

Amendments to ORCP 21 A Alternatively Proposed by Rule 21 A Subcommittee*--May 12, 2000 (see attached memo).

{Language to be added in bold underlined; to be deleted [in italics enclosed in square brackets.]

RULE 21. DEFENSES AND OBJECTIONS; HOW PRESENTED; BY PLEADING OR MOTION; MOTION FOR JUDGMENT ON THE PLEADINGS.

Alternative A**

1 A. How Presented. * * * When a motion to dismiss has been granted,
2 [judgment shall be entered in favor of the moving party unless the court has
3 given leave to file an amended pleading under Rule 25] the court may enter
4 judgment in favor of the moving party or, if the dismissal is for
5 defense (3) or the court has given leave to file an amended
6 pleading under Rule 25, may defer entry of judgment pursuant to
7 subsection B(3) of Rule 54.

*Per Judge Linder
7-19-00*

Alternative B would add a new section H to Rule 21 as follows:

8 * * * *

9 ~~H. Stay of Proceeding. Notwithstanding any other provision of~~
10 ~~this rule, should it appear to the court at any point in the~~
11 ~~proceedings, by motion or otherwise, that a prior action is~~
12 ~~pending between the same parties for the same cause, the court~~
13 ~~in its discretion ^{may} order that proceedings be stayed ^{or}~~
14 ~~at the discretion of the court.~~

*Judge Linder and Mr. Johnson,

SEE MINUTES

**The Subcommittee prefers Alternative A.