Chapter 20

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ATTORNEY FEES; EXPERT WITNESS FEES

20.075 Factors to be considered by court in awarding attorney fees; limitation on appellate review of attorney fee award. (1) A court shall consider the following factors in determining whether to award attorney fees in any case in which an award of attorney fees is authorized by statute and in which the court has discretion to decide whether to award attorney fees:

(a) The conduct of the parties in the transactions or occurrences that gave rise to the litigation, including any conduct of a party that was reckless, willful, malicious, in bad faith or illegal.

(b) The objective reasonableness of the claims and defenses asserted by the parties.

(c) The extent to which an award of an attorney fee in the case would deter others from asserting good faith claims or defenses in similar cases.

(d) The extent to which an award of an attorney fee in the case would deter others from asserting meritless claims and defenses.

(e) The objective reasonableness of the parties and the diligence of the parties and their attorneys during the proceedings.

(f) The objective reasonableness of the parties and the diligence of the parties in pursuing settlement of the dispute.

(g) The amount that the court has awarded as a prevailing party fee under ORS 20.190.

(h) Such other factors as the court may consider appropriate under the circumstances of the case.

(2) A court shall consider the factors specified in subsection (1) of this section in determining the amount of an award of attorney fees in any case in which an award of attorney fees is authorized or required by statute. In addition, the court shall consider the following factors in determining the amount of an award of attorney fees in those cases:

(a) The time and labor required in the proceeding, the novelty and difficulty of the questions involved in the proceeding and the skill needed to properly perform the legal services.

(b) The likelihood, if apparent to the client, that the acceptance of the particular employment by the attorney would preclude the attorney from taking other cases.

(c) The fee customarily charged in the locality for similar legal services.

(d) The amount involved in the controversy and the results obtained.

(e) The time limitations imposed by the client or the circumstances of the case.

(f) The nature and length of the attorney's professional relationship with the client.

(g) The experience, reputation and ability of the attorney performing the services.

(h) Whether the fee of the attorney is fixed or contingent.

(3) In any appeal from the award or denial of an attorney fee subject to this section, the court reviewing the award may not modify the decision of the court in making or denying an award, or the decision of the court as to the amount of the award, except upon a finding of an abuse of discretion.

(4) Nothing in this section authorizes the award of an attorney fee in excess of a reasonable attorney fee. [1995 c.618 §6; 2001 c.417 §3]

20.077 Determination of prevailing party; cases in which more than one claim made; prevailing party on appeal. (1) In any action or suit in which one or more claims are asserted for which an award of attorney fees is either authorized or required, the prevailing party on each claim shall be determined as provided in this section. The provisions of this section apply to all proceedings in the action or suit, including arbitration, trial and appeal.

(2) For the purposes of making an award of attorney fees on a claim, the prevailing party is the party who receives a favorable judgment or arbitration award on the claim. If more than one claim is made in an action or suit for which an award of attorney fees is either authorized or required, the court or arbitrator shall:

(a) Identify each party that prevails on a claim for which attorney fees could be awarded;

(b) Decide whether to award attorney fees on claims for which the court or arbitrator is authorized to award attorney fees, and the amount of the award;

(c) Decide the amount of the award of attorney fees on claims for which the court or arbitrator is required to award attorney fees; and

(d) Enter a judgment that complies with the requirements of ORS 18.038 and 18.042.

(3) Notwithstanding subsection (2) of this section, upon appeal of a judgment in an action or suit in which one or more claims are asserted for which the prevailing party may receive an award of attorney fees, the appellate court in its discretion may designate as the prevailing party a party who obtains a substantial modification of the judgment.

(4) This section does not create a claim to an award of attorney fees in any action or suit in which the court or arbitrator is not otherwise authorized or required to make an award of attorney fees by contract or other law. [2001 c.417 §1; 2003 c.576 §167]

20.080 Attorney fees for certain tort claims of $5,500 or less. (1) In any action for damages for an injury or wrong to the person or property, or both, of another where the amount pleaded is $5,500 or less, and the plaintiff prevails in the action, there shall be taxed and allowed to the plaintiff, at trial and on appeal, a reasonable amount to be fixed by the court as attorney fees for the prosecution of the action, if the court finds that written demand for the payment of such claim was made on the defendant not less than 10 days before the commencement of the action or the filing of a formal complaint under ORS 46.465, or not more than 10 days after the transfer of the action under ORS 46.461. However, no attorney fees shall be allowed to the plaintiff if the court finds that the defendant tendered to the plaintiff, prior to the commencement of the action or the filing of a formal complaint under ORS 46.465, or not more than 10 days after the transfer of the action under ORS 46.461, an amount not less than the damages awarded to the plaintiff.

(2) If the defendant pleads a counterclaim, not to exceed $5,500, and the defendant prevails in the action, there shall be taxed and allowed to the defendant, at trial and on appeal, a reasonable amount to be fixed by the court as attorney fees for the prosecution of the counterclaim.

(3) The provisions of this section do not apply to any action based on contract. [Amended by 1955 c.554 §1; 1979 c.525 §1; 1981 c.897 §1; 1981 c.898 §19; 1985 c.342 §7; 1985 c.618 §15c; 1997 c.46 §2; 1999 c.947 §1; 2001 c.542 §2]

20.082 Attorney fees for contract claims of $5,500 or less. (1) As used in this section, "contract" includes:

(a) Express contracts;

(b) Implied contracts; and

(c) Instruments or documents evidencing a debt.

(2) Except as provided in this section, a court shall allow reasonable attorney fees to the prevailing party on any claim based on contract if:

(a) The amount of the principal together with interest due on the contract at the time the claim is filed is $5,500 or less; and

(b) The contract does not contain a clause that authorizes or requires the award of attorney fees.

(3) Attorney fees may not be awarded to a plaintiff under the provisions of this section unless written demand for payment of the claim was made on the defendant not less than 10 days before the commencement of the action or the filing of a formal complaint under ORS 46.465, or not more than 10 days after the transfer of the action under ORS 46.461. The failure of a plaintiff to give notice under the provisions of this subsection does not affect the ability of a defendant to claim attorney fees under the provisions of this section.

(4) Attorney fees may not be awarded to a plaintiff under the provisions of this section if the court finds that the defendant tendered to the plaintiff, prior to the commencement of the action or the filing of a formal complaint under ORS 46.465, or not more than 10 days after the transfer of the action under ORS 46.461, an amount not less than the amount awarded to the plaintiff.

(5) The provisions of this section do not apply to:

(a) Contracts for insurance;

(b) Contracts for which another statute authorizes or requires an award of attorney fees;

(c) Any action for damages for breach of an express or implied warranty in a sale of consumer goods or services that is subject to ORS 20.098; or

(d) Any action against the maker of a dishonored check that is subject to ORS 30.701. [2001 c.542 §1; 2005 c.22 §10]

20.083 Attorney fees under void or unenforceable contract. A prevailing party in a civil action relating to an express or implied contract is entitled to an award of attorney fees that is authorized by the terms of the contract or by statute, even though the party prevails by reason of a claim or defense asserting that the contract is in whole or part void or unenforceable. [2003 c.393 §1]

20.085 Costs and attorney fees in inverse condemnation proceedings. In a proceeding brought under section 18, Article I or section 4, Article XI of the Oregon Constitution by an owner of property or by a person claiming an interest in property, if the owner or other person prevails, the owner or other person shall be entitled to

costs and disbursements and reasonable attorney fees at trial and on appeal. [1965 c.484 §1; 1981 c.897 §2; 1995 c.79 §8]

20.090 [Amended by 1963 c.247 §1; 1973 c.553 §1; 1981 c.897 §3; repealed by 1997 c.182 §7]

20.094 Attorney fees in actions or suits in which discharge in bankruptcy asserted. In any action or suit on a debt in which the defendant asserts a discharge in bankruptcy as a defense, the court shall award a reasonable attorney fee at trial and on appeal to the prevailing party. [1971 c.167 §2; 1973 c.216 §1; 1981 c.897 §4; 1995 c.618 §18]

20.095 [1953 c.213 §1; repealed by 1965 c.611 §18]

20.096 Reciprocity of attorney fees and costs in proceedings to enforce contract. (1) In any action or suit in which a claim is made based on a contract, where such contract specifically provides that attorney fees and costs incurred to enforce the provisions of the contract shall be awarded to one of the parties, the party that prevails on the claim, whether that party is the party specified in the contract or not, shall be entitled to reasonable attorney fees in addition to costs and disbursements.

(2) Attorney fees provided for in a contract described in subsection (1) of this section shall not be subject to waiver by the parties to any such contract that is entered into after September 9, 1971. Any provision in such a contract that provides for a waiver of attorney fees is void.

(3) As used in this section and ORS 20.097, "contract" includes any instrument or document evidencing a debt. [1971 c.202 §1; 1975 c.623 §3; 1979 c.735 §1; 1981 c.898 §20; 1983 c.527 §1; 2001 c.542 §§3,3a]

20.097 Attorney fees and costs where defendant prevails in certain proceedings to enforce contract. (1) In any action or suit on a contract by an assignee of any right under that contract, the maker of that contract and the plaintiff in the action or suit on that contract shall be severally liable for any attorney fees and costs that may be awarded to the defendant in the action.

(2) As used in this section, "maker" means the original party to the contract which is the subject of the action or suit who is the predecessor in interest of the plaintiff under the contract.

(3) A maker shall be liable under this section only if the defense successfully asserted by the defendant existed at the time of the assignment of the contract. [1975 c.623 §2; 1989 c.1065 §1; 2001 c.542 §4]

20.098 Attorney fees and compensation of expert witnesses in certain proceedings for breach of warranty. (1) In any action for damages for breach of an express or implied warranty in a sale of consumer goods or services where the amount pleaded is $2,500 or less and the plaintiff prevails in the action, there shall be taxed and allowed to the plaintiff, at trial and on appeal, a reasonable amount to be fixed by the court as attorney fees for the prosecution of the action, and as part of the disbursements of the action, a reasonable amount to be fixed by the court as compensation of expert witnesses, if the court finds that written demand for the payment of such claim was made on the defendant not less than 30 days before commencement of the action and that the defendant was allowed within that 30 days reasonable opportunity to inspect any property pertaining to the claim; provided, that no attorney fees at trial and on appeal or compensation of expert witnesses shall be allowed to the plaintiff if the court finds that the defendant tendered to the plaintiff, prior to the commencement of the action, an amount not less than the damages awarded to the plaintiff.

(2) If the defendant prevails in an action in which the plaintiff requests attorney fees or compensation of expert witnesses under subsection (1) of this section, the court may in its discretion allow reasonable attorney fees at trial and on appeal or a reasonable amount as compensation of expert witnesses to the defendant if it finds the action to have been frivolous. [1971 c.744 §23; 1975 c.586 §1; 1981 c.897 §5; 1981 c.898 §21]

20.100 [Repealed by 1981 c.898 §53]

20.105 Attorney fees where party disobeys court order or asserts claim, defense or ground for appeal without objectively reasonable basis. (1) In any civil action, suit or other proceeding in a circuit court or the Oregon Tax Court, or in any civil appeal to or review by the Court of Appeals or Supreme Court, the court shall award reasonable attorney fees to a party against whom a claim, defense or ground for appeal or review is asserted, if that party is a prevailing party in the proceeding and to be paid by the party asserting the claim, defense or ground, upon a finding by the court that the party willfully disobeyed a court order or that there was no objectively reasonable basis for asserting the claim, defense or ground for appeal.

(2) All attorney fees paid to any agency of the state under this section shall be deposited to the credit of the agency's appropriation or cash account from which the costs and expenses of the proceeding were paid or incurred. If the agency obtained an Emergency Board allocation to pay costs and expenses of the proceeding, to that extent the attorney fees shall be deposited in the General Fund available for general governmental expenses. [1983 c.763 §57; 1995 c.618 §2]

20.107 Attorney and expert witness fees and other costs on claim of unlawful discrimination; defense. (1) In any civil judicial proceeding, including judicial review of an administrative proceeding based on a claim of unlawful discrimination, the court shall award to the prevailing plaintiff attorney and expert witness fees reasonably and necessarily incurred in connection with the discrimination claim, at the trial court or agency level and on appeal. The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court or agency.

(2) In making an award under this section, the court shall calculate attorney and expert witness fees on the basis of a reasonable hourly rate at the time the award is made, multiplied by the amount of time actually and reasonably spent in connection with the discrimination claim.

(3) When an award under this section is made against a state agency or an officer or employee of a state agency, the award shall be paid by the agency directly from funds available to it.

(4) As used in this section, "unlawful discrimination" means discrimination based upon personal characteristics including, but not limited to, gender, national origin, age, marital status, race, religion or alienage. [1985 c.768 §1; 1995 c.618 §20]

20.110 [Repealed by 1981 c.898 §53]

OTHER COSTS

20.115 Service expenses recoverable as costs and disbursements. (1) A person who is otherwise entitled to recover costs and disbursements may recover the following amounts as part of costs and disbursements:

(a) An amount paid to a sheriff for service of process or other documents under ORS 21.410.

(b) An amount paid to a person other than a sheriff for service of process or other documents. Except as provided in subsection (2) of this section, the amount that may be recovered as costs and disbursements under this paragraph may not exceed the maximum amount payable to a sheriff for service of the same process or document under ORS 21.410.

(2) In addition to amounts recoverable under subsection (1) of this section, a person who is otherwise entitled to recover costs and disbursements may recover the following amounts paid to a person other than a sheriff for service of process or other documents:

(a) The reasonable cost of service outside this state.

(b) The reasonable rate for mileage.

(c) The reasonable cost of locating and serving a party when routine service methods are unsuccessful.

(d) The reasonable cost of expedited service if expedited service is necessary.

(3) In addition to amounts recoverable under subsections (1) and (2) of this section, a person who is otherwise entitled to recover costs and disbursements may recover amounts paid for an attempt at service made in good faith if the amounts paid would be recoverable under subsections (1) and (2) of this section had service of process or other documents been accomplished.

(4) The provisions of this section do not limit the ability of a party to recover any reasonable costs of service if the party has a contract right to recover those costs. [1997 c.202 §1]

20.120 Costs on review of decision of officer, tribunal, or court of inferior jurisdiction. When the decision of an officer, tribunal, or court of inferior jurisdiction is brought before a court for review, such review shall, for all the purposes of costs or disbursements, be deemed an appeal to such court upon errors in law, and costs therein shall be allowed and recovered accordingly.

20.125 Assessment of costs and attorney fees against attorney causing mistrial. In the case of a mistrial in a civil or criminal action, if the court determines that the mistrial was caused by the deliberate misconduct of an attorney, the court, upon motion by the opposing party or upon motion of the court, shall assess against the attorney causing the mistrial costs and disbursements, as defined in ORCP 68, and reasonable attorney fees incurred by the opposing party as a result of the misconduct. [1985 c.556 §1; 1995 c.618 §3]

20.130 Proceeding to which state or public corporation is party. In all actions or suits prosecuted or defended in the name and for the use of the state, or any county or other public corporation therein, the state or public corporation is liable for and may recover costs and disbursements in like manner and with like effect as in the case of natural persons. When a natural person is joined with the state as plaintiff, or the action is upon the information of such natural person, the natural person shall be liable in the first instance for the defendant's costs and disbursements; and such costs and disbursements shall not be recovered from the state until after execution is issued therefor against such person and returned unsatisfied in whole or in part.

20.140 State and certain public corporations not required to advance costs; payment of costs recovered. When the state or any county, city or school district in this state, or an officer, employee or agent thereof appearing in a representative or other official capacity, is a party in an action or proceeding in any court in this state, that party is not required to pay in advance to a state or county officer any fee taxable as costs and disbursements in the action or proceeding. If that party is entitled to recover costs and disbursements in the action or proceeding, the amount of the fee not paid in advance shall be included in the statement of costs and disbursements claimed by the party, shall be entered as part of the judgment and, if recovered by the party, shall be paid by the party to the state or county officer entitled to receive the fee. The party shall employ reasonable effort to recover the amount of the fee. [Amended by 1983 c.763 §19; 1987 c.405 §1]

20.150 Recovery of costs and disbursements when party represented by another. In an action, suit or proceeding prosecuted or defended by an executor, administrator, trustee of an express trust or person expressly authorized by statute to prosecute or defend therein, or in which a party appears by general guardian, conservator or guardian ad litem, costs and disbursements shall be recovered or not as in ordinary cases, but if recovered shall be chargeable only upon or collected from the estate, trust fund or party represented or for whom appearance is made, unless the court or judge thereof shall order such costs and disbursements to be recovered from the executor, administrator, trustee, person, guardian or conservator personally for mismanagement or bad faith in the commencement, prosecution or defense of the action, suit or proceeding. [Amended by 1961 c.344 §99]

20.160 Liability of attorney of nonresident or foreign corporation plaintiff; security for costs. The attorney of a plaintiff who resides out of the state or is a foreign corporation, against whom costs are adjudged in favor of a defendant, is liable to the defendant therefor. If the attorney neglects to pay the same, upon the information of the defendant the attorney shall be punished as for a contempt. The attorney may relieve or discharge the attorney from such liability by filing, at the commencement of the action or suit, or at any time thereafter before judgment, an undertaking executed by one or more sufficient sureties, or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, in either case providing for the payment to the defendant of the costs and disbursements that may be adjudged to the attorney. [Amended by 1991 c.331 §5; 1997 c.631 §367; 2003 c.576 §285; 2005 c.22 §11]

20.170 Qualification of and exception to security; deposit in lieu of undertaking. The sureties in the undertaking described in ORS 20.160 shall possess the qualifications of sureties in an undertaking for bail on arrest. The sufficiency of any surety or irrevocable letter of credit issuer may be excepted to by the defendant at any time within five days from notice of filing the same, and if so, they shall justify in an amount not less than $200, in like manner and with like effect as sureties for bail on arrest. Until the time for excepting to the sufficiency of the sureties or letter of credit issuers has expired or, if excepted to, until they are found sufficient, the attorney is liable as if no undertaking or letter of credit had been given. A deposit of $200 or other sum which the court or judge may direct, with the clerk, may be made in lieu of such undertaking or letter of credit. [Amended by 1991 c.331 §6]

20.180 Effect of tender as to costs. When in any action or suit for the recovery of money or damages only, the defendant shall allege in answer that before the commencement thereof the defendant tendered to the plaintiff a certain amount of money in full payment or satisfaction of the cause, and now brings the same into court and deposits it with the clerk for the plaintiff, if such allegation of tender is found true, and the plaintiff does not recover a greater sum than the amount so tendered, the plaintiff shall not recover costs from the defendant, but the defendant shall recover costs from the plaintiff. [Amended by 2005 c.22 §12]

PREVAILING PARTY FEES

20.190 Prevailing party fees. (1) Except as provided in subsections (2) to (5) of this section, a prevailing party in a civil action or proceeding who has a right to recover costs and disbursements in the following cases also has a right to recover, as a part of the costs and disbursements, the following additional amounts:

(a) In the Supreme Court or Court of Appeals, on an appeal, $100.

(b) In a circuit court:

(A) When judgment is given without trial of an issue of law or fact or on an appeal, $60; or

(B) When judgment is given after trial of an issue of law or fact, $85.

(c) In a small claims department, a county court or justice court, one-half of the amount provided for in paragraph (b) of this subsection.

(2) In lieu of the prevailing party fee provided for in subsection (1) of this section, in any civil action or proceeding in which recovery of money or damages is sought, a prevailing party who has a right to recover costs and disbursements also has a right to recover, as a part of the costs and disbursements, the following additional amounts:

(a) In a circuit court:

(A) When judgment is given without trial of an issue of law or fact, $275; or

(B) When judgment is given after trial of an issue of law or fact, $550.

(b) In a small claims department, a county court or justice court:

(A) When judgment is given without trial of an issue of law or fact, $75; or

(B) When judgment is given after trial of an issue of law or fact, $100.

(3) In addition to the amounts provided for in subsection (2) of this section, in any civil action or proceeding in a circuit court in which recovery of money or damages is sought, the court may award to the prevailing party up to an additional $5,000 as a prevailing party fee. The court shall consider the following factors in making an award under the provisions of this subsection:

(a) The conduct of the parties in the transactions or occurrences that gave rise to the litigation, including any conduct of a party that was reckless, willful, malicious, in bad faith or illegal.

(b) The objective reasonableness of the claims and defenses asserted by the parties.

(c) The extent to which an award of a larger prevailing party fee in the case would deter others from asserting good faith claims or defenses in similar cases.

(d) The extent to which an award of a larger prevailing party fee in the case would deter others from asserting meritless claims and defenses.

(e) The objective reasonableness of the parties and the diligence of the parties and their attorneys during the proceedings.

(f) The objective reasonableness of the parties and the diligence of the parties in pursuing settlement of the dispute.

(g) Any award of attorney fees made to the prevailing party as part of the judgment.

(h) Such other factors as the court may consider appropriate under the circumstances of the case.

(4) Nonprevailing parties are jointly liable for the prevailing party fees provided for in this section. A court may not award more than one prevailing party fee to a prevailing party under this section, or more than one prevailing party fee against a nonprevailing party regardless of the number of parties in the action, and, upon being paid the amount of the award, the prevailing party may not seek recovery of any additional amounts under the provisions of this section from any other nonprevailing party.

(5) In any appeal from the award or denial of a prevailing party fee under subsection (2) of this section, the court reviewing the award may not modify the decision of the court in making or denying an award, or the decision of the court as to the amount of the award, except upon a finding of an abuse of discretion.

(6) The prevailing party fees provided for in this section may not be awarded in the following proceedings:

(a) A class action proceeding under ORCP 32.

(b) A condemnation proceeding.

(c) Proceedings under the provisions of ORS chapters 25, 107, 108, 109 and 110.

(7) Mandatory arbitration under ORS 36.400 to 36.425 does not constitute a trial of an issue of law or fact for the purposes of this section. [1981 c.898 §18a; 1987 c.725 §6; 1989 c.1007 §1; 1995 c.618 §7; 1997 c.249 §13; 1997 c.801 §§56,56a; 2005 c.702 §93]

20.210 [Amended by 1959 c.638 §7; 1979 c.284 §60; repealed by 1981 c.898 §53]

APPEALS ON ATTORNEY FEES AND OTHER COSTS

20.220 Appeal on attorney fees and costs; effect of reversal or modification. (1) An appeal may be taken from a judgment under ORCP 68 C(4) allowing or denying attorney fees or costs and disbursements on questions of law only, as in other cases. On such appeal the statement of attorney fees or costs and disbursements, the objections thereto and the judgment rendered thereon shall constitute the trial court file, as defined in ORS 19.005.

(2) If an appeal is taken from a judgment under ORS 19.205 before the trial court enters a judgment under ORCP 68 C(4), any necessary modification of the appeal shall be pursuant to rules of the appellate court.

(3) When an appeal is taken from a judgment under ORS 19.205 to which an award of attorney fees or costs and disbursements relates:

(a) If the appellate court reverses the judgment, the award of attorney fees or costs and disbursements shall be deemed reversed; or

(b) If the appellate court modifies the judgment such that the party who was awarded attorney fees or costs and disburse-

ments is no longer entitled to the award, the party against whom attorney fees or costs and disbursements were awarded may move for relief under ORCP 71 B(1)(e). [Amended by 1967 c.471 §2; 1981 c.898 §22; 1989 c.768 §7]

20.230 [Repealed by 1981 c.898 §53]

COSTS AND DISBURSEMENTS IN APPELLATE COURTS

20.310 Costs and disbursements in Supreme Court or Court of Appeals. (1) In any appeal to the Court of Appeals or review by the Supreme Court, the court shall allow costs and disbursements to the prevailing party, unless a statute provides that in the particular case costs and disbursements shall not be allowed to the prevailing party or shall be allowed to some other party, or unless the court directs otherwise. If, under a special provision of any statute, a party has a right to recover costs, such party shall also have a right to recover disbursements. On the same terms and conditions, when the Supreme Court denies a petition for review, the respondent on review is entitled to costs and disbursements reasonably incurred in connection with the petition for review.

(2) Costs and disbursements on appeal to the Court of Appeals or Supreme Court or on petition for review by the Supreme Court are the filing or appearance fee, the reasonable cost for any bond or irrevocable letter of credit, the prevailing party fee provided for under ORS 20.190, the printing, including the abstract of record, required by rule of the court, postage for the filing or service of items that are required to be filed or served by law or court rule, and the transcript of testimony or other proceedings, when necessarily forming part of the record on appeal. [Amended by 1971 c.99 §1; 1977 c.290 §2; 1985 c.734 §13; 1987 c.314 §1; 1991 c.331 §7; 1997 c.389 §11]

20.320 Statement of costs and disbursements; objections. Costs or disbursements shall not be allowed in the Supreme Court or Court of Appeals to a party unless the party serves on the adverse party or the adverse party's attorney, and files with the State Court Administrator, a statement certified under ORCP 17 showing with reasonable certainty all costs and disbursements claimed by the party. The statement must be accompanied by proof of service on all adverse parties, and must be filed within 21 days from the date of the court's decision, or within such further time as may be allowed by the court. The total of the items included in the statement of costs and disbursements thus filed, with the exception of items or amounts not allowed by law or by rules of the Supreme Court or Court of Appeals, shall be entered by the administrator as a part of the appellate judgment, in favor of the party entitled to the costs and disbursements, unless an adverse party within 14 days from date of service of the statement serves and files objections to the statement. The filing or appearance fee and the prevailing party fee under ORS 20.190 (1) shall be awarded by the court without the filing of a statement of costs and disbursements. [Amended by 1971 c.99 §2; 1983 c.774 §4; 1985 c.734 §14; 2003 c.518 §3]

20.330 Costs and disbursements in cases of original jurisdiction. Litigants shall recover their costs and disbursements in cases of original jurisdiction in the Supreme Court, the same as provided in cases on appeal.

CONTINGENT FEE AGREEMENTS

20.340 Contingent fee agreement. (1) In any civil action arising out of bodily injury, death or property damage, including claims for emotional injury or distress, loss of care, comfort, companionship and society, and loss of consortium, if an attorney for a plaintiff in respect to any civil action enters into an agreement with the plaintiff whereby the attorney receives as a fee a percentage of the amount of any settlement or judgment awarded to the plaintiff:

(a) The contingent fee agreement shall be written in plain and simple language reasonably believed to be understandable by the plaintiff.

(b) The attorney shall explain the terms and conditions of the agreement in compliance with a model explanation in plain and simple language prepared by the Oregon State Bar a reasonable time before the agreement is signed.

(c) The contingent fee agreements must contain a provision allowing the plaintiff to rescind the agreement within 24 hours after signing upon written notice to the attorney.

(2) Any contingent fee agreement entered into on or after September 26, 1987, that does not comply with the requirements of subsection (1) of this section is voidable. [Formerly 9.400]