

**Oregon State Bar
Special Meeting of the Board of Governors**

July 21, 2017

Oregon State Bar Center
Tigard, Oregon

*The mission of the OSB is to serve justice by
promoting respect for the rule of law,
improving the quality of legal services, and
increasing access to justice.*

*The Special Open Session Meeting of the Oregon State Bar Board of Governors will begin at 11:30am on July 21, 2017.
Items on the agenda will not necessarily be discussed in the order as shown.*

Open Agenda

- | | | | |
|----|---|------------|-------------------------|
| 1. | Call to Order | | |
| 2. | Fee Mediation Task Force Report [Mr. Spier] | Action | Exhibit |
| 3. | Ad Hoc Awards Committee [Mr. Levelle] | Action | Handout |
| 4. | Appointments to Council on Court Procedures | Action | Exhibit |
| 5. | Futures Task Force Report [Mr. Levelle] | Discussion | Exhibit |
| | a. Executive Summary | | |
| | b. Full Report | | |
| 6. | Document Access Fees for eCourt [Ms. Rastetter] | Action | Exhibit |

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: July 21, 2017

From: Richard G. Spier, Chair, BOG Fee Mediation Task Force

Re: Report of the Fee Mediation Task Force

Action Recommended

Consider and adopt the recommendations of the Fee Mediation Task Force (Task Force) to the Board of Bar Governors (BOG) as follows:

1. RPC 8.3(c) should be amended to create an additional exception to RPC 8.3(a)'s reporting requirement for mediators in the OSB's fee dispute program (the program), when the knowledge or evidence of attorney misconduct comes from mediation communications as defined by ORS 36.110(7)¹ and made confidential by ORS 36.220.²

¹ "Mediation communications" means:

- (a) All communications that are made, in the course of or in connection with a mediation, to a mediator, a mediation program or a party to, or any other person present at, the mediation proceedings; and
- (b) All memoranda, work products, documents and other materials, including any draft mediation agreement, that are prepared for or submitted in the course of or in connection with a mediation or by a mediator, a mediation program or a party to, or any other person present at, mediation proceedings.

See also Alfieri v Solomon, 358 Or 383 (2015) (construing legislature's intended meaning of "mediation communications").

² ORS 36.220 provides:

- (1) Except as provided in ORS 36.220 to 36.238:
 - (a) Mediation communications are confidential and may not be disclosed to any other person.
 - (b) The parties to a mediation may agree in writing that all or part of the mediation communications are not confidential.
- (2) Except as provided in ORS 36.220 to 36.238:
 - (a) The terms of any mediation agreement are not confidential.
 - (b) The parties to a mediation may agree that all or part of the terms of a mediation agreement are confidential.
- (3) Statements, memoranda, work products, documents and other materials, otherwise subject to discovery, that were not prepared specifically for use in a mediation, are not confidential.
- (4) Any document that, before its use in a mediation, was a public record as defined in ORS 192.410 remains subject to disclosure to the extent provided by ORS 192.410 to 192.505.
- (5) Any mediation communication relating to child abuse that is made to a person who is required to report child abuse under the provisions of ORS 419B.010 is not confidential to the extent that the person is required to report the communication under the provisions of ORS 419B.010. Any mediation communication relating to elder abuse that is

2. Once the changes outlined in recommendation 1 are adopted, any references to the reporting requirement in RPC 8.3 should be removed from Oregon Fee Dispute Resolution Rule (Rule) 10.4 and from all other program rules (*e.g.* Rule 7.5, 10.5, 10.6 and 10.8) and materials addressing program-conducted mediation (program mediation).
3. Any program mediation should center on the reasonableness of the fee and the return of client property. Evidence of alleged malpractice or unethical conduct may be considered during mediation in addressing whether the fee charged is reasonable, and the fee may be adjusted accordingly in any mediated resolution, but no other affirmative monetary relief should be permitted in any program mediation.
4. Mediators participating in the program should complete at least a 32-hour integrated mediation course and complete three mediations before being enrolled in the program. Mediators should also agree to be bound by the ethical requirements in section 1.4 of the Chief Justice’s order on qualification of mediators for court-connected mediation programs.³
5. The BOG should ask the Legal Ethics Committee to address appropriately, whether by an ethics opinion, rule amendment, or other vehicle, the inconsistency between the prohibition from disclosing confidential mediation communications under ORS 36.220 and a lawyer mediator’s duty under RPC 3.4(c) and the duty under RPC 8.3 to report certain ethical misconduct when knowledge of the perceived misconduct is based solely on “confidential mediation communication.”

made to a person who is required to report elder abuse under the provisions of ORS 124.050 to 124.095 is not confidential to the extent that the person is required to report the communication under the provisions of ORS 124.050 to 124.095.

- (6) A mediation communication is not confidential if the mediator or a party to the mediation reasonably believes that disclosing the communication is necessary to prevent a party from committing a crime that is likely to result in death or substantial bodily injury to a specific person.
- (7) A party to a mediation may disclose confidential mediation communications to a person if the party’s communication with that person is privileged under ORS 40.010 to 40.585 or other provision of law. A party may disclose confidential mediation communications to any other person for the purpose of obtaining advice concerning the subject matter of the mediation, if all parties to the mediation so agree.
- (8) The confidentiality of mediation communications and agreements in a mediation in which a public body is a party, or in which a state agency is mediating a dispute as to which the state agency has regulatory authority, is subject to ORS 36.224, 36.226 and 36.230.

³ [https://www.ojd.state.or.us/web/OJDPublications.nsf/Files/05cER001sh.pdf/\\$File/05cER001sh.pdf](https://www.ojd.state.or.us/web/OJDPublications.nsf/Files/05cER001sh.pdf/$File/05cER001sh.pdf).

6. The BOG should further consider whether mediators in the OSB's program should be required to carry professional liability insurance for mediator malpractice through the PLF (part-time lawyer mediator) or other carrier (full-time lawyer mediator).

Background Information

The OSB has run a mediation and arbitration fee dispute program for many years. The OSB's program provides a quick, inexpensive means for attorneys and clients to resolve fee disputes. It is voluntary, except that lawyers who receive the underlying referral from the OSB must participate. A petitioner who wishes to resolve a fee dispute submits an application, which is sent to the respondent. If the respondent agrees to arbitrate, or if they must participate, the petitioner pays the filing fee and an arbitrator or panel is assigned.

Although the arbitration program is popular and effective, it is as formal as any arbitration. Clients, in particular, have asked over the years for a simpler process that would let them "tell their story" more effectively than is possible in formal testimony. In response, the BOG implemented a pilot fee mediation part to the OSB's program. In 2016, the BOG adopted rules to make that change permanent.

Lawyer mediators⁴ have expressed concern about material in the OSB's program documents indicating that a lawyer mediator involved in the OSB's program was still subject to RPC 8.3(a)⁵ in circumstances where reporting attorney misconduct was required by that rule. As currently formulated, Rule 10.8 provides that "[m]ediators and parties who agree to participate in this program expressly waive the confidentiality provisions of ORS 36.222 to the extent necessary to allow disclosures pursuant to Rule 7.5, 10.4, 10.5 and 10.6."⁶ Whether the parties actually understand and appreciate the

⁴ A mediator is "a third party who performs mediation." ORS 36.110(9). Mediation itself is "a process in which a mediator assists and facilitates two or more parties to a controversy in reaching a mutually acceptable resolution of the controversy . . ." ORS 36.110(5).

⁵ "A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the Oregon State Bar Client Assistance Office." RPC 8.3(a).

⁶ Rule 10.4 addresses the duty to report violations of RPC 8.3. The rule provides:

[L]awyer mediators and arbitrators shall inform the Client Assistance Office when they know, based on information obtained during the course of an arbitration proceeding, that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.

This rule, on its face, does not mention mediation, though it refers to "mediators." To fully implement the

“waiver” language is of additional concern because mediation is based upon the principles of full disclosure, informed consent, and self-determination. These principles are undermined when parties must agree to the “waiver” or not have access to the OSB mediation program.

Where a lawyer mediator knows, based on confidential mediation communications, that another lawyer has committed a violation of the RPCs that raises a substantial question as to that lawyer’s honesty, trustworthiness, or fitness as a lawyer, RPC 8.3’s duty to report is inconsistent with ORS 36.220(1)(a). The BOG created the Task Force to study that and related issues.⁷

Discussion

Members of the Task Force

Rich Spier, Chair
Thom Brown
Mark Comstock
Bob Earnest, public member
Dawn Evans
Dorothy Fallon, public member
Mark Friel
Judy Henry
Sam Imperati
Chris Kent
Bruce Schafer
Jim Uerlings
Pat Vallerand
Cassandra Dyke, Program Administrator (staff)
Mark Johnson Roberts, Deputy General Counsel (staff)

Meetings of the Task Force

The Task Force met five times between November 2016 and April 2017. A subcommittee of the Task Force was created and met with OSB staff. The subcommittee then deliberated and adopted a final draft of this report that was then considered and

Task Force’s recommendations, the BOG should delete the reference to “mediators” in the rule.

⁷ “The Fee Mediation Task Force is charged to evaluate the current fee mediation rules and make proposals for changes to the Board of Governors where appropriate. The Fee Mediation Task Force shall also make recommendations to General Counsel regarding fee mediation training and fee mediation forms” (9 Sep 2016).

approved by the entire Task Force.

Recommendations of the Task Force

1. RPC 8.3(c) should be amended to create an additional exception to RPC 8.3(a)'s reporting requirement for lawyer mediators in the OSB's fee-dispute program, when the knowledge or evidence of attorney misconduct comes from mediation communications as defined by ORS 36.110(7) and made confidential by ORS 36.220.

The BOG created the Task Force because lawyer mediators questioned whether a lawyer serving as a mediator had an obligation to report an attorney in the circumstances covered under RPC 8.3(a) in light of ORS 36.220. Specifically, lawyer mediators observed that, to the extent the reporting obligation depended on information obtained through "mediation communications," RPC 8.3(a) was inconsistent with ORS 36.220(1)(a), which prohibits the disclosure of mediation communications by a lawyer mediator "to any other person" in the absence of an agreement by all mediation parties or a legislatively created exception. *See also* ORS 36.222(1) and (3) (to same effect). Moreover, lawyer mediators also observed that the program materials, and related form agreement to mediate, set forth the RPC 8.3 reporting obligation explicitly notwithstanding ORS 36.220.

To address the concerns raised by lawyer mediators, the Task Force recommends that the BOG ask the Supreme Court to amend RPC 8.3(c)⁸ to add an exception for lawyer mediators participating in a program mediation. The recommended revised RPC 8.3(c) would read as follows:

This rule does not require disclosure of information otherwise protected by Rule 1.6 or ORS 9.460(3), or apply to lawyers who obtain such knowledge or evidence while:

⁸ In the course of the Task Force's work, OSB's General Counsel brought to the Task Force's attention an important issue. As a separate branch of government, the judicial branch possesses certain inherent powers necessary to ensure the courts' functioning. In Oregon, "[n]o area of judicial power is more clearly marked off and identified than the courts' power to regulate the conduct of the attorneys who serve under it." *Ramstead v. Morgan*, 219 Or 383, 399 (1959). Although the Oregon Supreme Court has acknowledged its inherent power to regulate the practice of law, it has also recognized that the legislature has the power to regulate "some matters which affect the judicial process." *Id.* The court held that "[t]he limits of legislative authority are reached, however, when legislative action unduly burdens or unduly interferes with the judicial department in the exercise of its judicial functions." *Id.* The Task Force takes no position on whether—or to what extent—the issue raised by OSB's General Counsel is implicated by the inconsistency between ORS 36.220 and RPC 8.3(a) addressed in this report.

(1) acting as a member, investigator, agent, employee or as a designee of the State Lawyers Assistance Committee;

(2) acting as a board member, employee, investigator, agent or lawyer for or on behalf of the Professional Liability Fund or as a Board of Governors liaison to the Professional Liability Fund;
~~or~~

(3) participating in the loss prevention programs of the Professional Liability Fund, including the Oregon Attorney Assistance Program; *or*

(4) *acting as a mediator in the Fee Dispute Resolution Program, if the disclosure would be based on information protected by the confidential mediation communications provisions of ORS 36.220.*

(Italics reflect recommended change.)⁹

The Task Force's recommended change to RPC 8.3(c) implements its view that ensuring the legislature's protection of confidential mediation communication exists in any program mediation is critically important for the following reasons:

- The parties in the mediation have a well-established reasonable expectation of confidentiality in mediation.
- The statute-versus-rule conflict presents a potential hazard for all lawyer mediators, who could be vulnerable to accusation of violating the RPCs (e.g., RPC 3.4(c)) and Rule 10.4 while complying with the requirements of ORS 36.220.
- The success of mediation, in large part, depends on the parties' justified expectation of confidentiality, consistent with the policies set out in ORS

⁹ RPC 8.3(c) already contains exceptions for SLAC, the PLF, and the PLF loss prevention programs including OAAP. The Task Force believes that the need for confidentiality in any program mediation is similarly weighty in light of the importance confidentiality plays in mediation and in light of the legislative policy statement supporting mediation in other contexts. See ORS 36.100 ("[W]hen two or more persons cannot settle a dispute directly between themselves, it is preferable that the disputants be encouraged and assisted to resolve their dispute with the assistance of a trusted and competent third party mediator, whenever possible, rather than the dispute remaining unresolved or resulting in litigation.").

36.220.

- Volunteer mediators should not be compelled to testify and participate in hearings when all other mediators in the State of Oregon are not required to do so.
- Asking the volunteer mediators in the program to have to get involved after the mediation session is an unfair burden.

2. Once the changes outlined in recommendation 1 are adopted, any references to the reporting requirement in RPC 8.3 should be removed from Rule 10.4 and from all other program rules (e.g. Rule 7.5, 10.5, 10.6 and 10.8) and materials addressing program-conducted mediation (program mediation).

To fully implement the Task Force's first recommendation, the Task Force strongly feels that it is essential that the RPC 8.3 language be removed from all rules and materials covering in any way a program mediation.

3. Any program mediation should center on the reasonableness of the fee and the return of client property. Evidence of alleged malpractice or unethical conduct may be considered during mediation in addressing whether the fee charged is reasonable, and the fee may be adjusted accordingly in any mediated resolution, but no other affirmative monetary relief should be permitted in any program mediation.¹⁰

The Task Force examined at some length the appropriate scope of mediation within the program. While the group recognized mediation's core principle of self-determination,¹¹ it also recognized that the central purpose of any program mediation is

¹⁰ Consistent with the full implementation of the this recommendation, the Task Force recommends that the program's rules, handbook, and documents should be amended to clearly advise the potential mediation participants, before selecting the OSB program, that evidence of alleged malpractice or unethical conduct may be considered during mediation in addressing whether the fee charged is reasonable, and the fee may be adjusted accordingly in any mediated resolution, but no other affirmative monetary relief should be permitted in any program mediation. The amendments should also specifically recommend the available alternatives for resolving malpractice claims (including mediation outside the program) and the appropriate ways to address ethics issues.

¹¹ See Oregon Judicial Dep't Court-Connected Mediator Qualifications Rules § 1.4 (ethical requirements), available at [www.ojd.state.or.us/web/OJDPublications.nsf/Files/05cER001sh.pdf/\\$File/05cER001sh.pdf](http://www.ojd.state.or.us/web/OJDPublications.nsf/Files/05cER001sh.pdf/$File/05cER001sh.pdf); Oregon Mediation Ass'n, *Core Standards of Mediation Practice 2* (rev April 23, 2005), available at www.omediate.org/docs/2005CoreStandardsFinalP.pdf.

to determine the appropriate fee, taking into consideration the quality of the services rendered, while avoiding any mediated resolution of malpractice or ethics issues that are too complex to address in this context.

The Task Force's consensus was that a program mediation should center only on the amount of the fee and the return of client property. However, evidence of alleged malpractice or unethical conduct may be discussed when addressing whether the fee charged is reasonable, and the fee may be adjusted accordingly in mediation, but no other affirmative monetary relief should be permitted in any program mediation.¹²

The program rules, handbook, and documents should be amended where necessary to fully implement the Task Force's consensus including, but not limited to, the inclusion of a clear statement that no program mediation results in any release, waiver, estoppel, or preclusion for issues pertaining to professional liability or unethical conduct.¹³

4. Mediators participating in the program should complete at least a 32-hour integrated mediation course and complete three mediations before being enrolled in the program. Mediators should also agree to be bound by the ethical requirements in section 1.4 of the Chief Justice's order on qualification of mediators for public mediation programs.

The Task Force next considered the issue of participating mediators' qualifications. The OSB's program has no formal experience requirements at present, although staff looks in general for people who have either formal mediation training or substantial experience. The consensus of the Task Force was that mediators in this program should

¹² The Task Force discussed, but is not addressing, the applicability of this language to arbitration because it concluded that issue went beyond the Task Force's charge. In the course of that discussion, the Task Force noted that Rule 5.2 states that "[t]he sole issue to be determined in all fee dispute proceedings under these rules shall be whether the fees or costs charged for the services rendered were reasonable in light of the factors set forth in RPC 1.5." RPC 1.5 does not explicitly state that malpractice or unethical conduct may be discussed when addressing whether the fee charged is reasonable, and the fee may be adjusted accordingly. However, both the program mediator and arbitrator handbooks state clearly that those issues can be discussed and the fee may be adjusted. To ensure full implementation of the Task Force's recommendations, the Task Force hopes that the BOG considers whether Rule 5.2, RPC 1.5, and all related program provisions should be changed to clearly reflect the current practice in all aspects of the program as outlined in the handbooks.

¹³ The Task Force discussed, but is not addressing, the applicability of this language to arbitration because it concluded that the issue went beyond the Task Force's charge. To ensure full implementation of the Task Force's recommendations, the Task Force hopes that the BOG considers whether similar language (with the addition of "findings") should be contained in the fee-arbitration program.

be qualified like mediators in court-connected mediation programs. The Chief Justice has issued an order for this purpose.

The Task Force discussed deferring to the Chief Justice's order, but decided instead to recommend that mediators in the OSB's program complete at least a 32-hour integrated mediation course and have facilitated three mediations before being enrolled in the program. Mediators would also agree to be bound by the ethical requirements in section 1.4 of the Chief Justice's order. (A copy of the Chief Justice's order accompanies this memorandum.)

5. The BOG should ask the Legal Ethics Committee to address appropriately, whether by an ethics opinion, rule amendment, or other vehicle, the inconsistency between the prohibition from disclosing confidential mediation communications under ORS 36.220 and a lawyer mediator's duty under RPC 3.4(c) and the duty under RPC 8.3 to report certain ethical misconduct when knowledge of the perceived misconduct is based solely on "confidential mediation communication.,

During the Task Force's work, OSB's General Counsel raised the issue that lawyers have a duty under RPC 3.4(c) not to "knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists." While that conflict would be eliminated through the Supreme Court's implementation of the Task Force's recommend change to RPC 8.3 for any program mediation, the conflict would remain in all other mediations involving a lawyer mediator.

The Task Force was not asked to resolve this broader conflict between ORS 36.220 and RPC 3.4(c) and RPC 8.3(a). Nevertheless, the Task Force concluded that the presence of that broader conflict is a significant concern that should be addressed by the BOG. Accordingly, the Task Force recommends that, as soon as feasible,¹⁴ the BOG ask the Supreme Court to resolve the conflict between ORS 36.220 and all implicated RPCs including, but not limited to, RPC 3.4 and RPC 8.3, by acknowledging that ORS 36.220 protects "confidential mediation communications" in all mediations involving a lawyer mediator just as it would in a program mediation upon implementation of the Task Force's recommend change to RPC 8.3 in that specific context.

6. The BOG should further study whether mediators in the program should be required to carry professional liability insurance for mediator malpractice

¹⁴ The Task Force believes the BOG's consideration of this broader issue should follow only after input is obtained from all appropriate stakeholders including, but not limited to, the OSB ADR Section Executive Committee or its designee(s).

through the PLF (part-time lawyer mediator) or other carrier (full-time lawyer mediator).

A question arose about insurance coverage for mediators participating in the program. The OSB does not require that its participating mediators hold professional liability insurance but, as a practical matter, most of them are attorneys and most have liability insurance coverage.

The Oregon State Bar Professional Liability Fund provides coverage through its approved coverage plan for those attorneys who conduct mediations as an adjunct to the private practice of law, but it does not cover full-time lawyer mediators. The Task Force discussed that mediators in the OSB's program might want liability insurance coverage, notwithstanding their limited liability under ORS 36.210. This issue is again beyond the scope of the Task Force's charge, but the Task Force suggests that the BOG may wish to consider giving it further study.

Oregon Judicial Department Court-Connected Mediator Qualifications Rules

**Effective
August 1, 2005**



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OREGON JUDICIAL DEPARTMENT COURT-CONNECTED MEDIATOR QUALIFICATIONS RULES

PREFACE

Historical Background:

Court-Connected Mediator Qualifications were first adopted by the Oregon Dispute Resolution Commission (ODRC) between 1992 and 1998. In October 2003, the legislature abolished the ODRC and transferred responsibility for establishing such rules on qualifications to the Oregon Judicial Department (OJD). At that time, Chief Justice Wallace P. Carson, Jr., adopted a version of these rules as Uniform Trial Court Rules Chapter 12.

Prior to its abolition, the ODRC had begun a process of reviewing and revising the substance of these qualifications. Upon receiving the responsibility for these rules, the OJD convened the Court-Connected Mediator Qualifications Advisory Committee to continue the work begun by the ODRC. The committee included representatives from each of the kinds of court-connected mediation, as well as advocates for users of mediation.

The committee included mediation coordinators from urban and rural trial courts; domestic relations mediators from county-based agencies and independent contractor panels; private mediators; mediation trainers; and representatives of the Oregon Association of Community Dispute Resolution Centers, Oregon Association of Family Court Services, Oregon Department of Justice, Oregon Mediation Association, Oregon State Bar Alternative Dispute Resolution Section Executive Committee, Oregon State Bar Family Law Section Executive Committee, State Family Law Advisory Committee, and University of Oregon Law School Office for Dispute Resolution.

During the development of this proposal, public comment was solicited through a variety of channels, including all of the groups represented above plus trial court administrators, Oregon State Bar Litigation Section Executive Committee, Oregon Trial Lawyers Association, and Oregon Association of Defense Counsel.

After consideration of comments received, the Chief Justice decided to remove these rules from under the structure of the Uniform Trial Court Rules (UTCRC) and issue them as a separate policy. Final rules were adopted by Chief Justice Order effective on August 1, 2005. These rules are not part of the UTCRC and are not subject to the UTCRC process.

Process for Revision:

The rules will be updated as necessary. Questions or comments can be submitted at any time to:

Statewide Appropriate Dispute Resolution Analyst
Supreme Court Building
1163 State Street
Salem, OR 97301-2563
503.986.4539
ojd.adr@ojd.state.or.us

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**OREGON JUDICIAL DEPARTMENT
COURT-CONNECTED MEDIATOR QUALIFICATIONS RULES**

1: GENERAL REQUIREMENTS FOR ALL COURT-CONNECTED MEDIATORS

SECTION 1.1 APPLICABILITY

Sections 1.1 to 3.6 of these rules:

- (1) Establish minimum qualifications, obligations, and mediator disclosures, including education, training, experience, and conduct requirements, applicable to:
 - (a) General civil mediators as provided by ORS 36.200(1).
 - (b) Domestic relations custody and parenting mediators as provided by ORS 107.775(2).
 - (c) Domestic relations financial mediators as provided by ORS 107.755(4).
- (2) Provide that a mediator approved to provide one type of mediation may not mediate another type of case unless the mediator is also approved for the other type of mediation.
- (3) Do not:
 - (a) In any way alter the requirements pertaining to personnel who perform conciliation services under ORS 107.510 to 107.610.
 - (b) Allow mediation of proceedings under ORS 30.866, 107.700 to 107.732, 124.005 to 124.040, or 163.738, as provided in ORS 107.755(2).
 - (c) In any way establish any requirements for compensation of mediators.
 - (d) Limit in any way the ability of mediators or qualified supervisors to be compensated for their services.

SECTION 1.2 DEFINITIONS

As used in these rules:

- (1) "Approved mediator" means a mediator who a circuit court or judicial district of this state officially recognizes and shows by appropriate official documentation as being approved within that court or judicial district as a general civil mediator, domestic relations custody and parenting mediator, or domestic relations financial mediator for purposes of the one or more mediation programs operated under the auspices of that court or judicial district that is subject to Section 1.1.
- (2) "Basic mediation curriculum" means the curriculum set out in Section 3.2.
- (3) "Continuing education requirements" means the requirements set out in Section 3.6.

- (4) "Court-system training" means a curriculum or combination of courses set out in Section 3.5.
- (5) "Determining authority" means an entity that acts under Section 1.3 concerning qualification to be an approved mediator.
- (6) "Domestic relations custody and parenting mediation curriculum" means the curriculum set out in Section 3.3.
- (7) "Domestic relations custody and parenting mediation supervisor" means a person who is qualified at the level described in Section 2.2.
- (8) "Domestic relations custody and parenting mediator" means a mediator for domestic relations, custody, parenting time, or parenting plan matters in circuit court under ORS 107.755 who meets qualifications under Section 2.2 as required by ORS 107.775(2).
- (9) "Domestic relations financial mediation supervisor" means a person who is qualified at the level described in Section 2.3.
- (10) "Domestic relations financial mediation training" means a curriculum or combination of courses set out in Section 3.4.
- (11) "Domestic relations financial mediator" means a mediator for domestic relations financial matters in circuit court under ORS 107.755 who meets qualifications under Section 2.3 as required by ORS 107.755(4).
- (12) "General civil mediator" means a mediator for civil matters in circuit court under ORS 36.185 to 36.210, including small claims and forcible entry and detainer cases, who meets qualifications under Section 2.1 as required by ORS 36.200(1).
- (13) "General civil mediation supervisor" means a person who is qualified at the level described in Section 2.1.
- (14) "Independent qualification review" means the process described in Section 3.1.
- (15) "Mediation" is defined at ORS 36.110.

SECTION 1.3 DETERMINING AUTHORITY, DETERMINING MEDIATOR QUALIFICATIONS, OTHER RESPONSIBILITIES AND AUTHORITY

- (1) The determining authority:
 - (a) Is the entity within a judicial district with authority to determine whether applicants to become an approved mediator for courts within the judicial district meet the qualifications as described in these rules and whether approved mediators meet any continuing qualifications or obligations required by these rules.
 - (b) Is the presiding judge of the judicial district unless the presiding judge has delegated the authority to be the determining authority as provided or allowed by statute. Delegation under this paragraph may be made to an entity chosen by the presiding

judge to establish a mediation program as allowed by law or statute. A delegation must be in writing and, if it places any limitations on the presiding judge's ultimate authority to review and change decisions made by the delegatee, must be approved by the State Court Administrator before the delegation can be made.

- (2) Authority over qualifications. Subject to the following, a determining authority, for good cause, may allow appropriate substitutions, or obtain waiver, for any of the minimum qualifications for an approved mediator.
 - (a) Except as provided in paragraph (b) of this subsection, a determining authority that allows a substitution must, as a condition of approval, require the applicant to commit to a written plan to meet the minimum qualifications within a specified reasonable period of time. A determining authority that is not a presiding judge must notify the presiding judge of substitutions allowed under this subsection.
 - (b) For good cause, a determining authority, other than the presiding judge for the judicial district, may petition the presiding judge for a waiver of specific minimum qualification requirements for a specific person to be an approved mediator. A presiding judge may waive any of the qualifications to be an approved mediator in an individual case with the approval of the State Court Administrator.
- (3) The determining authority may revoke a mediator's approved status at his or her discretion, including in the event that the mediator no longer meets the requirements set forth in these rules.
- (4) The determining authority may authorize the use of an evaluation to be completed by the parties, for the purpose of monitoring program and mediator performance.
- (5) In those judicial districts where a mediator is assigned to a case by the court, or where mediators are assigned to a case by a program sponsored or authorized by the court, the determining authority shall assure that parties to a mediation have access to information on:
 - (a) How mediators are assigned to cases.
 - (b) The nature of the mediator's affiliation with the court.
 - (c) The process, if any, that a party can use to comment on, or object to the assignment or performance of a mediator.
- (6) The minimum qualifications of these rules have been met by an individual who is an approved mediator at the time these rules become effective if the individual has met the minimum requirements of the Uniform Trial Court Rules in effect prior to August 1, 2005.
- (7) The State Court Administrator may approve the successful completion of a standardized performance-based evaluation to substitute for formal degree requirements under Sections 2.2 or 2.3 upon determining an appropriate evaluation process has been developed and can be used at reasonable costs and with reasonable efficiency.

SECTION 1.4 MEDIATOR ETHICS

An approved mediator, when mediating under ORS 36.185 to 36.210 or 107.755 to 107.795, is required to:

- (1) Disclose to the determining authority and the participants at least one of the relevant codes of mediator ethics, standards, principles, and disciplinary rules of the mediator's relevant memberships, licenses, or certifications. It is not the court's responsibility to enforce any relevant codes of mediator ethics, standards, principles, and/or rules;
- (2) Comply with relevant laws relating to confidentiality, inadmissibility, and nondiscoverability of mediation communications including, but not limited to, ORS 36.220, 36.222, and 107.785; and
- (3) Inform the participants prior to or at the commencement of the mediation of each of the following:
 - (a) The nature of mediation, the role and style of the mediator, and the process that will be used;
 - (b) The extent to which participation in mediation is voluntary and the ability of the participants and the mediator to suspend or terminate the mediation;
 - (c) The commitment of the participants to participate fully and to negotiate in good faith;
 - (d) The extent to which disclosures in mediation are confidential, including during private caucuses;
 - (e) Any potential conflicts of interest that the mediator may have, i.e., any circumstances or relationships that may raise a question as to the mediator's impartiality and fairness;
 - (f) The need for the informed consent of the participants to any decisions;
 - (g) The right of the parties to seek independent legal counsel, including review of the proposed mediation agreement before execution;
 - (h) In appropriate cases, the advisability of proceeding with mediation under the circumstances of the particular dispute;
 - (i) The availability of public information about the mediator pursuant to Section 1.5; and
 - (j) If applicable, the nature and extent to which the mediator is being supervised.

SECTION 1.5 PROVIDING AND MAINTAINING PUBLICLY AVAILABLE INFORMATION

- (1) Information for court use and public dissemination: All approved mediators must provide the information required to the determining authority of each court at which the mediator is an approved mediator. Reports must be made using the form located in Appendix A of these rules, or any substantially similar form authorized by the determining authority.

- (2) All approved mediators must update the information provided in Section 1.5 at least once every two calendar years.
- (3) The information provided in Section 1.5 must be made available to all mediation parties and participants upon request.

2: QUALIFICATIONS FOR COURT-CONNECTED MEDIATORS BY CASE TYPE

SECTION 2.1 QUALIFICATION AS AN APPROVED GENERAL CIVIL MEDIATOR, ONGOING OBLIGATIONS

To become an approved general civil mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet ongoing requirements as described:

- (1) Training. An applicant must have completed training, including all the following:
 - (a) The basic mediation curriculum described in Section 3.2, or substantially similar training; and
 - (b) Court-system training in Section 3.5, or substantially similar training or education.
- (2) Experience. An applicant must have:
 - (a) Observed three actual mediations; and
 - (b) Participated as a mediator or co-mediator in at least three cases that have been or will be filed in court, observed by a person qualified as a general civil mediation supervisor under this section and performing to the supervisor's satisfaction.
- (3) Continuing Education.
 - (a) During the first two calendar years beginning January 1 of the year after the mediator's approval by the determining authority, general civil mediators must complete at least 12 hours of continuing education as follows:
 - (i) If the approved mediator's basic mediation training was 36 hours or more, 12 hours of continuing education as described in Section 3.6.
 - (ii) If the approved mediator's basic mediation training was between 30 and 36 hours, then one additional hour of continuing education for every hour of training fewer than 36 (i.e., if basic mediation training was 30 hours, then 18 hours of continuing education; if the basic mediation training was 32 hours, then 16 hours of continuing education).
 - (b) Thereafter, as an ongoing obligation, an approved general civil mediator must complete 12 hours of continuing education requirements every two calendar years as described in Section 3.6.

- (4) **Conduct.** An applicant and, as an ongoing obligation, an approved general civil mediator must subscribe to the mediator ethics in Section 1.4.
- (5) **Public information.** An applicant and, as an ongoing obligation, an approved general civil mediator must comply with requirements to provide and maintain information as provided in Section 1.5.
- (6) **Supervision.** A qualified general civil mediation supervisor is an individual who has:
 - (a) Met the qualifications of a general civil mediator as defined in this section, and
 - (b) Mediated at least 35 cases to conclusion or completed at least 350 hours of mediation experience beyond the experience required of an approved general civil mediator in this section.

SECTION 2.2 QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS CUSTODY AND PARENTING MEDIATOR, ONGOING OBLIGATIONS

To become an approved domestic relations custody and parenting mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet ongoing requirements **as** described.

- (1) **Education.** An applicant must possess at least one of the following:
 - (a) A master's or doctoral degree in counseling, psychiatry, psychology, social work, marriage and family therapy, or mental health from an accredited college or university.
 - (b) A law degree from an accredited law school with course work and/or Continuing Legal Education credits in family law.
 - (c) A master's or doctoral degree in a subject relating to children and family dynamics, education, communication, or conflict resolution from an accredited college or university, with coursework in human behavior, plus at least one year full-time equivalent post-degree experience in providing social work, mental health, or conflict resolution services to families.
 - (d) A bachelor's degree in a behavioral science related to family relationships, child development, or conflict resolution, with coursework in a behavioral science, and at least seven years full-time equivalent post-bachelor's experience in providing social work, mental health, or conflict resolution services to families.
- (2) **Training.** An applicant must have completed training in each of the following areas:
 - (a) The basic mediation curriculum in Section 3.2;
 - (b) The domestic relations custody and parenting mediation curriculum in Section 3.3; and
 - (c) Court-system training in Section 3.5, or substantially similar training.

- (3) Experience. An applicant must have completed one of the following types of experience:
- (a) Participation in at least 20 cases including a total of at least 100 hours of domestic relations mediation supervised by or comediated with a person qualified as a domestic relations custody and parenting mediation supervisor under this section. At least ten cases and 50 hours of the supervised cases in this paragraph must be in domestic relations custody and parenting mediation. At least three of the domestic relations custody and parenting mediation cases must have direct observation by the qualified supervisor; or
 - (b) At least two years full-time equivalent experience in any of the following: mediation, direct therapy or counseling experience with an emphasis on short-term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. Applicants must have:
 - (i) Participated as a mediator or comediator in a total of at least ten cases including a total of at least 50 hours of domestic relations custody and parenting mediation, and
 - (ii) An understanding of court-connected domestic relations programs.
- (4) Continuing education. As an ongoing obligation, an approved domestic relations custody and parenting mediator must complete 24 hours of continuing education every two calendar years, beginning January 1 of the year after the mediator's approval by the determining authority, as described in Section 3.6.
- (5) Conduct. An applicant and, as an ongoing obligation, an approved domestic relations custody and parenting mediator must subscribe to the mediator ethics in Section 1.4.
- (6) Public information. An applicant and, as an ongoing obligation, an approved domestic relations custody and parenting mediator must comply with requirements to provide and maintain information in Section 1.5.
- (7) Supervision. A qualified domestic relations custody and parenting mediation supervisor is an individual who has:
- (a) Met the qualifications of a domestic relations custody and parenting mediator as defined in Section 2.2,
 - (b) Completed at least 35 cases including a total of at least 350 hours of domestic relations custody and parenting mediation beyond the experience required of a domestic relations custody and parenting mediator in this section, and
 - (c) An understanding of court-connected domestic relations programs.

SECTION 2.3 QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS FINANCIAL MEDIATOR, ONGOING OBLIGATIONS

To become an approved domestic relations financial mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet all ongoing requirements as described.

- (1) **Education.** An applicant must meet the education requirements under Section 2.2 applicable to an applicant to be approved as a domestic relations custody and parenting mediator.
- (2) **Training.** An applicant must have completed training in each of the following areas:
 - (a) The basic mediation curriculum in Section 3.2;
 - (b) The domestic relations custody and parenting mediation curriculum in Section 3.3;
 - (c) Domestic relations financial mediation training in Section 3.4; and
 - (d) Court-system training in Section 3.5, or substantially similar training.
- (3) **Experience.** An applicant must have completed one of the following types of experience:
 - (a) Participation in at least 20 cases including a total of at least 100 hours of domestic relations mediation supervised by or comediated with a person qualified as a domestic relations financial mediation supervisor under this section. At least ten cases and 50 hours of the supervised cases in this paragraph must be in domestic relations financial mediation. At least three of the domestic relations financial mediation cases must have direct observation by the qualified supervisor; or
 - (b) At least two years full-time equivalent experience in any of the following: mediation, direct therapy or counseling experience with an emphasis on short-term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. Applicants must have:
 - (i) Participated as a mediator or comediator in a total of at least ten cases including a total of at least 50 hours of domestic relations financial mediation, and
 - (ii) An understanding of court-connected domestic relations programs.
- (4) **Continuing education.** As an ongoing obligation, an approved domestic relations financial mediator must complete 24 hours of continuing education every two calendar years, beginning January 1 of the year after the mediator's approval by the determining authority, as described in Section 3.6.
- (5) **Conduct.** An applicant and, as an ongoing obligation, an approved domestic relations financial mediator must subscribe to the mediator ethics in Section 1.4.

- (6) Public information. An applicant and, as an ongoing obligation, an approved domestic relations financial mediator must comply with requirements to provide and maintain current information in Section 1.5.
- (7) Insurance. As an ongoing obligation, an approved domestic relations financial mediator shall have in effect at all times the greater of:
 - (a) \$100,000 in malpractice insurance or self-insurance with comparable coverage; or
 - (b) Such greater amount of coverage as the determining authority requires.
- (8) Supervision. A qualified domestic relations financial mediation supervisor is an individual who has:
 - (a) Met the qualifications of a domestic relations financial mediator as defined in this section,
 - (b) Completed at least 35 domestic relations cases including a total of at least 350 hours of domestic relations financial mediation beyond the experience required in this section, and
 - (c) Malpractice insurance coverage for the supervisory role in force.

3: COMPONENTS OF QUALIFICATIONS FOR COURT-CONNECTED MEDIATORS

SECTION 3.1 INDEPENDENT QUALIFICATION REVIEW

- (1) In programs where domestic relations financial mediators are independent contractors, the determining authority must appoint a panel consisting of at least:
 - (a) A representative of the determining authority;
 - (b) A domestic relations financial mediator; and
 - (c) An attorney who practices domestic relations law locally.
- (2) The panel shall interview each applicant to be an approved domestic relations financial mediator solely to determine whether the applicant meets the requirements for being approved or whether it is appropriate to substitute or waive some minimum qualifications. The review panel shall report its recommendation to the determining authority in writing.
- (3) Nothing in this section affects the authority under Section 1.3 to make sole and final determinations about whether an applicant has fulfilled the requirements to be approved or whether an application for substitution should be granted.

SECTION 3.2 BASIC MEDIATION CURRICULUM

The basic mediation curriculum is a single curriculum that is designed to integrate the elements in this section consistent with any guidelines promulgated by the State Court Administrator. The basic mediation curriculum shall:

- (1) Be at least 30 hours, or substantially similar training or education.
- (2) Include training techniques that closely simulate the interactions that occur in a mediation and that provide effective feedback to trainees, including, but not be limited to, at least six hours participation by each trainee in role plays with trainer feedback to the trainee and trainee self-assessment.
- (3) Include instruction to help the trainee:
 - (a) Gain an understanding of conflict resolution and mediation theory,
 - (b) Effectively prepare for mediation,
 - (c) Create a safe and comfortable environment for the mediation,
 - (d) Facilitate effective communication between the parties and between the mediator and the parties,
 - (e) Use techniques that help the parties solve problems and seek agreement,
 - (f) Conduct the mediation in a fair and impartial manner,
 - (g) Understand mediator confidentiality and ethical standards for mediator conduct adopted by Oregon and national organizations, and
 - (h) Conclude a mediation and memorialize understandings and agreements.
- (4) Be conducted by a lead trainer who has:
 - (a) The qualifications of a general civil mediator as defined in Section 2.1, except the requirement in Section 2.1(1)(a) to have completed the basic mediation curriculum;
 - (b) Mediated at least 35 cases to conclusion or completed at least 350 hours of mediation experience beyond the experience required of a general civil mediator in Section 2.1; and either
 - (c) Served as a trainer or an assistant trainer for the basic mediation curriculum outlined in this section at least three times; or

- (d) Have experience in adult education and mediation as follows:
 - (i) Served as a teacher for at least 1000 hours of accredited education or training for adults, and
 - (ii) Completed the basic mediation curriculum outlined under this section.

SECTION 3.3 DOMESTIC RELATIONS CUSTODY AND PARENTING MEDIATION CURRICULUM

The domestic relations custody and parenting mediation curriculum shall:

- (1) Include at least 40 hours in a domestic relations custody and parenting mediation curriculum consistent with any guidelines promulgated by the State Court Administrator.
- (2) Include multiple learning methods and training techniques that closely simulate the interactions that occur in a mediation and that provide effective feedback to trainees.
- (3) Provide instruction with the goal of creating competency sufficient for initial practice as a family mediator and must include the following topics:
 - (a) General Family Mediation Knowledge and Skills;
 - (b) Knowledge and Skill with Families and Children;
 - (c) Adaptations and Modifications for Special Case Concerns; and
 - (d) Specific Family, Divorce, and Parenting Information.
- (4) Be conducted by a lead trainer who has all of the following:
 - (a) The qualifications of a domestic relations custody and parenting mediator as defined in Section 2.2,
 - (b) Completed at least 35 cases including a total of at least 350 hours of domestic relations custody and parenting mediation beyond the experience required of a domestic relations custody and parenting mediator in Section 2.2,
 - (c) Served as a mediation trainer or an assistant mediation trainer for the domestic relations custody and parenting mediation curriculum outlined in this section at least three times, and
 - (d) An understanding of court-connected domestic relations programs.

SECTION 3.4 DOMESTIC RELATIONS FINANCIAL MEDIATION TRAINING

- (1) Domestic relations financial mediation training shall include at least 40 hours of training or education that covers the topics relevant to the financial issues the mediator will be mediating, including:
 - (a) Legal and financial issues in separation, divorce, and family reorganization in Oregon, including property division, asset valuation, public benefits law, domestic relations income tax law, child and spousal support, and joint and several liability for family debt;
 - (b) Basics of corporate and partnership law, retirement interests, personal bankruptcy, ethics (including unauthorized practice of law), drafting, and legal process (including disclosure problems); and
 - (c) The needs of self-represented parties, the desirability of review by independent counsel, recognizing the finality of a judgment, and methods to carry out the parties' agreement.
- (2) Of the training required in subsection (1) of this section:
 - (a) Twenty-four of the hours must be in an integrated training (a training designed as a single cohesive curriculum that may be delivered over time).
 - (b) Six hours must be in three role plays in financial mediation with trainer feedback to the trainee.
 - (c) Fifteen hours must be in training accredited by the Oregon State Bar.

SECTION 3.5 COURT-SYSTEM TRAINING

When court-system training under this section is required, the training shall include, but not be limited to:

- (1) At least six hours including, but not limited to, the following subject areas:
 - (a) Instruction on the court system including, but not limited to:
 - (i) Basic legal vocabulary;
 - (ii) How to read a court file;
 - (iii) Confidentiality and disclosure;
 - (iv) Availability of jury trials;
 - (v) Burdens of proof;
 - (vii) Basic trial procedure;

- (viii) The effect of a mediated agreement on the case including, but not limited to, finality, appeal rights, remedies, and enforceability;
 - (ix) Agreement writing;
 - (x) Working with interpreters; and
 - (xi) Obligations under the Americans with Disabilities Act.
 - (b) Information on the range of available administrative and other dispute resolution processes.
 - (c) Information on the process that will be used to resolve the dispute if no agreement is reached, such as judicial or administrative adjudication or arbitration, including entitlement to jury trial and appeal, where applicable.
 - (d) How the legal information described in this subsection is appropriately used by a mediator in mediation, including avoidance of the unauthorized practice of law.
- (2) For mediators working in contexts other than small claims court, at least two additional hours including, but not limited to, all of the following:
- (a) Working with represented and unrepresented parties, including:
 - (i) The role of litigants' lawyers in the mediation process;
 - (ii) Attorney-client relationships, including privileges;
 - (iii) Working with lawyers, including understanding of Oregon State Bar disciplinary rules; and
 - (iii) Attorney fee issues.
 - (b) Understanding motions, discovery, and other court rules and procedures;
 - (c) Basic rules of evidence; and
 - (d) Basic rules of contract and tort law.

SECTION 3.6 CONTINUING EDUCATION REQUIREMENTS

- (1) Of the continuing education hours required of approved mediators every two calendar years:
 - (a) If the mediator is an approved general civil mediator:
 - (i) One hour must relate to confidentiality,
 - (ii) One hour must relate to mediator ethics, and

- (iii) Six hours can be satisfied by the mediator taking the continuing education classes required by his or her licensure unless such licensure is not reasonably related to the practice of mediation.
- (b) If the mediator is an approved domestic relations custody and parenting or domestic relations financial mediator:
 - (i) Two hours must relate to confidentiality;
 - (ii) Two hours must relate to mediator ethics;
 - (iii) Twelve hours must be on the subject of either custody and parenting issues or financial issues, respectively;
 - (iv) Twelve hours can be satisfied by the mediator taking the continuing education classes required by his or her licensure unless such licensure is not reasonably related to the practice of mediation; and
 - (v) The hours required in subparagraphs (i) and (ii) can be met in the hours required in subparagraph (iii) if confidentiality or mediator ethics is covered in the context of domestic relations.
- (2) Continuing education topics may include, but are not limited to, the following examples:
 - (a) Those topics outlined in Sections 3.2, 3.3, and 3.4;
 - (b) Practical skills-based training in mediation or facilitation;
 - (c) Court processes;
 - (d) Confidentiality laws and rules;
 - (e) Changes in the subject matter areas of law in which the mediator practices;
 - (f) Mediation ethics;
 - (g) Domestic violence;
 - (h) Sexual assault;
 - (i) Child abuse and elder abuse;
 - (j) Gender, ethnic, and cultural diversity;
 - (k) Psychology and psychopathology;
 - (l) Organizational development;
 - (m) Communication;
 - (n) Crisis intervention;

- (o) Program administration and service delivery;
 - (p) Practices and procedures of state and local social service agencies; and
 - (q) Safety issues for mediators.
- (3) Continuing education shall be conducted by an individual or group qualified by practical or academic experience. For purposes of this section, an hour is defined as 60 minutes of instructional time or activity and may be completed in a variety of formats, including but not limited to:
- (a) Attendance at a live lecture or seminar;
 - (b) Attendance at an audio or video playback of a lecture or seminar with a group where the group discusses the materials presented;
 - (c) Listening or viewing audio, video, or internet presentations;
 - (d) Receiving supervision as part of a training mentorship;
 - (e) Formally debriefing mediation cases with mediator supervisors and colleagues following the mediation;
 - (f) Lecturing or teaching in qualified continuing education courses; and
 - (g) Reading, authoring, or editing written materials submitted for publication that have significant intellectual or practical content directly related to the practice of mediation.
- (4) Continuing education classes should enhance the participant's competence as a mediator and provide opportunities for mediators to expand upon existing skills and explore new areas of practice or interest. To the extent that the mediator's prior training and experience do not include the topics listed above, the mediator should emphasize those listed areas relevant to the mediator's practice.
- (5) Where applicable, continuing education topics should be coordinated with, reported to, and approved by the determining authority of each court at which the mediator is an approved mediator and reported at least every two calendar years via the electronic Court-Connected Mediator Continuing Education Credit Form available on the Oregon Judicial Department's web page or other reporting form authorized by the appropriate determining authority.

Appendix A
Court-Connected Mediator Information for Public Dissemination

Name of Mediator:	
Business or Program Name (if applicable):	
Business or Program Contact Information below (as applicable)	
Mailing Address:	
Telephone Number:	Fax Number:
E-Mail Address:	

Description of mediation training: _____

Description of other relevant education: _____

If you are a domestic relations mediator, description of formal education: _____

Description of mediation experience, including type and approximate number of cases mediated: _____

Relevant organizations with which the mediator is affiliated: _____

Description of other relevant experience: _____

Description of fees (if applicable): _____

Description of relevant codes of ethics to which the mediator subscribes: _____

I hereby certify that the above is true and accurate.

(Name)

(Date)

Forbes



Mark A. Cohen Contributor

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Goodbye Guild-- Law's Changing Culture



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‘Culture’ describes the values, philosophy, shared objectives, and interactions—internal and external— of its members. Corporate culture, at its best, aligns the interests of the enterprise with customers and imbues workers with a collective mindset. That is crucial to brand building and market differentiation. Legal culture is something quite different.

Legal Culture Is All About Lawyers

Legal culture was forged by white, middle-aged lawyers for their peer group. Law's ethos is insular and its composition is homogeneous. That is manifest pre- and post-licensure. Legal culture is rigid, hierarchical, pedigree-centric, internally-focused, cautious, reactive, and rewards input, not output. It relies on self-regulation to preserve the status quo and to guard against outside competition.

Legal culture promotes 'lawyer exceptionalism' as justification for its guild-like operation and hubris to perpetuate it. Diversity is conspicuously absent from the legal ecosystem, especially at its highest ranks. Lawyers are trained to be 'right', risk-averse, and to identify problems, not to be reasonable, weigh risk/reward, and fashion solutions. Law creates its own standards of excellence that are based upon 'reputation' and the assumption that certain schools and firms—more than metrics or client satisfaction—confer and maintain it. Most lawyers believe it's better not to make a mistake than to be creative in solving a problem. Lawyers are not trained or encouraged to be innovative; legal culture enshrines *stasis* and caution. Legal culture sees things through its own prism; it divides the world into lawyers and 'non-lawyers.' And it takes great pains to preserve that separation rather than to align lawyers with their clients.

The legal profession commits to dual representation of individual clients *and* society. The access to justice crisis—the inability of the overwhelming majority of individuals and small organizations to secure legal representation due to high its high cost—evidences law's failure to honor its social compact. *Pro bono* representation is generously provided, yet most people view lawyers as greedy, socially detached, mercenary, and arrogant. Lawyers often use language designed to distinguish themselves from others rather than plain-speak that forges connections. That's ironic for a profession that counts persuasion as a tool of the trade.

Lawyers typically have a not-so-beneficently paternalistic attitude towards clients. They justify their guild and its long-time monopoly over legal service by 'protecting' the public from 'the unauthorized practice of law.' That's laudatory in theory but not in contemporary practice where alternative tools, delivery models, and process exist to deliver certain types of 'legal' service outside the traditional law firm model. The frequent penalty flags thrown at retail upstarts like LegalZoom, Rocket Lawyer, and AVVO are not so much about protecting the public from unscrupulous, illegitimate providers as they are about protecting lawyers from competition, thereby maintaining traditional legal culture and its monopoly. No wonder so many people hate lawyers.

Law Schools and Firms Embody Legal Culture

Traditional legal culture operates as a club. It has narrowly tailored membership criteria designed to preserve homogeneity. The club operates principally for the benefit of its officers— those that have 'paid their dues' and have forcefully advocated on behalf of maintaining club exclusivity. The parallels between the structures, reward systems, stakeholder profiles, and current



state of law schools and law firms—laws cultural bulwarks— are striking. That's not surprising since they have long had a symbiotic relationship whose purpose is to preserve the guild.

The Academy's officers and stakeholders are its administration and tenured faculty. Full-time faculty are accorded unbridled freedom to engage in whatever 'research' they choose with no regard for its relevance or materiality to legal education and students. Publication is the core tenure criterion. The Academy rewards input, not output. Most full-time law faculty have little or no practice experience, and limited—if any—knowledge of the marketplace. They are happily oblivious to the scrum of client representation and the efficient delivery of legal services. The courses they teach generally vary little from year to year and generation to generation. This has been of no moment because law school enrollment soared from the 1970's until the global financial crisis in late 2007. Law schools cashed in on demand and steadily increased tuition cost—a 400% increase during this timeframe. In the process, law schools became big profit centers, enabling them to operate as independent, cash-rich fiefdoms within the University. That has changed in recent years, of course. But law schools apparently did not receive the memo.

Partners are stakeholders of law firms and have dictated the terms of legal service to clients. Law firms rode the wave of client geographic expansion and resultant increased demand for legal services, growing rapidly in size, geographical reach, and partner profitability. Law firms became large, undifferentiated 'big box stores' that sold legal knowledge to a captive market. Like law schools, firms were the only game in town, and they made sure to keep it that way. The decades between the '70's through 2007 were the legal guild's golden age.

The traditional law firm partnership model provided great freedom within the firm; its decentralized management structure allowed partners to operate as tents in the bazaar. Partners were generally left to their own devices; firm management was consumed by hawking business, opening new offices, and convincing prized laterals to sign on. Origination was—and remains— the firm currency; partners with big books of business operated as if they ran their own shop. Law firm culture—like law schools—was about stakeholders having a "me," not "we" attitude towards the institution and those it served. The legal ethos, then, is antithetical to corporate culture that sustains it. But that's changing

A New Legal Culture Is Being Forged By 'Non-Lawyers'

Law's insular culture is being reshaped by outside forces—consumers. Legal buyers—like the rest of us—have been profoundly affected by advances in technology, globalization, and the effects of the global financial crisis. These powerful transcendent social forces have created a new client attitude and way of conducting business. They have transformed the way people communicate, buy and sell goods/services, and work. Self-regulation long served as law's seawall to protect it from outside change, but regulation is no match for this 'perfect storm' whose impact extends well beyond the legal industry.

Customers—not lawyers— have tapped into these forces and are in charge now. They have effectively re-regulated legal delivery by driving change from the consumer side—especially in the

corporate segment of the legal market. Corporate legal consumers—notably in-house legal departments—have become its largest [providers](#). A recent article in [Corporate Counsel](#) cited an ALM Intelligence and Morrison & Foerster GC Up-at-night Resource Center [report](#) that in-house legal departments now handle approximately 75% of legal work. Legal service providers—tech and process savvy providers that deliver legal services but do not ‘engage in the practice of law,’ have a 2% market share that is expected to grow significantly. This is not simply a cost cutting play; it is a refashioning of legal culture by those that consume its services. Law is not about lawyers anymore, and the emergent legal culture reflects this.

The New Legal Culture Is Designed By Consumers

What, then, are the characteristics of the new legal culture? The answer to that question is found by analyzing the structures, reward systems, operations, and ethos of top corporate legal departments and service providers. They are transforming the delivery of legal services by separating core legal tasks- ‘practice’- from the means, resources, and tools required for its efficient delivery-the business of law.

Elite in-house departments and service providers have several common traits that are recasting legal culture: (1) alignment with clients that includes deep knowledge of the enterprise; (2) harnessing technology and process to separate ‘legal practice’ from the delivery of legal services; (3) viewing ‘legal service’ as a process where opportunities to automate tasks and harness ‘big data’ are proactively pursued; (4) use of performance metrics; (5) output- result- eclipses input- billing, origination, etc.; (6) technology and process are tools that integrate the legal supply chain and allow clients real-time access to progress as well as an opportunity to collaborate; (7) legal service is an element of providing business solutions, not an end unto itself; (8) use capital to invest in technology and resources designed to promote alignment and efficiency; (9) an enterprise- not transactional- approach to problem-solving; (10) competency and experience-based focus over pedigrees; (11) diverse workforce; (12) attaches equal importance to legal, technological, and process expertise in legal delivery; and (13) melds legal expertise into other differentiated skillsets to solve major challenges that raise legal issues.

Conclusion

Legal culture is undergoing a fundamental transformation, one that will not happen overnight. Law schools (like law firms) have been slow to read the tea leaves. They have largely failed to reshape their curricula to produce graduates that are practice ready for a marketplace that demands much more than a knowledge of doctrinal law. Unfortunately for students, this process will take time and will require fundamental changes in criteria for faculty hiring, advancement, and responsibilities. Law schools must take a far more holistic, inter-disciplinary approach to legal education and provide competency based training to prepare graduates for a rapidly changing marketplace that demands new [skills](#).

Law firms as we know them will be recast and have a corporate culture. The practice of law—the core elements of what lawyers *should* do—will intersect with the business of delivering legal

services. This will derive from a culture that is diverse, agile, highly knowledgeable of clients' business, constantly promoting improvement by evaluation of performance—internal and external—and accessible to the tens of millions that desperately need legal services but presently lack access or the means to engage it.

The new legal culture is shaped by client expectations, not by the legal guild.

RECOMMENDED BY FORBES

[The 10 Most Dangerous U.S. Cities](#)

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OREGON STATE BAR

Public Affairs Committee

Meeting Date: July 21, 2017
Memo Date: July 19, 2017
From: Kathleen Rastetter
Re: Document Access Fees for eCourt (OJCIN)

Action Recommended

Review proposed document access fee increases in CJO 17-037 and request the following:

- 1) Additional time to review and comment on the proposed order;
- 2) Delay implementation of proposed order (scheduled for September 1, 2017) ;
- 3) Consider whether the bar should do its own survey; and,
- 4) Consider whether the bar should propose an alternative approach.

Background

The Oregon Judicial Department opened a public comment period on revised fees for Oregon Judicial Case Information Network (OJCIN), or document access, on June 29th. Comments on the proposed fee schedule are due no later than 5 pm on July 31, 2017. <http://www.courts.oregon.gov/services/online/pages/ojcin.aspx> View a copy of the Chief Justice orders establishing the notice and comment provisions, and establishing the proposed fees ([CJO 17-036](#) and [CJO 17-037](#)).

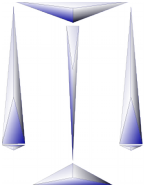
Since then, some practitioners have become aware of the proposed CJ order and have raised concerns, including M. Patton Echols from Gresham who conducted his own survey of three bar groups. While limited in reach, the feedback and comments are enlightening. (see attached exhibit). Other bar groups from Estate Planning, to Sole Small Firm Practitioners, Real Estate and Land Use and Bar Press Broadcasters Council have raised concerns as well. It is likely that most people missed the notice since it came out just before the 4th of July holiday.

By way of background, in 2016, the Oregon Judicial Department (OJD) completed the implementation of Oregon eCourt. The eCourt system is funded through three funding sources: civil filing fees, criminal fines and assessments, and user fees. At the beginning of the 2017 Legislative Session, OJD identified an \$8.3 million shortfall in funding for the Oregon eCourt program and identified four possible funding sources.

In the 2017 session two bills passed to address some of the eCourt filing fees to help fund the eCourt system and technology fund. [HB 2795](#) increases civil court filing fees by five

percent as of October 1, 2017. This will raise an additional \$2.9 million for OJD to fund Oregon eCourt. [HB 2797](#) increases presumptive fines for violations by \$5 beginning on January 1, 2018 and will raise an additional \$3.1 million to fund Oregon eCourt. In addition, eCourt user fees will be increased to raise \$1.5 million as well.

The fourth proposed funding source is an assessment on governmental entities. Currently, 60% of the total users are public subscribers such as law enforcement entities, the Oregon Department of Justice, public defense providers, district attorneys and legal aid. These entities do not pay to access the Oregon eCourt system. While the proposal was discussed this session, it was not implemented.



M. PATTON ECHOLS, PC

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July 19, 2017

OJCIN Fee Comment
OJCIN@ojd.state.or.us

Dear Chief Justice Balmer,

I am writing to comment on the proposed fee increases in CJO 17-037. These comments make two fundamental points. First, that the proposed fee increase is being driven without adequate notice and opportunity to comment. Second, that it appears that the fee increases dis-proportionally impact sole and small firm lawyers.

Lack of Reasonable Notice

ORS 1.002(6) requires a “reasonable opportunity to comment.” As of now, no reasonable opportunity has been given.

In order for the opportunity to be “reasonable” there must be access to information sufficient to form a basis for comment. Some information is available in the Chief Justice’s Recommended Budget for 2017-19 (“CJRB”). But that information raises more questions than answers. For example, the table on page 252 of the proposed budget shows an intent to increase User Fees by a relatively modest \$700,000, about 15%. But the proposed fee schedule appears to increase user fees for sole and small firm lawyers by 60% or more in some cases.

Clearly there must be other users who will receive similarly dramatic decreases in cost. In order to be able to comment, information should be available as to the allocation of the proposed fees among the various users. This is a matter of basic equity.

Proposal Lacks Basic Equity.

Proposed CJO 17-037 establishes categories of law firms. While each “user profile” has the same \$10 per month cost, the firm also has a base rate depending on size. On its face, it appears to charge larger firms more. What is neglected, however, is that a firm does not necessarily have one user profile per lawyer. Indeed, it appears to be assumed that law firms may share user profiles, or have one person designated to retrieve data per firm. Under the proposed order, sole practitioners will pay a minimum of \$50 per month per lawyer for electronic case access. A large firm, having 100 lawyers, could conceivably have just one user profile. While they would pay \$100 per month, that would only be \$1 per lawyer.

In the absence of reliable data from the Oregon Judicial Department, I have undertaken a survey. An analysis of that survey is attached. Although there are weaknesses in this survey, I believe it has at least some probative value. A report of the survey is attached consisting of a 1 page summary, the data points extracted from the raw survey data, and several pages of user comments.¹

The known weaknesses in the survey are as follows: (1) The sample is self selected from lawyers within my network; (2) With the exception of the deletion of duplicate responses and verification of outlier responses, very little was done to validate data; (3) The questions do not take into account the need in larger firms for OJCIN access on a per lawyer basis. For example, transactional lawyers may never need to access court records.

Even with the admitted weaknesses, there is value in this data. Whether a firm consists of 1 lawyer or 100, the individual lawyer is the main producer of income for the firm. This survey suggests that an OJCIN “user profile” will be shared among a number of lawyers if possible. Indeed, one of the medium firms has 24 lawyers and one OJCIN profile at a current cost of \$35 per month. While that firm’s increase under the new proposal will be \$85 per month, their per lawyer cost will only be \$3.50. A sole practitioner’s per-lawyer cost will be \$50.

As noted above, the CJRB proposes to raise the fees from paid subscribers by \$700,000. Paid subscribers are reported to be “about” one quarter of the total non-OJD subscribers, or 2,650 subscribers. (CJRB, Pg248) The increase is accordingly about \$22 per month per subscriber. Most sole practitioners will see a slightly smaller increase on a per firm basis (\$35 to \$50) and medium and large firms will see larger increases on a per firm basis. But the change should be rated based a per user basis, not per firm or “user profile.”

Summary.

I request that the Chief Justice take the following steps to amend the OJCIN fee increase:

- 1) Extend the comment period until a reasonable time after meaningful data is released about how the impact of the fee increase will be spread across the paid subscribers;²
- 2) Adjust the fee increase to take into account the number of law firm producers benefiting from having OJCIN access;

1 The raw survey data is available if required.

2 If the OJD does not have this data readily available, I believe it is impossible to even consider the equity of a fee increase.

3) Add the comments from the attached survey to the responses officially received.

Thank you for your attention to these comments.

A handwritten signature in black ink, appearing to read 'M. Patton Echols', written in a cursive style.

M. Patton Echols, OSB# 932595

Summary

Solo Practice

Number of Respondents	73	
Avg Num Profile / Lawyer	1.1	*
Average Firm Cost	\$39.05	
Average Cost /lawyer	\$39.05	
Highest Monthly Cost	\$200.00	**
Lowest Monthly Cost	\$10.00	

Small Firm

2 – 10		
Number of Respondents	23	
Avg Num Profile / Lawyer	0.4	***
Average Firm Cost	\$48.78	
Average Cost /lawyer	\$10.45	
Highest Monthly Cost	\$133.00	
Lowest Monthly Cost	\$30.00	

Medium Firm

11 – 50		
Number of Respondents	3	
Avg Num Profile / Lawyer	0.1	
Average Firm Cost	\$58.00	
Average Cost /lawyer	\$3.48	
Highest Monthly Cost	\$77.00	
Lowest Monthly Cost	\$35.00	

Large Firm

51+
No Responses

Notes:

* For firms having existing account

** Two sole practitioners responding have been paying \$187 and \$200 per month since 2014

*** Includes one firm with three lawyers and 14 profiles, current cost \$73

Parse

Solo Resp	# Profiles	Mo Cost	Small Resp	# Profiles	Mo Cost	Med Resp	# Profile	Mo Cost
1	1	35						
1	1	35						
1	1	85						
1	2	15						
1	1	35						
			3					
1	1	50						
1								
1	1	42						
			7	1	30			
1								
			2	4	35			
			2	3	34			
1								
1	1	18						
			5	1	43			
1	1	35						
1								
1	1	32						
1	1	35						
1	1	40						
1								
1	1	15						
			3	1	35			
1	2	26						
1	1	35						
1	1	35						
			9	1	35			
1	1	50						
			2					
			3	2				
			10	1	97			

Parse

Solo Resp	# Profiles	Mo Cost	Small Resp	# Profiles	Mo Cost	Med Resp	# Profile	Mo Cost
1	1	35						
1	1	31						
1	1	37						
1	1	50						
1								
			7	1	37			
			2	3	35			
1	1	14						
			2	1	35			
1	1	35						
1	1	35						
1	1	35						
1	1	35						
1								
			2	1	35			
1								
1								
1	1	182						
			2					
1	1	35						
1	1	35						
1	1	200						
1								
1	1	10						
1	1	35						
1	1	35						
1	1	13						
1	1	37						
						14	1	77
1	1	50						
			2	1	36			
1	1	13						

Parse

Solo Resp	# Profiles	Mo Cost	Small Resp	# Profiles	Mo Cost	Med Resp	# Profile	Mo Cost
			5	1	35			
						12	2	62
1	1	14						
1	1	20						
1	1	28						
1	1	19						
1	1	35						
			5	1	133			
1	1	35						
1	1	35						
1	2	80						
			3	3	80			
1	1	35						
1	1	49						
			3	14	73			
1	1	45						
			2	1				
1	1	21						
1	1	35						
1	1	20						
			2	1	35			
1	1	10						
1	2							
			1	1	35			
1	1	35						
1	1	35						
1	1	35						
1	1							
1	1							

Parse

Solo Resp	# Profiles	Mo Cost	Small Resp	# Profiles	Mo Cost	Med Resp	# Profile	Mo Cost
						24	1	35
1	1	35						
1	1	35						
73	58	57	23	20	18	3	3	3 Number
1.0	1.1	39.1	3.7	2.2	48.8	16.7	1.3	58.0 Average
Solo Resp	# Profiles	Mo Cost	Small Resp	# Profiles	Mo Cost	Med Resp	# Profile	Mo Cost

OJCIN Survey – Respondent Comments

(Sorted by order received)

-
- I cannot afford various increases whether it's the Bar, Ojin, PLF fee, & on & on every year!
-
- The proposed change will almost triple my bill without any apparent increase in benefits
-
- Thank you for taking the time to do this.
-
- I believe access to court records and OJD eFile should be part of the same system with fees related only to paper copy requests (certification for example) and filing fees. Viewing court files and downloading should be at no additional cost.
-
- 1) The charge went from \$35 to \$40 + \$10 per user profile = \$50. I think. The letter from the OJD does not clearly state, but I don't THINK my secretary is a "user profile." This is, at a minimum a 43% increase. It is a 71% increase if my secretary is also a "user profile."
- 2) The computerization was supposed to SAVE everybody money. There is a cost to the system to vet and add a new user. There is basically no cost to the system to allow an existing user to access the data that is already in the system.
- 3) The statement often made when the new computerized system went into effect, that OJCIN was optional, is not an accurate reflection of reality for most of us.
-
- I have a login for purposes of filing pleadings and documents but do not pay the monthly fees as i can't afford it. my litigation activity involving the court is intermittent and there are many months that i do not need such access. the current fee already represents a hardship as a regular monthly expense and the proposed increases would put that further out of reach.
-
- I regularly research online case information in other states. Arizona, WA, CA, Ohio. None charge. All are public access at no charge.
-
- I'm not sure what our cost is but I do know that it's so small that it doesn't show separately on our balance sheets.
-
- Yes. I currently have to access OJCIN down at the courthouse, as I am on such a tight budget I am not able to open an account. I was hoping to open an account in the very near future, but the increase in fees will make it that much more difficult. I would really like to see some more equitable distribution of the fees per actual user or actual usage, rather than giving such a deep discount to larger firms. After all, it is the larger firms who are more likely able to afford a fee structure based on actual user/actual use (as in Pacer).

Thank you for the opportunity for input!

-
- I am just about to file my first Oregon probate and looked into registering for OJCIN.

As a transplant from Arizona, the fees for access to the Oregon Courts is very shocking. In AZ we pay to electronically file documents; accessing the documents in a case where you are the attorney of record is free (no monthly fee, no per document fee, no access fee). Having to pay \$600/yr to look at my own cases is absurd.

- I was surprised when I received notice of the proposed increase. \$50 a month for access is a large jump from the \$18 I am currently paying. It won't break the bank, but the higher cost appears to more negatively impact the solo and small firms. I also have a hard time paying more for a service we are essentially required to have. Since we don't get notices for every judgment/order that is signed, we rely on this service to know what is going on with our cases. We can't simply choose not to pay this.

- I'm a relatively new solo and administrative costs make up a lot of my overhead. OECI access is a necessity for me because my practice is focused on family law litigation. I am also one of the very small number of private practice attorneys who employ a sliding scale fee structure for all cases. This means that a large percentage of my clients are the "have not" spouses who end up having to pay for my services on a payment plan. Meanwhile the opposing party can afford to hire the Gevurtz Menashes of family law.
This proposed rate increase will raise the cost of my OECI access by nearly 50%. This is nowhere near the impact on larger firms that have deeper cash reserves, more revenue generating attorneys, charge significantly more than @150/hr, and will be able to spread the costs of additional profiles by only having a couple of log-ins shared within the firm. The disparate impact of this fee increase serves to effectively punish the smaller firms and solo practices.
I wish I could believe that this was not considered in determining the new fee structure, but I can't help but believe that it was considered and judged unimportant.

- The only court work I handle are probates, and the only time I need OCJIN is to confirm that a Judgment has been signed. My need for OCJIN is rare -- maybe 6 times a year. I cannot justify the cost to have a OCJIN account given how infrequently I would use it. My "work around" is very inconvenient, however. I would love to have a system where the charge more-closely mirrored actual use. In my opinion, that would be the "fairest" approach.

- Any OJCIN increases should not disproportionately affect smaller firms while subsidizing larger firms' profiles.

- Too expensive

- Thanks for doing this. I was planning on enrolling so this information is timely.

- I do not think the fee increase is fair to small firms.

- proposed increase more than doubles the monthly fee to \$60.00

- I join other small firm and solo practitioners in objecting to the proposed fee increase. The proposal is patently unfair. OECI/OCJIN is essential to the work many of us do and we should not be expected to subsidize large firms.

- It seems odd that OJIN charges for access, while efilng is free. Ideally, the two systems should be integrated. Also, the proposed fee increase (up to \$55 for a solo attorney, as I understand it) seems disproportionate to the service provided: I pay about as much for a well-managed, highly functional, intuitively interfaced client management software system. At OJIN's new price point, I would expect much more functionality.

- OJCIN costs should not impact sole attorneys greater than large firm practitioners

-
- I applaud your goal of gathering empirical data. I suspect not every attorney in a large firm would visit the courthouse to get copies of records and today's electronic access is the same; delegated to a handful of paralegals/associates.

The survey asks for the number of attorneys in the firm but does not ask for the number of attorneys that need access to state court records. To the extent that attorneys in the firm do not need access, it appears the survey data may not be able to distinguish the proportionate cost to a firm's realized value, where realized value is reflected by the number of attorneys that benefit from the access.

Prior to electronic filing we had no influence over access costs; we were forced to pay higher rents to be in walking distance of the courthouse or pay for parking and travel time if we opted for lower rents where walking was impractical. Today we pay for online access and can reduce our commute, but we can also influence the allocation of those costs through our comments to OCJIN.

While I don't think it is practical to argue for usage based charges in the current proposal because of software limitations, I still think it is worthwhile to comment that enhancements should be considered to convert to usage based charges in the future.

-
- Government clients are more than 50% of our practice, so monthly fee is waived.
-
- Hope it doesn't increase too much. The prior plan charged by the minute and it was much more expensive for our firm.
-
- I think it is about the disrespect that the judicial department has in the legislature and the drive to be cheap. They want the users of the system to truly pay for the cost. This is a burden on the civil side, not the criminal. Any method of payment has some way to become an unfair inequality. But the burdens should still be somehow proportional. I think what they propose has the solo carrying more of the weight as a firm of 100 does not need to have 100 accesses. If they do, then they are getting a per capita reduction in their fees. Perhaps that is intended.
-
- According to the letter I received, it looks like my average monthly cost is going up 40%.
-
- Another unfair burden on the solo practitioners and Court Arbitrators.
Thanks for doing this.
-
- Thank you :)
-
- The OJCIN online document access is invaluable to our firm.
-
- I don't mind paying for access to this system. It would be ideal if payment was determined in some reasonably fair manner.
-
- Yes, \$40 per month plus the additional \$10 per account is outrageous for a solo attorney who is practicing part time and hoping to retire soon! And, we almost have to have it, so they have us over a barrel. Needless to say, I am not happy about it and considering terminating my subscription if the rates are increased that much.
-

-
- While I see the logic in discounting multiple accounts coming from one firm, this will certainly disproportionately impact solos and small firms. I'd agree with a plan to tie costs to bar dues, as I expect that raising costs per user account will just result in larger firms sharing accounts (as our office already does with OCJIN requests all going through myself).
-
- I hope you present this survey as part of the comments. Thanks to your post, I actually took my lunch hour to voice my opinion -- my very mouthy opinion.
-
- I don't subscribe because I only need OCJIN of very rare occasions, and setting up an account and monthly access to pull 1-2 records per year doesn't make sense. I wish our system were more like federal PACER, with a minimum of public access for free, additional charges based on usage.
-
- OCJIN is an inappropriate method of collecting fees for a service with respect to which we all have already paid. I may do 1 or 2 probates in Oregon each year. For me to have to pay \$600 for access to the documents I prepare and file with the Court is an abomination. My clients already pay massive filing fees for the probate itself....which easily justify the Court's "bother" in attaching a .pdf document to an e-mail which it could easily send to the practitioner (which document, by the way, is already scanned into the OCJIN system). It takes the same amount of time to send me an e-mail with the attachment as it does to send me a worthless e-mail which tells me that documents have been added to the file....which really tells me nothing. To charge to access documents I prepare and file with the Court is simply WRONG!, especially when the Court already receives a massive fee for filing of these probate matters. How is it that Washington Courts are able to charge smaller fees to file probate matters and NEVER charge to access the documents which are part of the file. Oregon is a disaster in the probate area. It could do a lot better....as is evidenced by a system that works much better and smarter for the citizens of the State to your North. Oregon practitioners argue their system is "great"....but its not. It needs to swallow its pride and take lessons from others who do it better and cheaper....without sacrificing anything as far as the safety and security of the beneficiaries and creditors of an estate.
-
- Good idea. When I need court records I call the friendly keeper of those records - so far.
-
- Only need court docs in probate cases. We are in Lane County, and the court kindly sends us file-stamped docs by email. This is a problem if cases are in other counties. The cost is simply overwhelming if we paid it for the very limited need we have.
-
- Over 50% of my cases are indigent defense court appointed cases. I earn only \$46 an hour. I cannot afford a fee increase for access to odyssey.
-
- System should support sole practitioners, not penalize them as the proposal does now
-
- Thanks for gathering this data.
-
- This increase will push my annual cost up from \$120 to \$600 (400%). I get to pay \$50 a month, but a 100 attorney for will pay only \$10.75. This fee disparity is not reasonable.
-
- Yes, I want fair pricing for these services! I don't wish to subsidize large firms.
-
- As proposed, the new scheme is outrageous and oppressive to small firms and solos. It disproportionately burdens them. If the thinking is to make users pay, then why not a per-page or per-megabyte charge? Such a charge could be imposed after the user pays a one-time access charge.
-

-
- Why not ask our opinion what a fair rate would be and whether it should decrease with the number of user accounts in a firm?
-
- I do alot of litigation, but little in Oregon. I have only one active Oregon case now and little use for OCJIN, but need it because it is the only way to get signed orders and judgments.
-
- I'm not sure why my current rate is so low compared to others. Perhaps OCJIN overlooked increasing my rate when rates were previously increased. But the new rate will be a substantial increase for me.
-
- Our bill is increasing to \$95.00/mo. Not happy but was expecting this....
-
- An increase to \$40 from \$14 for a sole practitioner is an increase of over 300% and is grossly unfair. You are asking me to subsidize other users who have multiple accounts and higher volume.
-
- Although OJIN is not technically mandatory, for most attorneys it is a practical requirement based on how the courts are now operating. You can no longer use court cards and they do not return phone calls checking on the status of orders that can be found on OJIN. There should be some equalization of the cost among all lawyers - it should not be more expensive for those who are solo practitioners or who work in small firms than it is for lawyers in large firms. The formula on creating the cost may be based on the administrative expense of maintaining and billing a single account. However, there is also administrative expense in accounts with a large number of attorneys.
-
- The Chief Justice's Recommended Budget for 2017-2019 recommends a budget of \$10,690,190 and proposes to pay for the same by increasing user fees and filing fees. Increasing user fees puts the burden on the attorney who must then pass the cost to the clients. I recommend that the court raise filing fees rather than placing the burden on the legal service providers. Imposing higher fees on users ignores the fact that the users are accessing the information for the benefit of the clients, not the benefit of the user.
-
- The OCJIN costs are prohibitive to my small, largely transactional practice. I do probates, guardian and conservatorships and some adoption cases and cannot justify the current start up and monthly cost involved in accessing the documents I need for these cases. I am appalled that the burden is being put on the attorneys and skewed against solo and small firms when we are the majority of practitioners in this state by what I have read. This will ultimately hurt the public by curtailing the services that many can afford to provide them, especially in rural areas where I practice. I do not understand why the court system cannot set this up with user fees that make sense for all attorneys -- perhaps by transaction only -- instead of cost prohibitive monthly fees PLUS cost of obtaining documents that really should be accessible online for free.
-
- Access to OJIN, like access to BarBooks, would seriously shift the scales to a more equitable point for those of operating small businesses. If it's concluded that BarBooks is a necessity then why not access to OJIN.
-
- The proposed fee increases appear to result in a greater per month cost per user to sole practitioners than to larger firms. I object to paying more for the same product as other attorneys.
-
- I believe that the new fee structure is weighted against solos and smaller firms, and should be reevaluated before being implemented.
-

-
- An increase of \$15 per month with no additional services provided seems unfair. If I want to expand to hire one associate in the future, the cost goes up an additional \$25 per month. A total \$40 per month increase (\$480 per year) is substantial to a solo/small firm when no additional benefits are being provided.
-
- For those who use the service only a few times per month, the cost is excessive.
-
- Increasing costs to small firms does not seem appropriate... especially based on number of user profiles. Perhaps charge based on number of attorneys, but don't charge for staff user accounts.
-
- a flat monthly fee for unlimited use has been the most useful.
-
- I received a notice that my fee is going up from \$21 per month, which was based on average previous usage, to \$50 per month.
-
- OCJIN is a monopoly. I have to have the service, but I have no options for a competitive rate for the service.
-
- I currently pay \$35. The increase will take me up to \$65 for the service plus one user profile. This is a substantial increase in price and impacts small firms and sole practitioners particularly hard, particularly those of us who serve modest means clients and other members of the community such as immigrants who often have barriers to accessing justice.
-
- I stopped paying for OCJIN because I only use it a couple of times a year. The cost is too high to incur for a few times. Plus it is hard to pass through to clients as a discrete charge. I mostly do transactional and tax work. When I do probate or other state court work, it is a definite disadvantage relative to other law firms and the cost to my clients to not have digital access to court records.
-
- Thanks for doing this.
-
- I do not use OJIN--my practice is mainly office practice and cost is prohibitive. When I do need filing info (i.e. Probates, guardianships) I just have to call the clerks, who range from quite nice to terribly cranky, especially in certain counties starting with W) to get that info.
-
- Quite an increase percentage wise
-
- I am strongly against the increase in the OJCIN fees insomuch that any increase is disproportional between lawyers. As it stands, solos and small offices pay more than lawyers at large firms. The advantages to the firm lawyers are big enough in this state and OJCIN shouldn't continue to add to that frustration. Fees should be the same to all lawyers. Period. Increase the fees so that a lawyer in a large firm is paying the same as my monthly fee as a solo before we talk about raising my monthly fee.
-
- The current cost is high for a 1 lawyer firm. I spend significantly less to get copies at the courthouse around \$10 to \$15 a month.
-
- Seems a 214% increase in monthly fees is a large increase...
-

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6290521414	Lawyer	M Patton Echols, PC The Law Office of Elizabeth J. Inayoshi, LLC	1 Sole Practitioner	1	1	35	m.patton.echols@gmail.com	
6291969167	Lawyer	Majie Moore Dodge Attorney at Law, PC	1 Sole Practitioner	1	1	35	ejinayoshi@gmail.com	
6291971179	Lawyer	Jeffrey C. Bodie, P.C.	1 Sole Practitioner	1	1	85	Mkm.justice@hotmail.com	I cannot afford various increases whether it's the Bar, Ojin, PLF fee, & on & on every year!
6291972523	Both	Law Office of Matthew Kress	1 Sole Practitioner	1	2	15	jeff@jbodielaw.com	The proposed change will almost triple my bill without any apparent increase in benefits
6291973662	Lawyer	The Larson Law Firm, P.C.	1 Sole Practitioner	1	1	35	matt.kress@kresslawoffice.com	Thank you for taking the time to do this.
6291976601	Lawyer		2 - 10 Small Firm	3	0	0		I believe access to court records and OJD eFile should be part of the same system with fees related only to paper copy requests (certification for example) and filing fees. Viewing court files and downloading should be at no additional cost.

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6291976672	Lawyer	Steven A. Heinrich	1 Sole Practitioner	1	1	50	steve@corvallislegal.com	<p>1) The charge went from \$35 to \$40 + \$10 per user profile = \$50. I think. The letter from the OJD does not clearly state, but I don't THINK my secretary is a "user profile." This is, at a minimum a 43% increase. It is a 71% increase if my secretary is also a "user profile."</p> <p>2) The computerization was supposed to SAVE everybody money. There is a cost to the system to vet and add a new user. There is basically no cost to the system to allow an existing user to access the data that is already in the system.</p> <p>3) The statement often made when the new computerized system went into effect, that OJCIN was optional, is not an accurate reflection of reality for most of us.</p>
6291980290	Both	Spiry Law LLC	1 Sole Practitioner	1	0	0	bill@spiryllaw.com	<p>I have a login for purposes of filing pleadings and documents but do not pay the monthly fees as i can't afford it. my litigation activity involving the court is intermittent and there are many months that i do not need such access. the current fee already represents a hardship as a regular monthly expense and the proposed increases would put that further out of reach.</p>
6291991925	Lawyer	Richard Weill PC	1 Sole Practitioner	1	1	42	rawpc@aol.com	<p>I regularly research online case information in other states. Arizona, WA, CA, Ohio. None charge. All are public access at no charge.</p>

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6291993818	Lawyer	Folawn Alterman & Richardson LLP	2 - 10 Small Firm	7	1	30	dean@farlawfirm.com	I'm not sure what our cost is but I do know that it's so small that it doesn't show separately on our balance sheets.
6291995082	Lawyer	Law Office of Dona Marie Hippert	1 Sole Practitioner	1	0	0	dona@dmhlawoffice.com	Yes. I currently have to access OCJIN down at the courthouse, as I am on such a tight budget I am not able to open an account. I was hoping to open an account in the very near future, but the increase in fees will make it that much more difficult. I would really like to see some more equitable distribution of the fees per actual user or actual usage, rather than giving such a deep discount to larger firms. After all, it is the larger firms who are more likely able to afford a fee structure based on actual user/actual use (as in Pacer). Thank you for the opportunity for input!
6291996281	Both	Owens/Pinzelik, PC	2 - 10 Small Firm	2	4	35	johnp@owens-law.com	
6292002411	Administrator	Foster & Young, LLP	2 - 10 Small Firm	2	3	34	lbulick@fosteryoung.com	
6292005530	Lawyer	Northwest Legal Planning, LLC	1 Sole Practitioner	1	0	0	don@nwplanning.com	I am just about to file my first Oregon probate and looked into registering for OCJIN. As a transplant from Arizona, the fees for access to the Oregon Courts is very shocking. In AZ we pay to electronically file documents; accessing the documents in a case where you are the attorney of record is free (no monthly fee, no per document fee, no access fee). Having to pay \$600/yr to look at my own cases is absurd.

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
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6292006320	Lawyer	Parker & Griffith, P.C.	1 Sole Practitioner	1	1	18	nate@parkergriffithpc.com	I was surprised when I received notice of the proposed increase. \$50 a month for access is a large jump from the \$18 I am currently paying. It won't break the bank, but the higher cost appears to more negatively impact the solo and small firms. I also have a hard time paying more for a service we are essentially required to have. Since we don't get notices for every judgment/order that is signed, we rely on this service to know what is going on with our cases. We can't simply choose not to pay this.
6292009244	Administrator	Connolly & Malstrom	2 - 10 Small Firm	5	1	43	shauna@connollypc.com	

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
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6292014145	Both	KPM Law LLC	1 Sole Practitioner	1	1	35	Ksen@kpmllawpdx.com
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I'm a relatively new solo and administrative costs make up a lot of my overhead. OECl access is a necessity for me because my practice is focused on family law litigation. I am also one of the very small number of private practice attorneys who employ a sliding scale fee structure for all cases. This means that a large percentage of my clients are the "have not" spouses who end up having to pay for my services on a payment plan. Meanwhile the opposing party can afford to hire the Gevurtz Menashes of family law. This proposed rate increase will raise the cost of my OECl access by nearly 50%. This is nowhere near the impact on larger firms that have deeper cash reserves, more revenue generating attorneys, charge significantly more than @150/hr, and will be able to spread the costs of additional profiles by only having a couple of log-ins shared within the firm. The disparate impact of this fee increase serves to effectively punish the smaller firms and solo practices. I wish I could believe that this was not considered in determining the new fee structure, but I can't help but believe that it was considered and judged unimportant.

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6292014913	Lawyer	Susan R Swanson, PC	1 Sole Practitioner	1	0	0	sswanson@involved.com	The only court work I handle are probates, and the only time I need OCJIN is to confirm that a Judgment has been signed. My need for OCJIN is rare -- maybe 6 times a year. I cannot justify the cost to have a OCJIN account given how infrequently I would use it. My "work around" is very inconvenient, however. I would love to have a system where the charge more-closely mirrored actual use. In my opinion, that would be the "fairest" approach.
6292035780	Both	The Mead LAW Firm P.C.	1 Sole Practitioner	1	1	32	george@meadfirm.com	
6292050258	Both	BRS Legal, LLC	1 Sole Practitioner	1	1	35	Brian@brs-legal.com	Any OJCIN increases should not disproportionately affect smaller firms while subsidizing larger firms' profiles.
6292064680	Lawyer		1 Sole Practitioner	1	1	40		Too expensive
6292069097	Lawyer	McCarthy Law Firm, LLC	1 Sole Practitioner	1	0	0	info@mccarthylawfirmllc.com	Thanks for doing this. I was planning on enrolling so this information is timely.
6292090903	Both	Oakes Law Offices, PC	1 Sole Practitioner	1	1	15	karen@oakeslawoffice.com	I do not think the fee increase is fair to small firms.
6292094203	Lawyer		2 - 10 Small Firm	3	1	35		
6292096300	Lawyer	Sandra G. Stone	1 Sole Practitioner	1	2	26	stoneatty@gmail.com	proposed increase more than doubles the monthly fee to \$60.00

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6292114052	Lawyer	The Law Office of Steve Seal, LLC	1 Sole Practitioner	1	1	35	steve@steveseallaw.com	I join other small firm and solo practitioners in objecting to the proposed fee increase. The proposal is patently unfair. OECI/OCJIN is essential to the work many of us do and we should not be expected to subsidize large firms.
6292150112	Both	Zuplaw Law Firm LLC	1 Sole Practitioner	1	1	35	christian@zuplaw.com	It seems odd that OJIN charges for access, while efilng is free. Ideally, the two systems should be integrated. Also, the proposed fee increase (up to \$55 for a solo attorney, as I understand it) seems disproportionate to the service provided: I pay about as much for a well-managed, highly functional, intuitively interfaced client management software system. At OJIN's new price point, I would expect much more functionality.
6292221992	Administrator	Harris Berne Christensen LLP	2 - 10 Small Firm	9	1	35	susans@hbclawyers.com	
6292229750	Both	Doyle Law	1 Sole Practitioner	1	1	50	kdoyleatty@aol.com	OJCIN costs should not impact sole attorneys greater than large firm practitioners

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
								<p>suspect not every attorney in a large firm would visit the courthouse to get copies of records and today's electronic access is the same; delegated to a handful of paralegals/associates.</p> <p>The survey asks for the number of attorneys in the firm but does not ask for the number of attorneys that need access to state court records. To the extent that attorneys in the firm do not need access, it appears the survey data may not be able to distinguish the proportionate cost to a firm's realized value, where realized value is reflected by the number of attorneys that benefit from the access.</p> <p>Prior to electronic filing we had no influence over access costs; we were forced to pay higher rents to be in walking distance of the courthouse or pay for parking and travel time if we opted for lower rents where walking was impractical. Today we pay for online access and can reduce our commute, but we can also influence the allocation of those costs through our comments to OCJIN.</p>
6292245930	Lawyer	LotsteinLegal PLLC	2 - 10 Small Firm	2	0	0	shirk@lotsteinlegal.com	While I don't think it is practical to argue for usage based charges in the current proposal
6292253048	Administrator	Fewel, Brewer & Coulombe	2 - 10 Small Firm	3	2	0	krrosser@peak.org	Government clients are more than 50% of our practice, so monthly fee is waived. Hope it doesn't increase too much. The prior plan charged by the minute and it was much more expensive for our firm.
6292254370	Lawyer	Fitzwater Meyer Hollis & Marmion, LLP	2 - 10 Small Firm	10	1	97	thollis@fitzwatermeyer.com	

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6292296277	Both	Margaret E Dailey, Attorney at Law	1 Sole Practitioner	1	1	35	margaret@margaretedailylaw.com	I think it is about the disrespect that the judicial department has in the legislature and the drive to be cheap. They want the users of the system to truly pay for the cost. This is a burden on the civil side, not the criminal. Any method of payment has some way to become an unfair inequality. But the burdens should still be somehow proportional. I think what they propose has the solo carrying more of the weight as a firm of 100 does not need to have 100 accesses. If they do, then they are getting a per capita reduction in their fees. Perhaps that is intended.
6292377973	Lawyer	Alice Harman, Attorney at Law	1 Sole Practitioner	1	1	31	attorney.alice@salemelderlaw.com	
6292393786	Lawyer	J. Gregory Salyards, Attorney at Law, LLC	1 Sole Practitioner	1	1	37	greg@jgsalyards.com	According to the letter I received, it looks like my average monthly cost is going up 40%. Another unfair burden on the solo practitioners and Court Arbitrators.
6292435479	Lawyer	Richard Fairclo, Attorney	1 Sole Practitioner	1	1	50	7rfair7@gmail.com	Thanks for doing this.
6294087623	Lawyer	Law Office of Tanja E Hens	1 Sole Practitioner	1	0	0	thens@bendbroadband.com	Thank you :)
6294950410	Administrator	Foster Denman, LLP	2 - 10 Small Firm	7	1	37	phill@fosterdenman.com	The OJCIN online document access is invaluable to our firm.
6294969836	Lawyer	Larimer & Sears LLC	2 - 10 Small Firm	2	3	35	sams@larimersears.com	I don't mind paying for access to this system. It would be ideal if payment was determined in some reasonably fair manner.

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6295144774	Both	Sanders Law Firm LLC	1 Sole Practitioner	1	1	14	Debbie@sanders-lawfirm.com	Yes, \$40 per month plus the additional \$10 per account is outrageous for a solo attorney who is practicing part time and hoping to retire soon! And, we almost have to have it, so they have us over a barrel. Needless to say, I am not happy about it and considering terminating my subscription if the rates are increased that much.
6295195032	Lawyer	Law Office of Robert Mauger	2 - 10 Small Firm	2	1	35	rmauger@rlm-law.com	While I see the logic in discounting multiple accounts coming from one firm, this will certainly disproportionately impact solos and small firms. I'd agree with a plan to tie costs to bar dues, as I expect that raising costs per user account will just result in larger firms sharing accounts (as our office already does with OCJIN requests all going through myself). I hope you present this survey as part of the comments. Thanks to your post, I actually took my lunch hour to voice my opinion -- my very mouthy opinion.
6295358465	Both	Law Office of Celia A. Barlow	1 Sole Practitioner	1	1	35	cab913081@gmail.com	
6295431353	Lawyer	James M. Hanson Jr. LLC	1 Sole Practitioner	1	1	35	jim@jhansonlaw.com	
6295523948	Lawyer	Washburn Law Practice, LLC	1 Sole Practitioner	1	1	35	shule@washburnlp.com	
6295784272	Administrator		1 Sole Practitioner	1	1	35	sharon@csnyderlegal.com	

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
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6295785666	Both	Heather A. Brann	1 Sole Practitioner	1	0	0	branns@earthlink.net	I don't subscribe because I only need OCJIN of very rare occasions, and setting up an account and monthly access to pull 1-2 records per year doesn't make sense. I wish our system were more like federal PACER, with a minimum of public access for free, additional charges based on usage.
6295785934	Lawyer	Sohler Law	2 - 10 Small Firm	2	1	35	richard@sohlerlaw.com	

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6295794628	Lawyer	Scott W. Swindell, Attorney at Law, P.C.	1 Sole Practitioner	1	0	0	scott@sws-law.net	fees for a service with respect to which we all have already paid. I may do 1 or 2 probates in Oregon each year. For me to have to pay \$600 for access to the documents I prepare and file with the Court is an abomination. My clients already pay massive filing fees for the probate itself....which easily justify the Court's "bother" in attaching a .pdf document to an e-mail which it could easily send to the practitioner (which document, by the way, is already scanned into the OCJIN system). It takes the same amount of time to send me an e-mail with the attachment as it does to send me a worthless e-mail which tells me that documents have been added to the file....which really tells me nothing. To charge to access documents I prepare and file with the Court is simply WRONG!, especially when the Court already receives a massive fee for filing of these probate matters. How is it that Washington Courts are able to charge smaller fees to file probate matters and NEVER charge to access the documents which are part of the file. Oregon is a disaster in the probate area. It could do a lot better....as is evidenced by a system that works much better and smarter for the citizens of the State to your North. Oregon practitioners argue their system is "great"....but its not. It
6295801059	Lawyer	Law Office of Keith A. Mobley	1 Sole Practitioner	1	0	0	mobley@ortelco.net	Good idea. When I need court records I call the friendly keeper of those records - so far.
6295802334	Lawyer	Law Office of Scott K. Staab	1 Sole Practitioner	1	1	182	skstaab@yahoo.com	

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6295803592	Lawyer	Law Office of Jane C Hanawalt, PC	2 - 10 Small Firm 1 Sole Practitioner	2	0		florenceclawyer@gmail.com	Only need court docs in probate cases. We are in Lane County, and the court kindly sends us file-stamped docs by email. This is a problem if cases are in other counties. The cost is simply overwhelming if we paid it for the very limited need we have.
6295805450	Lawyer	Portland Defender PC	1 Sole Practitioner	1	1	35	Troy@portlanddefender.com	
6295811173	Lawyer	Colette Cameron, sole practitioner	1 Sole Practitioner	1	1	35	ccameronlaw@gmail.com	Over 50% of my cases are indigent defense court appointed cases. I earn only \$46 an hour. I cannot afford a fee increase for access to odyssey.
6295811186	Lawyer		1 Sole Practitioner	1	1	200	Lynne@lparetchan.com	System should support sole practitioners, not penalize them as the proposal does now
6295876192	Lawyer	Jane B. Stewart Attorney at Law	1 Sole Practitioner	1	0	0	jbstewartlaw@gmail.com	Thanks for gathering this data.
6295878138	Lawyer	Cronan Law LLC	1 Sole Practitioner	1	1	10	aaron@aaroncronanlaw.com	This increase will push my annual cost up from \$120 to \$600 (400%). I get to pay \$50 a month, but a 100 attorney for will pay only \$10.75. This fee disparity is not reasonable.
6295891133	Lawyer	Law Office of Shawn Morgan	1 Sole Practitioner	1	1	35	shawn@morganlawpdx.com	
6296003342	Both	Law Firm of Elaine N. Hamm	1 Sole Practitioner	1	1	35	Elaine@ehammlaw.com	Yes, I want fair pricing for these services! I don't wish to subsidize large firms.

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6296045915	Lawyer	Conrad E Yunker PC	1 Sole Practitioner	1	1	13	conrad@ceypc.com	As proposed, the new scheme is outrageous and oppressive to small firms and solos. It disproportionately burdens them. If the thinking is to make users pay, then why not a per-page or per-megabyte charge? Such a charge could be imposed after the user pays a one-time access charge.
6296702126	Lawyer	Two Spruce Law P.C.	1 Sole Practitioner	1	1	37	patricia@twosprucelaw.com	Why not ask our opinion what a fair rate would be and whether it should decrease with the number of user accounts in a firm?
6296853380	Administrator	Arnold Gallagher PC	11 - 50 Medium Firm	14	1	77	kcoburn@arnoldgallagher.com	
6296885871	Lawyer		1 Sole Practitioner	1	1	50	randy@steelheadlawyer.com	I do alot of litigation, but little in Oregon. I have only one active Oregon case now and little use for OCJIN, but need it because it is the only way to get signed orders and judgments.
6296931091	Lawyer		2 - 10 Small Firm	2	1	36		
6296960603	Lawyer	Duncan, Tiger & Niegel PC dba Stayton Law	1 Sole Practitioner	1	1	13	jennifer@staytonlaw.com	I'm not sure why my current rate is so low compared to others. Perhaps OCJIN overlooked increasing my rate when rates were previously increased. But the new rate will be a substantial increase for me.
6296977904	Lawyer	Intelekia Law Group LLC	2 - 10 Small Firm	5	1	35	brook@intelekia-law.com	
6296985531	Administrator	Hutchinson Cox	11 - 50 Medium Firm	12	2	62	nread@eugenelaw.com	Our bill is increasing to \$95.00/mo. Not happy but was expecting this....

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6296990406	Lawyer	Don B. Dickman, P.C.	1 Sole Practitioner	1	1	14	donbdickmanpc@gmail.com	An increase to \$40 from \$14 for a sole practitioner is an increase of over 300% and is grossly unfair. You are asking me to subsidize other users who have multiple accounts and higher volume.
6297006476	Lawyer	Heather O. Gilmore, P.C.	1 Sole Practitioner	1	1	20	hg@heathergilmorepc.com	Although OJIN is not technically mandatory, for most attorneys it is a practical requirement based on how the courts are now operating. You can no longer use court cards and they do not return phone calls checking on the status of orders that can be found on OJIN. There should be some equalization of the cost among all lawyers - it should not be more expensive for those who are solo practitioners or who work in small firms than it is for lawyers in large firms. The formula on creating the cost may be based on the administrative expense of maintaining and billing a single account. However, there is also administrative expense in accounts with a large number of attorneys.
6297074293	Lawyer	Law Offices of Brian Cox [Cox & Associates, LLC]	1 Sole Practitioner	1	1	28	bcox@coxassociates.info	

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6297076654	Lawyer	Soto Law Firm, P.C.	1 Sole Practitioner	1	1	19	denise@sotolaw.net	The Chief Justice's Recommended Budget for 2017-2019 recommends a budget of \$10,690,190 and proposes to pay for the same by increasing user fees and filing fees. Increasing user fees puts the burden on the attorney who must then pass the cost to the clients. I recommend that the court raise filing fees rather than placing the burden on the legal service providers. Imposing higher fees on users ignores the fact that the users are accessing the information for the benefit of the clients, not the benefit of the user.
6297096440	Lawyer	Alyssa D Slater, PC	1 Sole Practitioner	1	0	0	alyssa_slater@hotmail.com	The OCJIN costs are prohibitive to my small, largely transactional practice. I do probates, guardian and conservatorships and some adoption cases and cannot justify the current start up and monthly cost involved in accessing the documents I need for these cases. I am appalled that the burden is being put on the attorneys and skewed against solo and small firms when we are the majority of practitioners in this state by what I have read. This will ultimately hurt the public by curtailing the services that many can afford to provide them, especially in rural areas where I practice. I do not understand why the court system cannot set this up with user fees that make sense for all attorneys -- perhaps by transaction only -- instead of cost prohibitive monthly fees PLUS cost of obtaining documents that really should be accessible online for free.

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6297119701	Lawyer	Nazari Law	1 Sole Practitioner	1	1	35	violet@nazarilaw.com	Access to OJIN, like access to BarBooks, would seriously shift the scales to a more equitable point for those of operating small businesses. If it's concluded that BarBooks is a necessity then why not access to OJIN.
6297123007	Lawyer	Case & Dusterhoff, LLP	2 - 10 Small Firm	5	1	133	erin@case-dusterhoff.com	
6297129173	Lawyer	Kevin J. McCarty, Attorney at Law	1 Sole Practitioner	1	1	35	mccarty.kevin.j@gmail.com	
6297129240	Both	Sara Angeletti Law	1 Sole Practitioner	1	1	35	SaraAngelettiLaw@gmail.com	The proposed fee increases appear to result in a greater per month cost per user to sole practitioners than to larger firms. I object to paying more for the same product as other attorneys.
6297132209	Lawyer	Lisa M. Naglins Law Offices	1 Sole Practitioner	1	2	80	lisalawyer@outlook.com	I believe that the new fee structure is weighted against solos and smaller firms, and should be reevaluated before being implemented.
6297132219	Both	Feibleman & Case PC	2 - 10 Small Firm	3	3	80	gil@feiblemancase.com	
6297136421	Both	Brincat Family Law, P.C.	1 Sole Practitioner	1	1	35	Tabitha@brincatfamilylaw.com	An increase of \$15 per month with no additional services provided seems unfair. If I want to expand to hire one associate in the future, the cost goes up an additional \$25 per month. A total \$40 per month increase (\$480 per year) is substantial to a solo/small firm when no additional benefits are being provided.
6297138935	Lawyer	Anthony A. Buccino P.C.	1 Sole Practitioner	1	0	0	buccinolaw@comcast.net	For those who use the service only a few times per month, the cost is excessive.

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6297144360	Lawyer	Babcock & Heller	1 Sole Practitioner	1	1	49	bhattys@aol.com	Increasing costs to small firms does not seem appropriate... especially based on number of user profiles. Perhaps charge based on number of attorneys, but don't charge for staff user accounts.
6297146287	Lawyer	Douglas, Conroyd, Gibb & Pacheco	2 - 10 Small Firm	3	14	73	ryan@dcm-law.com	
6297152182	Lawyer	Michael Vergamini, Attorney at Law	1 Sole Practitioner	1	1	45	Michael@vergaminilaw.com	a flat monthly fee for unlimited use has been the most useful.
6297160293	Both	Phillips & Moore, LLP	2 - 10 Small Firm	2	1		gphillips@bendfamilylaw.net	
6297169570	Lawyer	Patricia L. Thompson	1 Sole Practitioner	1	1	21	pltatty@prodigy.net	I received a notice that my fee is going up from \$21 per month, which was based on average previous usage, to \$50 per month.
6297170531	Lawyer	Law Office of Gordon L. Dick	1 Sole Practitioner	1	1	35	Office@OrFamLaw.net	OCJIN is a monopoly. I have to have the service, but I have no options for a competitive rate for the service.
6297174857	Lawyer	Law Office of Susana Alba	1 Sole Practitioner	1	1	20	susana@salbalaw.com	
6297181133	Both	Frohman Law Office, LLC	2 - 10 Small Firm	2	1	35	louis@frohmanlawpdx.com	I currently pay \$35. The increase will take me up to \$65 for the service plus one user profile. This is a substantial increase in price and impacts small firms and sole practitioners particularly hard, particularly those of us who serve modest means clients and other members of the community such as immigrants who often have barriers to accessing justice.

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6297337325	Lawyer	James Oberholtzer, Chtd.	1 Sole Practitioner	1	0	0	oberholtz@oberholtz.com	I stopped paying for OCJIN because I only use it a couple of times a year. The cost is too high to incur for a few times. Plus it is hard to pass through to clients as a discrete charge. I mostly do transactional and tax work. When I do probate or other state court work, it is a definite disadvantage relative to other law firms and the cost to my clients to not have digital access to court records.
6297364596	Both	Colette Boehmer	1 Sole Practitioner	1	2	10	cboehmer@rvi.net	Thanks for doing this.
6297480560	Lawyer	Law Office of Susan K. Andersen	1 Sole Practitioner	1	0	0	suzyestateplanning@gmail.com	I do not use OJIN--my practice is mainly office practice and cost is prohibitive. When I do need filing info (i.e.Probates, guardianships) I just have to call the clerks, who range from quite nice to terribly cranky, especially in certain counties starting with W) to get that info.
6297486890	Administrator	A.B. Cummins, Jr. PC	2 - 10 Small Firm	1	1	35	abcpc_2000@yahoo.com	
6297542485	Lawyer	Charles H. Gillis, Attorney at Law	1 Sole Practitioner	1	1	35	charlie@gillis-law.com	Quite an increase percentage wise

Respondent ID	Are you a	Name	Firm Size	Lawyers	Users	Cost	Email	Do you have any comments you want to add?
6297552079	Lawyer	Krista Mancuso Law, LLC	1 Sole Practitioner	1	1	35	krista@kristamancusolaw.com	I am strongly against the increase in the OJCIN fees insomuch that any increase is disproportional between lawyers. As it stands, solos and small offices pay more than lawyers at large firms. The advantages to the firm lawyers are big enough in this state and OJCIN shouldn't continue to add to that frustration. Fees should be the same to all lawyers. Period. Increase the fees so that a lawyer in a large firm is paying the same as my monthly fee as a solo before we talk about raising my monthly fee.
6297568249	Lawyer	Frank Wall LLC	1 Sole Practitioner	1	1	35	fWall@ipns.com	
6297673575	Lawyer	Blair Henningsgaard, Attorney at Law	1 Sole Practitioner	1	1	0	blair@astorialaw.net	
6297683780	Both	Susan M. Muzik, Attorney at Law	1 Sole Practitioner	1	0	0	sumuzik@teleport.com	The current cost is high for a 1 lawyer firm. I spend significantly less to get copies at the courthouse around \$10 to \$15 a month.
6297700824	Administrator	Buckley Law P.C.	11 - 50 Medium Firm	24	1	35	gch@buckley-law.com	Seems a 214% increase in monthly fees is a large increase...
6297707302	Both	Law Office of Adrienne H. Garcia	1 Sole Practitioner	1	1	35	ahgarcialaw@gmail.com	
6297862196	Lawyer	N/A	1 Sole Practitioner	1	1	35	lt5590@hotmail.com	