

**Oregon Rules of Civil Procedure
Legislative Amendments 1979-2023**

ORCP 47

Compiled by Connor Grosshanten

Lewis & Clark Law School | Oregon Council on Court Procedures

Rule 47 – Summary Judgment

§	Latest Amendment
A	Or. Laws 2003 c.194 § 9
B	Or. Laws 2003 c.194 § 9
C	Or. Laws 2007 c.339 § 15
D	Or. Laws 2007 c.339 § 16
E	Or. Laws 2003 c.194 § 9
F	Or. Laws 2007 c.339 § 17
G	Or. Laws 2003 c.576 § 260

Or. Laws 1979 c.284 § 31

Amends Rule 47(D)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. **Form of affidavits; defense required.** Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions or further affidavits. When a motion for summary judgment is made and supported as provided in this **section rule**, an adverse party may not rest upon the mere allegations or denials of that party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue as to any material fact for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against such party.
- E. [Unamended]
- F. [Unamended]
- G. [Unamended]

H.B. 3131

Or. Laws 1979 c.284 § 31

House Introduction

5/11/79

A-Engrossed Bill

5/25/79 – Passed unamended in House

6/6/79 – Passed with amendments in Senate (per Justice Committee recommendation)

6/8/79 – House concurred with Senate amendments and repassed bill

Governor signed Enrolled Bill

6/26/79

Or. Laws 1981 c.898 § 6
Amends Rule 47(G)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. [Unamended]
- F. [Unamended]
- G. **Multiple parties or claims final judgment.** In any action involving multiple parties or multiple claims, a summary judgment which is not entered in compliance with ~~ORS 18.125~~ **Rule 67 B.** shall not constitute a final judgment.

H.B. 3261

Or. Laws 1981 c.898 § 6

House Introduction

6/5/81

A-Engrossed Bill

6/23/81 – Passed unamended in House

7/17/81 – Passed with amendments in Senate (per Justice Committee recommendation)

7/24/81 – House refused to concur with Senate Amendments; Conference Committee formed

Conference Committee Bill

8/1/81 – House adopted and repassed Conference Committee Bill

8/1/81 – Senate adopted and repassed Conference Committee Bill

Governor signed Enrolled Bill

8/22/81

Or. Laws 1991 c.724 § 30
Amend Rule 47(G)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. [Unamended]
- F. [Unamended]
- G. **Affidavits made in bad faith.** Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur, including reasonable attorney fees, and any offending party or attorney may be ~~adjudged guilty of~~ **subject to sanctions for** contempt.

S.B. 376

Or. Laws 1991 c.724 § 30

Senate Introduction

1/21/91

A-Engrossed Bill

4/10/91 – Passed with amendments in Senate (per Judiciary Committee recommendation)

6/12/91 – Passed with amendments in House (per Judiciary Committee recommendation)

B-Engrossed Bill

6/20/91 – Senate refused to concur with House Amendments; Conference Committee formed

6/26/91 – Conference Committee recommended Senate concur with House Amendments, further amend the bill, and repass

Conference Committee Bill

6/27/91 – Senate adopted Conference Committee Bill and repassed; House adopted Conference Committee Bill and repassed.

Governor signed Enrolled Bill

7/31/91

Or. Laws 1995 c.618 § 5
Amends Rule 47(C)

- A. [Unamended]
- B. [Unamended]
- C. **Motion and proceedings thereon.** The motion and all supporting documents shall be served and filed at least 45 days before the date set for trial. The adverse party shall have 20 days in which to serve and file opposing affidavits and supporting documents. The moving party shall have five days to reply. The court shall have discretion to modify these stated times. The judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. **No genuine issue as to a material fact exists if, based upon the record before the court viewed in a manner most favorable to the adverse party, no objectively reasonable juror could return a verdict for the adverse party on the matter that is the subject of the motion for summary judgment.** A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.
- D. [Unamended]
- E. [Unamended]
- F. [Unamended]
- G. [Unamended]

S.B. 385

Or. Laws 1995 c.618 § 5

Senate Introduction

1/30/95

A-Engrossed Bill

1/30/95 – Referred to Senate Judiciary Committee

2/1/95 – Assigned to Civil Process Subcommittee

4/20/95 – Printed engrossed (A-Eng.) and rereferred to Judiciary Committee (per Civil Process Subcommittee recommendation)

5/8/95 – Returned to Judiciary Committee

5/18/95 – Judiciary Committee recommended passing with amendments to A-Eng. (printed “B-Eng.”)

B-Engrossed Bill

5/23/95 – Passed with amendments in Senate (per Judiciary Committee recommendation)

6/6/95 – House Judiciary Committee recommended passing with amendments to B-Eng. (printed “C-Eng.”)

C-Engrossed Bill

6/8/95 – Passed with amendments in House (per Judiciary Committee recommendation)

6/9/95 – Senate concurred with House amendments and repassed bill

Governor signed Enrolled Bill

7/17/95

Or. Laws 1999 c.815 § 1
Amends Rule 47(C)

- A. [Unamended]
- B. [Unamended]
- C. **Motion and proceedings thereon.** The motion and all supporting documents shall be served and filed at least 45 days before the date set for trial. The adverse party shall have 20 days in which to serve and file opposing affidavits and supporting documents. The moving party shall have five days to reply. The court shall have discretion to modify these stated times. The ~~judgment sought shall be rendered forthwith~~ **court shall enter judgment for the moving party** if the pleadings, depositions, **affidavits** and admissions on file, ~~together with the affidavits, if any,~~ show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. No genuine issue as to a material fact exists if, based upon the record before the court viewed in a manner most favorable to the adverse party, no objectively reasonable juror could return a verdict for the adverse party on the matter that is the subject of the motion for summary judgment. **The adverse party has the burden of producing evidence on any issue raised in the motion as to which the adverse party would have the burden of persuasion at trial. The adverse party may satisfy the burden of producing evidence with an affidavit under section E of this rule.** A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.
- D. [Unamended]
- E. [Unamended]
- F. [Unamended]
- G. [Unamended]

H.B. 2721

Or. Laws 1999 c.815 § 1

House Introduction

2/26/99

A-Engrossed Bill

5/3/99 – Passed with amendments in House (per Judiciary Committee and Civil Law Subcommittee)

6/1/99 – Passed unamended in Senate

Governor signed Enrolled Bill

7/20/99

Or. Laws 2003 c.194 § 9
Amends Rule 47

- A. **For claimant.** A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move, with or without supporting affidavits **or declarations**, for a summary judgment in that party's favor upon all or any part thereof.
- B. **For defending party.** A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move, with or without supporting affidavits **or declarations**, for a summary judgment in that party's favor as to all or any part thereof.
- C. **Motion and proceedings thereon.** The motion and all supporting documents shall be served and filed at least 60 days before the date set for trial. The adverse party shall have 20 days in which to serve and file opposing affidavits **or declarations** and supporting documents. The moving party shall have five days to reply. The court shall have discretion to modify these stated times. The court shall enter judgment for the moving party if the pleadings, depositions, affidavits, **declarations** and admissions on file show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. No genuine issue as to a material fact exists if, based upon the record before the court viewed in a manner most favorable to the adverse party, no objectively reasonable juror could return a verdict for the adverse party on the matter that is the subject of the motion for summary judgment. The adverse party has the burden of producing evidence on any issue raised in the motion as to which the adverse party would have the burden of persuasion at trial. The adverse party may satisfy the burden of producing evidence with an affidavit **or a declaration** under section E of this rule. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.
- D. **Form of affidavits and declarations; defense required.** Except as provided by section E of this rule, supporting and opposing affidavits **and declarations** shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant **or declarant** is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit **or a declaration** shall be attached thereto or served therewith. The court may permit affidavits **or declarations** to be supplemented or opposed by depositions or further affidavits or declarations. When a motion for summary judgment is made and supported as provided in this rule an adverse party may not rest upon the mere allegations or denials of that party's pleading, but the adverse party's response, by affidavits, **declarations** or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue as to any material fact for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against such party.
- E. **Affidavit or declaration of attorney when expert opinion required.** Motions under this rule are not designed to be used as discovery devices to obtain the names of potential expert witnesses or to obtain their facts or opinions. If a party, in opposing a motion for summary judgment, is required to provide the opinion of an expert to establish a genuine issue of material fact, an affidavit **or a declaration** of the party's attorney stating that an unnamed qualified expert has been retained who is available and willing to testify to admissible facts or opinions creating a question of fact, will be deemed sufficient to controvert the allegations of the moving party and an adequate basis for the court to deny the motion. The affidavit **or declaration** shall be made in good faith based on admissible facts or opinions obtained from a qualified expert who has actually been retained by the attorney who is available and willing to testify and who has actually rendered an opinion or provided facts which, if revealed by affidavit **or declaration**, would be a sufficient basis for denying the motion for summary judgment.
- F. **When affidavits or declarations are unavailable.** Should it appear from the affidavits **or declarations** of a party opposing the motion that such party cannot, for reasons stated, present by affidavit **or declaration** facts essential to justify the opposition of that party, the court may refuse the application for judgment, or may order a continuance to permit affidavits **or declarations** to be obtained or depositions to be taken or discovery to be had, or may make such other order as is just.
- G. **Affidavits or declarations made in bad faith.** Should it appear to the satisfaction of the court at any time that any of the affidavits **or declarations** presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits **or declarations** caused the other party to incur, including reasonable attorney fees, and any offending party or attorney may be subject to sanctions for contempt.
- H. [Unamended]

H.B. 2064 [Passed Unamended]

Or. Laws 2003 c.194 § 9

Or. Laws 2003 c.576 § 260
Amends Rule 47(H)

- A. [Unamended]
- B. [Unamended]
- C. [Unamended]
- D. [Unamended]
- E. [Unamended]
- F. [Unamended]
- G. [Unamended]
- H. ~~Multiple parties or claims; final limited judgment. In any action involving multiple parties or multiple claims, a summary judgment which is not entered in compliance with Rule 67 B shall not constitute a final judgment.~~ **If the court grants summary judgment for less than all parties and claims in an action, a limited judgment may be entered if the court makes the determination required by Rule 67 B.**

H.B. 2646

Or. Laws 2003 c.576 § 260

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 2007 c.339 § 15–17

§15 Amends Rule 47(C);

§16 Amends Rule 47(D);

§17 Amends Rule 47 (F)

- A. [Unamended]
- B. [Unamended]
- C. **Motion and proceedings thereon.** The motion and all supporting documents shall be served and filed at least 60 days before the date set for trial. The adverse party shall have 20 days in which to serve and file opposing affidavits or declarations and supporting documents. The moving party shall have five days to reply. The court shall have discretion to modify these stated times. The court shall ~~enter judgment for the moving party~~ **grant the motion** if the pleadings, depositions, affidavits, declarations and admissions on file show that there is no genuine issue as to any material fact and that the moving party is entitled to ~~a judgment prevail~~ as a matter of law. No genuine issue as to a material fact exists if, based upon the record before the court viewed in a manner most favorable to the adverse party, no objectively reasonable juror could return a verdict for the adverse party on the matter that is the subject of the motion for summary judgment. The adverse party has the burden of producing evidence on any issue raised in the motion as to which the adverse party would have the burden of persuasion at trial. The adverse party may satisfy the burden of producing evidence with an affidavit or a declaration under section E of this rule. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.
- D. **Form of affidavits and declarations; defense required.** Except as provided by section E of this rule, supporting and opposing affidavits and declarations shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant or declarant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit or a declaration shall be attached thereto or served therewith. The court may permit affidavits or declarations to be supplemented or opposed by depositions or further affidavits or declarations. When a motion for summary judgment is made and supported as provided in this rule an adverse party may not rest upon the mere allegations or denials of that party's pleading, but the adverse party's response, by affidavits, declarations or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue as to any material fact for trial. If the adverse party does not so respond, ~~summary judgment, if appropriate, shall be entered against such party~~ **the court shall grant the motion if appropriate.**
- E. [Unamended]
- F. **When affidavits or declarations are unavailable.** Should it appear from the affidavits or declarations of a party opposing the motion that such party cannot, for reasons stated, present by affidavit or declaration facts essential to justify the opposition of that party, the court may ~~refuse the application for judgment,~~ **deny the motion** or may order a continuance to permit affidavits or declarations to be obtained or depositions to be taken or discovery to be had, or may make such other order as is just.
- G. [Unamended]
- H. [Unamended]

S.B. 501

Or. Laws 2007 c.339 § 15–17

Staff Analysis and Reports

- Requires the money award section of a judgment document to include the amount of the money award, separate from the interest owed, payment of costs or disbursements or attorney fees. Provides that the separate record maintained by the circuit court administrator for judgments is called the judgment lien record.
- As written, ORS 18.042 states that the money award section of a judgment document must include the amount of the money award. SB 501 clarifies that the term “money award” is the monetary amount awarded in the judgment, not including the other statutory money involved in such judgments.
- The records for judgments are currently called the “separate record.” This bill replaces that language with judgment lien record,” which is not used in any other statutory provisions other than are included in this bill.

Fiscal Impact Statement

Minimal fiscal impact

House Introduction

2/5/07

A-Engrossed Bill

3/19/07 – Passed unamended in Senate

5/18/07 – Passed with amendments in House (per Judiciary Committee recommendation

5/22/07 – Senate concurred with House amendments and repassed bill

Governor signed Enrolled Bill

6/11/07