

Council on Court Procedures

Established by the Oregon Legislature in 1977

Connie Elkins McKelvey
Chair

Mark A. Peterson
Executive Director

Maurice J. Holland
Executive Director
1992 - 2005

Don Corson
Vice Chair

Douglas A. Haldane
Executive Director
1982-1988

Fredric R. Merrill
Executive Director
1977 - 1981 and 1988-1992

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April 25, 2006

Senator Ginny Burdick
73rd Legislative Assembly
Senate Interim Judiciary Committee
900 Court Street NE, Rm 354
Salem, OR 97301-4043

Dear Senator Burdick:

On behalf of the Council on Court Procedures, I am writing in response to your letter dated November 10, 2005, to Professor Peterson regarding Senate Bill 216A and proposed amendments to ORCP 32F(2). Specifically, you requested to be advised of the status of the Council's review of ORCP 32F(2), the rule requiring claim forms in state court class actions. You also asked the Council to consider recommending an amendment to ORCP 32F(2) in light of the *cy pres* provisions in Senate Bill 216A.

The Council is presently considering possible amendments to the claim form requirement in Rule 32F(2). Under discussion is a proposal to make the use of claim forms discretionary with the trial court, rather than mandatory.

Regarding the *cy pres* provision set forth in Senate Bill 216A, it is the consensus of the Council that it does not have the statutory authority to propose an amendment to the Rule that would involve the allocation of unclaimed settlement funds. Because the proposal implicates substantive rights, it exceeds the scope of the Council's role as a procedural rule-making body.

Thank you for your interest in this matter. If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,


CONNIE ELKINS MCKELVEY
Chair

CEM:tgc