

AMENDMENTS

TO ORCP 18

promulgated by

COUNCIL ON COURT PROCEDURES

1980 to 2016

RULE 18

CLAIMS FOR RELIEF

A pleading which asserts a claim for relief, whether an original claim, counterclaim, cross-claim, or third party claim, shall contain:

A. A plain and concise statement of the ultimate facts constituting a claim for relief without unnecessary repetition.

B. A demand of the relief which the party claims; if recovery of money or damages is demanded, the amount thereof shall be stated; relief in the alternative or of several different types may be demanded.

COMMENT

The Council decided to retain fact pleading as opposed to notice pleading, i.e., to retain a requirement of fairly specific description of facts as opposed to adopting the less specific fact description allowable in federal courts. This rule is a rewording of ORS 16.210 to fit any form in which a claim for affirmative relief is asserted and to refer to pleading a claim for relief rather than a cause of action. The necessity of pleading ultimate facts retains the present Oregon requirements of pleading facts at a fairly specific level. For a comparable rule, see Florida Rules of Civil Procedure, 1.110(b)(2).

**CLAIMS FOR RELIEF
RULE 18**

[Claims for relief. A.] A pleading which asserts a claim for relief, whether an original claim, counterclaim, cross-claim, or third party claim, shall contain:

A. [(1)] A plain and concise statement of the ultimate facts constituting a claim for relief without unnecessary repetition.

[A. (2)] B. A demand of the relief which the party claims; if recovery of money or damages is demanded, the amount thereof shall be stated[, except as provided in section B of this rule]; relief in the alternative or of several different types may be demanded.

[B. (1)] The amount sought in a civil action for noneconomic damages, as defined in ORS 18.560, shall not be pleaded in a complaint, counterclaim, cross-claim or third-party claim.

B. (2) The prayer in such actions shall contain only a demand for the payment of damages without specifying the amount.

B. (3) The party making the claim may supply to any adverse party a statement of the amount claimed for such damages, and shall do so within 10 days of a request for such statement. The request and the statement shall not be made a part of the trial court file.]

COMMENT

The 1987 Legislature provided in ORCP 18 B that noneconomic damages not be pleaded in the complaint. In ORCP 18 B(3), the legislature did require that the party making the claim provide the defendant with a written statement of noneconomic damages claimed. The Council received a number of inquiries whether the

statement of noneconomic damages actually limited the amount that could be recovered. The question was difficult to answer either from the language of 18 B(3) or its legislative history. One difficulty presented was that the written statement of noneconomic damages was not part of the record in the case.

The Council felt that the value of having a reliable statement in the record of the amount of damages sought by the plaintiff was greater than the value of avoiding publicity about a case. The amount claimed by the plaintiff may determine whether a claim is being made in excess of insurance coverage and whether an insured must retain a separate attorney. It also may control subject matter jurisdiction. The simplest way to have the record clearly show the amount claimed was to have the plaintiff include all damages in the complaint. The Council therefore eliminated 18 B.