

OREGON RULES OF CIVIL PROCEDURE

A. PLEADINGS LIBERALLY CONSTRUED - DISREGARD OF ERROR

A(1) Liberal construction. All pleadings shall be liberally construed with a view of substantial justice between the parties.

A(2) Disregard of error or defect not affecting substantial right. The court shall, in every stage of an action, disregard any error or defect in the pleadings or proceedings which does not affect the substantial rights of the adverse party.

B. KINDS OF PLEADINGS ALLOWED - FORMER PLEADINGS ABOLISHED

B(1) Pleadings. The pleadings are the written statements by the parties of the facts constituting their respective claims and defenses.

B(2) Pleadings allowed. There shall be a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if a person who was not an original party is summoned under the provisions of Rule K(5); and a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer.

C. MOTIONS

C(1) Motions, in writing, grounds - form. (a) An application for an order is a motion. Every motion, unless made during trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(b) The rules applicable to captions, signing and other matters or form of pleadings apply to all motions and other papers provided for by these rules.

C(2) Where and to whom motions made. Motions shall be made to the court or

judge as provided by statute or rule. They shall be made within the circuit where the action or suit is triable, except when made to a judge of the court before whom the action is pending, and without notice, in which case an order may be made by such judge in any part of the state.

C(3) Notice of motion. When a notice of a motion is necessary, it shall be served 10 days before the time appointed for the hearing, but the court or judge thereof may prescribe, by order indorsed upon the notice, a shorter time. Notice of a motion is not necessary except when required by statute or rule, or when directed by the court or judge in pursuance thereof.

C(4) Renewal of motions previously denied. If a motion made to a judge of the court in which the action or proceeding is pending is refused in whole or in part, or is granted conditionally, no subsequent motion for the same order shall be made to any other judge. A violation of this section is punishable as a contempt, and an order made contrary thereto may be revoked by the judge who made it, or vacated by the court or judge thereof in which the action or proceeding is pending.

D. TIME FOR FILING PLEADINGS OR MOTIONS - NOTICE OF APPEARANCE

D(1) Time for filing motions and pleadings. A motion or answer to the complaint or third party complaint or the answer or reply of a party summoned under the provisions of Rule K(6) shall be filed with the clerk by the time required by Rule _____ to appear and answer. A motion or answer by any other party to a cross-claim shall be filed within 10 days after the service of an answer containing such cross-claim, but in any case, no defendant shall be required to file a motion or an answer to a crossclaim before the time required by Rule _____ to appear and respond to a complaint or third party complaint served upon such party. A motion or reply by any other

Eliminating the plea in abatement is so recent that a specific statement on pleas is desirable. The present statutes list the demurrer as a pleading. The device of demurrer is replaced by the motion to dismiss under Rule J which performs the same function.

RULE C

(1)(a) This is an expansion of the last sentence of ORS 16.710 by adding a requirement of a writing and a specific statement of grounds and relief sought.

(b) This comes from Federal Rule 7 and makes clear that the captions and form for motions are the same as pleadings. It makes the provisions of Rule F applicable to motions, including the provision that the party or attorney signing the motion certifies that it is not interposed for delay.

(2) This is identical to ORS 16.720. It may not be necessary as the first part states the obvious and the exception is confusing.

(3) This is identical to ORS 16.730. It was included because at this point it is not clear whether there are any other statutes requiring notice of motion. (We will check this on the computer).

(4) This is identical to ORS 16.740. Arguably, it does not correctly describe existing practice. Read literally it prohibits the trial judge from striking a section of a pleading at the commencement of trial if a motion to strike was previously denied.

RULE D

This rule attempts to bring all the references to time to respond to pleadings together in one rule.

(1) The time for response to an original pleading is presently specified

OREGON RULES OF CIVIL PROCEDURE

A. PLEADINGS LIBERALLY CONSTRUED - DISREGARD OF ERROR

A(1) Liberal Construction. All pleadings shall be liberally construed with a view of substantial justice between the parties.

A(2) Disregard of error or defect not affecting substantial right. The court shall, in every stage of an action, disregard any error or defect in the pleadings or proceedings which does not affect the substantial rights of the adverse party.

B. KINDS OF PLEADINGS ALLOWED - FORMER PLEADINGS ABOLISHED

B(1) Pleadings. The pleadings are the written statements by the parties of the facts constituting their respective claims and defenses.

B(2) Pleadings allowed. There shall be a complaint and an answer; a permissive reply to any answer or third party answer and a mandatory reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if a person who was not an original party is summoned under the provisions of Rule K(5); and a third-party answer, if a third-party complaint is served. No other pleadings shall be allowed, except that the court may order a mandatory reply to an answer or a third-party answer.

B(3) Pleadings abolished. Demurrers and pleas shall not be used.

C. MOTIONS

C(1) Motions, in writing, grounds. (1) An application for an order is a motion. Every motion, unless made during trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(2) Form. The rules applicable to captions, signing and other matters or form of pleadings apply to all motions and other papers provided for by these rules.

Revision Aug 4
- 1978

OREGON RULES OF CIVIL PROCEDURE

12.

~~A.~~ PLEADINGS LIBERALLY CONSTRUED - DISREGARD OF ERROR

12 A

~~A(1)~~ Liberal Construction. All pleadings shall be liberally construed with a view of substantial justice between the parties.

12 B

~~A(2)~~ Disregard of error or defect not affecting substantial right. The court shall, in every stage of an action, disregard any error or defect in the pleadings or proceedings which does not affect the substantial rights of the adverse party.

13

~~B.~~ KINDS OF PLEADINGS ALLOWED - FORMER PLEADINGS ABOLISHED

13 A

~~B(1)~~ Pleadings. The pleadings are the written statements by the parties of the facts constituting their respective claims and defenses.

13 B

~~B(2)~~ Pleadings allowed. There shall be a complaint and an answer. An answer may include a counterclaim against a plaintiff including a party joined under Rule ~~K(4)~~^{22 D} and a cross-claim against a defendant, ~~including a party joined under Rule K(4).~~ A pleading against any person joined under Rule ~~K(3)~~^{22 C} is a third-party complaint. There shall be an answer to a cross-claim and a third party complaint. There shall be a reply to a counterclaim denominated as such and a reply to assert any affirmative allegations. There shall be no other pleading unless the court orders otherwise.

13 C

~~B(3)~~ Pleadings abolished. Demurrers and pleas shall not be used.

14.

~~C.~~ MOTIONS

14 A

~~C(1)~~ Motions, in writing, grounds. (1) An application for an order is a motion. Every motion, unless made during trial, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

C. Pleadings abolished. Demurrers and pleas shall not be used.

BACKGROUND NOTE

ORS sections superseded: ~~16.010~~, 16.020, 16.030, 16.325, 16.460. 16.240

COMMENT

The description of pleadings in section 13 B, changes the existing Oregon practice by eliminating the routine reply containing only denials of affirmative matter in the answer. No reply is required to ~~assert deny~~ affirmative matter in an answer by this rule, and under Rule 19 C., allegations in a pleading to which no responsive pleading is required or permitted are automatically taken as denied. A reply is required to a counterclaim in an answer or to raise new matter in avoidance of defenses asserted in the answer. The proper response to a cross-claim is an answer; the proper response of a party summoned to respond to a counterclaim under Rule 22 D. is a reply.

ORS. 16.020 is unnecessary under Rule 1. and 2,
and 16.460 are

RULE 14

MOTIONS

A. Motions, in writing, grounds. An application for an order is a motion. Every motion, unless made during trial, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

B. Form. The rules applicable to captions, signing and other matters or form of pleadings apply to all motions and other papers provided for by these rules.

BACKGROUND NOTE

ORS sections superseded: 16.710, 16.720, 16.730, 16.740.

14B
(27)

Form. The rules applicable to captions, signing and other matters or form of pleadings apply to all motions and other papers provided for by these rules.

15

D. TIME FOR FILING PLEADINGS OR MOTIONS - NOTICE OF APPEARANCE

15A

~~D(1)~~ Time for filing motions and pleadings. A motion or answer to the complaint or third party complaint or the ~~answer to a cross-claim~~ or reply to a counterclaim of a party summoned under the provisions of Rule ~~8(c)~~ shall be filed with the clerk by the time

20

required by Rule 7D to appear and ~~answer~~ ^{defend}. A motion or answer ~~by any other party to a cross-claim~~ shall be filed within 10 days after ^{the service of an answer containing a cross claim} ~~the service of an answer containing such cross-claim~~, but in any

case, ~~no defendant shall be required to file a motion or an answer to a cross-claim before the time required by Rule~~ 7D ~~to appear~~

~~and respond to a complaint or third-party complaint served upon such party.~~ ^{and} A motion or reply to an answer shall be filed within

10 days after the service of the answer. ^{A motion to a reply shall be filed within 10 day days after service of the reply.}

15B

D(2) Pleading after motion. (1) If the court denies a motion, any responsive pleading required shall be filed within 10 days after service of the order, unless the order otherwise directs.

(b) If the court grants a motion and an amended pleading is allowed or required, such pleading shall be filed within 10 days after service of the order, unless the order otherwise directs.

(c) A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

Rule 14.

Motions

Background
sections

ORS ~~chapters~~ superseded:

16.710, 17.720, 16.730, 16.740

COMMENT:

Section 14A is based on Ors 16.710. Section 14B comes from ~~XXXXX~~
incorporates Rule 17A to make
federal rule 7 and ~~makes~~ *clear* that a party or attorney signing a motion *can't then*
is certifying that there is good ground to support it and it is not *paper*
interposed for harrassment or delay.

Rule 15

time

Background
sections

ORS ~~chapters~~ superseded.

~~16.770~~ 16.040, 16.050, 16.420

*For provisions relating to and pleadings and
responses to and pleadings
see rule 23*

COMMENT: This rule attempts to bring all time requirements for responding to
pleadings together in one rule.
~~Section 15 A provides the same time for response to pleadings as~~

ORS 16.040. ~~XXXXXX~~ Subsections 15 B(1) and (2) are new; Subsection 15

B(3) is ~~presently~~ *was* covered by ORS 16.420. Section 15C is ~~existing~~ ORS 16.050

Hollis P.
C.
local
rules

RULE 14

MOTIONS

A. Motions, in writing, grounds. An application for an order is a motion. Every motion, unless made during trial, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

B. Form. The rules applicable to captions, signing and other matters or form of pleadings, including Rule 17 A., apply to all motions and other papers provided for by these rules.

BACKGROUND NOTE

ORS sections superseded: 16.710, 16.720, 16.730, 16.740.

COMMENT

Section 14 A. is based on ORS 16.710. Section 14 B. is based on Federal Rule 7 and incorporates Rule 17 A. to make clear that a party or attorney signing a motion or other paper is certifying that there is good ground to support it and it is not interposed for harassment or delay. ORS 16.720 to 16.740 are eliminated.

RULE 15

TIME FOR FILING PLEADINGS OR MOTIONS

A. Time for filing motions and pleadings. A motion or answer to the complaint or third party complaint or the reply to a counterclaim of a party summoned under the provisions of Rule 22 D. shall be filed with the clerk by the time required by

Rule 7 C.(4) to appear and defend. ~~A motion or answer to a OR responsive pleading shall be filed within 10 days after service of a cross-claim shall be filed within 10 days after service of an~~ *any other motion or responsive pleading shall be filed within 10 days after service of a motion or responsive pleading*

Hollis P
C
10 days to
cc.

moved against or to which the responsive pleading is directed.

RE-DONE
red changes
made

COMMENT

Section 14 A. is based on ORS 16.710. Section 14 B. ^{is based on} ~~comes from~~ Federal Rule 7 and incorporates Rule 17 A. to make clear that a party or attorney signing a motion or other paper is certifying that there is good ground to support it and it is not interposed for harassment or delay. **ORS 16.720 To 16.740 are eliminated.**

RULE 15

TIME FOR FILING PLEADINGS OR MOTIONS - NOTICE OF APPEARANCE

A. Time for filing motions and pleadings. A motion or answer to the complaint or third party complaint or the reply to a counterclaim of a party summoned under the provisions of Rule 22 D. shall be filed with the clerk by the time required by Rule 7 ⁽⁴⁾ to appear and defend. A motion or answer to a cross-claim shall be filed within 10 days after service of an answer containing a cross-claim and a motion or reply to an ^{other than a party} answer, shall be filed within 10 days after the service of the answer. A motion to a reply shall be filed within 10 days after service of the reply. *summoned under the provisions of Rule 22 D,*

B. Pleading after motion. (1) If the court denies a motion, any responsible pleading required shall be filed within 10 days after service of the order, unless the order otherwise directs.

B.(2) If the court grants a motion and an amended pleading is allowed or required, such pleading shall be filed within 10 days after service of the order, unless the order otherwise directs.

Responding to amended pleading
A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise ^{directs} orders.

C. Pleadings abolished. Demurrers and pleas shall not be used.

BACKGROUND NOTE

ORS sections superseded: 16.020, 16.030, 16.240, 16.325, 16.460.

COMMENT

The description of pleadings in section 13 B. changes the existing Oregon practice by eliminating the routine reply containing only denials of affirmative matter in the answer. No reply is required to assert affirmative matter in an answer by this rule, and under Rule 19 C., allegations in a pleading to which no responsive pleading is required or permitted are automatically taken as denied. A reply is required to a counterclaim in an answer or to raise new matter in avoidance of defenses asserted in the answer. The proper response to a cross-claim is an answer; the proper response of a party summoned to respond to a counterclaim under Rule 22 D. is a reply. ORS 16.020 and 16.460 are unnecessary under Rules 1 and 2.

RULE 14

MOTIONS

A. Motions, in writing, grounds. An application for an order is a motion. Every motion, unless made during trial, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

B. Form. The rules applicable to captions, signing and other matters or form of pleadings apply to all motions and other papers provided for by these rules.

BACKGROUND NOTE

ORS sections superseded: 16.710, 16.720, 16.730, 16.740.

COMMENT

Section 14 A. is based on ORS 16.710. Section 14 B. is based on Federal Rule 7 and incorporates Rule 17 A. to make clear that a party or attorney signing a motion or other paper is certifying that there is good ground to support it and it is not interposed for harassment or delay. ORS 16.720 to 16.740 are eliminated.

RULE 15

TIME FOR FILING PLEADINGS OR MOTIONS - NOTICE OF APPEARANCE

A. Time for filing motions and pleadings. A motion or answer to the complaint or third party complaint or the reply to a counterclaim of a party summoned under the provisions of Rule 22 D. shall be filed with the clerk by the time required by Rule 7 C. (4) to appear and defend.

A motion or answer to a cross-claim shall be filed within 10 days after service of an answer containing a cross-claim and a motion or reply to an answer, other than a party summoned under the provisions of Rule 22 D., shall be filed within 10 days after the service of the answer. A motion to a reply shall be filed within 10 days after service of the reply.

B. Pleading after motion. (1) If the court denies a motion, any responsive pleading required shall be filed within 10 days after service of the order, unless the order otherwise directs.

B. (2) If the court grants a motion and an amended pleading is allowed or required, such pleading shall be filed within 10 days after service of the order, unless the order otherwise directs.

C. Responding to amended pleading. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise directs.

RULE 14

MOTIONS

A. Motions, in writing, grounds. An application for an order is a motion. Every motion, unless made during trial, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

B. Form. The rules applicable to captions, signing and other matters or form of pleadings, including Rule 17 A., apply to all motions and other papers provided for by these rules.

BACKGROUND NOTE

ORS sections superseded: 16.710, 16.720, 16.730, 16.740.

COMMENT

Section 14 A. is based on ORS 16.710. Section 14 B. is based on Federal Rule 7 and incorporates Rule 17 A. to make clear that a party or attorney signing a motion or other paper is certifying that there is good ground to support it and it is not interposed for harassment or delay. ORS 16.720 to 16.740 are eliminated.

RULE 15

TIME FOR FILING PLEADINGS OR MOTIONS

A. Time for filing motions and pleadings. A motion or answer to the complaint or third party complaint or the reply to a counterclaim of a party summoned under the provisions of Rule 22 D. shall be filed with the clerk by the time required by Rule 7 C.(4) to appear and defend. A motion or answer to a cross-claim shall be filed within 10 days after service of an

to raise new matter in avoidance of defenses asserted in the answer. The proper response to a crossclaim is an answer; the proper response of a party summoned to respond to a counterclaim under CRCP 22 D. is a reply. ORS 16.020 and 16.460 are unnecessary under CRCP 1 and 2.

RULE 14

MOTIONS

A. Motions, in writing, grounds. An application for an order is a motion. Every motion, unless made during trial, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

B. Form. The rules applicable to captions, signing, and other matters or form of pleadings, including Rule 17 A., apply to all motions and other papers provided for by these rules.

COMMENT

Section 14 A. is based on ORS 16.710. Section 14 B. is based on Federal Rule 7 and incorporates ~~CRCP~~ 17 A. to make clear that a party or attorney signing a motion or other paper is certifying that there is good ground to support it and it is not interposed for harassment or delay. ORS 16.720 to 16.740 are eliminated.

RULE 15

TIME FOR FILING PLEADINGS OR MOTIONS

A. Time for filing motions and pleadings. A motion or answer to the complaint or third party complaint or the reply to a counterclaim of a party summoned under the provisions of Rule 22 D. shall be filed with the clerk by the time required by

RULE 14

MOTIONS

A. Motions; in writing; grounds. An application for an order is a motion. Every motion, unless made during trial, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

B. Form. The rules applicable to captions, signing, and other matters or form of pleadings, including Rule 17 A., apply to all motions and other papers provided for by these rules.

COMMENT

Section 14 A. is based on ORS 16.710. Section 14 B. is based on Federal Rule 7(b)(2) and incorporates ORCP 17 A. to make clear that a party or attorney signing a motion or other paper is certifying that there is good ground to support it and it is not interposed for harassment or delay. ORS 16.720 through 16.740 are eliminated.