

AMENDMENTS

TO ORCP 16

promulgated by

COUNCIL ON COURT PROCEDURES

1980 to 2016

RULE 16
FORM OF PLEADINGS

A. Captions; names of parties. Every pleading shall contain a caption setting forth the name of the court, the title of the action, the register number of the cause, and a designation in accordance with Rule 13 B. In the complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

B. Concise and direct statement; paragraphs; separate statement of claims or defenses. Every pleading shall consist of plain and concise statements in consecutively numbered paragraphs, the contents of which shall be limited as far as practicable to a statement of a single set of circumstances, and a paragraph may be referred to by number in all succeeding pleadings. Separate claims or defenses shall be separately stated and numbered.

C. Consistency in pleading alternative statements. Inconsistent claims or defenses are not objectionable, and when a party is in doubt as to which of two or more statements of fact is true, the party may allege them in the alternative. A party may also state as many separate claims or defenses as the party has, regardless of consistency and whether based upon legal or equitable grounds or upon both. All statements shall be made subject to the obligation set forth in Rule 17.

D. Adoption by reference. Statements in a pleading may be adopted by reference in a different part of the same pleading.

COMMENT

The Council intends to retain existing Oregon practice in sections 16 A., 16 B., and 16 D., including separate statements of claims and defenses required by ORS 16.090. Section A. is based on ORS 16.060 and Federal Rule 10(a). Section B. is based on ORS 16.090 and Federal Rule 10(b). Section C. is based on Michigan General Court Rule 111.9. Section 16 C. is intended to eliminate any objection based upon hypothetical, alternative, and inconsistent pleading as such. Inconsistent statements of simple facts clearly within the knowledge of the pleader would, however, be improper because of the obligation to plead truthfully under ORCP 17 A.

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B. Concise and direct statement; paragraphs; separate statement of claims or defenses. Every pleading shall consist of plain and concise statements in [consecutively numbered paragraphs] paragraphs consecutively numbered throughout the pleading with Arabic numerals, the contents of which shall be limited as far as practicable to a statement of a single set of circumstances, and a paragraph may be referred to by number in all succeeding pleadings. [Separate claims or defenses] Each separate claim or defense shall be separately stated [and numbered].

COMMENT

Section B. has been changed to require the numbering of paragraphs in Arabic numerals and to require that each separate claim or defense shall be separately stated, but that numbering of paragraphs shall continue consecutively throughout a pleading.

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RULE 16

A. **Captions; names of parties.** Every pleading shall contain a caption setting forth the name of the court, the title of the action, the register number of the cause, and a designation in accordance with Rule 13 B. In the complaint the title of the action shall include the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side with an appropriate indication of other parties.

B. **Concise and direct statement; paragraphs; separate statement of claims or defenses.** Every pleading shall consist of plain and concise statements in paragraphs consecutively numbered throughout the pleading with Arabic numerals, the contents of which shall be limited as far as practicable to a statement of a single set of circumstances, and a paragraph may be referred to by number in all succeeding pleadings. Each separate claim or defense shall be separately stated. Within each claim alternative theories of recovery shall be identified as separate counts.

C. **Consistency in pleading alternative statements.** Inconsistent claims or defenses are not objectionable, and when a party is in doubt as to which of two or more statements of fact is true, the party may allege them in the alternative. A party may also state as many separate claims or defenses as the party has, regardless of consistency and whether based upon legal or

equitable grounds or upon both. All statements shall be made subject to the obligation set forth in Rule 17.

D. Adoption by reference. Statements in a pleading may be adopted by reference in a different part of the same pleading.

COMMENT

Denominating alternative theories of recovery within a claim as "counts" is currently considered good pleading. The rule change to ORCP 16 B is designed to codify and make uniform what is widely practiced.