

**Oregon Law Commission**  
**OLC MJC Full Group Meeting**  
**Meeting Notes**  
**January 21, 2026**

**1. Call to Order & Introduction**

**Attendees:** *Judge James, Amy Zubko, Chris Perdue, Jim Nass, Tim Dooley, Judge Cross, Anna McCormick, Jessica Minnifie, Heather Marek, Judge Kidd, Judge Gill, Judge Britton, Kathryn Hill, Kimberly McCullough, Judge Oberdorfer, and Monte Ludington*

**Purpose of Meeting:** Monthly Municipal & Justice Court Workgroup Update

**2. First Update: FED Waiver of Undertaking Discussion – To Discuss Draft Language**

Judge James opened the conversation with an update on the various topics that the workgroup has discussed and dug into thus far, which include:

- A) The power of Justice Courts to grant waiver or reduction of undertakings.
- B) Reducing or waiving undertakings for costs and judgment in small claims, plus whether the undertaking would be a supersedeas undertaking that would include future rents in FEDs or amount of judgment in small claims.
- C) What it would look like if a litigant were to object to decisions relating to the costs and fees mentioned above.
- D) Dates for when appeals can be taken and what sort of uniformity should or should not exist amongst those dates.

Amy Zubko explained that Anna McCormack sent draft language right before the last group meeting. Because the full workgroup hadn't had the chance to dive into the drafted language – a smaller MJC group had started working through it – the desire for today was to continue working through Anna's draft, which Jim Nass had done some subsequent work on. Anna then shared with the group various updates and details regarding the draft, as well as that some items remain to be up in the air. Those updates included:

- Where the group is currently at regarding the timeline for filing undertaking for costs: Filing would occur within 5 days of the notice of appeal.
- Clarifying the distinction for undertaking for costs (which are mandatory costs) versus the optional supersedeas undertaking to stay enforcement of money judgment (i.e. small claims) or stay enforcement of FED judgement. Language was

proposed for Section 5 to give Justice Courts the power to waive, reduce, or limit undertaking for costs, or undertaking for enforcement of money judgment

- Supersedeas undertaking for staying FED judgment would be in Subsection 6. Some of that language is pre-existing statutory language. Anna has proposed an additional phrase: “and shall promise not to commit waste or allow waste to be committed on property during period of possession.” That language was added because ORS 19.335 applies in appeals from the Circuit Court to the Court of Appeals in FED cases.
- Language was inserted into Subsection 6 to provide clear guidance on what supersedeas undertaking would involve and to address concerns regarding the differences amongst jurisdictions in how they handle the undertaking
- A comment from the group was then provided advocating for the inclusion of the following language: *If Circuit Court judgment does not sufficiently address entitlement to the money, the Justice Court shall determine entitlement consistent with the Circuit Court judgment and purpose of judgment.* The Circuit Court judgment may just have a prevailing party, and say nothing about money – this way, there is more guidance for the Justice Court to have discretion as long as it is consistent with the judgment
- Anna shared about the ongoing conversation amongst the smaller workgroup regarding the timeline for filing supersedeas undertakings. The concern is with a Notice of Appeal, which can be filed within 30 days of a Justice Court judgment, and how that interfaces with supersedeas undertakings, specifically supersedeas undertakings in FED cases, if the group is providing that the supersedeas must be filed within 5 days of the Notice of Appeal. In practice, the judgment may already be executed on before the supersedeas undertaking is filed in an FED case. The group did, however, show a reluctance to provide a completely different timeline for FEDs than with other supersedeas filings.

Next, the workgroup discussed proposed amounts for undertakings (paid as costs and fees.) Judge Kidd and Judge Cross described their own experiences with costs and fees in their courts with FEDs and small claims, respectively.

The group decided that for the purpose of clarity, it would make sense to ensure that language is on costs would be included in the statute so that the local judges would have statutory guidance as well as providing transparency about amount, because amount could vary. The group discussed an appropriate amount, while recognizing the various types of appeals the workgroup is dealing with. The group landed on the following draft:

- 1) Undertakings in non-FED case in the amount of \$400,

2) Supersedeas undertaking would post amount of judgment

3) If there is a supersedeas undertaking or motion to stay in FED, litigant would have to agree to pay all future fair market value of future rents while the case is on appeal.

### **3. Second Update: Smaller Workgroup Looking at Justice Courts Becoming Courts of Record**

Justice Kidd provided the update for this section of the meeting, sharing that there is a broad consensus among the workgroup to move forward with the proposal to allow Justice Courts to become Courts of Record, as long as there is language that the county “may” decide to have their Justice Court become a Court of Record.

Justice Kidd also noted that the statutory requirement that a Court of Record be led by a lawyer judge, a bar licensee, would remain.

### **4. Third Update: OJD Appellate Form Question**

Judge Cross shared some of his concerns relating to the language in OJD’s new forms for appeals. The concern is that certain aspects of the forms are confusing for pro se litigants. Kimberly McCullough responded that she would be happy to connect Judge Cross with the appropriate members of her office to see what can be done about those concerns. For now, the workgroup will wait to hear if this issue persists.

### **5. Next Steps for the Workgroup**

No February meeting. The plan is to be prepared at the March meeting to discuss:

- a. Undertaking discussion
- b. A form for a supersedeas undertaking to be created for the Justice Court
- c. Whether violations appealed from local court to Circuit Court and then to Court of Appeals should proceed under chapter 19 or chapter 138.