making use of such database does not, however, have to provide access to that database to an opposing party if access to that database is either freely available to the general public or readily available for commercial purchase or subscription. In all other instances the portions of a database that the appraiser relied upon in forming an opinion as to value must be exchanged pursuant to TCR 56 B(2) or, if that is not practicable, be made available for inspection by the opposing party pursuant to TCR 56 B(3)(a).

B[(1)](3) Exceptions.

B[(1)](3)(a) Bulky or voluminous materials such as extensive catalogues, libraries, or files shall be made available for inspection and selective copying;

B[(1)](3) (b) Exhibits prepared for illustrative purposes do not need to be exchanged if the information contained therein has been provided to the opposing parties in other documents;

B[(1)](3) (c) Documents submitted as rebuttal evidence only do not need to be exchanged.

B[(2)](4) Time of Exchange. In valuation cases, documents relied upon by the appraiser shall be provided to the other parties not later than the date set by the court (usually 30 days before trial). All other documents shall be provided to the other parties not less than five business days prior to trial.

B[(3)](5) Sanctions. Failure to comply with this rule may result in exclusion of documents and any testimony relating thereto.

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**RULE 57
CONDUCT AND ETHICS; DECORUM IN PROCEEDINGS**

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D(7) Resignation of Attorneys. An application to resign, **a notice of termination, or a notice of substitution** made pursuant to ORS 9.380 shall be by motion containing the name,

address, and telephone number of the new attorney, if one is being substituted, and of the party. It must be served on that party and the opposing party's attorney. If no attorney has appeared for the opposing party, the motion shall be served on the opposing party. A notice of [*change or withdrawal*] **withdrawal, termination, or substitution** of attorney must be promptly filed.

RULE 61
BRIEFS AND MEMORANDUMS

A Briefs. Briefs shall be typewritten, double-spaced, on 8 ½" X 11" paper[, *with writing on one side only*], and fastened in the upper left-hand corner. Each brief of more than five pages or which includes more than five citations shall contain, in order, the following:

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RULE 80
MOTIONS FOR RECONSIDERATION OR TO REOPEN HEARING

A Filing Deadline and Content of Motion. Motions for reconsideration or to reopen a hearing or trial must be submitted within 20 days after the opinion or order has been rendered and before the judgment is signed. The motion should state specific grounds and the authority on which counsel relies and shall be based on one or more of these contentions:

[(A)]**(1)** A claim of factual error in the opinion or order;

[(B)]**(2)** A claim of error in the designation of the prevailing party or award of costs;

[(C)]**(3)** A claim that there has been a change in the applicable statutes or case law since the court's opinion or order; or

[(D)]**(4)** A claim that the court erred in construing or applying the law. Claims addressing legal issues already argued in the parties' briefs and addressed by the court are disfavored.

B Oral Argument on Motion.

B(1) Requesting Oral Argument. Any party to an action may request oral argument on a motion made pursuant to this rule. Such request will be granted only if the court, in its discretion, determines that oral argument will aid the court in reaching a decision on the motion. The court may also request oral argument on a motion made pursuant to this rule *sua sponte*.

B(2) Contents or Request. Any party requesting oral argument shall specify the amount of time required for arguments, whether appearance by telecommunication is requested, **and** the names and telephone numbers of all parties served with the motion or response[, *and whether official court reporting services are requested for the hearing*].