

BACKGROUND NOTE

ORS sections superseded: 17.005, 17.010, 17.015, 17.020, 17.025, 17.030, 17.035, 17.040, 17.045, 46.160.

COMMENT

This rule preserves the procedures covered by ORS 17.005 to 17.015, 17.030, 17.035 and 17.040. ORS 17.020, 17.025 and 17.045 are eliminated as unnecessary. The language of the existing ORS sections was modified to eliminate archaic language and to conform to these rules. Note that the Council retained the existing Oregon procedure of having jury trial waivable only by affirmative action of the parties rather than the federal system of requiring a demand for jury trial.

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us to
46.160*

RULE 52
Continuances
~~ASSIGNMENT OF CASES~~

A. Methods. Each circuit and district court shall provide by local rule for the placing of actions upon the trial calendar (1) without request of the parties, or (2) upon request of a party and notice to the other parties or (3) in such other manner as the court deems appropriate.

~~B. Continuances~~. When a cause is set and called for trial, it shall be tried or dismissed, unless good cause is shown for a continuance. The court may in a proper case, and upon terms, reset the same.

BACKGROUND NOTE

ORS sections superseded: 17.050.

COMMENT

This is a new provision.

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new
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about
evidence*

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~~COMMENT: This is Committee Rule C.~~

Rule 52.

Bochard note

ORS sections superseded.

17.050.

Comment:

This is a new provision. ORS section 17.050 is never used and was eliminated.

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RULE 52

POSTPONEMENT OF CASES

A. Postponement. When a cause is set and called for trial, it shall be tried or dismissed, unless good cause is shown for a postponement. The court may in a proper case, and upon terms, reset the same.

B. Absence of evidence. If a motion is made for postponement on the grounds of absence of evidence, the court may require the moving party to submit an affidavit stating the evidence which the moving party expects to obtain. If the adverse party admits that such evidence would be given and that it be considered as actually given at trial, or offered and overruled as improper, the trial shall not be postponed. However, the court may postpone the trial if, after the adverse party makes the admission described in this section, the moving party can show that such affidavit does not constitute an adequate substitute for the absent evidence. The court, when it allows the motion, may impose such conditions or terms upon the moving party as may be just.

COMMENT

Section 52 A. is new. Section B. generally preserves the procedure set forth in ORS 17.050.

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