

Oregon State Legislature
Joint Ways and Means Committee
900 Court St. NE
Salem, Oregon 97301

Dear Co-Chairs Johnson, Steiner-Hayward, Rayfield and Members of the Committee:

My name is Richard Brissenden and I live and work in Eugene and Florence, in Lane County. I am the Presiding Judge in two courts, Lane County Justice Court and Florence Municipal Court. I am also a mediator in Oregon's Foreclosure Avoidance Program. I respectfully request that you support an investment in an Eviction Avoidance Mediation program.

In the Justice Court, eviction cases are a major portion of my caseload. I would like to tell you that my decisions in these cases make everyone happy. But that would not be true. Sometimes, usually – perhaps ironically and perhaps not – when I am applying the law with particular accuracy, I make *no one* happy.

Oregon's Residential Landlord and Tenant Act is good law. Don't get me wrong. It is not, however, the easiest set of statutes to navigate. The timelines are usually pretty strict, and the consequences of not following them and the many other requirements in the Act can be pretty significant for both landlords and tenants.

The law can be like that, bedeviling and frustrating to non-lawyers. I practically grew up in the courtroom, so it is a familiar language to me. My father was a trial lawyer and judge. I have been a lawyer for almost thirty-seven years, and a judge for almost twenty-four of those. Consequently, I have always had a strong belief in the power of the law and litigation to bring about justice and ensure fairness to all people. What I have come to realize over the years, however, is that litigation has its limits. Rules and regulations have their limits. We are not machines; we are human beings.

Watching a person or a family realize that they have just lost their home or place to live is nothing less than heartbreaking. In eviction court, it often happens in less than thirty minutes. To the person or family, I am sure it feels like seconds. What is worse are the long-term effects of an eviction on their record. I have seen it happen many, many times. Too many.

It does not have to be that way. This is where mediation comes in, because the law was never supposed to be the *first* resort, but rather the *last*. First, we should *talk* about it, like people. A mediator can do a couple very important things that a judge cannot do:

- 1) take some time with the people (a one or two-hour session is very feasible)

2) ask about, and listen to a lot of issues that a judge cannot ask about or listen to – such as emotions, the history and relationship between the parties, personal situations and challenges, etc.

These issues are mostly irrelevant to a legal *decision* in an eviction case, but *critical* to a *settlement* of one. In mediations, the parties create the outcome, not a stranger/third party – i.e. the judge.

Through the mediation process, evictions and forced move-outs can be avoided. With some discussion, exchange of viewpoints, and listening to each other, the parties can begin to understand the challenges the *other* party is dealing with, and that is when the chemistry begins to shift: positions start to soften and an agreement can be reached. Mediators know this because we have seen and heard it many times.

I fervently hope that you will prioritize funding mediation as a tool to prevent evictions. Courts throughout the state have a huge backload of eviction filings waiting for them, and very soon now they will hit like a tidal wave. We are going to need something more than a gavel to handle that wave of human despair.

Thank you all so much for serving our community by making the hard decisions you have to make.

Sincerely,

Richard Brissenden