

if to do so would:

- (a) Be more convenient;
- (b) Avoid prejudice; or
- (c) Be more economical and expedite the matter.

L. AMENDED AND SUPPLEMENTAL PLEADINGS

L(1) Amendments. A pleading may be amended by a party once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise a party may amend the pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. Whenever an amended pleading is filed, it shall be served upon all parties who are not in default, but as to all parties who are in default or against whom a default previously has been entered, judgment may be rendered in accordance with the prayer of the original pleading served upon them; and neither the amended pleading nor the process thereon need be served upon such parties in default unless the amended pleading asks for additional relief against the parties in default.

L(2) Amendments to conform to the evidence. When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court

may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

L(3) Relation back of amendments. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against him, the party to be brought in by amendment (1) has received such notice of the institution of the action that the party will not be prejudiced in maintaining his defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against him.

L(4) Amendment or pleading over after motion. When a motion to dismiss or a motion to strike an entire pleading or a motion for a judgment on the pleadings under Rule J is allowed, the court may, upon such terms as may be proper, allow the party to file an amended pleading. If the motion is disallowed, and it appears to have been made in good faith, the court shall allow the party filing the motion to file a responsive pleading if any is required.

L(5) Amended pleading where part of pleading stricken. In all cases where part of a pleading is ordered stricken, the court, in its discretion, may require that an amended pleading be filed omitting the matter ordered stricken. By complying with the court's order, the party filing such amended pleading shall not be deemed thereby to have waived the right to challenge the correctness of the court's ruling upon the motion to strike, and such ruling shall be

subject to review on appeal from final judgment in the cause.

L(6) How amendment made. When any pleading or proceeding is amended before trial, mere clerical errors excepted, it shall be done by filing a new pleading, to be called the amended complaint, or otherwise, as the case may be. Such amended pleading shall be complete in itself, without reference to the original or any preceding amended one.

L(7) Supplemental pleadings. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the court deems it advisable that the adverse party plead to the supplemental pleading, it shall so order, specifying the time therefor.

M. JOINDER OF CAUSES OF ACTION

M(1) Permissive joinder. A plaintiff may join in a complaint, either as independent or as alternate claims, as many claims, legal or equitable, as the plaintiff has against an opposing party.

M(2) Forcible entry and detainer and rental. If an action of forcible entry and detainer and an action for rental due are joined, the defendant shall have the same time to appear as is now provided by law in actions for the recovery of rental due.

M(3) Separate statement. The claims united must be separately stated and must not require different places of trial.

N. JOINDER OF PARTIES

N(1) Permissive joinder as plaintiffs or defendants. All persons may join in one action as plaintiffs if they assert any right to relief jointly,

RULE L

(1) This is based on Federal Rule 15(a) and would replace ORS 16.370 and 16.390. It differs in two respects from existing law. The time to amend of right extends to the actual filing of a responsive pleading rather than the time period for filing such pleading and the rule specifically encourages the trial judge to give leave "freely....when justice so requires". The last sentence of the rule is existing ORS 16.430.

(2) This is Federal Rule 15(b) and would replace the existing Oregon statutes covering the area, ORS 16.610-16.650. It eliminates the necessity of a distinction between a material and immaterial variance and simply provides that if a variance objection is made at trial, the court can allow an amendment and grant a continuance if necessary and that such amendment should be given when presentation of the merits will be subserved thereby. The rule does not, however, eliminate the concept of variance and the trial judge has discretion to sustain a variance objection and refuse a continuance in the proper circumstances.

The rule also clearly indicates that if no variance objection is made and the parties proceed to try the case on issues not in the pleadings, no objection can then be raised based upon the pleadings; if requested, an amendment to conform to the proof must be given and in any case, the pleadings are deemed to be amended to conform to the proof.

(3) This is Federal Rule 15(c) previously considered by the Council.

(4) This is based upon ORS 16.380 and 400(1). If a motion to strike an entire pleading or to dismiss is allowed, the court retains discretion to allow or not allow an amended pleading. The authority to allow an amended

pleading after a successful motion for judgment on the pleadings was added to give the trial judge discretion where such motion is actually a late blooming motion to dismiss for failure to state a claim. If the motion is denied, the existing statute relating to demurrers gave the trial judge discretion to not allow further pleading. This rule automatically allows pleading over after an unsuccessful motion, absent bad faith.

(5) This is ORS 16.400(2) and covers a motion to strike a part of a pleading.

(6) This is existing ORS 16.410.

(7) The language is taken from Federal Rule 15(d). It does not change the existing rule under ORS 16.360 but the language is clearer.

RULE M

This is existing ORS 16.221. (The title should be JOINDER OF CLAIMS).

RULE N

This is existing ORS 13.161.

RULE O

This is Federal Rule 19. This is one of the best drafted federal rules and seems to be a clear and reasonable elaboration of ORS 13.110. The last section, (5), is ORS 13.190 covering a specific situation.

RULE P

This is Federal Rule 21 and replaces all other remedies for party joinder problems with the simple device of dropping or adding parties.

RULE Q

This is Federal Rule 17(a) and has the same effect as ORS 13.030, using clearer language. It also provides a procedure for dealing with real party in interest objections.

K(4) Joinder of additional parties. Persons other than those made parties to the original action may be made parties to a counterclaim or crossclaim in accordance with the provisions of Rules N and O. The parties so joined may respond to the claim by reply, answer or motion.

K(5) Separate trial. Upon motion of any party, the court may order a separate trial of any counterclaim, crossclaim or third-party claim so alleged if to do so would: (a) be more convenient; (b) avoid prejudice; or (c) be more economical and expedite the matter.

L. AMENDED AND SUPPLEMENTAL PLEADINGS

L(1) Amendments. A pleading may be amended by a party once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted, the party may so amend it at any time within 20 days after it is served. Otherwise a party may amend the pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. Whenever an amended pleading is filed, it shall be served upon all parties who are not in default, but as to all parties who are in default or against whom a default previously has been entered, judgment may be rendered in accordance with the prayer of the original pleading served upon them; and neither the amended pleading nor the process thereon need be served upon such parties in default unless the amended pleading asks for additional relief against the parties in default.

L(2) Amendments to conform to the evidence. When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the

evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

L(3) Relation back of amendments. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against him, the party to be brought in by amendment (a) has received such notice of the institution of the action that the party will not be prejudiced in maintaining his defense on the merits, and (b) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against him.

L(4) Amendment or pleading over after motion. When a motion to dismiss or a motion to strike an entire pleading or a motion for a judgment on the pleadings under Rule J is allowed, the court may, upon such terms as may be proper, allow the party to file an amended pleading. If any motion is disallowed, and it appears to have been made in good faith, the party filing the motion shall file a responsive pleading if any is required.

L(5) Amended pleading where part of pleading stricken. In all cases where part of a pleading is ordered stricken, the court, in its discretion, may require

that an amended pleading be filed omitting the matter ordered stricken. By complying with the court's order, the party filing such amended pleading shall not be deemed thereby to have waived the right to challenge the correctness of the court's ruling upon the motion to strike, and such ruling shall be subject to review on appeal from final judgment in the cause.

L(6) How amendment made. When any pleading or proceeding is amended before trial, mere clerical errors excepted, it shall be done by filing a new pleading, to be called the amended complaint, or otherwise, as the case may be. Such amended pleading shall be complete in itself, without reference to the original or any preceding amended one.

L(7) Supplemental pleadings. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit the party to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the court deems it advisable that the adverse party plead to the supplemental pleading, it shall so order, specifying the time therefor.

M. JOINDER OF CLAIMS

M(1) Permissive joinder. A plaintiff may join in a complaint, either as independent or as alternate claims, as many claims, legal or equitable, as the plaintiff has against an opposing party.

M(2) Forcible entry and detainer and rental. If an action of forcible entry and detainer and an action for rental due are joined, the defendant shall have the same time to appear as is now provided by law in actions for the recovery of rental due.

M(3) Separate statement. The claims united must be separately stated and must not require different places of trial.

D. Joinder of persons in contract actions. (1) As used in this section of this rule:

D.(1)(a) "Maker" means the original party to the contract which is the subject of the action who is the predecessor in interest of the plaintiff under the contract; and

D.(1)(b) "Contract" includes any instrument or document evidencing a debt.

D.(2) The defendant may, in an action on a contract brought by an assignee of rights under that contract, join as a party to the action the maker of that contract if the defendant has a claim against the maker of the contract arising out of that contract.

D.(3) A defendant may, in an action on a contract brought by an assignee of rights under that contract, join as parties to that action all or any persons liable for attorney fees under ORS 20.097.

D.(4) In any action against a party joined under this section of this Rule, the party joined shall be treated as a defendant for purposes of service of summons and time to answer under Rule 7.

E. Separate trial. Upon motion of any party or upon the court's own motion, the court may order a separate trial of any counterclaim, cross-claim or third party claim so alleged if to do so would: (1) be more convenient; (2) avoid prejudice; or (3) be more economical and expedite the matter.

BACKGROUND NOTE

ORS sections superseded: 13.180, 15.210, 16.305, 16.315, 16.325.

COMMENT

This rule is almost identical to the provisions of existing ORS sections. The Council added the fourth sentence of subsection 22 C.(1) to make clear that the trial judge should not give leave for a late impleader if this would prejudice existing parties. Section 22 E. was also changed slightly to allow a separate trial on the court's own initiative.

after it is served. Otherwise a party may amend the pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. Whenever an amended pleading is filed, it shall be served upon all parties who are not in default, but as to all parties who are in default or against whom a default previously has been entered, judgment may be rendered in accordance with the prayer of the original pleading served upon them; and neither the amended pleading nor the process thereon need be served upon such parties in default unless the amended pleading asks for additional relief against the parties in default.

^{23B}
~~1(2)~~ Amendments to conform to the evidence. When issues not raised by the pleadings are tried by express or implied consent of

the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved ¹⁰² thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice him in maintaining his action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

^{23 C}
~~1(3)~~ Relation back of amendments. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against him, the party to be brought in by amendment ¹ (a) has received such notice of the institution of the action that the party will not be prejudiced in maintaining his defense on the merits, and ² (~~3~~) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against him.

23 D

~~L(4)~~ Amendment or pleading over after motion. When a motion

to dismiss or a motion to strike an entire pleading or a motion for a judgment on the pleadings under Rule ²¹ is allowed, the court may, upon such terms as may be proper, allow the party to file an amended pleading. If any motion is disallowed, and it appears to have been made in good faith, the party filing the motion shall file a responsive pleading if any is required.

23 E

~~L(5)~~ Amended pleading where part of pleading stricken. In

all cases where part of a pleading is ordered stricken, the court, in its ⁶³ discretion, may require that an amended pleading be filed omitting the matter ordered stricken. By complying with the court's order, the party filing such amended pleading shall not be deemed thereby to have waived the right to challenge the correctness of the court's ruling upon the motion to strike.

23 F

~~L(6)~~ How amendment made. When any pleading or proceeding is

amended before trial, mere clerical errors excepted, it shall be done by filing a new pleading, to be called the amended complaint, or by interlineation, deletion or otherwise. Such amended pleading shall be complete in itself, without reference to the original or any preceding amended one.

23 G

~~L(7)~~ Supplemental pleadings. Upon motion of a party the court

may, upon reasonable notice and upon such terms as are just, permit the party to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its

RULE 23

AMENDED AND SUPPLEMENTAL PLEADINGS

A. Amendments. A pleading may be amended by a party once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted, the party may so amend it at any time within 20 days after it is served. Otherwise a party may amend the pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. Whenever an amended pleading is filed, it shall be served upon all parties who are not in default, but as to all parties who are in default or against whom a default previously has been entered, judgment may be rendered in accordance with the prayer of the original pleading served upon them; and neither the amended pleading nor the process thereon need be served upon such parties in default unless the amended pleading asks for additional relief against the parties in default.

B. Amendments to conform to the evidence. When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues

made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice such party in maintaining an action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

C. Relation back of amendments. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against the party to be brought in by amendment, such party (1) has received such notice of the institution of the action that the party will not be prejudiced in maintaining any defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party brought in by amendment.

D. Amendment or pleading over after motion. When a motion to dismiss or a motion to strike an entire pleading or a motion for a judgment on the pleadings under Rule 21 is allowed, the court may, upon such terms as may be proper, allow the party to file an amended pleading. If any motion is disallowed, the party filing the motion shall file a responsive pleading if any is

required. By filing any pleading pursuant to this section, the party filing such amended pleading shall not be deemed thereby to have waived the right to challenge the correctness of the court's ruling.

E. Amended pleading where part of pleading stricken. In all cases where part of a pleading is ordered stricken, the court, in its discretion, may require that an amended pleading be filed omitting the matter ordered stricken. By complying with the court's order, the party filing such amended pleading shall not be deemed thereby to have waived the right to challenge the correctness of the court's ruling upon the motion to strike.

F. How amendment made. When any pleading is amended before trial, mere clerical errors excepted, it shall be done by filing a new pleading, to be called the amended pleading, or by interlineation, deletion or otherwise. Such amended pleading shall be complete in itself, without reference to the original or any preceding amended one.

G. Supplemental pleadings. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit the party to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the court deems it advisable that the adverse party plead to the supplemental pleading, it shall so order, specifying the time therefor.

Rule 23

Background ✓ For Time For Filing and Responding to motion.
Motions see Rule 15.

ORS sections Superseded.

16,380 16,370, 16,390, 16,400, 16,410, 16,420
16,360, 16,430,

16,610, 16,620, 16,630, 16,640, 16,650,

16,660

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COMMENT:



This is a combination of Federal Rule 15 and existing ORS sections.
23
Section A is based upon Federal Rule 15(a) and ORS 16.430. Section B is
Based on Federal Rule 15(b). Section C is Based on Federal Rule 15(c)X.
Section D is based upon ORS 16.380 and 400. Section E is based upon
Ors 16.400. Section F is based upon ORs 16.410 and Section G is
based upon ORS 16.360 and Federal Rule 15(d).

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By complying with the Court's order the party filing the amended pleading shall not be deemed thereby to have waived the right to challenge the correctness of the court's ruling.

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have waived the right to challenge the correctness of the court's ruling upon the motion to strike.

F. How amendment made. When any pleading ~~or proceeding~~ is amended before trial, mere clerical errors excepted, it shall be done by filing a new pleading, to be called the amended ^{pleading} ~~complaint~~, or by interlineation, deletion or otherwise. Such amended pleading shall be complete in itself, without reference to the original or any preceding amended one.

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BACKGROUND NOTE

For time for filing and responding to amended pleadings, see Rule 15.

ORS sections superseded: 16.360, 16.370, 16.380, 16.390, 16.400, 16.410, 16.420, ~~16.430~~, 16.610, ~~16.620~~, 16.630, 16.640, 16.650, ~~16.660~~.

COMMENT

This is a combination of Federal Rule 15 and existing ORS sections. Section 23 A. is based upon Federal Rule 15(a) and ORS 16.430. Section B. is based on Federal Rule 15(b). Section C. is based on Federal Rule 15(c). Section D. is based upon ORS 16.380 and 400. Section E. is based upon ORS 16.400. Section F. is based upon ORS 16.410, and Section G. is based upon ORS 16.360 and Federal Rule 15(d).

motion

*i note the court is specifically
asked to ~~allow~~ grant a judgment
on the pleadings but to allow ~~repleading~~
rather than ~~grant~~ a judgment.*

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For time for filing and responding to amended pleadings, see Rule 15.

ORS sections superseded: 16.360, 16.370, 16.380, 16.390, 16.400, 16.410, 16.420, 16.610, 16.630, 16.640, 16.650.

COMMENT

This is a combination of Federal Rule 15 and existing ORS sections. Section 23 A. is based upon Federal Rule 15(a) and ORS 16.430. Section B. is based on Federal Rule 15(b). Section C. is based on Federal Rule 15(c). Section D. is based upon ORS 16.380 and 400; note the court is specially authorized to grant a judgment on the pleadings motion but to allow repleading rather than enter a judgment. Section E. is based upon ORS 16.400. Section F. is based upon ORS 16.410, and Section G. is based upon ORS 16.360 and Federal Rule 15(d).

RULE 23

AMENDED AND SUPPLEMENTAL PLEADINGS

A. Amendments. A pleading may be amended by a party once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted, the party may so amend it at any time within 20 days after it is served. Otherwise a party may amend the pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. Whenever an amended pleading is filed, it shall be served upon all parties who are not in default, but as to all parties who are in default or against whom a default previously has been entered, judgment may be rendered in accordance with the prayer of the original pleading served upon them; and neither the amended pleading nor the process thereon need be served upon such parties in default unless the amended pleading asks for additional relief against the parties in default.

B. Amendments to conform to the evidence. When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues

made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice such party in maintaining an action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

C. Relation back of amendments. Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against the party to be brought in by amendment, such party (1) has received such notice of the institution of the action that the party will not be prejudiced in maintaining any defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party brought in by amendment.

D. Amendment or pleading over after motion. When a motion to dismiss or a motion to strike an entire pleading or a motion for a judgment on the pleadings under Rule 21 is allowed, the court may, upon such terms as may be proper, allow the party to file an amended pleading. If any motion is disallowed, the party filing the motion shall file a responsive pleading if any is

required. By filing any pleading pursuant to this section, the party filing such amended pleading shall not be deemed thereby to have waived the right to challenge the correctness of the court's ruling.

E. Amended pleading where part of pleading stricken. In all cases where part of a pleading is ordered stricken, the court, in its discretion, may require that an amended pleading be filed omitting the matter ordered stricken. By complying with the court's order, the party filing such amended pleading shall not be deemed thereby to have waived the right to challenge the correctness of the court's ruling upon the motion to strike.

F. How amendment made. When any pleading is amended before trial, mere clerical errors excepted, it shall be done by filing a new pleading, to be called the amended pleading, or by interlineation, deletion or otherwise. Such amended pleading shall be complete in itself, without reference to the original or any preceding amended one.

G. Supplemental pleadings. Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit the party to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the court deems it advisable that the adverse party plead to the supplemental pleading, it shall so order, specifying the time therefor.

BACKGROUND NOTE

For time for filing and responding to amended pleadings, see Rule 15.

ORS sections superseded: 16.360, 16.370, 16.380, 16.390, 16.400, 16.410, 16.420, 16.610, 16.630, 16.640, 16.650.

COMMENT

This is a combination of Federal Rule 15 and existing ORS sections. Section 23 A. is based upon Federal Rule 15(a) and ORS 16.430. Section B. is based on Federal Rule 15(b). Section C. is based on Federal Rule 15(c). Section D. is based upon ORS 16.380 and 400; note the court is specially authorized to grant a motion for a judgment on the pleadings but to allow repleading rather than enter a judgment. Section E. is based upon ORS 16.400. Section F. is based upon ORS 16.410, and Section G. is based upon ORS 16.360 and Federal Rule 15(d).

RULE 24

JOINDER OF CLAIMS

A. Permissive joinder. A plaintiff may join in a complaint, either as independent or as alternate claims, as many claims, legal or equitable, as the plaintiff has against an opposing party.

B. Forcible entry and detainer and rental. If an action of forcible entry and detainer and an action for rental due are joined, the defendant shall have the same time to appear as is now provided by law in actions for the recovery of rental due.

C. Separate statement. The claims united must be separately stated and must not require different places of trial.

BACKGROUND NOTE

ORS chapters superseded: 16.221.

COMMENT

This is based on the existing ORS section.

RULE 25 (RESERVED)

RULE 23

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For time for filing and responding to amended pleadings, see ORCP 15.

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