

AMENDMENTS

TO ORCP 17

promulgated by

COUNCIL ON COURT PROCEDURES

1980 to 2024

RULE 17

SUBSCRIPTION OF PLEADINGS

A. Subscription by party or attorney; certificate. Every pleading shall be subscribed by the party or by a resident attorney of the state, except that if there are several parties united in interest and pleading together, the pleading may be subscribed by at least one of such parties or one resident attorney. If a party is represented by an attorney, every pleading of that party shall be signed by at least one attorney of record in such attorney's individual name. Verification of pleadings shall not be required unless otherwise required by rule or statute. The subscription of a pleading constitutes a certificate by the person signing: that such person has read the pleading; that to the best of the person's knowledge, information, and belief, there is a good ground to support it; and that it is not interposed for harassment or delay.

B. Pleadings not subscribed. Any pleading not duly subscribed may, on motion of the adverse party, be stricken out of the case.

COMMENT

This replaces the general verification requirements of ORS 16.070, 16.080, and 30.350 with a rule requiring only signature but specifying that such signature certifies truthfulness and merit. The approach is that suggested to the last legislature by the Oregon State Bar. No specific reference to ethical obligations of attorneys signing pleadings was incorporated in the rule because

the Council does not make disciplinary rules for attorneys. Signing a pleading in violation of this rule would be prohibited by the Oregon Code of Professional Responsibility.

SIGNATURE OF PLEADINGS

RULE 17

A. Signature by party or attorney; certificate. Every pleading shall be signed by [the] each party or by [a resident attorney of the state, except that if there are several parties united in interest and pleading together, the pleading may be signed by at least one of such parties or one resident attorney] that party's attorney who is an active member of the Oregon State Bar. If a party is represented by an attorney, every pleading of that party shall be signed by at least one attorney of record in such attorney's individual name. Verification of pleadings shall not be required unless otherwise required by rule or statute. The signature constitutes a certificate by the person signing: that such person has read the pleading; that to the best of the person's knowledge, information, and belief, there is a good ground to support it; and that it is not interposed for harassment or delay.

COMMENT

The amendment to section A. of this rule makes it a requirement that all parties sign a pleading in the absence of the signature of their attorney.

[SIGNATURE OF PLEADINGS]  
SIGNING OF PLEADINGS, MOTIONS, AND OTHER  
PAPERS; SANCTIONS  
RULE 17

[A. Signature by party or attorney; certificate. Every pleading shall be signed by each party or by that party's attorney who is an active member of the Oregon State Bar. If a party is represented by an attorney, every pleading of that party shall be signed by at least one attorney of record in such attorney's individual name. Verification of pleadings shall not be required unless otherwise required by rule or statute. The signature constitutes a certificate by the person signing: that such person has read the pleading; that to the best of the person's knowledge, information, and belief, there is a good ground to support it; and that it is not interposed for harassment or delay.]

[B. Pleadings not signed. Any pleading not duly signed may, on motion of the adverse party, be stricken out of the case.]

A. Signing by party or attorney; certificate. Every pleading, motion and other paper of a party represented by an attorney shall be signed by at least one attorney of record who is an active member of the Oregon State Bar. A party who is not represented by an attorney shall sign the pleading, motion, or other paper and state that party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature constitutes a certification that the person signing has read the

pleading, motion, or other paper; that to the best of that person's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

B. Pleadings, motions, and other papers not signed. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.

C. Sanctions. If a pleading, motion, or other paper is signed in violation of this rule, the court upon motion or upon its own initiative shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney fee.

#### COMMENT

Rule 17 has been substantially rewritten. A modified rendition of FRCP 11 has been substituted for the old ORCP 17. The amended rule applies to motions and other papers filed by a party, as well as pleadings. To this extent, it expands the numbers and types of documents to which the rule applies. The new rule applies sanctions in the form of reasonable expenses and attorney fees against a party or that party's attorney when a document is filed in violation of the rule.

It is the intent of the new Rule 17 to apply sanctions when pleadings, motions, or other papers are used to abuse the rules of civil procedure. The Council on Court Procedures is of the opinion that procedures established under the ORCP provide for an efficient and cost-effective method of resolving disputes. Any set of rules or procedures, however, is subject to abuse. When abused, the effect can be an increase in costs of litigation. The application of sanctions is viewed by the Council as the most effective means of halting those abuses and assuring the prompt, efficient, and cost-effective resolution of disputes.

The new rule is specifically directed to, but not limited to, abuses in the use of rules regarding discovery, summary judgment, and third party practice.

**SIGNING OF PLEADINGS, MOTIONS  
AND OTHER PAPERS; SANCTIONS  
RULE 17**

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**D Sanctions.**

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D(4) Sanctions under this section must be limited to amounts sufficient to reimburse the moving party for attorney fees and other expenses incurred by reason of the false certification, including reasonable attorney fees and expenses incurred by reason of the motion for sanctions, and upon clear and convincing evidence of wanton misconduct amounts sufficient to deter future false certification by the party or attorney and by other parties and attorneys. The sanction may include monetary penalties payable to the court. The sanction must include an order requiring payment of reasonable attorney fees and expenses incurred by the moving party by reason of the false certification.

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**COMMENT**

Subsection D(4) is amended to provide that, when sanctions are awarded for the purpose of deterring future false certification, and exceeding in amount the amount necessary to reimburse a party for expenses incurred by reason of a false certification and expenses relating to the sanction motion, such award should be only be made on the basis of clear and convincing evidence of wanton misconduct by the sanctioned party, his or her attorney, or both. This amendment is intended to achieve consistency between the standard for awarding punitive sanctions and the standard for awarding punitive damages set forth in ORS 18.537(1).



**SIGNING OF PLEADINGS, MOTIONS AND OTHER PAPERS; SANCTIONS**

**RULE 17**

**A Signing by party or attorney; certificate.** Every pleading, motion, and other document of a party represented by an attorney shall be signed by at least one attorney of record who is an active member of the Oregon State Bar. A party who is not represented by an attorney shall sign the pleading, motion, or other document and state the address of the party. The signature for filings may be in the form approved for electronic filing in accordance with these rules or any other rule of court. Pleadings need not be verified or accompanied by an affidavit or declaration.