

RULE 3

COMMENCEMENT OF ACTION

An action shall be commenced by filing a complaint with the clerk of the court. Commencement of an action for purposes of statutes of limitations is governed by ORS 12.020.

COMMENT TO RULE 3

The first sentence is the existing first sentence of ORS 15.020. The second sentence is not strictly speaking a procedural rule but merely a warning that this reference to commencement is for procedural purposes not defining the compliance with the statute of limitations. Although there is some argument that the statute of limitations and commencement of an action for the purpose of complying with the statute of limitations are procedural, this is not the case in the federal courts and analytically, the limitation of actions goes beyond the orderly dispatch of court business. See Joiner and Miller, *Rules of Practice and Procedure: A Study in Judicial Rule Making*, 55 Mich.L.Rev. 623, 645 (1957).

~~For the pur. of the~~
~~of the court~~ ~~but not for the~~ ~~purpose of~~ ~~SOI.~~

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Rule 3

Comment or action

Background

For ~~FOR~~ comment or action ~~FOR~~ and

~~purposes~~ or Statutes of Limitations, SEE: ORS 12.020

Comment this is ~~not~~ the rule

provided in the first sentence of

~~ORS 15.020~~ This is the same

as the existing Rule in the first

sentence of ORS 15.020.

RULE 3

COMMENCEMENT OF ACTION

Other than for purposes of statutes of limitations, an action or proceeding shall be commenced by filing a complaint with the clerk of the court.

BACKGROUND NOTE

For commencement of an action and statutes of limitations, see:
ORS 12.020.

~~ORS section 12.020~~

COMMENT

This is the same as the existing rule in the first sentence of
ORS 12.020.

15.

BACKGROUND NOTE

For right to jury trial, see: Rule 50.

ORS sections superseded: 11.010, 11.020, 15.010, 16.010, 18.020, 18.310, 23.010, 29.510, 32.225.

COMMENT

This rule abolishes the last vestiges of procedural difference based upon a case being historically legal or equitable. Right to jury trial is not affected as it is a constitutional right. Different procedures are, of course, followed in cases tried to a jury and to a court. In the rules, where a "law - equity" or an "action - suit" distinction was used to specify procedures appropriate to a jury trial or non-jury trial, this has been changed to a direct reference to cases tried to a court or a jury. Dual terminology, such as "actions and suits" and "judgments and decrees" has been eliminated. Since the Oregon statutes have a number of references to special "proceedings", references to "actions and proceedings" are retained. } via

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BACKGROUND NOTE

For commencement of an action and statutes of limitations, see ORS 12.020.

COMMENT

This is based on the existing rule in the first sentence of ORS 15.020.

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