



1 *Phelps v. State*, 136 Or. App. 363, 367, 901 P. 2d 965 (1995) (“The language of ORS  
2 138.560(4) is not exclusive, and neither the text nor context suggests that, by providing for  
3 a transfer from the county of imprisonment, the legislature intended to limit the court’s  
4 authority to otherwise order a change of venue.”).

5 As stated in the attached, and hereby incorporated Affidavit of  
6 this motion for a change in venue is not submitted for the purposes of delay. Instead, it is  
7 submitted because the change in venue will serve the interest of fairness and for the greater  
8 convenience of the parties. Petitioner’s counsel believes it to be critically important to his  
9 representation of his client that he be physically present in the courtroom when the case is  
10 heard. It would be substantially more convenient for Petitioner’s counsel to appear in  
11 person in Marion County than in Malheur County. Additionally, Respondent’s counsel is  
12 located in Marion County. Moreover, Petitioner believes that it would be more convenient  
13 for witnesses, if any are called, to appear in Marion County.

14 On January 3, 2001, counsel for Petitioner spoke to counsel for Respondent,  
15 Assistant Attorney General \_\_\_\_\_, Mr. \_\_\_\_\_ advised counsel for  
16 Petitioner that Respondent had no objection to Petitioner’s motion to change venue from  
17 Malheur County, Oregon to Marion County, Oregon.

18 Dated this 3<sup>rd</sup> day of January, 2001.

19 **Denied. So Ordered.**

20 1/8/01 Patricia Sulla

Respectfully submitted,

\_\_\_\_\_, OSB  
Of Attorneys for Petitioner

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
2 FOR THE COUNTY OF CLACKAMAS

3 Family Law Department

4 In the Matter of the Marriage of: )  
5 )

Case No.

6 )  
7 ) Petitioner,

PETITIONER'S EX PARTE  
MOTION FOR EMERGENCY  
TEMPORARY CUSTODY &  
VISITATION

8 ) and

9 )  
10 ) Respondent.  
\_\_\_\_\_ )

11 COMES NOW PETITIONER,

, by and through his attorney,

12 of his attorneys,

, and pursuant to ORS

13 §109.094, §109.175, and §107.095, and respectfully moves the Court to order the following:

14 1. That Petitioner be awarded emergency temporary custody of the parties' minor  
15 children, \_\_\_\_\_, born September 1990 and \_\_\_\_\_, born December  
16 1992; and

17 2. That Respondent be awarded supervised visitation with the minor children, with  
18 \_\_\_\_\_, being appointed as supervisor.

19  
20 RESPECTFULLY SUBMITTED this \_\_\_\_\_ day of August, 2000.

21 \_\_\_\_\_  
22  
23  
24 \_\_\_\_\_, OSB  
Of Attorneys for Petitioner  
25  
26

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1 - PETITIONER'S MOTION FOR EMERGENCY TEMPORARY CUSTODY

## Part B

### ATTORNEY'S ROLE/ CLIENT COUNSELING

#### I. CONFIDENTIALITY

A. Confidentiality is one of the most important things to remember when dealing with a client or opposing counsel.

B. Statutory Confidentiality Rules Apply to Subject Matter and Content, but Not the Mere Fact of Representation.

1. “[T]he privilege applies only to the communication itself and not to the *fact* that a client has consulted an attorney.” *State v. Bilton*, 36 Or App 513,516, 585 P.2d 50 (1978).

2. This point is brought home when a person calls to make an appointment and is told their spouse has already seen an attorney in the office or is a conflict.

C. Relevant confidentiality rules to remember (other states have similar provisions):

1. Oregon Evidence Code Rule 503. Lawyer-Client Privilege [ORS §40.225].

2. Code of Professional Responsibility Disciplinary Rule 4-101. Preservation of Confidences and Secrets of a Client.

#### II. ZEALOUS REPRESENTATION

A. What is Meant by “Zealous Representation?”

1. Skill and care, good faith, vigilance.

2. “Unswerving loyalty” to the client. *In re Hockett*, 303 Or. 150, 155, 734 P.2d 877 (1987).

3. Webster’s Dictionary – enthusiastic, diligent devotion in pursuit of a case, ideal, or goal.

B. Code of Professional Responsibility Disciplinary Rule 7-101. Representing a Client Zealously.

C. Lawyers must take steps to protect themselves from malpractice

1. “Papering the file.”

a. Document the client’s objectives.

b. Document all communications with the client and opposing counsel.