

AMENDMENTS

TO ORCP 27

promulgated by

COUNCIL ON COURT PROCEDURES

1982 to 2006

**MINOR OR INCAPACITATED PERSONS
RULE 27**

* * * * *

B. Appearance of incapacitated person by conservator or guardian. When an incapacitated person as defined by ORS 126.003(4), who has a conservator of such person's estate or a guardian, is a party to any action, the incapacitated person shall appear by the conservator or guardian as may be appropriate or, if the court so orders, by a guardian ad litem appointed by the court in which the action is brought. If the incapacitated person does not have a conservator of such person's estate or a guardian, the incapacitated person shall appear by a guardian ad litem appointed by the court. The court shall appoint some suitable person to act as guardian ad litem:

B.(1) When the incapacitated person is plaintiff, upon application of a relative or friend of the incapacitated person.

B.(2) When the incapacitated person is defendant, upon application of a relative or friend of the incapacitated person filed within the period of time specified by these rules or other rule or statute for appearance and answer after service of summons, or if the application is not so filed, upon application of any party other than the incapacitated person.

COMMENT

The 1973 Legislature substituted the term "incapacitated person" for "incompetent person" in a number of sections of the Oregon Revised Statutes and supplied a definition of the new term which appears in ORS 126.003(4). Some of these former ORS sections are now in the Oregon Rules of Civil Procedure and the Council added a specific reference to the statutory definition to

make clear that the definition applies to the ORCP as well as
ORS sections.