

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

PATTY PLAINTIFF,)
)
 Plaintiff,) CASE NO 123-4567
)
 v.) SUMMONS
) C(3)(a)
 DOUG DEFENDANT,)
)
 Defendant.)

To: Doug Defendant
123 SE Smith Lane
Portland OR 97204

NOTICE: READ THESE PAPERS CAREFULLY!

You must “appear” in this case or the plaintiff or petitioner will win automatically. To appear you must, within 30 days of the date you receive this summons, file a legal document called a “motion,” “answer,” or “response.” To file, you must give your legal document to the clerk of the court that appears at the top of this summons. You may need to pay a filing fee. Your legal document must be in proper form as required by the Oregon Rules of Civil Procedure (ORCP) and the Uniform Trial Court Rules. You must serve your legal document, as required by ORCP 7 D, on the attorney for the plaintiff or petitioner, or on the plaintiff or petitioner if they do not have an attorney. You must also file “proof of service.” Proof of service is a signed statement describing when and how your legal document was served.

If you have questions, contact an attorney immediately. If you need help finding an attorney, you may contact the Oregon State Bar’s Lawyer Referral Service:

www.oregonstatebar.org / (800) 452-7636

For more information you may find helpful in understanding this case, visit:

courts.oregon.gov OR www.oregonlawhelp.org

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1 **SUMMONS**

2 **RULE 7**

3 **A Definitions.** For purposes of this rule, "plaintiff" [shall include] includes any party
4 issuing a summons and "defendant" [shall include] includes any party on whom service of a
5 summons is sought. For purposes of this rule, a "true copy" of a summons and complaint
6 means an exact and complete copy of the original summons and complaint.

7 **B Issuance.** Any time after the action is commenced, the plaintiff or the plaintiff's
8 attorney may issue as many original summonses as either may elect and deliver such
9 summonses to a person authorized to serve summonses under section E of this rule. A
10 summons is issued when subscribed by the plaintiff or an active licensee of the Oregon State
11 Bar.

12 **C Contents, time for response, and required notices.**

13 **C(1) Contents.** The summons [shall] must contain:

14 **C(1)(a) Title.** The title of the cause, specifying the name of the court in which the
15 complaint is filed and the names of the parties to the action.

16 **C(1)(b) Direction to defendant.** A direction to the defendant requiring the defendant to
17 appear and defend within the time required by subsection C(2) of this rule and a notification to
18 the defendant that, in case of failure to do so, the plaintiff will apply to the court for the relief
19 demanded in the complaint.

20 **C(1)(c) Subscription; post office address.** A subscription by the plaintiff or by an active
21 licensee of the Oregon State Bar, with the addition of the post office address at which papers
22 in the action may be served by mail.

23 **C(2) Time for response.** If the summons is served by any manner other than publication,
24 the defendant [shall] must appear and defend within 30 days from the date of service. If the
25 summons is served by publication pursuant to subparagraph D(6)(a)(i) of this rule, the
26 defendant [shall] must appear and defend within 30 days from the date stated in the

summons. The date so stated in the summons *[shall be]* **is** the date of the first publication.

C(3) Notice to party served.

C(3)(a) In general. All summonses, other than a summons referred to in paragraph C(3)(b) or C(3)(c) of this rule, *[shall]* **must** contain a notice printed in type size equal to at least *[8-point type]* **12-point type** that may be substantially in the following form:

[NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!]

NOTICE: READ THESE PAPERS CAREFULLY!

You must “appear” in this case or the *[other side]* **plaintiff or petitioner** will win automatically. To *[“appear you must file with the court”]* **appear you must file** a legal document called a *[“motion” or “answer.”]* **“motion,” “answer,” or “response” within 30 days of the date you receive this summons.** *[The “motion” or “answer” must be given to the court clerk or administrator within 30 days along with the required filing fee.]* **To file, you must give your legal document to the clerk of the court that appears at the top of this summons. You may need to pay a filing fee.** *[It must be in proper form and have proof of service on the plaintiff’s attorney or, if the plaintiff does not have an attorney, proof of service on the plaintiff.]* **Your legal document must be in proper form as required by the Oregon Rules of Civil Procedure (ORCP) and the Uniform Trial Court Rules. You must serve your legal document, as required by ORCP 7 D, on the attorney for the plaintiff or petitioner, or on the plaintiff or petitioner if they do not have an attorney. You must also file “proof of service.” Proof of service is a signed statement describing when and how your legal document was served.**

If you have questions, *[you should see]* **contact** an attorney immediately. *[If you need]* **For** help *[in]* finding an attorney, you may contact the Oregon State Bar’s Lawyer Referral *[Service online at www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.]* **Service:**

www.oregonstatebar.org / (800) 452-7636

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3
4 C(3)(b) **Service for counterclaim or cross-claim.** A summons to join a party to respond to
5 a counterclaim or a cross-claim pursuant to Rule 22 D(1) [*shall*] **must** contain a notice printed in
6 type size equal to at least [*8-point type*] **12-point type** that may be substantially in the
7 following form:

8
9 **[NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!]**

10 **NOTICE: READ THESE PAPERS CAREFULLY!**

11 You must "appear" to protect your rights in this matter. To [*"appear you must"*] **appear**
12 **you must** file with the court a legal document called a "motion," a "reply" to a counterclaim, or
13 an "answer" to a [*cross-claim*] **cross-claim within 30 days of the date you receive this**
14 **summons.** [*The "motion," "reply," or "answer" must be given to the court clerk or administrator*
15 *within 30 days along with the required filing fee.*] **To file, you must give your legal document to**
16 **the clerk of the court that appears at the top of this summons. You may need to pay a filing**
17 **fee.** [*It must be in proper form and have proof of service on the defendant's attorney or, if the*
18 *defendant does not have an attorney, proof of service on the defendant.*] **Your legal document**
19 **must be in proper form as required by the Oregon Rules of Civil Procedure (ORCP) and the**
20 **Uniform Trial Court Rules. You must serve your legal document, as required by ORCP 7 D, on**
21 **the attorney for the party that signed this summons, or on that party if they do not have an**
22 **attorney. You must also file "proof of service." Proof of service is a signed statement**
23 **describing when and how your legal document was served.**

24 If you have questions, [*you should see*] **contact** an attorney immediately. [*If you need*]
25 **For** help [*in*] finding an attorney, you may contact the Oregon State Bar's Lawyer Referral
26 [*Service online at www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland*

metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.] **Service:**

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C(3)(c) **Service on persons liable for attorney fees.** A summons to join a party pursuant to Rule 22 D(2) [shall] **must** contain a notice printed in type size equal to at least [8-point type] **12-point type** that may be substantially in the following form:

[NOTICE TO DEFENDANT: READ THESE PAPERS CAREFULLY!]

NOTICE: READ THESE PAPERS CAREFULLY!

You may be liable for attorney fees in this case. Should plaintiff in this case not prevail, a judgment for reasonable attorney fees may be entered against you, as provided by the agreement to which defendant alleges you are a party.

You must "appear" to protect your rights in this matter. To [“appear you must”] **appear you must** file with the court a legal document called a "motion" or [reply.] **reply within 30 days of the date you receive this summons.** [The "motion" or "reply" must be given to the court clerk or administrator within 30 days along with the required filing fee.] **To file, you must give your legal document to the clerk of the court that appears at the top of this summons. You may need to pay a filing fee.** [It must be in proper form and have proof of service on the defendant's attorney or, if the defendant does not have an attorney, proof of service on the defendant.] **Your legal document must be in proper form as required by the Oregon Rules of Civil Procedure (ORCP) and the Uniform Trial Court Rules. You must serve your legal document, as required by ORCP 7 D, on the attorney for the party that signed this summons, or on that party if they do not have an attorney. You must also file “proof of service.” Proof of service is a signed statement describing when and how your legal document was served.**

1 If you have questions, [you should see] **contact** an attorney immediately. [If you need]
2 **For** help [in] finding an attorney, you may contact the Oregon State Bar's Lawyer Referral
3 [Service online at www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland
4 metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.] **Service:**
5 **www.oregonstatebar.org / (800) 452-7636**

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8
9 **D Manner of service.**

10 D(1) **Notice required.** Summons [shall] **must** be served, either within or without this
11 state, in any manner reasonably calculated, under all the circumstances, to apprise the
12 defendant of the existence and pendency of the action and to afford a reasonable opportunity
13 to appear and defend. Summons may be served in a manner specified in this rule or by any
14 other rule or statute on the defendant or on an agent authorized by appointment or law to
15 accept service of summons for the defendant. Service may be made, subject to the restrictions
16 and requirements of this rule, by the following methods: personal service of true copies of the
17 summons and the complaint on defendant or an agent of defendant authorized to receive
18 process; substituted service by leaving true copies of the summons and the complaint at a
19 person's dwelling house or usual place of abode; office service by leaving true copies of the
20 summons and the complaint with a person who is apparently in charge of an office; service by
21 mail; or service by publication.

22 **D(2) Service methods.**

23 D(2)(a) **Personal service.** Personal service may be made by delivery of a true copy of the
24 summons and a true copy of the complaint to the person to be served.

25 D(2)(b) **Substituted service.** Substituted service may be made by delivering true copies of
26 the summons and the complaint at the dwelling house or usual place of abode of the person to

1 be served to any person 14 years of age or older residing in the dwelling house or usual place
2 of abode of the person to be served. Where substituted service is used, the plaintiff, as soon as
3 reasonably possible, [shall] **must** cause to be mailed by first class mail true copies of the
4 summons and the complaint to the defendant at defendant's dwelling house or usual place of
5 abode, together with a statement of the date, time, and place at which substituted service was
6 made. For the purpose of computing any period of time prescribed or allowed by these rules or
7 by statute, substituted service [shall be] **is** complete on the mailing.

8 D(2)(c) **Office service.** If the person to be served maintains an office for the conduct of
9 business, office service may be made by leaving true copies of the summons and the complaint
10 at that office during normal working hours with the person who is apparently in charge. Where
11 office service is used, the plaintiff, as soon as reasonably possible, [shall] **must** cause to be
12 mailed by first class mail true copies of the summons and the complaint to the defendant at
13 defendant's dwelling house or usual place of abode or defendant's place of business or any
14 other place under the circumstances that is most reasonably calculated to apprise the
15 defendant of the existence and pendency of the action, together with a statement of the date,
16 time, and place at which office service was made. For the purpose of computing any period of
17 time prescribed or allowed by these rules or by statute, office service [shall be] **is** complete on
18 the mailing.

19 D(2)(d) **Service by mail.**

20 D(2)(d)(i) **Generally.** When service by mail is required or allowed by this rule or by
21 statute, except as otherwise permitted, service by mail [shall] **must** be made by mailing true
22 copies of the summons and the complaint to the defendant by first class mail [and] **as well as**
23 by any of the following: certified, registered, or express mail with return receipt requested. For
24 purposes of this paragraph, "first class mail" does not include certified, registered, or express
25 mail, return receipt requested, or any other form of mail that may delay or hinder actual
26 delivery of mail to the addressee.

1 D(2)(d)(ii) **Calculation of time.** For the purpose of computing any period of time provided
2 by these rules or by statute, service by mail, except as otherwise provided, [*shall be*] **is**
3 complete on the day the defendant, or other person authorized by appointment or law, signs a
4 receipt for the mailing, or 3 days after the mailing if mailed to an address within the state, or 7
5 days after the mailing if mailed to an address outside the state, whichever first occurs.

6 D(3) **Particular defendants.** Service may be made on specified defendants as follows:

7 D(3)(a) **Individuals.**

8 D(3)(a)(i) **Generally.** On an individual defendant, by personal delivery of true copies of
9 the summons and the complaint to the defendant or other person authorized by appointment
10 or law to receive service of summons on behalf of the defendant, by substituted service, or by
11 office service. Service may also be made on an individual defendant or other person authorized
12 to receive service to whom neither subparagraph D(3)(a)(ii) nor D(3)(a)(iii) of this rule applies
13 by a mailing made in accordance with paragraph D(2)(d) of this rule provided the defendant or
14 other person authorized to receive service signs a receipt for the certified, registered, or
15 express mailing, in which case service [*shall be*] **is** complete on the date on which the
16 defendant signs a receipt for the mailing.

17 D(3)(a)(ii) **Minors.** On a minor under 14 years of age, by service in the manner specified
18 in subparagraph D(3)(a)(i) of this rule on the minor; and additionally on the minor's father,
19 mother, conservator of the minor's estate, or guardian, or, if there be none, then on any
20 person having the care or control of the minor, or with whom the minor resides, or in whose
21 service the minor is employed, or on a guardian ad litem appointed pursuant to Rule 27 B.

22 D(3)(a)(iii) **Incapacitated persons.** On a person who is incapacitated or is financially
23 incapable, as both terms are defined by ORS 125.005, by service in the manner specified in
24 subparagraph D(3)(a)(i) of this rule on the person and, also, on the conservator of the person's
25 estate or guardian or, if there be none, on a guardian ad litem appointed pursuant to Rule 27
26 B.

1 D(3)(a)(iv) **Tenant of a mail agent.** On an individual defendant who is a "tenant" of a
2 "mail agent" within the meaning of ORS 646A.340, by delivering true copies of the summons
3 and the complaint to any person apparently in charge of the place where the mail agent
4 receives mail for the tenant, provided that:

5 D(3)(a)(iv)(A) the plaintiff makes a diligent inquiry but cannot find the defendant; and

6 D(3)(a)(iv)(B) the plaintiff, as soon as reasonably possible after delivery, causes true
7 copies of the summons and the complaint to be mailed by first class mail to the defendant at
8 the address at which the mail agent receives mail for the defendant and to any other mailing
9 address of the defendant then known to the plaintiff, together with a statement of the date,
10 time, and place at which the plaintiff delivered the copies of the summons and the complaint.
11 Service [shall be] is complete on the latest date resulting from the application of subparagraph
12 D(2)(d)(ii) of this rule to all mailings required by this subparagraph unless the defendant signs a
13 receipt for the mailing, in which case service is complete on the day the defendant signs the
14 receipt.

15 D(3)(b) **Corporations including, but not limited to, professional corporations and**
16 **cooperatives.** On a domestic or foreign corporation:

17 D(3)(b)(i) **Primary service method.** By personal service or office service on a registered
18 agent, officer, or director of the corporation; or by personal service on any clerk on duty in the
19 office of a registered agent.

20 D(3)(b)(ii) **Alternatives.** True copies of the summons and the complaint may be served:

21 D(3)(b)(ii)(A) by substituted service on the registered agent, officer, or director;

22 D(3)(b)(ii)(B) by personal service on any clerk or agent of the corporation;

23 D(3)(b)(ii)(C) by mailing in the manner specified in paragraph D(2)(d) of this rule true
24 copies of the summons and the complaint to: the office of the registered agent or to the last
25 registered office of the corporation, if any, as shown by the records on file in the office of the
26 Secretary of State; or, if the corporation is not authorized to transact business in this state at

1 the time of the transaction, event, or occurrence on which the action is based occurred, to the
2 principal office or place of business of the corporation; and, in any case, to any address the use
3 of which the plaintiff knows or has reason to believe is most likely to result in actual notice; or

4 D(3)(b)(ii)(D) on the Secretary of State in the manner provided in ORS 60.121 or 60.731.

5 D(3)(c) **Limited liability companies.** On a limited liability company:

6 D(3)(c)(i) **Primary service method.** By personal service or office service on a registered
7 agent, manager, or (for a member-managed limited liability company) member of a limited
8 liability company; or by personal service on any clerk on duty in the office of a registered agent.

9 D(3)(c)(ii) **Alternatives.** True copies of the summons and the complaint may be served:

10 D(3)(c)(ii)(A) by substituted service on the registered agent, manager, or (for a
11 member-managed limited liability company) member of a limited liability company;

12 D(3)(c)(ii)(B) by personal service on any clerk or agent of the limited liability company;

13 D(3)(c)(ii)(C) by mailing in the manner specified in paragraph D(2)(d) of this rule true
14 copies of the summons and the complaint to: the office of the registered agent or to the last
15 registered office of the limited liability company, if any, as shown by the records on file in the
16 office of the Secretary of State; or, if the limited liability company is not authorized to transact
17 business in this state at the time of the transaction, event, or occurrence on which the action is
18 based occurred, to the principal office or place of business of the limited liability company;
19 and, in any case, to any address the use of which the plaintiff knows or has reason to believe is
20 most likely to result in actual notice; or

21 D(3)(c)(ii)(D) on the Secretary of State in the manner provided in ORS 63.121.

22 D(3)(d) **Limited partnerships.** On a domestic or foreign limited partnership:

23 D(3)(d)(i) **Primary service method.** By personal service or office service on a registered
24 agent or a general partner of a limited partnership; or by personal service on any clerk on duty
25 in the office of a registered agent.

26 D(3)(d)(ii) **Alternatives.** True copies of the summons and the complaint may be served:

1 D(3)(d)(ii)(A) by substituted service on the registered agent or general partner of a
2 limited partnership;

3 D(3)(d)(ii)(B) by mailing in the manner specified in paragraph D(2)(d) of this rule true
4 copies of the summons and the complaint to: the office of the registered agent or to the last
5 registered office of the limited partnership, if any, as shown by the records on file in the office
6 of the Secretary of State; or, if the limited partnership is not authorized to transact business in
7 this state at the time of the transaction, event, or occurrence on which the action is based
8 occurred, to the principal office or place of business of the limited partnership; and, in any
9 case, to any address the use of which the plaintiff knows or has reason to believe is most likely
10 to result in actual notice; or

11 D(3)(d)(ii)(C) on the Secretary of State in the manner provided in ORS 70.040 or 70.045.

12 D(3)(e) **General partnerships and limited liability partnerships.** On any general
13 partnership or limited liability partnership by personal service on a partner or any agent
14 authorized by appointment or law to receive service of summons for the partnership or limited
15 liability partnership.

16 D(3)(f) **Other unincorporated associations subject to suit under a common name.** On
17 any other unincorporated association subject to suit under a common name by personal
18 service on an officer, managing agent, or agent authorized by appointment or law to receive
19 service of summons for the unincorporated association.

20 D(3)(g) **State.** On the state, by personal service on the Attorney General or by leaving
21 true copies of the summons and the complaint at the Attorney General's office with a deputy,
22 assistant, or clerk.

23 D(3)(h) **Public bodies.** On any county; incorporated city; school district; or other public
24 corporation, commission, board, or agency by personal service or office service on an officer,
25 director, managing agent, or attorney thereof.

26 D(3)(i) **Vessel owners and charterers.** On any foreign steamship owner or steamship

1 charterer by personal service on a vessel master in the owner's or charterer's employment or
2 any agent authorized by the owner or charterer to provide services to a vessel calling at a port
3 in the State of Oregon, or a port in the State of Washington on that portion of the Columbia
4 River forming a common boundary with Oregon.

5 **D(4) Particular actions involving motor vehicles.**

6 **D(4)(a) Actions arising out of use of roads, highways, streets, or premises open to the**
7 **public; service by mail.**

8 D(4)(a)(i) In any action arising out of any accident, collision, or other event giving rise to
9 liability in which a motor vehicle may be involved while being operated on the roads, highways,
10 streets, or premises open to the public as defined by law of this state if the plaintiff makes at
11 least one attempt to serve a defendant who operated such motor vehicle, or caused it to be
12 operated on the defendant's behalf, by a method authorized by subsection D(3) of this rule
13 except service by mail pursuant to subparagraph D(3)(a)(i) of this rule and, as shown by its
14 return, did not effect service, the plaintiff may then serve that defendant by mailings made in
15 accordance with paragraph D(2)(d) of this rule addressed to that defendant at:

16 D(4)(a)(i)(A) any residence address provided by that defendant at the scene of the
17 accident;

18 D(4)(a)(i)(B) the current residence address, if any, of that defendant shown in the driver
19 records of the Department of Transportation; and

20 D(4)(a)(i)(C) any other address of that defendant known to the plaintiff at the time of
21 making the mailings required by parts D(4)(a)(i)(A) and D(4)(a)(i)(B) of this rule that reasonably
22 might result in actual notice to that defendant. Sufficient service pursuant to this subparagraph
23 may be shown if the proof of service includes a true copy of the envelope in which each of the
24 certified, registered, or express mailings required by parts D(4)(a)(i)(A), D(4)(a)(i)(B), and
25 D(4)(a)(i)(C) of this rule was made showing that it was returned to sender as undeliverable or
26 that the defendant did not sign the receipt. For the purpose of computing any period of time

1 prescribed or allowed by these rules or by statute, service under this subparagraph [*shall be*] **is**
2 complete on the latest date on which any of the mailings required by parts D(4)(a)(i)(A),
3 D(4)(a)(i)(B), and D(4)(a)(i)(C) of this rule is made. If the mailing required by part D(4)(a)(i)(C) of
4 this rule is omitted because the plaintiff did not know of any address other than those
5 specified in parts D(4)(a)(i)(A) and D(4)(a)(i)(B) of this rule, the proof of service [*shall*] **must** so
6 certify.

7 D(4)(a)(ii) Any fee charged by the Department of Transportation for providing address
8 information concerning a party served pursuant to subparagraph D(4)(a)(i) of this rule may be
9 recovered as provided in Rule 68.

10 D(4)(a)(iii) The requirements for obtaining an order of default against a defendant served
11 pursuant to subparagraph D(4)(a)(i) of this rule are as provided in Rule 69 E.

12 D(4)(b) **Notification of change of address.** Any person who; while operating a motor
13 vehicle on the roads, highways, streets, or premises open to the public as defined by law of this
14 state; is involved in any accident, collision, or other event giving rise to liability [*shall*] **must**
15 forthwith notify the Department of Transportation of any change of the person's address
16 occurring within 3 years after the accident, collision, or event.

17 D(5) **Service in foreign country.** When service is to be effected on a party in a foreign
18 country, it is also sufficient if service of true copies of the summons and the complaint is made
19 in the manner prescribed by the law of the foreign country for service in that country in its
20 courts of general jurisdiction, or as directed by the foreign authority in response to letters
21 rogatory, or as directed by order of the court. However, in all cases service [*shall*] **must** be
22 reasonably calculated to give actual notice.

23 D(6) **Court order for service by other method.** When it appears that service is not
24 possible under any method otherwise specified in these rules or other rule or statute, then a
25 motion supported by affidavit or declaration may be filed to request a discretionary court
26 order to allow alternative service by any method or combination of methods that, under the

1 | circumstances, is most reasonably calculated to apprise the defendant of the existence and
2 | pendency of the action. If the court orders alternative service and the plaintiff knows or with
3 | reasonable diligence can ascertain the defendant's current address, the plaintiff must mail true
4 | copies of the summons and the complaint to the defendant at that address by first class mail
5 | and any of the following: certified, registered, or express mail, return receipt requested. If the
6 | plaintiff does not know, and with reasonable diligence cannot ascertain, the current address of
7 | any defendant, the plaintiff must mail true copies of the summons and the complaint by the
8 | methods specified above to the defendant at the defendant's last known address. If the
9 | plaintiff does not know, and with reasonable diligence cannot ascertain, the defendant's
10 | current and last known addresses, a mailing of copies of the summons and the complaint is not
11 | required.

12 | D(6)(a) **Non-electronic alternative service.** Non-electronic forms of alternative service
13 | may include, but are not limited to, publication of summons; mailing without publication to a
14 | specified post office address of the defendant by first class mail as well as either by certified,
15 | registered, or express mail with return receipt requested; or posting at specified locations. The
16 | court may specify a response time in accordance with subsection C(2) of this rule.

17 | D(6)(a)(i) **Alternative service by publication.** In addition to the contents of a summons as
18 | described in section C of this rule, a published summons must also contain a summary
19 | statement of the object of the complaint and the demand for relief, and the notice required in
20 | subsection C(3) of this rule must state: "The motion or answer or reply must be given to the
21 | court clerk or administrator within 30 days of the date of first publication specified herein
22 | along with the required filing fee." The published summons must also contain the date of the
23 | first publication of the summons.

24 | D(6)(a)(i)(A) **Where published.** An order for publication must direct publication to be
25 | made in a newspaper of general circulation in the county where the action is commenced or, if
26 | there is no such newspaper, then in a newspaper to be designated as most likely to give notice

1 to the person to be served. The summons must be published four times in successive calendar
2 weeks. If the plaintiff knows of a specific location other than the county in which the action is
3 commenced where publication might reasonably result in actual notice to the defendant, the
4 plaintiff must so state in the affidavit or declaration required by paragraph D(6) of this rule,
5 and the court may order publication in a comparable manner at that location in addition to, or
6 in lieu of, publication in the county in which the action is commenced.

7 D(6)(a)(ii) **Alternative service by posting.** The court may order service by posting true
8 copies of the summons and complaint at a designated location in the courthouse where the
9 action is commenced and at any other location that the affidavit or declaration required by
10 subsection D(6) of this rule indicates that the posting might reasonably result in actual notice
11 to the defendant.

12 D(6)(b) **Electronic alternative service.** Electronic forms of alternative service may include,
13 but are not limited to: e-mail; text message; facsimile transmission as defined in Rule 9 F; or
14 posting to a social media account. The affidavit or declaration filed with a motion for electronic
15 alternative service must include: verification that diligent inquiry revealed that the defendant's
16 residence address, mailing address, and place of employment are unlikely to accomplish
17 service; the reason that plaintiff believes the defendant has recently sent and received
18 transmissions from the specific e-mail address or telephone or facsimile number, or maintains
19 an active social media account on the specific platform the plaintiff asks to use; and facts that
20 indicate the intended recipient is likely to personally receive the electronic transmission. The
21 certificate of service must verify compliance with subparagraph D(6)(b)(i) and subparagraph
22 D(6)(b)(ii) of this rule. An amended certificate of service must be filed if it later becomes
23 evident that the intended recipient did not personally receive the electronic transmission.

24 D(6)(b)(i) **Content of electronic transmissions.** If the court allows service by a specific
25 electronic method, the case name, case number, and name of the court in which the action is
26 pending must be prominently positioned where it is most likely to be read first. For e-mail

1 service, those details must appear in the subject line. For text message service, they must
2 appear in the first line of the first text. For facsimile service, they must appear at the top of the
3 first page. For posting to a social media account, they must appear in the top lines of the
4 posting.

5 D(6)(b)(ii) **Format of electronic transmissions.** If the court allows alternative service by
6 an electronic method, the summons, complaint, and any other documents must be attached in
7 a file format that is capable of showing a true copy of the original document. When an
8 electronic method is incapable of transferring transmissions that exceed a certain size, the
9 plaintiff must not exceed those express size limitations. If the size of the attachments exceeds
10 the limitations of any electronic method allowed, then multiple sequential transmissions may
11 be sent immediately after the initial transmission to complete service.

12 D(6)(c) **Unknown heirs or persons.** If service cannot be made by another method
13 described in this section because defendants are unknown heirs or persons as described in
14 Rule 20 I and J, the action will proceed against the unknown heirs or persons in the same
15 manner as against named defendants served by publication and with like effect; and any
16 unknown heirs or persons who have or claim any right, estate, lien, or interest in the property
17 in controversy at the time of the commencement of the action, and who are served by
18 publication, will be bound and concluded by the judgment in the action, if the same is in favor
19 of the plaintiff, as effectively as if the action had been brought against those defendants by
20 name.

21 D(6)(d) **Defending before or after judgment.** A defendant against whom service pursuant
22 to this subsection is ordered or that defendant's representatives, on application and sufficient
23 cause shown, at any time before judgment will be allowed to defend the action. A defendant
24 against whom service pursuant to this subsection is ordered or that defendant's
25 representatives may, on good cause shown and on any terms that may be proper, be allowed
26 to defend after judgment and within one year after entry of judgment. If the defense is

1 successful, and the judgment or any part thereof has been collected or otherwise enforced,
2 restitution may be ordered by the court, but the title to property sold on execution issued on
3 that judgment, to a purchaser in good faith, will not be affected thereby.

4 **D(6)(e) Defendant who cannot be served.** Within the meaning of this subsection, a
5 defendant cannot be served with summons by any method authorized by subsection D(3) of
6 this rule if service pursuant to subparagraph D(4)(a)(i) of this rule is not applicable, the plaintiff
7 attempted service of summons by all of the methods authorized by subsection D(3) of this rule,
8 and the plaintiff was unable to complete service; or if the plaintiff knew that service by these
9 methods could not be accomplished.

10 **E By whom served; compensation.** A summons may be served by any competent person
11 18 years of age or older who is a resident of the state where service is made or of this state and
12 is neither a party to the action, corporate or otherwise, nor any party's officer, director,
13 employee, or attorney, except as provided in ORS 180.260. However, service pursuant to
14 subparagraph D(2)(d)(i), as well as the mailings specified in paragraphs D(2)(b) and D(2)(c) and
15 part D(3)(a)(iv)(B) of this rule, may be made by an attorney for any party. Compensation to a
16 sheriff or a sheriff's deputy in this state who serves a summons [*shall be*] **is** prescribed by
17 statute or rule. If any other person serves the summons, a reasonable fee may be paid for
18 service. This compensation [*shall be*] **is** part of disbursements and [*shall be*] **is** recovered as
19 provided in Rule 68.

20 **F Return; proof of service.**

21 **F(1) Return of summons.** The summons [*shall*] **must** be promptly returned to the clerk
22 with whom the complaint is filed with proof of service or mailing, or that defendant cannot be
23 found. The summons may be returned by first class mail.

24 **F(2) Proof of service.** Proof of service of summons or mailing may be made as follows:

25 **F(2)(a) Service other than publication.** Service other than publication [*shall*] **must** be
26 proved by:

1 F(2)(a)(i) **Certificate of service when summons not served by sheriff or deputy.** If the
2 summons is not served by a sheriff or a sheriff's deputy, the certificate of the server indicating:
3 the specific documents that were served; the time, place, and manner of service; that the
4 server is a competent person 18 years of age or older and a resident of the state of service or
5 this state and is not a party to nor an officer, director, or employee of, nor attorney for any
6 party, corporate or otherwise; and that the server knew that the person, firm, or corporation
7 served is the identical one named in the action. If the defendant is not personally served, the
8 server [shall] **must** state in the certificate when, where, and with whom true copies of the
9 summons and the complaint were left or describe in detail the manner and circumstances of
10 service. If true copies of the summons and the complaint were mailed, the certificate may be
11 made by the person completing the mailing or the attorney for any party and [shall] **must** state
12 the circumstances of mailing and the return receipt, if any, [shall] **must** be attached.

13 F(2)(a)(ii) **Certificate of service by sheriff or deputy.** If the summons is served by a sheriff
14 or a sheriff's deputy, the sheriff's or deputy's certificate of service indicating: the specific
15 documents that were served; the time, place, and manner of service; and, if defendant is not
16 personally served, when, where, and with whom true copies of the summons and the
17 complaint were left or describing in detail the manner and circumstances of service. If true
18 copies of the summons and the complaint were mailed, the certificate [shall] **must** state the
19 circumstances of mailing and the return receipt, if any, [shall] **must** be attached.

20 F(2)(b) **Publication.** Service by publication [shall] **must** be proved by an affidavit or by a
21 declaration.

22 F(2)(b)(i) A publication by affidavit [shall] **must** be in substantially the following form:

23 _____
24 **Affidavit of Publication**

25 State of Oregon)

26) ss.

County of)

I, _____, being first duly sworn, depose and say that I am the _____ (here set forth the title or job description of the person making the affidavit), of the _____, a newspaper of general circulation published at _____ in the aforesaid county and state; that I know from my personal knowledge that the _____, a printed copy of which is hereto annexed, was published in the entire issue of said newspaper four times in the following issues: (here set forth dates of issues in which the same was published).

Subscribed and sworn to before me this _____ day of _____, 2_____.

Notary Public for Oregon

My commission expires

____ day of _____, 2_____.

F(2)(b)(ii) A publication by declaration [shall] **must** be in substantially the following form:

Declaration of Publication

State of Oregon)

) ss.

County of)

I, _____, say that I am the _____ (here set forth the title or job description of the person making the declaration), of the _____, a newspaper of general circulation published at _____ in the aforesaid county and state; that I know from my personal knowledge that the _____, a printed copy of which is hereto annexed, was published in the entire issue of said newspaper four times in the following issues: (here set forth dates of issues in which the same was published).

1 I hereby declare that the above statement is true to the best of my knowledge and
2 belief, and that I understand it is made for use as evidence in court and is subject to penalty for
3 perjury.

4 _____
5 ____ day of ____, 2____
6 _____

7 **F(2)(c) Making and certifying affidavit.** The affidavit of service may be made and certified
8 before a notary public, or other official authorized to administer oaths and acting in that
9 capacity by authority of the United States, or any state or territory of the United States, or the
10 District of Columbia, and the official seal, if any, of that person [*shall*] **must** be affixed to the
11 affidavit. The signature of the notary or other official, when so attested by the affixing of the
12 official seal, if any, of that person, [*shall be*] **is** prima facie evidence of authority to make and
13 certify the affidavit.

14 **F(2)(d) Form of certificate, affidavit, or declaration.** A certificate, affidavit, or declaration
15 containing proof of service may be made on the summons or as a separate document attached
16 to the summons.

17 **F(3) Written admission.** In any case proof may be made by written admission of the
18 defendant.

19 **F(4) Failure to make proof; validity of service.** If summons has been properly served,
20 failure to make or file a proper proof of service [*shall*] **does** not affect the validity of the
21 service.

22 **G Disregard of error; actual notice.** Failure to comply with provisions of this rule relating
23 to the form of a summons, issuance of a summons, or who may serve a summons [*shall*] **does**
24 not affect the validity of service of that summons or the existence of jurisdiction over the
25 person if the court determines that the defendant received actual notice of the substance and
26 pendency of the action. The court may allow amendment to a summons, affidavit, declaration,

1 or certificate of service of summons. The court [*shall*] **will** disregard any error in the content of
2 a summons that does not materially prejudice the substantive rights of the party against whom
3 the summons was issued. If service is made in any manner complying with subsection D(1) of
4 this rule, the court [*shall*] **will** also disregard any error in the service of a summons that does
5 not violate the due process rights of the party against whom the summons was issued.
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1 by electronic service.

2 C(5) **Proof of service on a party without a service address.** Service on a party who has

3 appeared without providing an appropriate address for service *[shall]* **must** be by affidavit or

4 by declaration of the person filing the document, or by certificate of an attorney, that service

5 by filing as provided in section B of this rule is appropriate.

6 **[D When filing not required.] D Documents not to be filed.** Notices of deposition,

7 requests made pursuant to Rule 43, and answers and responses thereto *[shall not be]* **are not**

8 **to be** filed with the court. This rule *[shall]* **does** not preclude their use as exhibits or as

9 evidence on a motion or at trial. Offers to allow judgment made pursuant to Rule 54 E *[shall*

10 *not be]* **are not to be** filed with the court except as provided in Rule 54 E(3).

11 **E Filing with the court defined.** The filing of pleadings and other documents with the

12 court as required by these rules *[shall]* **must** be made by filing them with the clerk of the court

13 or the person exercising the duties of that office. The clerk or the person exercising the duties

14 of that office *[shall]* **will** endorse on the pleading or document the time of day, the day of the

15 month, the month, and the year. The clerk or person exercising the duties of that office is not

16 required to receive for filing any document unless a caption that includes the name of the

17 court; the case number of the action, if one has been assigned; the title of the document; and

18 the names of the parties *[are]* **is** legibly displayed on the front of the document, nor unless the

19 contents of the document are legible. Further, the clerk is not required to receive for filing any

20 document that does not include the name, address, and telephone number of the **filing** party

21 or the attorney for the party, if the **filing** party is represented.

22 **F Service by facsimile communication.** Whenever under these rules service is required or

23 permitted to be made on a party, and that party is represented by an attorney, the service may

24 be made on the attorney by means of facsimile communication if the attorney has such

25 technology available and said technology is operating at the time service is made. Service in

26 this manner *[shall be]* **is** subject to Rule 10 B. Facsimile communication includes: a telephonic

1 by electronic service.

2 C(5) **Proof of service on a party without a service address.** Service on a party who has

3 appeared without providing an appropriate address for service *[shall]* **must** be by affidavit or

4 by declaration of the person filing the document, or by certificate of an attorney, that service

5 by filing as provided in section B of this rule is appropriate.

6 **[D When filing not required. Notices] D Documents not to be filed. The court will not**

7 **accept for filing notices** of deposition, requests made pursuant to Rule 43, and answers and

8 responses **thereto.** *[thereto shall not be filed with the court.]* This rule *[shall]* **does** not preclude

9 their use as exhibits or as evidence on a motion or at trial. Offers to allow judgment made

10 pursuant to Rule 54 E *[shall not be]* **must not be** filed with the court except as provided in Rule

11 54 E(3).

12 **E Filing with the court defined.** The filing of pleadings and other documents with the

13 court as required by these rules *[shall]* **must** be made by filing them with the clerk of the court

14 or the person exercising the duties of that office. The clerk or the person exercising the duties

15 of that office *[shall]* **will** endorse on the pleading or document the time of day, the day of the

16 month, the month, and the year. The clerk or person exercising the duties of that office is not

17 required to receive for filing any document unless **the document is legible and contains a**

18 **legibly displayed** caption **on the front** that *[includes]* **includes:** the name of the court; the case

19 number of the action, if one has been assigned; the title of the document; and the names of

20 the **parties.** *[parties are legibly displayed on the front of the document, nor unless the contents*

21 *of the document are legible.]* Further, the clerk is not required to receive for filing any

22 document that does not include the name, address, and telephone number of the **filing** party

23 or the attorney for *[the]* **that** party, if the **filing** party is represented.

24 **F Service by facsimile communication.** Whenever under these rules service is required or

25 permitted to be made on a party, and that party is represented by an attorney, the service may

26 be made on the attorney by means of facsimile communication if the attorney has such

1 **SERVICE AND FILING OF PLEADINGS**

2 **AND OTHER DOCUMENTS**

3 **RULE 9**

4 **A Service; when required.** Except as otherwise provided in these rules, every order;
5 every pleading subsequent to the original complaint; every written motion other than one that
6 may be heard ex parte; and every written request, notice, appearance, demand, offer to allow
7 judgment, designation of record on appeal, and similar document [*shall*] **must** be served on
8 each of the parties. No service need be made on parties in default for failure to appear except
9 that pleadings asserting new or additional claims for relief against [*them shall*] **parties in**
10 **default must** be served on [*them*] **those parties** in the manner provided for service of
11 summons in Rule 7.

12 **B Service; how made.** Except as otherwise provided in Rule 7 or Rule 8, whenever under
13 these rules service is required or permitted to be made on a party, and that party is
14 represented by an attorney, the service [*shall*] **must** be made on the [*attorney*] **attorney,**
15 unless otherwise ordered by the court. Service on the attorney or on a party [*shall*] **must** be
16 made by delivering a copy to that attorney or party; by mailing [*it*] **the copy** to the attorney's or
17 party's last known address; by e-mail as provided in section G of this rule; by electronic service
18 as provided in section H of this rule; or, if the party is represented by an attorney, by facsimile
19 communication as provided in section F of this rule. Delivery of a copy within this rule means:
20 handing [*it*] **the copy** to the person to be served; or leaving [*it*] **the copy** at the person's office
21 with the person who is apparently in charge; or, if there is no one in charge, leaving the copy in
22 a conspicuous place therein; or, if the office is closed or the person to be served has no office,
23 leaving the copy at the person's dwelling house or usual place of abode with some person 14
24 years of age or older then residing therein. A party who has appeared without providing an
25 appropriate address for service may be served by filing the pleading or other document with
26 the court. Service by mail is complete on mailing. Service of any notice or other document to

bring a party into contempt [*may be only on that party personally.*] **must be by personal service on that party.**

C Filing; proof of service.

C(1) **Generally.** Except as provided by section D of this rule, all documents required to be served on a party by section A of this rule [*shall*] **must** be filed with the court within a reasonable time after service. Except as otherwise provided in Rule 7 [*and*] **or** Rule 8, proof of service of all documents required or permitted to be served may be by written acknowledgment of service, by affidavit or declaration of the person making service, or by certificate of an attorney. Proof of service may be made on the document served or as a separate document attached thereto.

C(2) **Proof of service by facsimile communication.** If service is made by facsimile communication under section F of this rule, proof of service [*shall*] **must** be made by affidavit or by declaration of the person making service, or by certificate of an [*attorney*] **attorney**, and the person making service [*shall*] **must** attach to the affidavit, declaration, or certificate printed confirmation of receipt of the message generated by the transmitting technology.

C(3) **Proof of service by e-mail.** If service is made by e-mail under section G of this rule, proof of service [*shall*] **must** be made by affidavit or by declaration of the person making service, or by certificate of an attorney, stating either that the other party has consented to service by e-mail or that [*he or she*] **the sender** received confirmation that the message and **any** attachment were received by the designated recipient and specifying the method by which the sender received confirmation. An automatically generated message indicating that the recipient is out of the office or is otherwise unavailable cannot support the required certification, nor can an automatically generated e-mail delivery status notification.

C(4) **Proof of service by electronic service.** If service is made by electronic service under section H of this rule, proof of service [*shall*] **must** be made by affidavit or by declaration of the person making service, or by certificate of an attorney, specifying that service was completed

1 by electronic service.

2 C(5) **Proof of service on a party without a service address.** Service on a party who has
3 appeared without providing an appropriate address for service [shall] **must** be by affidavit or
4 by declaration of the person filing the document, or by certificate of an attorney, that service
5 by filing as provided in section B of this rule is appropriate.

6 **[D When filing not required. Notices] D Documents not to be filed. The court will not**
7 **accept for filing notices** of deposition, requests made pursuant to Rule 43, and answers and
8 responses **thereto**. [*thereto shall not be filed with the court.*] This rule [shall] **does** not preclude
9 their use as exhibits or as evidence on a motion or at trial. Offers to allow judgment made
10 pursuant to Rule 54 E [shall not be] **must not be** filed with the court except as provided in Rule
11 54 E(3).

12 **E Filing with the court defined.** The filing of pleadings and other documents with the
13 court as required by these rules [shall] **must** be made by filing them with the clerk of the court
14 or the person exercising the duties of that office. The clerk or the person exercising the duties
15 of that office [shall] **will** endorse on the pleading or document the time of day, the day of the
16 month, the month, and the year. The clerk or person exercising the duties of that office is not
17 required to receive for filing any document unless **the document is legible and contains a**
18 **legibly displayed** caption **on the front** that [*includes*] **includes:** the name of the court; the case
19 number of the action, if one has been assigned; the title of the document; and the names of
20 the **parties**. [*parties are legibly displayed on the front of the document, nor unless the contents*
21 *of the document are legible.*] Further, the clerk is not required to receive for filing any
22 document that does not include the name, address, and telephone number of the **filing** party
23 or the attorney for [*the*] **that** party, if the **filing** party is represented.

24 **F Service by facsimile communication.** Whenever under these rules service is required or
25 permitted to be made on a party, and that party is represented by an attorney, the service may
26 be made on the attorney by means of facsimile communication if the attorney has such

1 technology available and said technology is operating at the time service is made. Service in
2 this manner [shall be] is subject to Rule 10 B. Facsimile communication includes: a telephonic
3 facsimile communication device; a facsimile server or other computerized system capable of
4 receiving and storing incoming facsimile communications electronically and then routing them
5 to users on paper or via e-mail; or an internet facsimile service that allows users to send and
6 receive facsimiles from their personal computers using an existing e-mail account.

7 **G Service by e-mail.** Whenever under these rules service is required or permitted to be
8 made on a party, unless the party or the party's attorney is exempted from service by e-mail by
9 an order of the court, the service may be made by means of e-mail. Service is complete under
10 this rule on confirmation of receipt of the e-mail or, if the receiving party has consented to
11 service by e-mail, on transmission of the e-mail. Any party or any party's attorney must provide
12 the name and e-mail address of that party or that attorney and that attorney's designee, if any,
13 on any document served by e-mail. Any party or attorney who has communicated by e-mail or
14 by electronic service must notify the other parties in writing of any changes to that party's or
15 that attorney's e-mail address. Service in this manner [shall be] is subject to Rule 10 B.

16 **H Service by electronic service.** As used in these rules, "electronic service" means using
17 an electronic filing system provided by the Oregon Judicial Department and in the manner
18 prescribed in rules adopted by the Chief Justice of the Oregon Supreme Court.
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