

## HOUSE AMENDMENTS TO SENATE BILL 501

By COMMITTEE ON JUDICIARY

May 14

1 On page 1 of the printed bill, line 3, after “416.440” insert “and ORCP 47 C, 47 D and 47 F”.

2 On page 11, after line 12, insert:

### “MOTION FOR SUMMARY JUDGMENT

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6 “**SECTION 15.** ORCP 47 C is amended to read:

7 “C Motion and proceedings thereon. The motion and all supporting documents shall be served  
8 and filed at least 60 days before the date set for trial. The adverse party shall have 20 days in which  
9 to serve and file opposing affidavits or declarations and supporting documents. The moving party  
10 shall have five days to reply. The court shall have discretion to modify these stated times. The court  
11 shall [*enter judgment for the moving party*] **grant the motion** if the pleadings, depositions, affidavits,  
12 declarations and admissions on file show that there is no genuine issue as to any material fact and  
13 that the moving party is entitled to [*a judgment*] **prevail** as a matter of law. No genuine issue as to  
14 a material fact exists if, based upon the record before the court viewed in a manner most favorable  
15 to the adverse party, no objectively reasonable juror could return a verdict for the adverse party  
16 on the matter that is the subject of the motion for summary judgment. The adverse party has the  
17 burden of producing evidence on any issue raised in the motion as to which the adverse party would  
18 have the burden of persuasion at trial. The adverse party may satisfy the burden of producing ev-  
19 idence with an affidavit or a declaration under section E of this rule. A summary judgment,  
20 interlocutory in character, may be rendered on the issue of liability alone although there is a genu-  
21 ine issue as to the amount of damages.

22 “**SECTION 16.** ORCP 47 D is amended to read:

23 “D Form of affidavits and declarations; defense required. Except as provided by section E of this  
24 rule, supporting and opposing affidavits and declarations shall be made on personal knowledge, shall  
25 set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant  
26 or declarant is competent to testify to the matters stated therein. Sworn or certified copies of all  
27 papers or parts thereof referred to in an affidavit or a declaration shall be attached thereto or  
28 served therewith. The court may permit affidavits or declarations to be supplemented or opposed  
29 by depositions or further affidavits or declarations. When a motion for summary judgment is made  
30 and supported as provided in this rule an adverse party may not rest upon the mere allegations or  
31 denials of that party’s pleading, but the adverse party’s response, by affidavits, declarations or as  
32 otherwise provided in this section, must set forth specific facts showing that there is a genuine issue  
33 as to any material fact for trial. If the adverse party does not so respond, [*summary judgment, if*  
34 *appropriate, shall be entered against such party*] **the court shall grant the motion if appropriate.**

35 “**SECTION 17.** ORCP 47 F is amended to read:

1       “F When affidavits or declarations are unavailable. Should it appear from the affidavits or dec-  
2 larations of a party opposing the motion that such party cannot, for reasons stated, present by af-  
3 fidavit or declaration facts essential to justify the opposition of that party, the court may [*refuse the*  
4 *application for judgment,*] **deny the motion** or may order a continuance to permit affidavits or dec-  
5 larations to be obtained or depositions to be taken or discovery to be had, or may make such other  
6 order as is just.”.

7       In line 16, delete “15” and insert “18”.

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