

1 **PLEADING, ALLOWANCE, AND TAXATION OF ATTORNEY FEES**

2 **AND COSTS AND DISBURSEMENTS**

3 **RULE 68**

4 **A Definitions.** As used in this rule:

5 A(1) **Attorney fees.** "Attorney fees" are the reasonable value of legal services related to
6 the prosecution or defense of an action.

7 A(2) **Costs and disbursements.** "Costs and disbursements" are reasonable and
8 necessary expenses incurred in the prosecution or defense of an action, other than for legal
9 services, and include the fees of officers and witnesses; the expense of publication of
10 summonses or notices, and the postage where the same are served by mail; any fee charged by
11 the Department of Transportation for providing address information concerning a party served
12 with summons pursuant to subparagraph D(4)(a)(i) of Rule 7; the compensation of referees; the
13 expense of copying of any public record, book, or document admitted into evidence at trial;
14 recordation of any document where recordation is required to give notice of the creation,
15 modification, or termination of an interest in real property; a reasonable sum paid a person for
16 executing any bond, recognizance, undertaking, stipulation, or other obligation therein; and any
17 other expense specifically allowed by agreement, by these rules, or by any other rule or statute.
18 The court, acting in its sole discretion, may allow as costs reasonable expenses incurred by a
19 party for interpreter services. The expense of taking depositions shall not be allowed, even
20 though the depositions are used at trial, except as otherwise provided by rule or statute.

21 **B Allowance of costs and disbursements.** In any action, costs and disbursements shall
22 be allowed to the prevailing party unless these rules or any other rule or statute direct that in
23 the particular case costs and disbursements shall not be allowed to the prevailing party or shall
24 be allowed to some other party, or unless the court otherwise directs. If, under a special
25 provision of these rules or any other rule or statute, a party has a right to recover costs, such
26 party shall also have a right to recover disbursements.

1 **C Award of and entry of judgment for attorney fees and costs and disbursements.**

2 **C(1) Application of this section to award of attorney fees.** Notwithstanding Rule 1 A
3 and the procedure provided in any rule or statute permitting recovery of attorney fees in a
4 particular case, this section governs the pleading, proof, and award of attorney fees in all cases,
5 regardless of the source of the right to recover such fees, except when:

6 C(1)(a) Such items are claimed as damages arising prior to the action;

7 C(1)(b) Such items are granted by order, rather than entered as part of a judgment; or

8 C(1)(c) A statute that refers to this rule but provides for a procedure that varies from the
9 procedure specified in this rule.

10 C(2)(a) Alleging right to attorney fees. A party seeking attorney fees shall allege the
11 facts, statute, or rule that provides a basis for the award of such fees in a pleading filed by that
12 party. Attorney fees may be sought before the substantive right to recover such fees accrues.
13 No attorney fees shall be awarded unless a right to recover such fee is alleged as provided in
14 this subsection or in paragraph C(2)(b) of this rule.

15 C(2)(b) If a party does not file a pleading but instead files a motion or a response to a
16 motion, a right to attorney fees shall be alleged in such motion or response, in similar form to
17 the allegations required in a pleading.

18 C(2)(c) A party shall not be required to allege a right to a specific amount of attorney
19 fees. An allegation that a party is entitled to “reasonable attorney fees” is sufficient.

20 C(2)(d) Any allegation of a right to attorney fees in a pleading, motion, or response shall
21 be deemed denied and no responsive pleading shall be necessary. The opposing party may
22 make a motion to strike the allegation or to make the allegation more definite and certain. Any
23 objection to the form or specificity of the allegation of the facts, statute, or rule that provides a
24 basis for the award of fees shall be waived if not alleged prior to trial or hearing.

25 **C(3) Proof.** The items of attorney fees and costs and disbursements shall be submitted
26 in the manner provided by subsection (4) of this section, without proof being offered during the

1 trial.

2 C(4) **Procedure for seeking attorney fees or costs and disbursements.** The procedure
3 for seeking attorney fees or costs and disbursements shall be as follows:

4 C(4)(a) **Filing and serving statement of attorney fees and costs and disbursements.** A
5 party seeking attorney fees or costs and disbursements shall, not later than 14 days after entry
6 of **a general** judgment [*pursuant to Rule 67*]:

7 C(4)(a)(i) File with the court a signed and detailed statement of the amount of attorney
8 fees or costs and disbursements that explains the application of any factors that ORS 20.075 or
9 any other statute or rule requires or permits the court to consider in awarding or denying
10 attorney fees or costs and disbursements, together with proof of service, if any, in accordance
11 with Rule 9 C; [*and*]

12 C(4)(a)(ii) Serve, in accordance with Rule 9 B, a copy of the statement on all parties who
13 are not in default for failure to appear[.]; **and**

14 **C(4)(a)(iii) The court may, in its discretion, and upon such terms as may be just, allow a**
15 **statement of attorney fees and costs and disbursements to be filed and served after the time**
16 **specified in paragraph C(4)(a) of this rule.**

17 C(4)(b) **Filing and serving objections. [Objections.]** A party may object to a statement
18 seeking attorney fees or costs and disbursements or any part thereof by a written objection to
19 the statement.

20 **C(4)(b)(i)** The objection and supporting documents, if any, shall be **filed and** served
21 within 14 days after service on the objecting party of a copy of the statement. The objection
22 shall be specific and may be founded in law or in fact and shall be deemed controverted
23 without further pleading. The objecting party may present affidavits, declarations, and other
24 evidence relevant to any factual issue, including any factors that ORS 20.075 or any other
25 statute or rule requires or permits the court to consider in awarding or denying attorney fees or
26 costs and disbursements.

1 **C(4)(b)(ii) The court may, in its discretion, and upon such terms as may be just, allow**
2 **an objection to be served after the time specified in subparagraph C(4)(b)(i) of this rule.**

3 C(4)(c) **Response to objections.** The party seeking an award of attorney fees may file a
4 response to an objection filed pursuant to paragraph C(4)(b) of this rule. The response and
5 supporting documents, if any, shall be **filed and** served within [seven] **7** days after service of the
6 objection. The response shall be specific and may address issues of law or fact. The party
7 seeking attorney fees may present affidavits, declarations, and other evidence relevant to any
8 factual issue, including any factors that ORS 20.075 or any other statute or rule requires or
9 permits the court to consider in awarding or denying attorney fees or costs and disbursements.

10 C(4)(d) **Amendments.** Statements, objections, and responses may be amended or
11 supplemented in accordance with Rule 23.

12 C(4)(e) **Hearing on objections.** No hearing shall be held and the court may rule on the
13 request for attorney fees based upon the statement, objection, response, and any
14 accompanying affidavits or declarations unless a party has requested a hearing in the caption of
15 the objection or response or unless the court sets a hearing on its own motion.

16 C(4)(e)(i) If a hearing is requested the court, without a jury, shall hear and determine all
17 issues of law and fact raised by the objection.

18 C(4)(e)(ii) The court shall deny or award in whole or in part the amounts sought as
19 attorney fees or costs and disbursements.

20 C(4)(f) **No timely objections.** If objections are not timely filed, the court may award
21 attorney fees or costs and disbursements sought in the statement.

22 C(4)(g) **Findings and conclusions.** On the request of a party, the court shall make special
23 findings of fact and state its conclusions of law on the record regarding the issues material to
24 the award or denial of attorney fees. A party must make a request pursuant to this paragraph
25 by including a request for findings and conclusions in the title of the statement of attorney fees
26 or costs and disbursements, objection, or response filed pursuant to paragraph (a), (b), or (c) of

1 | this subsection. In the absence of a request under this paragraph, the court may make either
2 | general or special findings of fact and may state its conclusions of law regarding attorney fees.

3 | **C(5) Judgment concerning attorney fees or costs and disbursements.**

4 | C(5)(a) **As part of judgment.** If all issues regarding attorney fees or costs and
5 | disbursements are decided before entry of a **limited or a general** judgment [*pursuant to Rule*
6 | *67*], the court shall include any award or denial of attorney fees or costs and disbursements in
7 | that judgment. **As a party may not request attorney fees or costs and disbursements after**
8 | **entry of a limited judgment, the statement of attorney fees and costs and disbursements**
9 | **must be filed not later than 14 days after entry of the general judgment.**

10 | C(5)(b) **By supplemental judgment; notice.** If any issue regarding attorney fees or costs
11 | and disbursements is not decided before entry of a general judgment, any award or denial of
12 | attorney fees or costs and disbursements shall be made by supplemental judgment.

13 | **C(6) Avoidance of multiple collection of attorney fees and costs and disbursements.**

14 | C(6)(a) **Separate judgments for separate claims.** If more than one judgment is entered
15 | in an action, the court shall take such steps as necessary to avoid the multiple taxation of the
16 | same attorney fees and costs and disbursements in those judgments.

17 | C(6)(b) **Separate judgments for the same claim.** If more than one judgment is entered
18 | for the same claim (when separate actions are brought for the same claim against several
19 | parties who might have been joined as parties in the same action or, when pursuant to Rule 67
20 | B, separate limited judgments are entered against several parties for the same claim), attorney
21 | fees and costs and disbursements may be entered in each judgment as provided in this rule, but
22 | satisfaction of one judgment bars recovery of attorney fees or costs and disbursements
23 | included in all other judgments.

24 | **C(7) Procedure for seeking attorney fees or costs and disbursements incurred in**
25 | **enforcing judgments. If a party has alleged a basis for the award of fees as provided in**
26 | **paragraph B(2)(a) of this rule, the procedure for seeking attorney fees or costs and**

1 disbursements incurred in collecting or enforcing judgments shall be as specified in
2 subsection C(4) of this rule except that, unless good cause is shown, only one statement of
3 attorney fees or costs and disbursements may be filed and served within the first year after
4 the entry of the judgment being enforced, and one statement of attorney fees or costs and
5 disbursements may be filed and served annually thereafter.

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6 C(1)(a) Such items are claimed as damages arising prior to the action;

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15 the objection or response or unless the court sets a hearing on its own motion.

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17 issues of law and fact raised by the objection.

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19 attorney fees or costs and disbursements.

20 C(4)(f) **No timely objections.** If objections are not timely filed, the court may award
21 attorney fees or costs and disbursements sought in the statement.

22 C(4)(g) **Findings and conclusions.** On the request of a party, the court shall make special
23 findings of fact and state its conclusions of law on the record regarding the issues material to
24 the award or denial of attorney fees. A party must make a request pursuant to this paragraph
25 by including a request for findings and conclusions in the title of the statement of attorney fees
26 or costs and disbursements, objection, or response filed pursuant to paragraph (a), (b), or (c) of

1 | this subsection. In the absence of a request under this paragraph, the court may make either
2 | general or special findings of fact and may state its conclusions of law regarding attorney fees.

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7 | that judgment.

8 | C(5)(b) **[By supplemental] After entry of a limited or general judgment; notice.**

9 | **C(5)(b)(i) After entry of a general judgment.** If any issue regarding attorney fees or costs
10 | and disbursements is not decided before entry of a general judgment, any award or denial of
11 | attorney fees or costs and disbursements shall be made by supplemental judgment.

12 | **C(5)(b)(ii) After entry of a limited judgment. Attorney fees and costs and**
13 | **disbursements may be awarded or denied following entry of a limited judgment if the judge**
14 | **determines that there is no just reason for delay. In such cases, any award or denial of**
15 | **attorney fees and costs and disbursements shall be made by limited judgment.**

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18 | in an action, the court shall take such steps as necessary to avoid the multiple taxation of the
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3 and the procedure provided in any rule or statute permitting recovery of attorney fees in a
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7 C(1)(b) [Such] **such** items are granted by order, rather than entered as part of a
8 judgment; or

9 C(1)(c) [A] **a** statute [*that*] refers to this rule but provides for a procedure that varies
10 from the procedure specified in this rule.

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12 facts, statute, or rule that provides a basis for the award of such fees in a pleading filed by that
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14 No attorney fee[s] shall be awarded unless a right to recover such fee is alleged as provided in
15 this [*subsection*] **paragraph** or in paragraph C(2)(b) of this rule.

16 C(2)(b) If a party does not file a pleading but instead files a motion or a response to a
17 motion, a right to attorney fees shall be alleged in such motion or response, in similar form to
18 the allegations required in a pleading.

19 C(2)(c) A party shall not be required to allege a right to a specific amount of attorney
20 fees. An allegation that a party is entitled to “reasonable attorney fees” is sufficient.

21 C(2)(d) Any allegation of a right to attorney fees in a pleading, motion, or response shall
22 be deemed denied and no responsive pleading shall be necessary. The opposing party may
23 make a motion to strike the allegation or to make the allegation more definite and certain. Any
24 objection to the form or specificity of the allegation of the facts, statute, or rule that provides a
25 basis for the award of fees shall be waived if not alleged prior to trial or hearing.

26 **C(3) Proof.** The items of attorney fees and costs and disbursements shall be submitted

1 in the manner provided by subsection **C(4)** of this [section] **rule**, without proof being offered
2 during the trial.

3 **C(4) Procedure for seeking attorney fees or costs and disbursements.** The procedure
4 for seeking attorney fees or costs and disbursements shall be as [follows:] **specified in this**
5 **subsection.**

6 **C(4)(a) Filing and serving statement of attorney fees and costs and disbursements.** A
7 party seeking attorney fees or costs and disbursements shall, not later than 14 days after entry
8 of **a general or a limited** judgment [*pursuant to Rule 67*]:

9 **C(4)(a)(i) [File] file** with the court a signed and detailed statement of the amount of
10 attorney fees or costs and disbursements that explains the application of any factors that ORS
11 20.075 or any other statute or rule requires or permits the court to consider in awarding or
12 denying attorney fees or costs and disbursements, together with proof of service, if any, in
13 accordance with Rule 9 C; and

14 **C(4)(a)(ii) [Serve] serve**, in accordance with Rule 9 B, a copy of the statement on all
15 parties who are not in default for failure to appear.

16 **C(4)(b) Filing and serving objections. [Objections.]** A party may object to a statement
17 seeking attorney fees or costs and disbursements or any part thereof by a written objection to
18 the statement. The objection and supporting documents, if any, shall be **filed and** served within
19 14 days after service on the objecting party of a copy of the statement. The objection shall be
20 specific and may be founded in law or in fact and shall be deemed controverted without further
21 pleading. The objecting party may present affidavits, declarations, and other evidence relevant
22 to any factual issue, including any factors that ORS 20.075 or any other statute or rule requires
23 or permits the court to consider in awarding or denying attorney fees or costs and
24 disbursements.

25 **C(4)(c) Response to objections.** The party seeking an award of attorney fees may file a
26 response to an objection filed pursuant to paragraph C(4)(b) of this rule. The response and

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3 seeking attorney fees may present affidavits, declarations, and other evidence relevant to any
4 factual issue, including any factors that ORS 20.075 or any other statute or rule requires or
5 permits the court to consider in awarding or denying attorney fees or costs and disbursements.

6 **C(4)(d) Amendments and enlargements of time.**

7 **C(4)(d)(i)** Statements, objections, and responses may be amended or supplemented in
8 accordance with Rule 23.

9 **C(4)(d)(ii) The court may, in its discretion, and upon such terms as may be just, allow a**
10 **statement, an objection, or a response to be filed and served after the time specified in**
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1 **C(4)(a), C(4)(b), or C(4)(c)** of this [subsection] **rule**. In the absence of a request under this
2 paragraph, the court may make either general or special findings of fact and may state its
3 conclusions of law regarding attorney fees.

4 **C(5) Judgment concerning attorney fees or costs and disbursements.**

5 **C(5)(a) As part of judgment.** If all issues regarding attorney fees or costs and
6 disbursements are decided before entry of a **limited or a general** judgment [pursuant to Rule
7 67], the court shall include any award or denial of attorney fees or costs and disbursements in
8 that judgment.

9 **C(5)(b) [By supplemental] After entry of a general or limited judgment[; notice].**

10 **C(5)(b)(i) After entry of a general judgment.** If any issue regarding attorney fees or costs
11 and disbursements is not decided before entry of a general judgment, any award or denial of
12 attorney fees or costs and disbursements shall be made by supplemental judgment.

13 **C(5)(b)(ii) After entry of a limited judgment. Attorney fees and costs and**
14 **disbursements may be awarded or denied following entry of a limited judgment if the judge**
15 **determines that there is no just reason for delay. In such cases, any award or denial of**
16 **attorney fees and costs and disbursements shall be made by limited judgment.**

17 **C(6) Avoidance of multiple collection of attorney fees and costs and disbursements.**

18 **C(6)(a) Separate judgments for separate claims.** If more than one judgment is entered
19 in an action, the court shall take such steps as **are** necessary to avoid the multiple taxation of
20 the same attorney fees and costs and disbursements in those judgments.

21 **C(6)(b) Separate judgments for the same claim.** If more than one judgment is entered
22 for the same claim (when separate actions are brought for the same claim against several
23 parties who might have been joined as parties in the same action or, when pursuant to Rule 67
24 B, separate limited judgments are entered against several parties for the same claim), attorney
25 fees and costs and disbursements may be entered in each judgment as provided in this rule, but
26 satisfaction of one judgment bars recovery of attorney fees or costs and disbursements

1 included in all other judgments.

2 **C(7) Procedure for seeking attorney fees or costs and disbursements incurred in**
3 **enforcing judgments.**

4 **C(7)(a) If a party has alleged a basis for the award of fees as provided in paragraphs**
5 **C(2)(a) or C(2)(b) of this rule, and the party incurs fees or costs and disbursements in**
6 **collecting or enforcing a judgment, that party may file a supplemental statement of attorney**
7 **fees or costs and disbursements. A party may file a supplemental statement at any time after**
8 **entry of the judgment being enforced; however, unless good cause is shown, not more than**
9 **one supplemental statement may be filed and served in the first year after entry of that**
10 **judgment, and only one supplemental statement may be filed and served annually after the**
11 **filing of the previous supplemental statement.**

12 **C(7)(b) The procedure for seeking attorney fees or costs and disbursements in**
13 **collecting or enforcing judgments shall otherwise be as specified in subparagraph C(4)(a)(i)**
14 **through paragraph C(4)(g) of this rule.**

1 **PLEADING, ALLOWANCE, AND TAXATION OF ATTORNEY FEES**

2 **AND COSTS AND DISBURSEMENTS**

3 **RULE 68**

4 **A Definitions.** As used in this rule:

5 A(1) **Attorney fees.** “Attorney fees” are the reasonable value of legal services related to
6 the prosecution or defense of an action.

7 A(2) **Costs and disbursements.** “Costs and disbursements” are reasonable and
8 necessary expenses incurred in the prosecution or defense of an action, other than for legal
9 services, and include the fees of officers and witnesses; the expense of publication of
10 summonses or notices, and the postage where the same are served by mail; any fee charged by
11 the Department of Transportation for providing address information concerning a party served
12 with summons pursuant to subparagraph D(4)(a)(i) of Rule 7; the compensation of referees; the
13 expense of copying of any public record, book, or document admitted into evidence at trial;
14 recordation of any document where recordation is required to give notice of the creation,
15 modification, or termination of an interest in real property; a reasonable sum paid a person for
16 executing any bond, recognizance, undertaking, stipulation, or other obligation therein; and any
17 other expense specifically allowed by agreement, by these rules, or by any other rule or statute.
18 The court, acting in its sole discretion, may allow as costs reasonable expenses incurred by a
19 party for interpreter services. The expense of taking depositions shall not be allowed, even
20 though the depositions are used at trial, except as otherwise provided by rule or statute.

21 **B Allowance of costs and disbursements.** In any action, costs and disbursements shall
22 be allowed to the prevailing party unless these rules or any other rule or statute direct that in
23 the particular case costs and disbursements shall not be allowed to the prevailing party or shall
24 be allowed to some other party, or unless the court otherwise directs. If, under a special
25 provision of these rules or any other rule or statute, a party has a right to recover costs, such
26 party shall also have a right to recover disbursements.

1 **C Award of and entry of judgment for attorney fees and costs and disbursements.**

2 **C(1) Application of this section to award of attorney fees.** Notwithstanding Rule 1 A
3 and the procedure provided in any rule or statute permitting recovery of attorney fees in a
4 particular case, this section governs the pleading, proof, and award of attorney fees in all cases,
5 regardless of the source of the right to recover such fees, except when:

6 C(1)(a) [Such] **such** items are claimed as damages arising prior to the action;

7 C(1)(b) [Such] **such** items are granted by order, rather than entered as part of a
8 judgment; or

9 C(1)(c) [A] **a** statute [*that*] refers to this rule but provides for a procedure that varies
10 from the procedure specified in this rule.

11 C(2)(a) Alleging right to attorney fees. A party seeking attorney fees shall allege the
12 facts, statute, or rule that provides a basis for the award of such fees in a pleading filed by that
13 party. Attorney fees may be sought before the substantive right to recover such fees accrues.
14 No attorney fee[s] shall be awarded unless a right to recover such fee is alleged as provided in
15 this [*subsection*] **paragraph** or in paragraph C(2)(b) of this rule.

16 C(2)(b) If a party does not file a pleading but instead files a motion or a response to a
17 motion, a right to attorney fees shall be alleged in such motion or response, in similar form to
18 the allegations required in a pleading.

19 C(2)(c) A party shall not be required to allege a right to a specific amount of attorney
20 fees. An allegation that a party is entitled to “reasonable attorney fees” is sufficient.

21 C(2)(d) Any allegation of a right to attorney fees in a pleading, motion, or response shall
22 be deemed denied and no responsive pleading shall be necessary. The opposing party may
23 make a motion to strike the allegation or to make the allegation more definite and certain. Any
24 objection to the form or specificity of the allegation of the facts, statute, or rule that provides a
25 basis for the award of fees shall be waived if not alleged prior to trial or hearing.

26 **C(3) Proof.** The items of attorney fees and costs and disbursements shall be submitted

1 in the manner provided by subsection **C(4)** of this [section] **rule**, without proof being offered
2 during the trial.

3 **C(4) Procedure for seeking attorney fees or costs and disbursements.** The procedure
4 for seeking attorney fees or costs and disbursements shall be as [follows:] **specified in this**
5 **subsection.**

6 **C(4)(a) Filing and serving statement of attorney fees and costs and disbursements.** A
7 party seeking attorney fees or costs and disbursements shall, not later than 14 days after entry
8 of **a general or a limited** judgment [*pursuant to Rule 67*]:

9 **C(4)(a)(i) [File] file** with the court a signed and detailed statement of the amount of
10 attorney fees or costs and disbursements that explains the application of any factors that ORS
11 20.075 or any other statute or rule requires or permits the court to consider in awarding or
12 denying attorney fees or costs and disbursements, together with proof of service, if any, in
13 accordance with Rule 9 C; and

14 **C(4)(a)(ii) [Serve] serve**, in accordance with Rule 9 B, a copy of the statement on all
15 parties who are not in default for failure to appear.

16 **C(4)(b) Filing and serving objections. [Objections.]** A party may object to a statement
17 seeking attorney fees or costs and disbursements or any part thereof by a written objection to
18 the statement. The objection and supporting documents, if any, shall be **filed and** served within
19 14 days after service on the objecting party of a copy of the statement. The objection shall be
20 specific and may be founded in law or in fact and shall be deemed controverted without further
21 pleading. The objecting party may present affidavits, declarations, and other evidence relevant
22 to any factual issue, including any factors that ORS 20.075 or any other statute or rule requires
23 or permits the court to consider in awarding or denying attorney fees or costs and
24 disbursements.

25 **C(4)(c) Response to objections.** The party seeking an award of attorney fees may file a
26 response to an objection filed pursuant to paragraph C(4)(b) of this rule. The response and

1 supporting documents, if any, shall be **filed and** served within [seven] **7** days after service of the
2 objection. The response shall be specific and may address issues of law or fact. The party
3 seeking attorney fees may present affidavits, declarations, and other evidence relevant to any
4 factual issue, including any factors that ORS 20.075 or any other statute or rule requires or
5 permits the court to consider in awarding or denying attorney fees or costs and disbursements.

6 **C(4)(d) Amendments and enlargements of time.**

7 **C(4)(d)(i)** Statements, objections, and responses may be amended or supplemented in
8 accordance with Rule 23.

9 **C(4)(d)(ii) The court may, in its discretion and upon such terms as may be just, allow a**
10 **statement, an objection, or a response to be filed and served after the time specified in**
11 **paragraphs C(4)(a), C(4)(b), or C(4)(c) of this rule, or by an order enlarge such time.**

12 **C(4)(e) Hearing on objections.** No hearing shall be held and the court may rule on the
13 request for attorney fees based upon the statement, objection, response, and any
14 accompanying affidavits or declarations unless a party has requested a hearing in the caption of
15 the objection or response or unless the court sets a hearing on its own motion.

16 **C(4)(e)(i)** If a hearing is requested the court, without a jury, shall hear and determine all
17 issues of law and fact raised by the objection.

18 **C(4)(e)(ii)** The court shall deny or award in whole or in part the amounts sought as
19 attorney fees or costs and disbursements.

20 **C(4)(f) No timely objections.** If objections are not timely filed, the court may award
21 attorney fees or costs and disbursements sought in the statement.

22 **C(4)(g) Findings and conclusions.** On the request of a party, the court shall make special
23 findings of fact and state its conclusions of law on the record regarding the issues material to
24 the award or denial of attorney fees. A party must make a request pursuant to this paragraph
25 by including a request for findings and conclusions in the [title] **caption** of the statement of
26 attorney fees or costs and disbursements, objection, or response filed pursuant to paragraph

1 **C(4)(a), C(4)(b), or C(4)(c)** of this [subsection] **rule**. In the absence of a request under this
2 paragraph, the court may make either general or special findings of fact and may state its
3 conclusions of law regarding attorney fees.

4 **C(5) Judgment concerning attorney fees or costs and disbursements.**

5 **C(5)(a) As part of judgment.** If all issues regarding attorney fees or costs and
6 disbursements are decided before entry of a **limited or a general** judgment [pursuant to Rule
7 67], the court shall include any award or denial of attorney fees or costs and disbursements in
8 that judgment.

9 **C(5)(b) [By supplemental] After entry of a general or limited judgment[; notice].**

10 **C(5)(b)(i) After entry of a general judgment.** If any issue regarding attorney fees or costs
11 and disbursements is not decided before entry of a general judgment, any award or denial of
12 attorney fees or costs and disbursements shall be made by supplemental judgment.

13 **C(5)(b)(ii) After entry of a limited judgment. Attorney fees and costs and**
14 **disbursements may be awarded or denied following entry of a limited judgment if the judge**
15 **determines that there is no just reason for delay. In such cases, any award or denial of**
16 **attorney fees and costs and disbursements shall be made by limited judgment.**

17 **C(6) Avoidance of multiple collection of attorney fees and costs and disbursements.**

18 **C(6)(a) Separate judgments for separate claims.** If more than one judgment is entered
19 in an action, the court shall take such steps as **are** necessary to avoid the multiple taxation of
20 the same attorney fees and costs and disbursements in those judgments.

21 **C(6)(b) Separate judgments for the same claim.** If more than one judgment is entered
22 for the same claim (when separate actions are brought for the same claim against several
23 parties who might have been joined as parties in the same action or, when pursuant to Rule 67
24 B, separate limited judgments are entered against several parties for the same claim), attorney
25 fees and costs and disbursements may be entered in each judgment as provided in this rule, but
26 satisfaction of one judgment bars recovery of attorney fees or costs and disbursements

1 included in all other judgments.

2 **C(7) Procedure for seeking attorney fees or costs and disbursements incurred in**
3 **enforcing judgments.**

4 **C(7)(a) If a party has alleged a basis for the award of fees as provided in paragraphs**
5 **C(2)(a) or C(2)(b) of this rule, and the party incurs fees or costs and disbursements in**
6 **collecting or enforcing a judgment, that party may file a supplemental statement of attorney**
7 **fees or costs and disbursements. A party may file a supplemental statement at any time after**
8 **entry of the judgment being enforced; however, unless good cause is shown, not more than**
9 **one supplemental statement may be filed and served in the first year after entry of that**
10 **judgment, and only one supplemental statement may be filed and served annually after the**
11 **filing of the previous supplemental statement.**

12 **C(7)(b) The procedure for seeking attorney fees or costs and disbursements in**
13 **collecting or enforcing judgments shall otherwise be as specified in subparagraph C(4)(a)(i)**
14 **through paragraph C(4)(g) of this rule.**

1 **PLEADING, ALLOWANCE, AND TAXATION OF ATTORNEY FEES**

2 **AND COSTS AND DISBURSEMENTS**

3 **RULE 68**

4 **A Definitions.** As used in this rule:

5 A(1) **Attorney fees.** “Attorney fees” are the reasonable value of legal services related to
6 the prosecution or defense of an action.

7 A(2) **Costs and disbursements.** “Costs and disbursements” are reasonable and
8 necessary expenses incurred in the prosecution or defense of an action, other than for legal
9 services, and include the fees of officers and witnesses; the expense of publication of
10 summonses or notices, and the postage where the same are served by mail; any fee charged by
11 the Department of Transportation for providing address information concerning a party served
12 with summons pursuant to subparagraph [D(4)(a)(i)] **D(4)(a)(ii)** of Rule 7; the compensation of
13 referees; the expense of copying of any public record, book, or document admitted into
14 evidence at trial; recordation of any document where recordation is required to give notice of
15 the creation, modification, or termination of an interest in real property; a reasonable sum paid
16 a person for executing any bond, recognizance, undertaking, stipulation, or other obligation
17 therein; and any other expense specifically allowed by agreement, by these rules, or by any
18 other rule or statute. The court, acting in its sole discretion, may allow as costs reasonable
19 expenses incurred by a party for interpreter services. The expense of taking depositions shall
20 not be allowed, even though the depositions are used at trial, except as otherwise provided by
21 rule or statute.

22 **B Allowance of costs and disbursements.** In any action, costs and disbursements shall
23 be allowed to the prevailing party unless these rules or any other rule or statute direct that in
24 the particular case costs and disbursements shall not be allowed to the prevailing party or shall
25 be allowed to some other party, or unless the court otherwise directs. If, under a special
26 provision of these rules or any other rule or statute, a party has a right to recover costs, [such]

1 **that** party shall also have a right to recover disbursements.

2 **C Award of and entry of judgment for attorney fees and costs and disbursements.**

3 C(1) **Application of this section to award of attorney fees.** Notwithstanding Rule 1 A
4 and the procedure provided in any rule or statute permitting recovery of attorney fees in a
5 particular case, this section governs the pleading, proof, and award of attorney fees in all cases,
6 regardless of the source of the right to recover such fees, except when:

7 C(1)(a) [Such items] **attorney fees** are claimed as damages arising prior to the action;

8 C(1)(b) [Such items] **attorney fees** are granted by order, rather than entered as part of a
9 judgment; or

10 C(1)(c) [A] **a** statute [*that*] refers to this rule but provides for a procedure that varies
11 from the procedure specified in this rule.

12 C(2)(a) **Alleging right to attorney fees.** A party seeking attorney fees shall allege the
13 facts, statute, or rule that provides a basis for the award of such fees in a pleading filed by that
14 party. Attorney fees may be sought before the substantive right to recover such fees accrues.
15 No attorney fee[s] shall be awarded unless a right to recover such fee is alleged as provided in
16 this [*subsection*] **paragraph** or in paragraph C(2)(b) of this rule.

17 C(2)(b) **Alternatives.** If a party does not file a pleading but instead files a motion or a
18 response to a motion, a right to attorney fees shall be alleged in [*such*] **the party's** motion or
19 response, in similar form to the allegations required in a pleading.

20 C(2)(c) **Specific amount not required.** A party shall not be required to allege a right to a
21 specific amount of attorney fees. An allegation that a party is entitled to "reasonable attorney
22 fees" is sufficient.

23 C(2)(d) **Pleadings or motions responding to allegations of right to attorney fees.** Any
24 allegation of a right to attorney fees in a pleading, motion, or response shall be deemed denied
25 and no responsive pleading shall be necessary. The opposing party may make a motion to strike
26 the allegation or to make the allegation more definite and certain. Any objection to the form or

1 specificity of the allegation of the facts, statute, or rule that provides a basis for the award of
2 fees shall be waived if not alleged prior to trial or hearing.

3 C(3) **Proof.** The items of attorney fees and costs and disbursements shall be submitted
4 in the manner provided by subsection [*C of this section*] **C(4) of this rule**, without proof being
5 offered during the trial.

6 C(4) **Procedure for seeking attorney fees or costs and disbursements.** The procedure
7 for seeking attorney fees or costs and disbursements shall be as [follows:] **specified in this**
8 **subsection.**

9 C(4)(a) **Filing and serving statement of attorney fees and costs and disbursements.** A
10 party seeking attorney fees or costs and disbursements shall, not later than 14 days after entry
11 of **a general or a limited** judgment [*pursuant to Rule 67*]:

12 C(4)(a)(i) [*File*] **file** with the court a signed and detailed statement of the amount of
13 attorney fees or costs and disbursements that explains the application of any factors that ORS
14 20.075 or any other statute or rule requires or permits the court to consider in awarding or
15 denying attorney fees or costs and disbursements, together with proof of service, if any, in
16 accordance with Rule 9 C; and

17 C(4)(a)(ii) [*Serve*] **serve**, in accordance with Rule 9 B, a copy of the statement on all
18 parties who are not in default for failure to appear.

19 C(4)(b) **Filing and serving objections.** [*Objections.*] A party may object to a statement
20 seeking attorney fees or costs and disbursements or any part thereof by a written objection to
21 the statement. The objection and supporting documents, if any, shall be **filed and** served within
22 14 days after service on the objecting party of a copy of the statement. The objection shall be
23 specific and may be founded in law or in fact and shall be deemed controverted without further
24 pleading. The objecting party may present affidavits, declarations, and other evidence relevant
25 to any factual issue, including any factors that ORS 20.075 or any other statute or rule requires
26 or permits the court to consider in awarding or denying attorney fees or costs and

1 | disbursements.

2 | C(4)(c) **Response to objections.** The party seeking an award of attorney fees may file a
3 | response to an objection filed pursuant to paragraph C(4)(b) of this rule. The response and
4 | supporting documents, if any, shall be **filed and** served within [seven] **7** days after service of the
5 | objection. The response shall be specific and may address issues of law or fact. The party
6 | seeking attorney fees may present affidavits, declarations, and other evidence relevant to any
7 | factual issue, including any factors that ORS 20.075 or any other statute or rule requires or
8 | permits the court to consider in awarding or denying attorney fees or costs and disbursements.

9 | C(4)(d) **Amendments and enlargements of time.**

10 | **C(4)(d)(i) Amendments; supplements.** Statements, objections, and responses may be
11 | amended or supplemented in accordance with Rule 23.

12 | **C(4)(d)(ii) Discretion related to time of filing. The court may, in its discretion and upon**
13 | **any terms that may be just, allow a statement, an objection, or a response to be filed and**
14 | **served after the time specified in paragraphs C(4)(a), C(4)(b), or C(4)(c) of this rule, or by an**
15 | **order enlarge such time.**

16 | C(4)(e) **Hearing on objections.** No hearing shall be held and the court may rule on the
17 | request for attorney fees based upon the statement, objection, response, and any
18 | accompanying affidavits or declarations unless a party has requested a hearing in the caption of
19 | the objection or response or unless the court sets a hearing on its own motion.

20 | C(4)(e)(i) **How determined.** If a hearing is requested, the court, without a jury, shall hear
21 | and determine all issues of law and fact raised by the objection.

22 | C(4)(e)(ii) **Court's ruling.** The court shall deny or award in whole or in part the amounts
23 | sought as attorney fees or costs and disbursements.

24 | C(4)(f) **No timely objections.** If objections are not timely filed, the court may award
25 | attorney fees or costs and disbursements sought in the statement.

26 | C(4)(g) **Findings and conclusions.** On the request of a party, the court shall make special

1 findings of fact and state its conclusions of law on the record regarding the issues material to
2 the award or denial of attorney fees. A party must make a request pursuant to this paragraph
3 by including a request for findings and conclusions in the [title] **caption** of the statement of
4 attorney fees or costs and disbursements, objection, or response filed pursuant to paragraph
5 [(a), (b), or (c) of this subsection] **(C)(4)(a), (C)(4)(b), or (C)(4)(c) of this rule.** In the absence of a
6 request under this paragraph, the court may make either general or special findings of fact and
7 may state its conclusions of law regarding attorney fees.

8 **C(5) Judgment concerning attorney fees or costs and disbursements.**

9 **C(5)(a) As part of judgment.** If all issues regarding attorney fees or costs and
10 disbursements are decided before entry of a **limited or a general** judgment [*pursuant to Rule*
11 *67*], the court shall include any award or denial of attorney fees or costs and disbursements in
12 that judgment.

13 **C(5)(b) [By supplemental] After entry of a general or limited judgment[; notice].**

14 **C(5)(b)(i) After entry of a general judgment.** If any issue regarding attorney fees or costs
15 and disbursements is not decided before entry of a general judgment, any award or denial of
16 attorney fees or costs and disbursements shall be made by supplemental judgment.

17 **C(5)(b)(ii) After entry of a limited judgment. Attorney fees and costs and**
18 **disbursements may be awarded or denied following entry of a limited judgment if the judge**
19 **determines that there is no just reason for delay. In such cases, any award or denial of**
20 **attorney fees and costs and disbursements shall be made by limited judgment.**

21 **C(6) Avoidance of multiple collection of attorney fees and costs and disbursements.**

22 **C(6)(a) Separate judgments for separate claims.** If more than one judgment is entered
23 in an action, the court shall take [*such steps as*] **any steps that are** necessary to avoid the
24 multiple taxation of the same attorney fees and costs and disbursements in those judgments.

25 **C(6)(b) Separate judgments for the same claim.** If more than one judgment is entered
26 for the same claim (when separate actions are brought for the same claim against several

1 parties who might have been joined as parties in the same action or, when pursuant to Rule 67
2 B, separate limited judgments are entered against several parties for the same claim), attorney
3 fees and costs and disbursements may be entered in each judgment as provided in this rule, but
4 satisfaction of one judgment bars recovery of attorney fees or costs and disbursements
5 included in all other judgments.

6 **C(7) Procedure for seeking attorney fees or costs and disbursements incurred in**
7 **enforcing judgments.**

8 **C(7)(a) Frequency. If a party has alleged a basis for the award of fees as provided in**
9 **paragraphs C(2)(a) or C(2)(b) of this rule, and the party incurs fees or costs and disbursements**
10 **in collecting or enforcing a judgment, that party may file a supplemental statement of**
11 **attorney fees or costs and disbursements. A party may file a supplemental statement at any**
12 **time after entry of the judgment being enforced; however, unless good cause is shown, not**
13 **more than one supplemental statement may be filed and served in the first year after entry**
14 **of that judgment, and only one supplemental statement may be filed and served annually**
15 **after the filing of the previous supplemental statement.**

16 **C(7)(b) Procedure. The procedure for seeking attorney fees or costs and disbursements**
17 **in collecting or enforcing judgments shall otherwise be as specified in subparagraph C(4)(a)(i)**
18 **through paragraph C(4)(g) of this rule.**

1 **PLEADING, ALLOWANCE, AND TAXATION OF ATTORNEY FEES**

2 **AND COSTS AND DISBURSEMENTS**

3 **RULE 68**

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5 A(1) **Attorney fees.** “Attorney fees” are the reasonable value of legal services related
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9 services, and include the fees of officers and witnesses; the expense of publication of
10 summonses or notices, and the postage where the same are served by mail; any fee charged by
11 the Department of Transportation for providing address information concerning a party served
12 with summons pursuant to subparagraph [D(4)(a)(i)] **D(4)(a)(ii)** of Rule 7; the compensation of
13 referees; the expense of copying of any public record, book, or document admitted into
14 evidence at trial; recordation of any document where recordation is required to give notice of
15 the creation, modification, or termination of an interest in real property; a reasonable sum paid
16 a person for executing any bond, recognizance, undertaking, stipulation, or other obligation
17 therein; and any other expense specifically allowed by agreement, by these rules, or by any
18 other rule or statute. The court, acting in its sole discretion, may allow as costs reasonable
19 expenses incurred by a party for interpreter services. The expense of taking depositions shall
20 not be allowed, even though the depositions are used at trial, except as otherwise provided by
21 rule or statute.

22 **B Allowance of costs and disbursements.** In any action, costs and disbursements
23 shall be allowed to the prevailing party unless these rules or any other rule or statute direct
24 that in the particular case costs and disbursements shall not be allowed to the prevailing party
25 or shall be allowed to some other party, or unless the court otherwise directs. If, under a
26 special provision of these rules or any other rule or statute, a party has a right to recover costs,

1 [such] **that** party shall also have a right to recover disbursements.

2 **C Award of and entry of judgment for attorney fees and costs and**
3 **disbursements.**

4 C(1) **Application of this section to award of attorney fees.** Notwithstanding Rule 1 A
5 and the procedure provided in any rule or statute permitting recovery of attorney fees in a
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7 regardless of the source of the right to recover such fees, except when:

8 C(1)(a) [Such items] **attorney fees** are claimed as damages arising prior to the action;

9 C(1)(b) [Such items] **attorney fees** are granted by order, rather than entered as
10 part of a judgment; or

11 C(1)(c) [A] **a** statute [*that*] refers to this rule but provides for a procedure that varies
12 from the procedure specified in this rule.

13 C(2)(a) **Alleging right to attorney fees.** A party seeking attorney fees shall allege the
14 facts, statute, or rule that provides a basis for the award of such fees in a pleading filed by that
15 party. Attorney fees may be sought before the substantive right to recover such fees accrues.
16 No attorney fee[s] shall be awarded unless a right to recover such fee is alleged as provided in
17 this [*subsection*] **paragraph** or in paragraph C(2)(b) of this rule.

18 C(2)(b) **Alternatives.** If a party does not file a pleading but instead files a motion
19 or a response to a motion, a right to attorney fees shall be alleged in [*such*] **the party's** motion
20 or response, in similar form to the allegations required in a pleading.

21 C(2)(c) **Specific amount not required.** A party shall not be required to allege a right to a
22 specific amount of attorney fees. An allegation that a party is entitled to "reasonable attorney
23 fees" is sufficient.

24 C(2)(d) **Pleadings or motions responding to allegations of right to attorney fees.**
25 Any allegation of a right to attorney fees in a pleading, motion, or response shall be deemed
26 denied and no responsive pleading shall be necessary. The opposing party may make a motion

1 to strike the allegation or to make the allegation more definite and certain. Any objection to the
2 form or specificity of the allegation of the facts, statute, or rule that provides a basis for the
3 award of fees shall be waived if not alleged prior to trial or hearing.

4 C(3) **Proof.** The items of attorney fees and costs and disbursements shall be
5 submitted in the manner provided by subsection [*C of this section*] **C(4) of this rule**, without
6 proof being offered during the trial.

7 C(4) **Procedure for seeking attorney fees or costs and disbursements.** The procedure
8 for seeking attorney fees or costs and disbursements shall be as [follows:] **specified in this**
9 **subsection.**

10 C(4)(a) **Filing and serving statement of attorney fees and costs and disbursements.** A
11 party seeking attorney fees or costs and disbursements shall, not later than 14 days after entry
12 of **a general or a limited** judgment [*pursuant to Rule 67*]:

13 C(4)(a)(i) [*File*] **file** with the court a signed and detailed statement of the amount of
14 attorney fees or costs and disbursements that explains the application of any factors that ORS
15 20.075 or any other statute or rule requires or permits the court to consider in awarding or
16 denying attorney fees or costs and disbursements, together with proof of service, if any, in
17 accordance with Rule 9 C; and

18 C(4)(a)(ii) [*Serve*] **serve**, in accordance with Rule 9 B, a copy of the statement on all
19 parties who are not in default for failure to appear.

20 C(4)(b) **Filing and serving objections.** [*Objections.*] A party may object to a
21 statement seeking attorney fees or costs and disbursements or any part thereof by a written
22 objection to the statement. The objection and supporting documents, if any, shall be **filed and**
23 **served** within 14 days after service on the objecting party of a copy of the statement. The
24 objection shall be specific and may be founded in law or in fact and shall be deemed
25 controverted without further pleading. The objecting party may present affidavits, declarations,
26 and other evidence relevant to any factual issue, including any factors that ORS 20.075 or any

1 other statute or rule requires or permits the court to consider in awarding or denying attorney
2 fees or costs and disbursements.

3 C(4)(c) **Response to objections.** The party seeking an award of attorney fees may file a
4 response to an objection filed pursuant to paragraph C(4)(b) of this rule. The response and
5 supporting documents, if any, shall be **filed and** served within [seven] **7** days after service of the
6 objection. The response shall be specific and may address issues of law or fact. The party
7 seeking attorney fees may present affidavits, declarations, and other evidence relevant to any
8 factual issue, including any factors that ORS 20.075 or any other statute or rule requires or
9 permits the court to consider in awarding or denying attorney fees or costs and disbursements.

10 C(4)(d) **Amendments and enlargements of time.**

11 **C(4)(d)(i) Amendments; supplements.** Statements, objections, and responses may
12 be amended or supplemented in accordance with Rule 23.

13 **C(4)(d)(ii) Discretion related to time of filing. The court may, in its discretion and**
14 **upon any terms that may be just, allow a statement, an objection, or a response to be filed**
15 **and served after the time specified in paragraphs C(4)(a), C(4)(b), or C(4)(c) of this rule, or by**
16 **an order enlarge such time.**

17 C(4)(e) **Hearing on objections.** No hearing shall be held and the court may rule on the
18 request for attorney fees based upon the statement, objection, response, and any
19 accompanying affidavits or declarations unless a party has requested a hearing in the caption of
20 the objection or response or unless the court sets a hearing on its own motion.

21 C(4)(e)(i) **How determined.** If a hearing is requested, the court, without a jury,
22 shall hear and determine all issues of law and fact raised by the objection.

23 C(4)(e)(ii) **Court's ruling.** The court shall deny or award in whole or in part the
24 amounts sought as attorney fees or costs and disbursements.

25 C(4)(f) **No timely objections.** If objections are not timely filed, the court may award
26 attorney fees or costs and disbursements sought in the statement.

1 C(4)(g) **Findings and conclusions.** On the request of a party, the court shall make special
2 findings of fact and state its conclusions of law on the record regarding the issues material to
3 the award or denial of attorney fees. A party must make a request pursuant to this paragraph
4 by including a request for findings and conclusions in the *[title]* **caption** of the statement of
5 attorney fees or costs and disbursements, objection, or response filed pursuant to paragraph
6 *[(a), (b), or (c) of this subsection]* **(C)(4)(a), (C)(4)(b), or (C)(4)(c) of this rule.** In the absence of a
7 request under this paragraph, the court may make either general or special findings of fact and
8 may state its conclusions of law regarding attorney fees.

9 C(5) **Judgment concerning attorney fees or costs and disbursements.**

10 C(5)(a) **As part of judgment.** If all issues regarding attorney fees or costs and
11 disbursements are decided before entry of a **limited or a general** judgment *[pursuant to Rule*
12 *67]*, the court shall include any award or denial of attorney fees or costs and disbursements in
13 that judgment.

14 C(5)(b) **[By supplemental] After entry of a general or limited judgment[; notice].**

15 **C(5)(b)(i) After entry of a general judgment.** If any issue regarding attorney fees or
16 costs and disbursements is not decided before entry of a general judgment, any award or denial
17 of attorney fees or costs and disbursements shall be made by supplemental judgment.

18 **C(5)(b)(ii) After entry of a limited judgment. Attorney fees and costs and**
19 **disbursements may be awarded or denied following entry of a limited judgment if the court**
20 **determines that there is no just reason for delay. In such cases, any award or denial of**
21 **attorney fees and costs and disbursements shall be made by limited judgment.**

22 C(6) **Avoidance of multiple collection of attorney fees and costs and disbursements.**

23 C(6)(a) **Separate judgments for separate claims.** If more than one judgment is entered
24 in an action, the court shall take *[such steps as]* **any steps that are** necessary to avoid the
25 multiple taxation of the same attorney fees and costs and disbursements in those judgments.

26 C(6)(b) **Separate judgments for the same claim.** If more than one judgment is

1 entered for the same claim (when separate actions are brought for the same claim against
2 several parties who might have been joined as parties in the same action or, when pursuant to
3 Rule 67 B, separate limited judgments are entered against several parties for the same claim),
4 attorney fees and costs and disbursements may be entered in each judgment as provided in
5 this rule, but satisfaction of one judgment bars recovery of attorney fees or costs and
6 disbursements included in all other judgments.

7 **C(7) Procedure for seeking attorney fees or costs and disbursements incurred in**
8 **enforcing judgments.**

9 **C(7)(a) Frequency. If a party has alleged a basis for the award of fees as provided in**
10 **paragraphs C(2)(a) or C(2)(b) of this rule, and the party incurs fees or costs and disbursements**
11 **in collecting or enforcing a judgment, that party may file a supplemental statement of**
12 **attorney fees or costs and disbursements. A party may file a supplemental statement at any**
13 **time after entry of the judgment being enforced; however, unless good cause is shown, not**
14 **more than one supplemental statement may be filed and served under this paragraph in the**
15 **first year after entry of that judgment, and only one such supplemental statement may be**
16 **filed and served annually after the filing of the previous supplemental statement.**

17 **C(7)(b) Procedure. The procedure for seeking attorney fees or costs and**
18 **disbursements in collecting or enforcing judgments shall otherwise be as specified in**
19 **subparagraph C(4)(a)(i) through paragraph C(4)(g) of this rule.**

1 **PLEADING, ALLOWANCE, AND TAXATION OF ATTORNEY FEES**

2 **AND COSTS AND DISBURSEMENTS**

3 **RULE 68**

4 **A Definitions.** As used in this rule:

5 A(1) **Attorney fees.** “Attorney fees” are the reasonable value of legal services related
6 to the prosecution or defense of an action.

7 A(2) **Costs and disbursements.** “Costs and disbursements” are reasonable and
8 necessary expenses incurred in the prosecution or defense of an action, other than for legal
9 services, and include the fees of officers and witnesses; the expense of publication of
10 summonses or notices, and the postage where the same are served by mail; any fee charged by
11 the Department of Transportation for providing address information concerning a party served
12 with summons pursuant to [*subparagraph D(4)(a)(i) of*] Rule 7 **D(4)(a)(ii)**; the compensation of
13 referees; the expense of copying of any public record, book, or document admitted into
14 evidence at trial; recordation of any document where recordation is required to give notice of
15 the creation, modification, or termination of an interest in real property; a reasonable sum paid
16 a person for executing any bond, recognizance, undertaking, stipulation, or other obligation
17 therein; and any other expense specifically allowed by agreement, by these rules, or by any
18 other rule or statute. The court, acting in its sole discretion, may allow as costs reasonable
19 expenses incurred by a party for interpreter services. The expense of taking depositions shall
20 not be allowed, even though the depositions are used at trial, except as otherwise provided by
21 rule or statute.

22 **B Allowance of costs and disbursements.** In any action, costs and disbursements
23 shall be allowed to the prevailing party unless these rules or any other rule or statute direct
24 that in the particular case costs and disbursements shall not be allowed to the prevailing party
25 or shall be allowed to some other party, or unless the court otherwise directs. If, under a
26 special provision of these rules or any other rule or statute, a party has a right to recover costs,

1 [such] **that** party shall also have a right to recover disbursements.

2 **C Award of and entry of judgment for attorney fees and costs and**
3 **disbursements.**

4 C(1) **Application of this section to award of attorney fees.** Notwithstanding Rule 1 A
5 and the procedure provided in any rule or statute permitting recovery of attorney fees in a
6 particular case, this section governs the pleading, proof, and award of attorney fees in all cases,
7 regardless of the source of the right to recover such fees, except when:

8 C(1)(a) [Such items] **attorney fees** are claimed as damages arising prior to the action;

9 C(1)(b) [Such items] **attorney fees** are granted by order, rather than entered as
10 part of a judgment; or

11 C(1)(c) [A] **a** statute [*that*] refers to this rule but provides for a procedure that varies
12 from the procedure specified in this rule.

13 C(2)(a) **Alleging right to attorney fees.** A party seeking attorney fees shall allege the
14 facts, statute, or rule that provides a basis for the award of [*such*] fees in a pleading filed by that
15 party. Attorney fees may be sought before the substantive right to recover [*such*] fees accrues.
16 No attorney fees shall be awarded unless a right to recover [*such fee*] **fees** is alleged as
17 provided in this [*subsection*] **paragraph** or in paragraph C(2)(b) of this rule.

18 C(2)(b) **Alternatives.** If a party does not file a pleading but instead files a motion
19 or a response to a motion, a right to attorney fees shall be alleged in [*such*] **the party's** motion
20 or response, in similar form to the allegations required in a pleading.

21 C(2)(c) **Specific amount not required.** A party shall not be required to allege a right to a
22 specific amount of attorney fees. An allegation that a party is entitled to “reasonable attorney
23 fees” is sufficient.

24 C(2)(d) **Pleadings or motions responding to allegations of right to attorney fees.**
25 Any allegation of a right to attorney fees in a pleading, motion, or response shall be deemed
26 denied and no responsive pleading shall be necessary. The opposing party may make a motion

1 to strike the allegation or to make the allegation more definite and certain. Any objection to the
2 form or specificity of the allegation of the facts, statute, or rule that provides a basis for the
3 award of fees shall be waived if not alleged prior to trial or hearing.

4 C(3) **Proof.** The items of attorney fees [*and*] **or** costs and disbursements shall be
5 submitted in the manner provided by subsection [(4) of this section] **C(4) of this rule**, without
6 proof being offered during the trial.

7 C(4) **Procedure for seeking attorney fees or costs and disbursements.** The procedure
8 for seeking attorney fees or costs and disbursements shall be as [*follows:*] **specified in this**
9 **subsection.**

10 C(4)(a) **Filing and serving statement of attorney fees and costs and disbursements.** A
11 party seeking attorney fees or costs and disbursements shall, not later than 14 days after entry
12 of **a** judgment [*pursuant to Rule 67*]:

13 C(4)(a)(i) [*File*] **file** with the court a signed and detailed statement of the amount of
14 attorney fees or costs and disbursements that explains the application of any factors that ORS
15 20.075 or any other statute or rule requires or permits the court to consider in awarding or
16 denying attorney fees or costs and disbursements, together with proof of service, if any, in
17 accordance with Rule 9 C; and

18 C(4)(a)(ii) [*Serve*] **serve**, in accordance with Rule 9 B, a copy of the statement on all
19 parties who are not in default for failure to appear.

20 C(4)(b) **Filing and serving objections.** [*Objections.*] A party may object to a
21 statement seeking attorney fees or costs and disbursements or any part thereof by a written
22 objection to the statement. The objection and supporting documents, if any, shall be **filed and**
23 **served** within 14 days after service on the objecting party of a copy of the statement. The
24 objection shall be specific and may be founded in law or in fact and shall be deemed
25 controverted without further pleading. The objecting party may present affidavits, declarations,
26 and other evidence relevant to any factual issue, including any factors that ORS 20.075 or any

1 other statute or rule requires or permits the court to consider in awarding or denying attorney
2 fees or costs and disbursements.

3 C(4)(c) **Response to objections.** The party seeking an award of attorney fees may file a
4 response to an objection filed pursuant to paragraph C(4)(b) of this rule. The response and
5 supporting documents, if any, shall be **filed and** served within [seven] **7** days after service of the
6 objection. The response shall be specific and may address issues of law or fact. The party
7 seeking attorney fees may present affidavits, declarations, and other evidence relevant to any
8 factual issue, including any factors that ORS 20.075 or any other statute or rule requires or
9 permits the court to consider in awarding or denying attorney fees or costs and disbursements.

10 C(4)(d) **Amendments and enlargements of time.**

11 **C(4)(d)(i) Amendments; supplements.** Statements, objections, and responses may
12 be amended or supplemented in accordance with Rule 23.

13 **C(4)(d)(ii) Discretion related to time of filing. The court may, in its discretion and**
14 **upon any terms that may be just, allow a statement, an objection, or a response to be filed**
15 **and served after the time specified in paragraph C(4)(a), C(4)(b), or C(4)(c) of this rule, or by**
16 **an order enlarge such time.**

17 C(4)(e) **Hearing on objections.** No hearing shall be held and the court may rule on the
18 request for attorney fees based upon the statement, objection, response, and any
19 accompanying affidavits or declarations unless a party has requested a hearing in the caption of
20 the objection or response or unless the court sets a hearing on its own motion.

21 C(4)(e)(i) **How determined.** If a hearing is requested, the court, without a jury,
22 shall hear and determine all issues of law and fact raised by the objection.

23 C(4)(e)(ii) **Court's ruling.** The court shall deny or award in whole or in part the
24 amounts sought as attorney fees or costs and disbursements.

25 C(4)(f) **No timely objections.** If objections are not timely filed, the court may award
26 attorney fees or costs and disbursements sought in the statement.

1 C(4)(g) **Findings and conclusions.** On the request of a party, the court shall make special
2 findings of fact and state its conclusions of law on the record regarding the issues material to
3 the award or denial of attorney fees. A party must make a request pursuant to this paragraph
4 by including a request for findings and conclusions in the [title] **caption** of the statement of
5 attorney fees or costs and disbursements, objection, or response filed pursuant to paragraph
6 [(a), (b), or (c) of this subsection] **C(4)(a), C(4)(b), or C(4)(c) of this rule.** In the absence of a
7 request under this paragraph, the court may make either general or special findings of fact and
8 may state its conclusions of law regarding attorney fees.

9 C(5) **Judgment concerning attorney fees or costs and disbursements.**

10 C(5)(a) **As part of judgment.** If all issues regarding attorney fees or costs and
11 disbursements are decided before entry of a judgment [*pursuant to Rule 67*], the court shall
12 include any award or denial of attorney fees or costs and disbursements in that judgment.

13 C(5)(b) **[By supplemental] After entry of a judgment[; notice].**

14 **C(5)(b)(i) After entry of a general or supplemental judgment.** If any issue
15 regarding attorney fees or costs and disbursements is not decided before entry of a general **or**
16 **supplemental** judgment, any award or denial of attorney fees or costs and disbursements shall
17 be made by supplemental judgment.

18 **C(5)(b)(ii) After entry of a limited judgment. Attorney fees or costs and**
19 **disbursements may be awarded or denied following entry of a limited judgment if the court**
20 **determines that there is no just reason for delay. In such cases, any award or denial of**
21 **attorney fees or costs and disbursements shall be made by limited judgment.**

22 C(6) **Avoidance of multiple collection of attorney fees and costs and disbursements.**

23 C(6)(a) **Separate judgments for separate claims.** If more than one judgment is entered
24 in an action, the court shall take [*such steps as*] **any steps that are** necessary to avoid the
25 multiple taxation of the same attorney fees [*and*] **or** costs and disbursements in those
26 judgments.

1 C(6)(b) **Separate judgments for the same claim.** If more than one judgment is
2 entered for the same claim (when separate actions are brought for the same claim against
3 several parties who might have been joined as parties in the same action or, when pursuant to
4 Rule 67 B, separate limited judgments are entered against several parties for the same claim),
5 attorney fees [*and*] or costs and disbursements may be entered in each judgment as provided
6 in this rule, but satisfaction of one judgment bars recovery of attorney fees or costs and
7 disbursements included in all other judgments.

8 **C(7) Procedure for seeking attorney fees or costs and disbursements incurred in**
9 **enforcing judgments.**

10 **C(7)(a) Frequency. If a party has alleged a basis for the award of attorney fees as**
11 **provided in paragraph C(2)(a) or C(2)(b) of this rule, and the party incurs attorney fees or**
12 **costs and disbursements in collecting or enforcing a judgment, that party may file a**
13 **supplemental statement of attorney fees or costs and disbursements. A party may file a**
14 **supplemental statement at any time after entry of the judgment being enforced; however,**
15 **unless good cause is shown, not more than one supplemental statement may be filed and**
16 **served under this paragraph in the first year after entry of that judgment, and only one such**
17 **supplemental statement may be filed and served annually after the filing of the previous**
18 **supplemental statement.**

19 **C(7)(b) Procedure. The procedure for seeking attorney fees or costs and**
20 **disbursements in collecting or enforcing judgments shall otherwise be as specified in**
21 **subparagraph C(4)(a)(i) through paragraph C(4)(g) of this rule.**