

RULE 62.

VERDICTS, GENERAL AND SPECIAL

A. General verdict. A general verdict is that by which the jury pronounces generally upon all or any of the issues either in favor of the plaintiff or defendant.

B. Special verdict. The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and requiring the written findings thereon as it deems most appropriate. The court shall give to the jury such explanation and instruction concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives his rights to a trial by jury of the issue so omitted unless before the jury retires he demands its submission to the jury. As to an issue omitted without such demand the court may make a finding; or, if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.

C. General verdict accompanied by answer to interrogatories. The court may submit to the jury, together with appropriate forms for a general verdict, written interrogatories upon one or more issues of fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers

to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict. When the general verdict and the answers are harmonious, the appropriate judgment upon the verdict and the answers shall be entered. When the answers are consistent with each other but one or more is inconsistent with the general verdict, judgment may be entered in accordance with the answers, notwithstanding the general verdict, or the court may return the jury for further consideration of its answers and verdict or may order a new trial. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general verdict, judgment shall not be entered, but the court shall return the jury for further consideration of its answers and verdict or shall order a new trial.

D. Action for specific personal property. In an action for the recovery of specific personal property, if the property has not been delivered to the plaintiff or the defendant by his answer claims a return thereof, the jury shall assess the value of the property, if their verdict is in favor of the plaintiff, or if they find in favor of the defendant, and that he is entitled to a return thereof, and may at the same time assess the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the detention or taking and withholding of such property.

<sup>F12</sup> E. Assessment of amount of recovery. When a verdict is found for the plaintiff in an action for recovery of money, or for the defendant when a counterclaim for the amount of the plaintiff's claim as established, the jury shall also assess the amount of recovery; they may also, under the direction of the court assess the amount of the recovery when the court gives judgment for the plaintiff on the answer.

~~COMMENT: This is Committee Rule G. What does the last sentence of section E. (ORS 17.425) mean?~~

# Rule 62.

Background note.

ORS. Sections Superseded

17.403, ~~17.410~~, 17.415, 17.420, 17.425

COMMENT:

~~This rule combines Existing ORS sections and federal Rule 49.~~  
Sections B and C are based upon Federal Rule 49 (a) and (b). Section  
C is based upon ORS 17.410 and Section D is based upon ORS 17.425.

RULE 62

VERDICTS, GENERAL AND SPECIAL

A. General verdict. A general verdict is that by which the jury pronounces generally upon all or any of the issues either in favor of the plaintiff or defendant.

B. Special verdict. The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and requiring the written findings thereon as it deems most appropriate. The court shall give to the jury such explanation and instruction concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives his rights to a trial by jury of the issue so omitted unless before the jury retires he demands its submission to the jury. As to an issue omitted without such demand the court may make a finding; or, if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.

C. General verdict accompanied by answer to interrogatories. The court may submit to the jury, together with appropriate forms for a general verdict, written interrogatories upon one or more issues of

fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict. When the general verdict and the answers are harmonious, the appropriate judgment upon the verdict and the answers shall be entered. When the answers are consistent with each other but one or more is inconsistent with the general verdict, judgment may be entered in accordance with the answers, notwithstanding the general verdict, or the court may return the jury for further consideration of its answers and verdict or may order a new trial. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general verdict, judgment shall not be entered, but the court shall return the jury for further consideration of its answers and verdict or shall order a new trial.

D. Action for specific personal property. In an action for the recovery of specific personal property, if the property has not been delivered to the plaintiff, or the defendant by his answer claims a return thereof, the jury shall assess the value of the property, if their verdict is in favor of the plaintiff, or if they find in favor of the defendant, and that he is entitled to a return thereof, and may at the same time assess the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the detention or taking and withholding of such property.

E. Assessment of amount of recovery. When a verdict is found for the plaintiff in an action for recovery of money, or for the defendant when a counterclaim for the amount of the plaintiff's claim as established, the jury shall also assess the amount of recovery; they may also, under the direction of the court assess the amount of the recovery when the court gives judgment for the plaintiff on the answer.

BACKGROUND NOTE

ORS sections superseded: 17.40<sup>5</sup>~~3~~, 17.410, 17.415, 17.420, 17.425.

COMMENT

Sections B. and C. are based upon Federal Rule 49 (a) and (b). Section ~~D.~~ is based upon ORS 17.410 and Section ~~E.~~ is based upon ORS 17.425.

which the prevailing party has sustained by reason of the detention or taking and withholding of such property.

E. Assessment of amount of recovery. When a verdict is found for the plaintiff in an action for recovery of money, or for the defendant when a counterclaim for the recovery of money is established beyond the amount of the plaintiff's claim as established, the jury shall also assess the amount of recovery; they may also, under the direction of the court, assess the amount of the recovery when the court gives judgment for the plaintiff on the answer.

pb3  
oct  
30 memo  
12/2/20  
Chase

BACKGROUND NOTE

ORS sections superseded: 17.405, 17.410, 17.415, 17.420, 17.425.

COMMENT

Sections 61 B. and 61 C. are based upon Federal Rule 49 (a) and (b). Section 61 D. is based upon ORS 17.410, and Section 61 E. is based upon ORS 17.425.

RULE 62

FINDINGS OF FACT

A. Necessity. Whenever any party appearing in a civil action or proceeding tried by the court so demands prior to the commencement of the trial, the court shall make special findings of fact, and shall state separately its conclusions of law thereon. In the absence of such a demand for special findings, the court may make either general or special findings. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact or conclusions of law appear therein.

pg  
new 13  
memo  
completing

B. Proposed findings; objections. Within 10 days after the court has made its decision, any special findings requested by any party, or proposed by the court, shall be served upon all parties who have appeared in the case and shall be filed with the clerk; and any party may, within 10 days after such service object to such proposed findings or any part thereof, and request other, different or additional special findings, whether or not such party has previously requested special findings. Any such objections or requests for other, different or additional special findings shall be heard and determined by the court within 30 days after the date of the filing thereof; and, if not so heard and determined, any such objections and requests for such other, different or additional special findings shall conclusively be deemed denied.

C. Entry of judgment. Upon (1) the determination of any objections to proposed special findings and of any requests for other different or additional special findings, or (2) the expiration of the time for filing such objections and requests if none is filed, or (3) the expiration of the time at which such objections or requests are deemed denied, the court shall enter the appropriate order or judgment. Any such judgment or order filed prior to the expiration of the periods above set forth shall be deemed not entered until the expiration of said periods.

D. Extending or lessening time. Prior to the expiration of the times provided in subsections B. and C. of this rule, the time for serving and filing special findings, or for objecting



RULE 62

VERDICTS, GENERAL AND SPECIAL

A. General verdict. A general verdict is that by which the jury pronounces generally upon all or any of the issues either in favor of the plaintiff or defendant.

B. Special verdict. The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and requiring the written findings thereon as it deems most appropriate. The court shall give to the jury such explanation and instruction concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives his rights to a trial by jury of the issue so omitted unless before the jury retires he demands its submission to the jury. As to an issue omitted without such demand the court may make a finding; or, if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.

C. General verdict accompanied by answer to interrogatories. The court may submit to the jury, together with appropriate forms for a general verdict, written interrogatories upon one or more issues of

fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict. When the general verdict and the answers are harmonious, the appropriate judgment upon the verdict and the answers shall be entered. When the answers are consistent with each other but one or more is inconsistent with the general verdict, judgment may be entered in accordance with the answers, notwithstanding the general verdict, or the court may return the jury for further consideration of its answers and verdict or may order a new trial. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general verdict, judgment shall not be entered, but the court shall return the jury for further consideration of its answers and verdict or shall order a new trial.

D. Action for specific personal property. In an action for the recovery of specific personal property, if the property has not been delivered to the plaintiff, or the defendant by his answer claims a return thereof, the jury shall assess the value of the property, if their verdict is in favor of the plaintiff, or if they find in favor of the defendant, and that he is entitled to a return thereof, and may at the same time assess the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the detention or taking and withholding of such property.

E. Assessment of amount of recovery. When a verdict is found for the plaintiff in an action for recovery of money, or for the defendant when a counterclaim for the amount of the plaintiff's claim as established, the jury shall also assess the amount of recovery; they may also, under the direction of the court assess the amount of the recovery when the court gives judgment for the plaintiff on the answer.

BACKGROUND NOTE

ORS sections superseded: 17.405, 17.410, 17.415, 17.420, 17.425.

COMMENT

Sections B. and C. are based upon Federal Rule 49 (a) and (b). Section D. is based upon ORS 17.410 and Section E. is based upon ORS 17.425.

which the prevailing party has sustained by reason of the detention or taking and withholding of such property.

E. Assessment of amount of recovery. When a verdict is found for the plaintiff in an action for recovery of money, or for the defendant when a counterclaim for the recovery of money is established beyond the amount of the plaintiff's claim as established, the jury shall also assess the amount of recovery; they may also, under the direction of the court, assess the amount of the recovery when the court gives judgment for the plaintiff on the answer.

BACKGROUND NOTE

ORS sections superseded: 17.405, 17.410, 17.415, 17.420, 17.425.

COMMENT

Sections 61 B. and 61 C. are based upon Federal Rule 49 (a) and (b). Section 61 D. is based upon ORS 17.410, and Section 61 E. is based upon ORS 17.425.

RULE 62

FINDINGS OF FACT

A. Necessity. Whenever any party appearing in a civil action or proceeding tried by the court so demands prior to the commencement of the trial, the court shall make special findings of fact, and shall state separately its conclusions of law thereon. In the absence of such a demand for special findings, the court may make either general or special findings. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact or conclusions of law appear therein.

B. Proposed findings; objections. Within 10 days after the court has made its decision, any special findings requested by any party, or proposed by the court, shall be served upon all parties who have appeared in the case and shall be filed with the clerk; and any party may, within 10 days after such service object to such proposed findings or any part thereof, and request other, different or additional special findings, whether or not such party has previously requested special findings. Any such objections or requests for other, different or additional special findings shall be heard and determined by the court within 30 days after the date of the filing thereof; and, if not so heard and determined, any such objections and requests for such other, different or additional special findings shall conclusively be deemed denied.

C. Entry of judgment. Upon (1) the determination of any objections to proposed special findings and of any requests for other different or additional special findings, or (2) the expiration of the time for filing such objections and requests if none is filed, or (3) the expiration of the time at which such objections or requests are deemed denied, the court shall enter the appropriate order or judgment. Any such judgment or order filed prior to the expiration of the periods above set forth shall be deemed not entered until the expiration of said periods.

D. Extending or lessening time. Prior to the expiration of the times provided in subsections B. and C. of this rule, the time for serving and filing special findings, or for objecting

to and requesting other, different or additional special findings, may be extended or lessened by the trial court upon the stipulation of the parties or for good cause shown; but in no event shall the time be extended more than 30 days.

E. Necessity. Requests for findings of fact or objections to findings are not necessary for purposes of appellate review.

F. Effect of findings of fact. In an action or proceeding tried without a jury, except as provided in ORS 19.125, the findings of the court upon the facts shall have the same force and effect, and be equally conclusive, as the verdict of a jury.

#### BACKGROUND NOTE

ORS sections superseded: 17.431, 17.441.

#### COMMENT

Sections 62 A. through E. are based upon ORS 17.431. The last sentence was added to section 62 A. Section 62 F. is based upon ORS 17.441, changed to refer to trial by the court rather than suit in equity.

### RULE 63

#### JUDGMENT NOTWITHSTANDING THE VERDICT

A. Grounds. When a motion for a directed verdict which should have been granted has been refused and a verdict is rendered against the applicant, the court may, on motion, render a judgment notwithstanding the verdict, or set aside any judgment which may have been entered and render another judgment, as the case may require.

B. Reserving ruling on directed verdict motion. In any case where, in the opinion of the court, a motion for a directed verdict ought to be granted, it may nevertheless, at the request

RULE 62

FINDINGS OF FACT

A. Necessity. Whenever any party appearing in a civil action ~~or proceeding~~ tried by the court so demands prior to the commencement of the trial, the court shall make special findings of fact, and shall state separately its conclusions of law thereon. In the absence of such a demand for special findings, the court may make either general or special findings. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact or conclusions of law appear therein.

B. Proposed findings; objections. Within 10 days after the court has made its decision, any special findings requested by any party, or proposed by the court, shall be served upon all parties who have appeared in the case and shall be filed with the clerk; and any party may, within 10 days after such service object to such proposed findings or any part thereof, and request other, different or additional special findings, whether or not such party has previously requested special findings. Any such objections or requests for other, different, or additional special findings shall be heard and determined by the court within 30 days after the date of the filing thereof; and, if not so heard and determined, any such objections and requests for such other, different, or additional special findings shall conclusively be deemed denied.

RULE 62

FINDINGS OF FACT

A. Necessity. Whenever any party appearing in a civil action tried by the court so demands prior to the commencement of the trial, the court shall make special findings of fact, and shall state separately its conclusions of law thereon. In the absence of such a demand for special findings, the court may make either general or special findings. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact or conclusions of law appear therein.

B. Proposed findings; objections. Within 10 days after the court has made its decision, any special findings requested by any party, or proposed by the court, shall be served upon all parties who have appeared in the case and shall be filed with the clerk; and any party may, within 10 days after such service, object to such proposed findings or any part thereof, and request other, different, or additional special findings, whether or not such party has previously requested special findings. Any such objections or requests for other, different, or additional special findings shall be heard and determined by the court within 30 days after the date of the filing thereof; and, if not so heard and determined, any such objections and requests for such other, different, or additional special findings shall conclusively be deemed denied.



C. Entry of judgment. Upon (1) the determination of any objections to proposed special findings and of any requests for other, different, or additional special findings, or (2) the expiration of the time for filing such objections and requests if none is filed, or (3) the expiration of the time at which such objections or requests are deemed denied, the court shall enter the appropriate order or judgment. Any such judgment or order filed prior to the expiration of the periods above set forth shall be deemed not entered until the expiration of said periods.

D. Extending or lessening time. Prior to the expiration of the times provided in subsections B. and C. of this rule, the time for serving and filing special findings, or for objecting to and requesting other, different, or additional special findings, may be extended or lessened by the trial court upon the stipulation of the parties or for good cause shown; but in no event shall the time be extended more than 30 days.

E. Necessity. Requests for findings of fact or objections to findings are not necessary for purposes of appellate review.

F. Effect of findings of fact. In an action tried without a jury, except as provided in ORS 19.125, the findings of the court upon the facts shall have the same force and effect, and be equally conclusive, as the verdict of a jury.

COMMENT

Sections 62 A. through E. are based upon ORS 17.431. The last sentence was added to section 62 A. Section 62 F. is based upon ORS 17.441, changed to refer to trial by the court rather than suit in equity. Note, ORS 46.180, relating to findings of fact in district court, has not been superseded.