

2011 LEGISLATION ALERTS

CIVIL PROCEDURE / JUDICIAL ADMINISTRATION

NEW CIVIL FILING FEES VARIOUS ORS

2011 OR LAWS CH 595 (HB 2710)

HB 2710 changes a large number of filing fees for a wide variety of case types. The bill creates a “standard filing fee” of \$240 that applies to all complaints and other documents initiating an action, as well as to all answers or first appearances, for any case where another more specific filing fee amount is not specified in law. Section 8 of the bill includes a list of some of the case types to which the standard filing fee applies. The bill eliminates some specific filing fees for certain types of actions, such as Habeas Corpus, post-conviction relief, and arbitration-related proceedings, which will now use the standard filing fee.

The bill likewise creates a “domestic relations filing fee” of \$260 that applies in most domestic relations proceedings, as well as a “simple proceedings filing fee” of \$105 that applies for proceedings such as name changes and guardianships.

In tort and contract actions, the bill creates a tiered system of filing fees that increase depending on the value of the case. This starts with a \$150 filing fee for actions valued at \$10,000 or less and increases to \$1,005 for cases valued at over \$10 million. A similar filing fee structure is used in probate and in protective proceedings, with filing fees ranging from \$240 to \$1,005.

In addition to altering the specific filing fees in small claims cases, the bill increases the jurisdictional limit of small claims courts from \$7,500 to \$10,000.

Effective date: October 1, 2011.

All changes to filing fees themselves took effect on October 1, 2011. The bill also extended the surcharges applied to civil filing fees that were imposed as part of HB 2287 (2009) to October 1, 2011.

DECLARATORY JUDGMENT FEE, BAR CONTACT INFORMATION ORS 18.075, 21.110, 21.125, 105.113, ORCP 7(c)

2011 OR LAWS CH 398 (HB 2667)

HB 2667 establishes a filing fee for declaratory judgments at \$117. The bill also makes changes both to ORCP 7(c) and to statute to update the contact information that is used for the Oregon State Bar on several statutory forms that are provided to individuals seeking legal assistance.

Effective date: June 17, 2011.

JUSTICE AND MUNICIPAL COURTS ORS 138.060

2011 OR LAWS CH 379 (HB 3068)

Under current law, the Oregon Court of Appeals may take appeals only from circuit

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courts. HB 3068 permits the Court of Appeals to take appeals from municipal courts and from justice courts as well, provided that the courts from which it takes the appeals are courts of record.

Effective date: June 16, 2011.

**NEW FINES FOR VIOLATIONS
2011 OR LAWS CH 597 (HB 2712)**

See Criminal Law.

**CONFIDENTIAL INFORMATION IN
PROTECTIVE PROCEEDINGS
ORS 125.012; UTCR 9.410,
UTCR FORM 9.410.1
2011 OR LAWS CH 229 (HB 2683)**

HB 2683 permits the court to disclose confidential information about persons in protective proceeding cases under certain circumstances. The bill creates a definition of “party,” which was previously absent from ORS 125.012. The bill defines a party as (1) the subject of a petition for a protective order, (2) a fiduciary for a protected person, (3) an objector in the case, (4) the court visitor, or (5) any other person who has filed a petition or motion in the case.

New UTCR 9.410 and UTCR Form 9.410.1 provide for entry of a protective order regarding disclosure of the confidential information.

Effective date: June 2, 2011.

OREGON RULES OF CIVIL PROCEDURE

ORCP 9 is amended at section D to make clear that a party’s ORCP 54 E offer of compromise is not to be filed with the court until after the case has been adjudicated on the merits. The purpose of the amendment is to reverse the result in *Wilmouth v. Ann Sacks Tile and Stone*, 224 Or App 315, 197 P3d 567 (2008), *rev den* 346 Or 185, 206 P3d 1059 (2009). See the amendments to ORCP 54, *supra*.

ORCP 21 is amended at section A to delete a reference to Rule 54. Rule 54 B(3) continues to require the courts to give notice of dismissal, at least annually, of inactive cases unless good cause is shown why the case should be continued.

ORCP 36 is amended at subsection B(2). If an insurance company has advised its insured that coverage is

denied or that a reservation of rights exists, that information is not currently required to be made available to a plaintiff. The Council’s addition of subparagraph (ii) of Rule 36 B(a) requires that denials of coverage and reservations of rights be disclosed, but does not require production of the insurance company’s letter denying coverage or specifying the reservation of rights.

ORCP 38 is amended by deleting the existing section C and replacing the procedures for obtaining a subpoena to be issued and served in Oregon for a case that is pending in another state. The amended language makes the issuance of the Oregon subpoena a ministerial act to be performed by the clerk of the court.

ORCP 43 has been amended to make clear that “Electronically Stored Information” (ESI) is discoverable. The amendment also creates a new subsection E that creates procedures for the parties to agree on the form and manner in which ESI is produced without undue costs or procedural burdens.

ORCP 54 has been amended at sections A and E. The amendments made several changes to the rule, including a revision to the timing of an offer of judgment under 54 E from at least ten days prior to trial with three days for acceptance to 14 days prior to trial with seven days for acceptance. The amendments to section 54 A allow a plaintiff to reduce the size of a lawsuit by dismissing one or more defendants; the rule previously authorized only dismissal of the whole case. Finally, the revised section A requires that the parties submit a judgment of dismissal to the court if they agree to dismiss the case.

ORCP 69, pertaining to judgments by default, has been completely rewritten. Rule 69 is reorganized and now allows judicial staff to prepare a simple checklist (see section C) to confirm whether a motion for an order of default is proper. The amended language also makes clear that the entry of a judgment by default is a separate step (see section D). The two steps were required under the existing rule and practice and, in appropriate cases, both steps can still be accomplished simultaneously.

ORCP 71 has been amended at subsection B(1) to make intrinsic fraud (as well as extrinsic fraud, which was previously allowed) a basis that the court can consider in determining whether, in the court’s discretion, to grant a party relief from a judgment.