



Oregon Rules of Civil Procedure Legislative Amendments 1979-2023

ORCP 32



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Lewis & Clark Law School | Oregon Council on Court Procedures

Rule 32 – Class Actions

§	Latest Amendment
A	Or. Laws 1979 c.284 § 1
B	Unamended
C	Unamended
D	Unamended
E	Unamended
F	Or. Laws 2015 c.2 § 1
G	Unamended
H	Or. Laws 1979 c.284 § 1
I	Or. Laws 1979 c.284 § 1
J	Or. Laws 1979 c.284 § 1
K	Repealed and redesignated: Or. Laws 2009 c.552 § 1
L	Or. Laws 2015 c.2 § 2
M	Or. Laws 2009 c.552 § 3
N	Or. Laws 2009 c.552 § 4
O	Or. Laws 2015 c.2 § 3

Or. Laws 1981 c.912 § 1
Amends Rule 32(A), (F), (H)–(O)

- A. **Requirement for class action.** [Full section text unamended]
1. [Unamended]
 2. [Unamended]
 3. [Unamended]
 4. The representative parties will fairly and adequately protect the interests of the class; **and**.
 5. **In an action for damages under subsection (3) of section B. of this rule, the representative parties have complied with the prelitigation notice provisions of section H. of this rule.**
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. [Unamended]
- F. **Notice required; content; statements of class members ~~may be~~ required; form; content; [sic] effect of failure to file required statements.**
1. [Unamended]
 - a. [Unamended]
 - b. [Unamended]
 - c. [Unamended]
 - d. ~~Each member of the class, not a representative party, whose potential monetary recovery or liability is estimated to exceed \$100 shall be given personal or mailed notice if such class member's identity and whereabouts can be ascertained by the exercise of reasonable diligence.~~ **Members of the class shall be given the best notice practicable under the circumstances. Individual notice shall be given to all members who can be identified through reasonable effort.**
 - e. [Unamended]
 - f. The court may order a defendant who has a mailing list of class members to cooperate with the representative parties in notifying the class members. **The court ~~and~~ may also direct that separate and distinctive notice be included with a regular mailing by the defendant to the class members who are current customers or employees [sic] of the defendant.**

- g. The court may order, as an alternative to the order and direction under paragraph (f) of this subsection, that a defendant who has a mailing list of class members, including those who are or were current customers or employees of the defendant, provide a copy of that list to the representative parties. The representative parties shall be required to pay the reasonable costs of generating, printing or duplicating the mailing list.
 - h. The court may order a defendant who has a list of former customers or employees to provide that list to the representative parties. The court may further order that a separate and distinctive notice be included with a regular mailing by the defendant to current customers or employees of the defendant.
2. Prior to the final entry of a judgment against a defendant the court ~~may~~ shall request members of the class to submit a statement in a form prescribed by the court requesting affirmative relief which may also, where appropriate, require information regarding the nature of the loss, injury, claim, transactional relationship, or damage. The statement shall be designed to meet the ends of justice. In determining the form of the statement, the court shall consider the nature of the acts of the defendant, the amount of knowledge a class member would have about the extent of such member's damages, the nature of the class including the probable degree of sophistication of its members, and the availability of relevant information from sources other than the individual class members. **The amount of damages assessed against the defendant shall not exceed the total amount of damages determined to be allowable by the court for each individual class member who has filed a statement required by the court, assessable court costs, and an award of attorney fees, if any, as determined by the court.**
 3. ~~If the court requires class members to file a statement requesting affirmative relief~~ Failure of a class member to file a statement required by the court ~~may~~ will be grounds for the entry of judgment dismissing such class member's claim without prejudice to the right to maintain an individual, but not a class, action for such claim.
 4. ~~Unless the court orders otherwise, the plaintiffs shall bear the expense of notification. The court may, if justice requires, require that the defendant bear the expense of notification or may allocate the costs of notice, among the parties if the court determines there is a reasonable likelihood that the plaintiffs may prevail. The court may hold a preliminary hearing to determine how the costs of notice should be apportioned.~~ Except as otherwise provided in this subsection, the plaintiffs shall bear the expense of notification. The court may, if justice requires, require that the defendant bear the expense of notification to the current customers or employees of the defendant. ~~t~~ included with a regular mailing by the defendant. The court may hold a preliminary hearing to determine how the costs of notice shall be apportioned.
 5. No duty of compliance with due process notice requirements is imposed on a defendant by reason of the defendant including notice with a regular mailing by the defendant to current customers or employees of the defendant under this section.
 6. As used in this section, "customer" includes a person, including but not limited to a student, who has purchased services or goods from a defendant.
- G. [Unamended]
- H. Notice and demand required prior to commencement of action for damages.
1. Thirty days or more prior to the commencement of an action for damages pursuant to the provisions of subsection (3) of section B. of this rule, the potential plaintiffs' class representative shall:
 - a. Notify the potential defendant of the particular alleged cause of action; and
 - b. Demand that such person correct or rectify the alleged wrong.
 2. Such notice shall be in writing and shall be sent by certified or registered mail, return receipt requested, to the place where the transaction occurred, such person's principal place of business within this state, or, if neither will effect actual notice, the office of the Secretary of State.
- I. [(H)] Limitation on maintenance of class actions for damages. [Full section text unamended]
- J. ~~[(I)] Amendment of complaints for equitable relief to request damages permitted. Application of sections H. and I. of this rule to actions of equitable relief; amendment of complaints for equitable relief to request damages permitted.~~
1. An action for equitable relief brought under sections A. and B. of this rule may be commenced without compliance with the provisions of section H. of this rule. Not less than 30 days after the commencement of an action for equitable relief, and after compliance with the provisions of section H. of this rule, the class representative's complaint may be amended without leave of court to include a request for damages. The provisions of section ~~H~~ I. of this rule shall be applicable if the complaint for injunctive relief is amended to request damages.

- K. [\[\(J\)\] Limitation on maintenance of class actions for recovery of certain statutory penalties.](#) [Full section text unamended]
- L. [\[\(K\)\] Coordination of pending class actions sharing common question of law or fact.](#) [Full section text unamended]
- M. [\[\(L\)\] Judgment; inclusion of class members; description; names.](#) The judgment in an action maintained as a class action under subsections (1) or (2) of section B. of this rule, whether or not favorable to the class, shall include and describe those whom the court finds to be members of the class. The judgment in an action maintained as a class action under subsection (3) of section B. of this rule, whether or not favorable to the class, shall include and specify **by name** those to whom the notice provided in section F. of this rule was directed, and who have not requested exclusion and whom the court finds to be members of the class, **and the judgment shall state the amount to be recovered by each member.**
- N. [\[\(M\)\] Attorney fees, costs- disbursements and litigation expenses.](#) [Full section text unamended]
- O. [\[\(N\)\] Statute of Limitations.](#) [Full section text unamended]

H.B. 3122

Or. Laws 1981 c.912 §

House Introduction

3/16/81

A-Engrossed Bill

6/15/81 – Passed with amendments in House (per Judiciary Committee recommendation)

7/31/81 – Passed with amendments in Senate (per Justice Committee recommendation)

B-Engrossed Bill

8/1/81 – House concurred with Senate amendments and repassed bill

Governor signed Enrolled Bill

8/22/81

Or. Laws 2003 c.576 § 173, 259

§173 Amends Rule 32(M);

§259 Amends Rule 32(F)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. [Unamended]
- F. **Notice and exclusion.**
 - 1. [Unamended]
 - 2. Prior to the entry of a **final** judgment against a defendant the court shall request members of the class who may be entitled to individual monetary recovery to submit a statement in a form prescribed by the court requesting affirmative relief which may also, where appropriate, require information regarding the nature of the loss, injury, claim, transactional relationship, or damage. The statement shall be designed to meet the ends of justice. In determining the form of the statement, the court shall consider the nature of the acts of the defendant, the amount of knowledge a class member would have about the extent of such member's damages, the nature of the class including the probable degree of sophistication of its members, and the availability of relevant information from sources other than the individual class members. The amount of damages assessed against the defendant shall not exceed the total amount of damages determined to be allowable by the court for each individual class member who has filed a statement required by the court, assessable court costs, and an award of attorney fees, if any, as determined by the court.
 - 3. [Unamended]
 - 4. [Unamended]
 - 5. [Unamended]
 - 6. [Unamended]
- G. [Unamended]
- H. [Unamended]
- I. [Unamended]
- J. [Unamended]
- K. [Unamended]
- L. [Unamended]
- M. **Form of judgment.** The judgment in an action ordered maintained as a class action, whether or not favorable to the class, shall specify or describe those found to be members of the class or who, as a condition of exclusion, have agreed to be bound by the judgment. If a **money** judgment **that includes a money award** is entered in favor of a class, **the judgment must, it shall** when possible, identify by name each member of the class and the amount to be recovered thereby.
- N. [Unamended]
- O. [Unamended]

H.B. 2646

Or. Laws 2003 c.576 § 173, 259

House Introduction

2/13/03

A-Engrossed Bill

5/6/03 – Passed with amendments in House (per Judiciary Committee recommendation)

6/27/03 – Passed with amendments in Senate (per Judiciary Committee recommendation)

B-Engrossed Bill

7/1/03 – House concurred with Senate amendments and repassed bill

Governor signed Enrolled Bill

7/17/03

Or. Laws 2009 c.552 § 1-5

§1 Repeals Rule 32(K);

§2 Amends Rule 32(L);

§3 Amends Rule 32(M);

§4 Amends Rule 32(N);

§5 Amends Rule 32(O)

A. [Unamended]

B. [Unamended]

C. [Unamended]

D. [Unamended]

E. [Unamended]

F. [Unamended]

G. [Unamended]

H. [Unamended]

I. [Unamended]

J. [Unamended]

K. **[Full section text repealed]** [(L)] Coordination of pending class actions sharing common questions of law or fact. [Full section text redesignated]

L. [(M)] Form of judgment. [Full section text redesignated]

M. [(N)] Attorney fees, costs, disbursements, and litigation expenses. [Full section text redesignated]

N. [(O)] Statute of limitations. [Full section text redesignated]

H.B. 2585

Or. Laws 2009 c.552 § 1-5

House Introduction

2/5/09

A-Engrossed Bill

5/4/09 – Passed with amendments in House (per Judiciary Committee recommendation)

6/4/09 – Passed unamended in Senate

Governor signed Enrolled Bill

6/25/09

Or. Laws 2015 c.2 § 1-3

§1 Amends Rule 32(F);

§2 Amends Rule 32(L);

§3 Amends Rule 32(O)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. [Unamended]
- F. **Notice and exclusion.**
 - 1. [Unamended]
 - 2. [(F)(5)] Plaintiffs shall bear costs of any notice ordered prior to a determination of liability. The court may, however, order that defendant bear all or a specified part of the costs of any notice included with a regular mailing by defendant to its current customers or employees. The court may hold a hearing to determine how the costs of such notice shall be apportioned.
 - a. [Subsections (F)(2)(i)-(v) [sic] deleted in full]
 - 3. [(F)(6)] No duty of compliance with due process notice requirements is imposed on a defendant by reason of the defendant including notice with a regular mailing by the defendant to current customers or employees of the defendant under this section.
 - 4. [F(7)] As used in this section, "customer" includes a person, including but not limited to a student, who has purchased services or goods from a defendant.
- G. [Unamended]
- H. [Unamended]
- I. [Unamended]
- J. [Unamended]
- K. [Unamended]
- L. **Form of judgment.** The judgment in an action ordered maintained as a class action, whether or not favorable to the class, **must generally describe the members of the class and must specifically identify any persons who requested exclusion from the class and are not bound by the judgment. ~~shall specify or describe those found to be members of the class or who, as a condition of exclusion, have agreed to be bound by the judgment. If a judgment that includes a money award is entered in favor of a class, the judgment must, when possible, identify by name each member of the class and the amount to be recovered thereby.~~**
- M. [Unamended]
- N. [Unamended]
- O. **Payment of damages.** As part of the settlement or judgment in a class action, the court may approve a process for the payment of damages. The process may include the use of claim forms. If any amount awarded as damages is not claimed within the time specified by the court, or if the court finds that payment of all or part of the damages to class members is not practicable, the court shall order that:
 - 1. At least 50 percent of the amount not paid to class members be paid or delivered to the Oregon State Bar for the funding of legal services provided through the Legal Services Program established under ORS 9.572; and
 - 2. The remainder of the amount not paid to class members be paid to any entity for purposes that the court determines are directly related to the class action or directly beneficial to the interests of class members.

H.B. 2700 [Passed Unamended]

Or. Laws 2015 c.2 § 1-3

House Introduction

1/12/15

A-Engrossed Bill

2/9/15 – Passed unamended in House (per Judiciary Committee Majority recommendation; Judiciary Committee Minority recommended passing with amendments); Motion to substitute Minority Report for Committee Report failed
3/3/15 – Passed unamended in Senate (per Judiciary Committee Majority recommendation, with Senators Kruse and Thatcher not concurring; Judiciary Committee Minority recommended passing with amendments (printed “A-Eng.

Minority’)); Motion to substitute Minority Report for Committee Report failed; Motion to refer to Senate Rules Committee to adopt prior proposed amendments failed; Motion to refer to Senate Ways & Means to adopt prior proposed amendments failed

Governor signed Enrolled Bill

3/4/15