

Oregon Law Commission
2025 – 2027 Municipal and Justice Courts Work Group
Meeting Notes
December 17, 2025

I. Call to Order and Welcome

Attendance: Judge Mary James, Jessica Minifie, Amy Zubko, Jim Nass, Heather Marek, Kimberly McCullough, Lindsey Detweiller, Kaiti Fergeson, Justice Kidd, Judge Britton, Kathryn Hall, Scott Winkles, Tim Dooley, Monte Ludington, Anna McCormick

Areas of Interest: Amy Zubko will update the Schedule and areas of interest memo for the next meeting.

Work Group membership: Amy Zubko has continued and will continue to reach out to the Oregon Department of Justice and the Oregon Criminal Defense Lawyers Association to identify representatives to participate in the work group conversations.

II. Small Group Feedback

See FED Waiver of Undertaking discussion

III. FED Waiver of Undertaking Discussion

Jim Nass provided an overview of the small group conversation addressing FED waiver of undertakings. The small group discussions included Judge James, Jim Nass, Justice Kidd, Judge Britton, Kimberly McCullough, Lindsey Detweiller, Kaiti Fergeson, Heather Marek, Anna McCormick, Jessica Minifie, and Amy Zubko.

Jim led off the conversation by saying that consensus had not been reached on the question of whether there should be a process in statute to waive or reduce an undertaking or whether there should be a review process at the circuit court level.

That being said, there continued to be an interest in providing additional guidance to justices of the peace, litigants, and practitioners with a statewide consistent process for allowing for a waiver or reduction of an undertaking to avoid different outcomes in different counties, even though the specific changes were not agreed upon. In addition, there was continued interest in mirroring the process found in ORS Chapter 19 with the timeline for other appeals from justice to circuit courts.

Heather Marek provided feedback from other legal aid practitioners that there are concerns with a lack of a streamlined or uniform process for judges to waive or reduce undertakings relating to costs, which the current legislation does not address.

Anna McCormick shared draft language that she had prepared incorporating language from Jim Nass's earlier draft and incorporating Chapter 19 into Section 25 of HB 2460. This language was shared immediately prior to the meeting so folks did not have an opportunity to respond. Areas of interest/discussion called out when discussing the draft language included:

- Whether there should be an opportunity for the circuit court to review.
- What timeline should be used, Chapter 19 or the new timeline in HB 2460.
- The need to make sure that the review process does not swallow the justice court's role and responsibilities.
- There are two processes here (1) stay the enforcement of a money judgment on appeal and (2) stay enforcement of a judgment for the recovery of real property.

There was a discussion regarding what the actual costs would be and whether smaller amounts still warranted a waiver of costs. The group walked through the process and determined that a smaller cost could still be a significant burden, and that the amount could range up to \$10,000.

In addition, there was discussion regarding the ability of the circuit court to review a justice court's decision establishing the amount of the undertaking. Jim Nass shared that there was a long line of Oregon cases (not specifically relating to FEDs) that identified the inherent ability of an appeals court to stay judgement and as such, the statute should be explicit about that authority. Although the authority is implicit, the timing constraints in a FED case might not make that authority meaningful. But in other cases, like money judgments, the authority may be meaningful. Justice Kidd wrapped up the conversation by sharing that adding a process to statute would be helpful for justices of the peace throughout Oregon. And shared that past rent should not be part of the undertaking.

IV. Service of Notice of Appeal (HB 2460, Sec 10 and Sec 40)

Monte Ludington (Lane County DA) shared that he had checked in with ODAA to identify which cities and counties had municipal and justice courts with active ODAA participation. He shared that as far as he found, Oregon's DAs were not involved with appeals from municipal courts. He also identified a handful of counties where Oregon's DAs were involved in appeals from justice courts including Baker, Douglas, Gilliam, Harney, Lynn, Tillamook counties. As far as Monte understand from those counties, there is not a problem that needs to be fixed and it's his understanding that no further discussion is needed at this time.

With that report, the work group decided to push forward on the Court of Record question, on whether justice courts should become courts of record, at the January meeting and no

longer schedule time to discuss service of notice of appeal for December and January. It was clarified that municipal courts can already become courts of record (ORS 221.342). Some language relating to this issue has already been drafted, as Justice Kidd had a related bill last session (HB 2766).

V. Adjourn

The next full meeting will be held on Wednesday, January 21, 2025, at noon over Zoom. Between the December and January meetings a small group meeting for the waiver discussion and the court of record discussion will be scheduled. Amy will send out an invitation to the whole group for those who are interested. It was also requested that members review Anna's proposal.