

## Tips, Traps, and Resources

**STATE COURT FEE CHANGES:** Effective January 1 and April 1, 2008, some circuit court civil filing fees will change because of 2007 legislative changes. For circuit courts, there is no single fee schedule. Before filing papers in a state court, check the court's Web site or contact the court directly for correct fee amounts. You can link to the state court Web sites at [www.ojd.state.or.us](http://www.ojd.state.or.us). Select Courts, then select Circuit Courts, then select a particular court from the scroll-down menu.

**PROPOSED CHANGES TO UTCR:** The proposed changes to the Uniform Trial Court Rules are posted at: [www.ojd.state.or.us/programs/utcr/utcrules.htm](http://www.ojd.state.or.us/programs/utcr/utcrules.htm). This information was also published in Oregon Appellate Courts Advance Sheets No. 1, December 31, 2007. Proposals of special note include: new rules on amended pleadings and interstate depositions; revision of Form 5.080 concerning attorney fees, costs, and disbursements; and a new chapter on electronic filing. Comments can be posted at the Web address or sent to the UTCR Reporter at the Office of the State Court Administrator, Supreme Court Building, 1163 State Street, Salem, Oregon 97301-2563 or [utcr@ojd.state.or.us](mailto:utcr@ojd.state.or.us). The committee will make final recommendations on these proposals at the next UTCR meeting on April 4, 2008.

**ATTORNEY FEES:** In the recent case of *Johnson v. Swaim*, November 23, 2007, the Oregon Supreme Court held that an oral demand for payment of damages does not satisfy the written demand requirement for attorney fees under ORS 20.080(1), and that the written demand must contain a specific dollar amount of damages. The supreme court affirmed the court of appeals and reversed the circuit court's award of attorney fees. You can view the opinion at [www.publications.ojd.state.or.us/S54603.htm](http://www.publications.ojd.state.or.us/S54603.htm).

**OREGON TORT CLAIMS ACT:** In a recent decision, *Clarke v. OHSU*, December 28, 2007, the Oregon Supreme Court held that the OTCA

did not apply to the plaintiff's personal injury claims against the individual hospital employee defendants, because the "substituted remedy" against the hospital did not provide an adequate remedy in this case, in which the plaintiff would recover less than 2% of the economic damages under the OTCA damages cap. The supreme court affirmed the court of appeals and remanded the case to the circuit court for further proceedings. You can view the opinion at [www.publications.ojd.state.or.us/S053868.htm](http://www.publications.ojd.state.or.us/S053868.htm).

**OREGON COURT OF APPEALS:** The Oregon Court of Appeals has issued its Internal Practices Guidelines, dated July 6, 2007, consisting of a 51-page document describing the inner workings of the court. The guidelines are available at [www.ojd.state.or.us/courts/coa/documents/OregonCourtOfAppeals-IPG.pdf](http://www.ojd.state.or.us/courts/coa/documents/OregonCourtOfAppeals-IPG.pdf). A limited number of printed copies are available at the Appellate Courts Records Section office, 1163 State St., Salem, Oregon. To request a copy of the guidelines in an alternative format, please contact the Statewide ADA Coordinator at 503-986-5611.

**FRCP/ELECTRONIC DISCOVERY:** On April 7-9, 2008, the Oregon Chapter of the Association of Records Managers and Administrators (ARMA) is hosting the 2008 regional conference in Portland. The conference will include several sessions on the Federal Rules of Civil Procedure and electronically stored information (ESI), presented by John Isaza, Esq., an expert on electronic discovery. CLE credits are pending. For conference details and registration information, visit: <https://www.regonline.com/armagnw2008>

**FEE AGREEMENTS:** The 2007 Revision of the Oregon State Bar's *Fee Agreement Compendium* is now available, with 44 forms – including 9 general fee agreements and specific fee agreements for 9 discrete practice areas – and updated references to reflect the Oregon Rules

of Professional Conduct and new ethics opinions. To order a copy, call the OSB Order Desk at 503-620-0222 or 1-800-452-8260, ext. 413, or order online at [www.osbar.org](http://www.osbar.org).

**FEBRUARY CLE ON NEW FRCP:** On February 13, 2008, at noon at the federal courthouse in Portland, Kathryn Pratt will present a half-hour CLE on the “restyled” Federal Rules of Civil Procedure that went into effect December 1, 2007. The CLE costs \$40 and includes a bound book of the new rules with official and unofficial forms. To register, contact the Law Offices of Kathryn M. Pratt at 503-439-1506 or [prattkary@hotmail.com](mailto:prattkary@hotmail.com).

**NEW RESOURCE FOR SOLE PRACTITIONERS:** Decision Books/Niche Press has published a new book for sole practitioners, *Solo by Choice: How to Be the Lawyer You Always Wanted to Be*, by Carolyn Elefant, Esq.; 300 pages; \$45; free shipping; volume discounts available. To order, contact Decision Books at 206-229-9754 or [info@decisionbooks.com](mailto:info@decisionbooks.com).

**E-DISCOVERY FOR SMALL FIRMS:** For an article on this topic, go to [www.osbplf.org](http://www.osbplf.org), select *In Brief* under Loss Prevention, then select, “Ten Tips Leading to Efficient and Effective eDiscovery for the Small Law Firm.” The article will be posted with the February 2008 issue. Written by Ervin A. Gonzales and Patrick S. Montoya, the article was published in *Technology eReport*, vol. 6, no. 1, April 2007, by the ABA. Reprinted with permission.

**PATIENT RECORDS:** Federal law strictly regulates and protects the health records of patients who participate in federally conducted, regulated, or assisted substance abuse programs. To view an article on the topic, go to [www.osbplf.org](http://www.osbplf.org), select *In Brief* under Loss Prevention, and then select “Issuing Subpoenas for Patient Records of a Drug or Alcohol Treatment Center: Traps for the Unwary.” The article will be posted with the February 2008 issue.

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