

AMENDMENTS

TO ORCP 54

promulgated by

COUNCIL ON COURT PROCEDURES

1980 to 2024

RULE 54

DISMISSAL OF ACTIONS; COMPROMISE

A. Voluntary dismissal; effect thereof.

A.(1) By plaintiff; by stipulation. Subject to the provisions of Rule 32 E. and of any statute of this state, an action may be dismissed by the plaintiff without order of court (a) by filing a notice of dismissal with the court and serving such notice on the defendant not less than five days prior to the day of trial if no counterclaim has been pleaded, or (b) by filing a stipulation of dismissal signed by all adverse parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action against the same parties on or including the same claim. Upon notice of dismissal or stipulation under this subsection, the court shall enter a judgment of dismissal.

A.(2) By order of court. Except as provided in subsection (1) of this section, an action shall not be dismissed at the plaintiff's instance save upon judgment of dismissal ordered by the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the defendant may proceed with the counterclaim. Unless

otherwise specified in the judgment of dismissal, a dismissal under this subsection is without prejudice.

B. Involuntary dismissal.

B.(1) Failure to comply with rule or order. For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for a judgment of dismissal of an action or of any claim against such defendant.

B.(2) Insufficiency of evidence. After the plaintiff in an action tried by the court without a jury has completed the presentation of plaintiff's evidence, the defendant, without waiving the right to offer evidence in the event the motion is not granted, may move for a judgment of dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. The court as trier of the facts may then determine them and render judgment of dismissal against the plaintiff or may decline to render any judgment until the close of all the evidence. If the court renders judgment of dismissal with prejudice against the plaintiff, the court shall make findings as provided in Rule 62.

B.(3) Dismissal for want of prosecution; notice. Not less than 60 days prior to the first regular motion day in each calendar year, unless the court has sent an earlier notice on its own initiative, the clerk of the court shall mail notice to the attorneys of record in each pending case in which no action has been taken for one year immediately prior to the mailing of

such notice, that a judgment of dismissal will be entered in each such case by the court for want of prosecution, unless on or before such first regular motion day, application, either oral or written, is made to the court and good cause shown why it should be continued as a pending case. If such application is not made or good cause shown, the court shall enter a judgment of dismissal in each such case. Nothing contained in this subsection shall prevent the dismissal by the court at any time, for want of prosecution of any action upon motion of any party thereto.

B.(4) Effect of judgment of dismissal. Unless the court in its judgment of dismissal otherwise specifies, a dismissal under this section operates as an adjudication with prejudice.

C. Dismissal of counterclaim, cross-claim, or third party claim. The provisions of this rule apply to the dismissal of any counterclaim, cross-claim, or third party claim.

D. Costs of previously dismissed action. If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

E. Compromise; effect of acceptance or rejection. Except as provided in ORS 17.065 through 17.085, the party against whom

a claim is asserted may, at any time before trial, serve upon the party asserting the claim an offer to allow judgment to be given against the party making the offer for the sum, or the property, or to the effect therein specified. If the party asserting the claim accepts the offer, the party asserting the claim or such party's attorney shall endorse such acceptance thereon, and file the same with the clerk before trial, and within three days from the time it was served upon such party asserting the claim; and thereupon judgment shall be given accordingly, as in case of a confession. If the offer is not accepted and filed within the time prescribed, it shall be deemed withdrawn, and shall not be given in evidence on the trial; and if the party asserting the claim fails to obtain a more favorable judgment, the party asserting the claim shall not recover costs, but the party against whom the claim was asserted shall recover of the party asserting the claim costs and disbursements from the time of the service of the offer.

COMMENT

This rule governs all dismissals, including judgments of dismissal for insufficiency of evidence at the close of the plaintiff's case in an action tried to the court. It is a combination of Federal Rule 41 and existing ORS provisions.

Sections 54 A. and C. are based on the federal rule but preserve the right to take a non-prejudicial dismissal until 5 days before trial unless a counterclaim is filed as specified in ORS 18.210 and 18.230. The next to the last sentence of subsection 54 A.(1) is designed to prevent harassment by repeated filings and dismissals. The words "against the same party" were added to the language of the federal rule to make clear this only applied to repeated filings against the same person.

Subsection 54 B.(1) comes from the federal rule and covers a judgment of dismissal for failure to comply with rules or court orders. Subsection 54 B.(2) is also from the federal rule and covers a judgment of dismissal at the close of a claimant's case for insufficiency of the evidence in cases tried without a jury. Existing ORS 18.210 and 18.220 refer to equity cases. The former equity rule that a party could move for dismissal at the close of the plaintiff's case, only at the price of waiving the right to present evidence, is specifically changed. This rule also changes the former rule that a judgment of dismissal at the close of the plaintiff's case did not bar another suit; under subsection B.(4) the judgment of dismissal is with prejudice unless the court specifies otherwise. There is no provision in the rule for a motion to dismiss in a non-jury case at the close of all the evidence. Since the judge decides the case at that point, no such motion is necessary. A decision of the case at the close of all the evidence would have prejudicial effect; a judge who, for some reason, wished to grant a non-prejudicial dismissal at the close of all the evidence would either reserve ruling on a motion to dismiss at the close of the plaintiff's case, if there was such a motion, or grant a non-prejudicial voluntary dismissal under section 54 A. The last sentence of subsection B.(2) requires findings only when they would be required for a judgment under Rule 62. Subsection 54 B.(3) is based on ORS 18.260. Note that under subsection 54 B.(4), a dismissal for failure to prosecute is with prejudice unless the judgment of dismissal specifies otherwise. Subsection B.(4) is from the federal rule, but the language of the federal rule in the last sentence was changed to define prejudicial effect of judgments of dismissal covered by section 54 B. only, and not all judgments of dismissal.

Section 54 D. comes from the federal rule.

Section 54 E. is based on ORS 17.055. ORS 17.065 through 17.085 and 17.990 are left as statutes because they are not procedural rules.

DISMISSAL OF ACTIONS[:]; COMPROMISE

E. Compromise; effect of acceptance or rejection. Except as provided in ORS 17.065 through 17.085, the party against whom a claim is asserted may, at any time [before] up to three days prior to trial, serve upon the party asserting the claim an offer to allow judgment to be given against the party making the offer for the sum, or the property, or to the effect therein specified. If the party asserting the claim accepts the offer, the party asserting the claim or such party's attorney shall endorse such acceptance thereon, and file the same with the clerk before trial, and within three days from the time it was served upon such party asserting the claim; and thereupon judgment shall be given accordingly, as [in case of a confession] a stipulated judgment. Unless agreed upon by the parties, costs, disbursements, and attorney fees shall be entered as part of such judgment as provided in Rule 68. If the offer is not accepted and filed within the time prescribed, it shall be deemed withdrawn, and shall not be given in evidence on the trial; and if the party asserting the claim fails to obtain a more favorable judgment, the party asserting the claim shall not recover costs, disbursements, and attorney fees incurred after the date of the offer, but the party against whom the claim was asserted shall recover of the party asserting the claim costs and disbursements from the time of the service of the offer.

COMMENT

The amendment to 54 E. requires that the offer of compromise be made at least three days prior to trial. It also makes clear that a more favorable judgment bars not only all costs and disbursements, but attorney fees "incurred after the date of the offer." The addition of the second sentence allows a settlement of the principal claim even though there is no agreement as to attorney fees, disbursements, or costs. Note, ORS 20.180 is not superseded.

DISMISSAL OF ACTIONS;
COMPROMISE

RULE 54

A. Voluntary dismissal; effect thereof.

A.(1) By plaintiff; by stipulation. Subject to the provisions of Rule 32 D. and of any statute of this state, an action may be dismissed by the plaintiff without order of court (a) by filing a notice of dismissal with the court and serving such notice on the defendant not less than five days prior to the day of trial if no counterclaim has been pleaded, or (b) by filing a stipulation of dismissal signed by all adverse parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action against the same parties on or including the same claim unless the court directs that the dismissal shall be without prejudice. Upon notice of dismissal or stipulation under this subsection, the court shall enter a judgment of dismissal.

A.(2) By order of court. Except as provided in subsection (1) of this section, an action shall not be dismissed at the plaintiff's instance save upon judgment of dismissal ordered by the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the defendant may proceed with the counterclaim. Unless otherwise specified in the judgment of dismissal, a dismissal

under this subsection is without prejudice.

A.(3) Costs and disbursements. When an action is dismissed under this section, the judgment may include any costs and disbursements, including attorney fees, provided by rule or statute. Unless the circumstances indicate otherwise, the dismissed party shall be considered the prevailing party.

COMMENT

A new subsection (3) was added to section A. of this rule to provide for express language permitting an award of costs, disbursements, and attorney fees to a dismissed party.

~~applying for an order.~~

~~If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to Rule 36 C.~~

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DISMISSAL OF ACTIONS;

COMPROMISE

RULE 54

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E Compromise; effect of acceptance or rejection.

E(1) Except as provided in ORS 17.065 through 17.085, the party against whom a claim is asserted may, at any time up to 10 days prior to trial, serve upon the party asserting the claim an offer to allow judgment to be given against the party making the offer for the sum, or the property, or to the effect therein specified.

E(2) If the party asserting the claim accepts the offer, the party asserting the claim or such party's attorney shall endorse such acceptance thereon, and file the same with the clerk before trial, and within three days from the time it was served upon such party asserting the claim; and thereupon judgment shall be given accordingly, as a stipulated judgment. [*Unless agreed upon otherwise by the parties, costs, disbursements, and attorney fees shall be entered in addition as part of such judgment as provided in Rule 68.*] **If the offer does not state that it includes costs and disbursements or attorney fees, the party asserting the claim shall submit any claim for costs and disbursements or attorney fees to the court as provided in Rule 68.**

E(3) If the offer is not accepted and filed within the time prescribed, it shall be deemed withdrawn, and shall not be given in evidence on the trial; and if the party asserting the claim

fails to obtain a more favorable judgment, the party asserting the claim shall not recover costs, prevailing party fees, disbursements, or attorney fees incurred after the date of the offer, but the party against whom the claim was asserted shall recover of the party asserting the claim costs and disbursements, not including prevailing party fees, from the time of the service of the offer.

~~INSTRUCTIONS TO JURY~~

~~AND DELIBERATION~~

~~RULE 59~~

~~* * * * *~~

~~[H Necessity of noting exception on error in statement of issues or instruction; all other exceptions automatic. No statement of issues submitted to the jury pursuant to subsection C(2) of this rule and no instruction given to a jury shall be subject to review upon appeal unless its error, if any, was pointed out to the judge who gave it and unless a notation of an exception is made immediately after the court instructs the jury. Any point of exception shall be particularly stated and taken down by the reporter or delivered in writing to the judge. It shall be unnecessary to note an exception in court to any other ruling made. All adverse rulings, including failure to give a requested instruction or a requested statement of issues, except those contained in instructions and statements of issues given, shall import an exception in favor of the party against whom the ruling was made.]~~

~~H Necessity of noting exception on error in statement of issues or instructions given or refused~~

~~H(1) Statement of issues or instructions given or refused. A party may not obtain review on appeal of an asserted error by a trial court in submitting or refusing to submit a statement of issues to a jury pursuant to subsection C(2) of this rule or in giving or refusing to give an instruction to a jury unless the party who seeks to appeal identified the~~

1 **B Involuntary dismissal.**

2 **B(1) Failure to comply with rule or order.** For failure of the plaintiff to prosecute or to
3 comply with these rules or any order of court, a defendant may move for a judgment of dismissal
4 of an action or of any claim against such defendant.

5 **B(2) Insufficiency of evidence.** After the plaintiff in an action tried by the court without
6 a jury has completed the presentation of plaintiff's evidence, the defendant, without waiving the
7 right to offer evidence in the event the motion is not granted, may move for a judgment of
8 dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief.
9 The court as trier of the facts may then determine them and render judgment of dismissal against
10 the plaintiff or may decline to render any judgment until the close of all the evidence. If the court
11 renders judgment of dismissal with prejudice against the plaintiff, the court shall make findings
12 as provided in Rule 62.

13 **B(3) Dismissal for want of prosecution; notice.** Not less than 60 days prior to the first
14 regular motion day in each calendar year, unless the court has sent an earlier notice on its own
15 initiative, the clerk of the court shall mail notice to the attorneys of record in each pending case
16 in which no action has been taken for one year immediately prior to the mailing of such notice[,]
17 that a judgment of dismissal will be entered in each such case by the court for want of
18 prosecution[,] unless, on or before such first regular[,] motion day, application, either oral or
19 written, is made to the court and good cause shown why it should be continued as a pending
20 case. If such application is not made or good cause shown, the court shall enter a judgment of
21 dismissal in each such case. Nothing contained in this subsection shall prevent the dismissal by
22 the court at any time[,] for want of prosecution of any action upon motion of any party thereto.

23 **B(4) Effect of judgment of dismissal.** Unless the court in its judgment of dismissal
24 otherwise specifies, a dismissal under this section operates as an adjudication without prejudice.

25 **C Dismissal of counterclaim, cross-claim, or third party claim.** The provisions of this
26 rule apply to the dismissal of any counterclaim, cross-claim, or third party claim.

1 **D Costs of previously dismissed action.**

2 D(1) If a plaintiff who has once dismissed an action in any court commences an action
3 based upon or including the same claim against the same defendant, the court may make such
4 order for the payment of any unpaid judgment for costs and disbursements against plaintiff in the
5 action previously dismissed as it may deem proper and may stay the proceedings in the action
6 until the plaintiff has complied with the order.

7 D(2) If a party who previously asserted a claim, counterclaim, cross-claim, or third party
8 claim that was dismissed with prejudice subsequently [*makes*] **files** the same claim,
9 counterclaim, cross-claim, or third party claim against the same party, the court shall enter a
10 judgment dismissing the claim, counterclaim, cross-claim, or third party claim and may enter a
11 judgment requiring the payment of reasonable attorney fees incurred by the party in obtaining
12 the dismissal.

13 **E Offer to allow judgment; effect of acceptance or rejection.**

14 E(1) Except as provided in ORS 17.065 through 17.085, [*the*] **any** party against whom a
15 claim is asserted may, at any time up to [*10*] **14** days prior to trial, serve upon [*the*] **any other**
16 party asserting the claim an offer to allow judgment to be [*given*] **entered** against the party
17 making the offer for the sum, or the property, or to the effect therein specified. The offer shall
18 not be filed with the court clerk or provided to any assigned judge, except as set forth in
19 subsections E(2) and E(3) below.

20 E(2) If the party asserting the claim accepts the offer, the party asserting the claim or
21 such party's attorney shall endorse such acceptance thereon[,] and file the same with the clerk
22 before trial, and within [*three*] **seven** days from the time [*it*] **the offer** was served upon such
23 party asserting the claim; and thereupon judgment shall be given accordingly[,] as a stipulated
24 judgment. If the offer does not state that it includes costs and disbursements or attorney fees, the
25 party asserting the claim shall submit any claim for costs and disbursements or attorney fees to
26 the court as provided in Rule 68.

1 E(3) If the offer is not accepted and filed within the time prescribed, it shall be deemed
2 withdrawn, and shall not be given in evidence at trial and may be filed with the court only after
3 the case has been adjudicated on the merits and only if the party asserting the claim fails to
4 obtain a judgment more favorable than the offer to allow judgment. In such a case, the party
5 asserting the claim shall not recover costs, prevailing party fees, disbursements, or attorney fees
6 incurred after the date of the offer, but the party against whom the claim was asserted shall
7 recover of the party asserting the claim costs and disbursements, not including prevailing party
8 fees, from the time of the service of the offer.

9 **F Settlement conferences.** A settlement conference may be ordered by the court at any
10 time at the request of any party or upon the court's own motion. Unless otherwise stipulated to
11 by the parties, a judge other than the judge who will preside at trial shall conduct the settlement
12 conference.

1 **DISMISSAL OF ACTIONS; [COMPROMISE] OFFER TO ALLOW JUDGMENT**

2 **RULE 54**

3 **A Voluntary dismissal; effect thereof.**

4 A(1) **By plaintiff; by stipulation.** Subject to the provisions of Rule 32 D and of any statute
5 of this state, a plaintiff may dismiss an action in its entirety or as to one or more defendants
6 without order of court[: (a)] by filing a notice of dismissal with the court and serving [such] **the**
7 notice on all other parties not in default not less than [five] **5** days prior to the day of trial if no
8 counterclaim has been pleaded, or [(b)] by filing a stipulation of dismissal signed by all adverse
9 parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or
10 stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an
11 adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the
12 United States or of any state an action against the same parties on or including the same claim
13 unless the court directs that the dismissal shall be without prejudice. Upon notice of dismissal or
14 stipulation under this subsection, a party shall submit a form of judgment and the court shall enter
15 a judgment of dismissal.

16 A(2) **By order of court.** Except as provided in subsection [(1) of this section] **A(1) of this**
17 **rule**, an action shall not be dismissed at the plaintiff's instance save upon judgment of dismissal
18 ordered by the court and upon [such] **any** terms and conditions [as] **that** the court deems proper. If
19 a counterclaim has been pleaded by a defendant prior to the service upon the defendant of the
20 plaintiff's motion to dismiss, the defendant may proceed with the counterclaim. Unless otherwise
21 specified in the judgment of dismissal, a dismissal under this subsection is without prejudice.

22 A(3) **Costs and disbursements.** When an action is dismissed under this section, the
23 judgment may include any costs and disbursements, including attorney fees, provided by contract,
24 statute, or rule. Unless the circumstances indicate otherwise, the dismissed party shall be
25 considered the prevailing party.

26

1 **B Involuntary dismissal.**

2 B(1) **Failure to comply with rule or order.** For failure of the plaintiff to prosecute or to
3 comply with these rules or any order of court, a defendant may move for a judgment of dismissal of
4 an action or of any claim against [*such*] **that** defendant.

5 B(2) **Insufficiency of evidence.** After the plaintiff in an action tried by the court without a
6 jury has completed the presentation of plaintiff's evidence, the defendant, without waiving the
7 right to offer evidence in the event the motion is not granted, may move for a judgment of
8 dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief.
9 The court as trier of the facts may then determine them and render judgment of dismissal against
10 the plaintiff or may decline to render any judgment until the close of all the evidence. If the court
11 renders judgment of dismissal with prejudice against the plaintiff, the court shall make findings as
12 provided in Rule 62.

13 B(3) **Dismissal for want of prosecution; notice.** Not less than 60 days prior to the first
14 regular motion day in each calendar year, unless the court has sent an earlier notice on its own
15 initiative, the clerk of the court shall mail notice to the attorneys of record in each pending case in
16 which no action has been taken for one year immediately prior to the mailing of such notice that a
17 judgment of dismissal will be entered in each such case by the court for want of prosecution unless,
18 on or before such first regular motion day, [*application*] **a motion**, either oral or written, is made to
19 the court and good cause shown why it should be continued as a pending case. If [*such application*]
20 **a motion** is not made or good cause **is not** shown, the court shall enter a judgment of dismissal in
21 each such case. Nothing contained in this subsection shall prevent the dismissal by the court at any
22 time for want of prosecution of any action upon motion of any party thereto.

23 B(4) **Effect of judgment of dismissal.** Unless the court in its judgment of dismissal
24 otherwise specifies, a dismissal under this section operates as an adjudication without prejudice.

25 **C Dismissal of counterclaim, cross-claim, or third party claim.** The provisions of this
26 rule apply to the dismissal of any counterclaim, cross-claim, or third party claim.

1 **D Costs of previously dismissed action.**

2 D(1) **Previous action dismissed by plaintiffs.** If a plaintiff who has once dismissed an
3 action in any court commences an action based upon or including the same claim against the same
4 defendant, the court may make [such] **any** order for the payment of any unpaid judgment for costs
5 and disbursements against plaintiff in the action previously dismissed [as] **that** it may deem proper
6 and may stay the proceedings in the action until the plaintiff has complied with the order.

7 D(2) **Previous claim dismissed with prejudice.** If a party who previously asserted a claim,
8 counterclaim, cross-claim, or third party claim that was dismissed with prejudice subsequently files
9 the same claim, counterclaim, cross-claim, or third party claim against the same party, the court
10 shall enter a judgment dismissing the claim, counterclaim, cross-claim, or third party claim and may
11 enter a judgment requiring the payment of reasonable attorney fees incurred by the party in
12 obtaining the dismissal.

13 **E Offer to allow judgment; effect of acceptance or rejection.**

14 E(1) **Offer.** Except as provided in ORS 17.065 [through] **to** 17.085, any party against
15 whom a claim is asserted may, at any time up to 14 days prior to trial, serve upon any other party
16 asserting the claim an offer to allow judgment to be entered against the party making the offer for
17 the sum, or the property, or to the effect therein specified. The offer shall not be filed with the
18 court clerk or provided to any assigned judge, except as set forth in subsections [E(2) and E(3)
19 below] **E(2) and E(3) of this rule.**

20 E(2) **Acceptance of offer.** If the party asserting the claim accepts the offer, the party
21 asserting the claim or [such] **the** party's attorney shall endorse [such] **the** acceptance thereon and
22 file the [same] **accepted offer** with the clerk before trial, and within [seven] **7** days from the time
23 the offer was served upon [such] **the** party asserting the claim; and thereupon judgment shall be
24 given accordingly as a stipulated judgment. If the offer does not state that it includes costs and
25 disbursements or attorney fees, the party asserting the claim shall submit any claim for costs and
26 disbursements or attorney fees to the court as provided in Rule 68.

1 E(3) **Failure to accept offer.** If the offer is not accepted and filed within the time
2 prescribed, it shall be deemed withdrawn, and shall not be given in evidence at trial and may be
3 filed with the court only after the case has been adjudicated on the merits and only if the party
4 asserting the claim fails to obtain a judgment more favorable than the offer to allow judgment. In
5 such a case, the party asserting the claim shall not recover costs, prevailing party fees,
6 disbursements, or attorney fees incurred after the date of the offer, but the party against whom
7 the claim was asserted shall recover [of] **from** the party asserting the claim costs and
8 disbursements, not including prevailing party fees, from the time of the service of the offer.

9 **F Settlement conferences.** A settlement conference may be ordered by the court at
10 any time at the request of any party or upon the court's own motion. Unless otherwise stipulated
11 to by the parties, a judge other than the judge who will preside at trial shall conduct the settlement
12 conference.

2014-2015 BIENNIUM STAFF COMMENT TO RULE 54

Note: This staff comment is provided as a convenience to those who read the Oregon Rules of Civil Procedure and have a general question as to the impetus for a particular amendment during the 2014-2015 biennium. Language in this comment was circulated to members of the Council on Court Procedures, but was not voted on or approved by the Council. This comment is neither legislative history for purposes of construction, as in statutory construction, to determine the intent of the Council in making any amendment, nor does it establish the meaning of any rule that has been amended. For the purpose of construing the Oregon Rules of Civil Procedure, the only authoritative legislative history is found in the Council's minutes of its deliberations. The Council's minutes can be found at www.counciloncourtprocedures.org. If the Legislative Assembly amended a rule, the legislative history for the Legislature's amendment can be found at www.oregonlegislature.gov.

The title of Rule 54 is amended to follow and correctly reflect previous changes to section E. In subsection A(1), the existing alphabetical sub-listing is deleted as inconsistent with the rules' format and the Arabic numeral "5" replaces the word "five" to achieve consistency. Two archaic uses of "such" are reworded. One internal reference to the rule is restated to achieve consistency. The listed changes are not meant to effect a change in the section's meaning or operation.

In section B, two archaic uses of "such" are modernized. The correct term, "motion," replaces "application" and the second sentence of subsection B(3) is amended for clarity. The listed changes are not meant to effect a change in the section's meaning or operation.

Lead lines are added to section D and one archaic use of "such" is modernized. The listed changes are not meant to effect a change in the section's meaning or operation.

Lead lines are also added in section E. References to statutes and internal references to the rule are amended to achieve consistency. Three archaic uses of "such" are modernized. The word "seven" is replaced with the Arabic number "7" to be consistent with other rules. Two amendments, "accepted offer" for "same" and "from" for "of," are made for clarity. The listed changes are not meant to effect a change in the section's meaning or operation.