

Rule 18  
court etc.

Back ground.

ORS sections sponsored

16.210,

COMMENT:

The council decided to retain fact pleading as opposed to notice pleading; that is, to retain a requirement of ~~XXXXXXXXXXXXXXXXXXXX~~ ~~XXXXXXXXXXXXXXXXXXXX~~ fairly specific description of facts ~~equivalent to present Oregon Practice~~ as opposed to adopting the ~~XXXXXXXXXXXX~~ less specific fact description allowable in federal courts. This rule is a rewording of Ors 16,210 to fit any ~~XXXXXXXXXXXX~~ form in which a claim for affirmative relief is asserted and refer to pleading a claim for relief rather than a cause of action. The necessity of pleading ultimate facts retains the present ~~XXXX~~ Oregon requirements of pleading facts at a fairly specific level. ~~The language used was~~ <sup>see</sup> adapted from Florida Rules of Civil Procedure, 1.110(b) (2).

~~For a complete order~~

Completed.

17  
A. SUBSCRIPTION OF PLEADINGS

17A  
~~17A~~) Subscription by party or attorney, certificate. Every pleading shall be subscribed by the party or by a resident attorney of the state, except that if there are several parties united in interest and pleading together, the pleading must be subscribed by at least one of such parties or his resident attorney. If any party is represented by an attorney, every pleading shall be signed by at least one attorney in such attorney's individual name. Verification of pleadings shall not be required unless otherwise required by rule or statute. The subscription of a pleading constitutes a certificate by the person signing that such person has read the pleading, that to the best of the person's knowledge, information and belief there is a good ground to support it and that it is not interposed for harrassment or delay.

17B  
~~17B~~) Pleadings not subscribed. Any pleading not duly subscribed may, on motion of the adverse party, be stricken out of the case.

18  
B. COMPLAINT, COUNTERCLAIM, CROSS-CLAIM AND THIRD PARTY CLAIM

A pleading which asserts a claim for relief, whether an original claim, counterclaim, cross-claim or third party claim, shall contain: (1) a plain and concise statement of the ultimate facts constituting a claim for relief without unnecessary repetition; (2) a demand of the relief which the party claims; if recovery of

money or damages is demanded, the amount thereof shall be stated; relief in the alternative or of several different types may be demanded.

19  
# RESPONSIVE PLEADINGS

19 A  
~~19 A~~ Defenses; form of denials. A party shall state in short and plain terms the party's defenses to each claim asserted and shall admit or deny the allegations upon which the adverse party relies. If the party is without knowledge or information sufficient to form a belief as to the truth of an allegation, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the allegations denied. When a pleader intends in good faith to deny only a part or a qualification of an allegation, the pleader shall admit so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the allegations of the preceding pleading, the denials may be made as specific denials of designated allegations or paragraphs, or the pleader may generally deny all the allegations except such designated allegations or paragraphs as he expressly admits; but, when the pleader does so intend to controvert all its allegations, the pleader may do so by general denial subject to the obligations set forth in Rule 17

19 B  
~~19 B~~ Affirmative defenses. In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, comparative or contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute

RULE 18

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*Sente paragraph*  
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BACKGROUND NOTE

ORS section superseded: 16.210.

COMMENT

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*Not found*

by at least one attorney in such attorney's individual name. Verification of pleadings shall not be required unless otherwise required by rule or statute. The subscription of a pleading constitutes a certificate by the person signing that such person has read the pleading, that to the best of the person's knowledge, information, and belief, there is a good ground to support it and that it is not interposed for harassment or delay.

B. Pleadings not subscribed. Any pleading not duly subscribed may, on motion of the adverse party, be stricken out of the case.

BACKGROUND NOTE

For subscription of actions brought in the name of the state, see: 30.610.

ORS sections superseded: 16.070, 16.080, 30.350.

COMMENT

This replaces the general verification requirements of ORS 16.070, 16.080 and 30.350, with a rule requiring only signature but specifying that such signature certifies truthfulness and merit. The approach is that suggested to the last legislature by the Oregon State Bar. If a corporation or entity were litigating without an attorney, the pleading would be signed by a person with authority to act for such corporation or entity.

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