



OREGON JUDICIAL DEPARTMENT
Office of the State Court Administrator

March 30, 2020

MEMORANDUM

TO: Oregon State Bar
All Registered Oregon eFilers

FROM: L. Sam Dupree, Assistant General Counsel
Office of General Counsel

RE: Important File & Serve Updates – File & Serve Upgrade Delayed, Electronic Submission of Trial Exhibits (Remote Proceedings), and Electronic Signatures on eFiled Declarations Signed by Non-Filers

The Oregon Judicial Department (OJD) has made changes consistent with the Chief Justice Orders issued on Friday, March 27, 2020, to encourage social distancing and increase the public's ability to access courts remotely. These changes, identified below, are effective immediately.

In addition, the File & Serve upgrade that was scheduled to occur on April 10, 2020 has been postponed. More details will be provided once the new upgrade schedule is in place.

Trial Exhibits may now be Submitted through File & Serve, for Proceedings Conducted by Remote Means

[Amended CJO 20-006](#) allows filers to submit trial exhibits that can be converted to a PDF through File & Serve if the proceeding is to be conducted by remote means. This is a temporary change that will make it easier for hearings and trials to be heard remotely and will reduce the need to hand exhibits back-and-forth in the courtroom during the current emergency. Section 7 of the amended CJO 20-006 outlines the changes in detail.

The filer must submit exhibits in a single unified PDF unless the envelope is larger than 25MB or as otherwise directed by the local court. If the PDF larger than 25MB the filer will need to separate the PDF into two documents and file them in separate envelopes. The filer should submit the PDF as confidential. If the document is not marked confidential, then it will be available to view on public kiosks and for all OECL users. Since the exhibits will be marked as confidential the opposing party will be unable to view them in OECL. This mean the filer will need

to provide the opposing party with copies of the exhibits the filer intends to introduce into evidence. This may be accomplished through File & Serve by either eServing the party or including the party's email address in the courtesy copy field.

The PDF document containing the trial exhibits must include both a linked index and a bookmark for each exhibit. PDFs that do not meet these requirements will be returned. Instructions for creating linked indexes and bookmarking exhibits are included at the end of this memo.

If you need to submit exhibits that cannot be converted into a PDF; such as audio, video, or physical evidence; during a remote hearing please coordinate with your local court.

UTCR 21.090 has been amended to allow non-filers to electronically signed declarations

Chief Justice Walters has also amended UTCR 21.090(4) and (6) to allow electronic signatures to be used for declarations signed by non-filers (i.e. represented parties and non-party declarants) that are submitted through File & Serve, so long as the electronic signature software uses a security procedure designed to verify that the declaration was signed by the purported declarant. See [CJO 20-008](#) for details.

The UTCR 21.090 amendment, and companion repeal of UTCR 21.120 (now part of 21.090) were already presented to the UTCR Committee, which had tentatively approved them for anticipated adoption by the Chief Justice effective August 1, 2020. Due to the COVID-19 crisis, the Chief Justice has adopted the amendments out-of-cycle, effective today, to reduce the need for in-person and mail contacts.

This change allows attorneys to have clients and witnesses sign declarations remotely. The rule requires the use of electronic signature software that uses a security procedure that is designed to verify that the declaration was signed by the purported declarant and cites the definition of "security procedure" in ORS 84.004(14). This is intended to allow attorneys to choose from electronic signature software that is currently used in the business community. However, the use of "s/" for signing declarations under UTCR 21.090(5) is still limited to the person who is electronically submitting the document.

UTCR 21.090(6) specifies that the filer must retain the electronic document containing the electronic signature of a non-filer declarant until the entry of a general judgment, or other judgment or order that conclusively disposes of the action. The intention is to require the filer to retain the document until the circuit court case reaches its conclusion. This provides the opposing party with a chance to challenge the declaration at the circuit court level and preserve the issue for appeal.

The rules contained within UTCR 21.120 have been moved to UTCR 21.090, and UTCR 21.120 has been repealed, so all rules related to electronic signatures are now located within UTCR 21.090. UTCR 21.120(1), the retention period for a declaration containing an ink signature of someone other than the filer, has been moved to UTCR 21.090(8)(b) and UTCR 21.120(2), the

requirement that the filer certify to the best of the filer's knowledge that the signature is that of the purported signer, has been moved to UTCR 21.090(7).

Please keep in mind that UTCR 21.040 requires all filings to be submitted as a standard text-searchable PDF or PDF/A documents. This means that any electronic certificate must be removed from the PDF prior to submitting it to a court. The easiest way to remove the certificate is to flatten the document by selecting "print" and saving the document as a PDF.

Webinars

OJD will host two webinars to provide more details about these changes and provide an overview of File & Serve. Those webinars will be held on:

Monday, April 6, 2020 from 12:00 PM to 1:00 PM
Tuesday, April 7, 2020 from 4:00 PM to 5:00 PM

If you are interested, you may register by using this link:
<https://attendee.gotowebinar.com/rt/6119071785356738061>

If you have any questions related to these changes, please reach out to me (L.S.Dupree@ojd.state.or.us; (971) 283-1133).

How to Link Exhibits and Create Bookmarks in Adobe Pro:

1. Locate the document and open with Adobe Pro.
2. OCR the document (Makes the document Text Searchable).
 - a. Select *View* then **Tools**.
 - b. From *Tools*, select **Enhance Scans**.
 - c. On the *Enhance Scans* toolbar, select **Recognize Text** and select **In This File**.
 - d. Select the **Recognize Text** button.
 - e. Save and close the **Enhance Scans** tool.
3. Link the exhibits listed on the index to the appropriate exhibit.
 - a. Select *View*, then **Tools**.
 - b. From *Tools*, select **Edit PDF**.
 - c. From the *Edit PDF* toolbar, select **Link** and **Add/Edit Web or Document Link**.
 - d. Locate the first entry on the Index.
 - i. Drag a box around the entire index entry.
 - ii. From the *Create Link* dialog box, select the **Link Type** of **Invisible Rectangle**.
 - iii. Select the *Link Action* of **Go to a page view**.
 - iv. Click **Next** to open the *Create Go To View* dialog box.
 - e. With the *Create Go To View* dialog box still open, scroll to the beginning of the first page of the related exhibit or enter the page number from the navigation bar.
 - f. Click **Set Link**.
 - g. Repeat for each Exhibit in the Document.
4. Link the exhibits to a Bookmark within the Document.
 - a. Select the **Bookmark** icon  on the toolbar on the left side of the page.
 - b. Highlight the beginning of the exhibit.
 - c. Then click the **New Bookmark** icon.
 - d. Repeat for each Exhibit in the Document.