

of section 34 A

ORS 13.090 was unnecessary and was eliminated. Section ^S 34 A. and ~~B.~~ ^{through D} use the language of the existing statute. The words, "if the claim survives or continues", were added to the first sentence to make clear that this rule relates only to the procedural question of abatement of the action.

~~34 B D and E are.~~

Sections ~~C and D.~~ are based upon sections (a) and (d) of Federal Rule 25. The problem covered by section ~~34 F~~ is not addressed by existing Oregon rules and the federal approach to substitution of federal officials is more direct and flexible than existing Oregon practice.

Section 34 F ~~is not~~ provides a procedure for substitution, which is not addressed by the existing Oregon sections.

RULE 35 (RESERVED)

COMMENT

This rule generally preserves the existing rules of ORS 13.080. ORS 13.090 was unnecessary and was eliminated. Sections 34 A. through D. use the language of the existing statute. The words, "if the claim survives or continues", were added to the first sentence of section 34 A. to make clear that this rule relates only to the procedural question of abatement of the action.

Sections 34 D. and E. are based upon sections (a) and (d) of Federal Rule 25. The federal approach to substitution of federal officials is more direct and flexible than existing Oregon practice. Section 34 F. provides a procedure for substitution, which is not addressed by the existing ORS sections.

RULE 35 (RESERVED)

F. Procedure. The motion for substitution may be made by any party or by the successors in interest or representatives of the deceased or disabled party or the successors in interest of the transferor and shall be served on the parties as provided in Rule 9 and upon persons not parties in the manner provided in Rule 7 for the service of a summons.

BACKGROUND NOTE

ORS sections superseded: 13.080, 13.090.

COMMENT

This rule generally preserves the existing rules of ORS 13.080. ORS 13.090 was unnecessary and was eliminated. Sections 34 A. through D. use the language of the existing statute. The words, "if the claim survives or continues", were added to the first sentence of section 34 A. to make clear that this rule relates only to the procedural question of abatement of the action.

Sections 34 D. and E. are based upon sections (a) and (d) of Federal Rule 25. The federal approach to substitution of federal officials is more direct and flexible than existing Oregon practice. Section 34 F. provides a procedure for substitution, which is not addressed by the existing ORS sections.

RULE 35 (RESERVED)

RULE 36

GENERAL PROVISIONS GOVERNING DISCOVERY

A. Discovery methods. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission.

B. Scope of discovery. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery

F.(2) When a public officer sues or is sued in such officer's official capacity, such officer may be described as a party by official title rather than by name; but the court may require such officer's name to be added.

G. Procedure. The motion for substitution may be made by any party, ~~or~~ by the successors in interest or representatives of the deceased or disabled party, or the successors in interest of the transferor and shall be served on the parties as provided in Rule 9 and upon persons not parties in the manner provided in Rule 7 for the service of a summons.

COMMENT

Section E. was taken from Federal Rule 25.

This rule generally preserves the existing rules of ORS 13.080. ORS 13.090 was unnecessary and was eliminated. Sections 34 A. through D. use the language of the existing statute. The words, "if the claim survives or continues", were added to the first sentence of section 34 A. to make clear that this rule relates only to the procedural question of abatement of the action.

Sections 34 E. and F. are based upon sections (a) and (d) of Federal Rule 25. The federal approach to substitution of federal officials is more direct and flexible than existing Oregon practice. Section 34 G. provides a procedure for substitution, which is not addressed by the existing ORS sections.

RULE 35 (RESERVED)

interest of the transferor and shall be served on the parties as provided in Rule 9 and upon persons not parties in the manner provided in Rule 7 for the service of a summons.

COMMENT

This rule generally preserves the existing rules of ORS 13.080. ORS 13.090 was unnecessary and was eliminated. Sections 34 A. through C. use the language of the existing statute. The words, "if the claim survives or continues", were added to the first sentence of section 34 A. to make clear that this rule relates only to the procedural question of abatement of the action. Section D. is based on Federal Rule 25(a)(2). Section E. was taken from Federal Rule 25(c).

Sections 34 F. and G. are based upon sections (a) and (d) of Federal Rule 25. The federal approach to substitution of federal officials is more direct and flexible than existing Oregon practice. Section 34 G. provides a procedure for substitution, which is not addressed by the existing ORS sections.

RULE 35 (RESERVED)