

DISMISSAL OF ACTIONS; COMPROMISE

RULE 54

A Voluntary dismissal; effect thereof.

A(1) By plaintiff; by stipulation. Subject to the provisions of Rule 32 D and of any statute of this state, an action **or any claim filed in an action** may be dismissed by the plaintiff without order of court (a) by filing a notice of dismissal with the court and serving such notice on *[the]* **all** defendants not less than *[five]* **seven** days prior to the day of trial if no counterclaim has been pleaded, or (b) by filing a stipulation of dismissal signed by all adverse parties who have appeared in the action. **Any agreement between the parties to maintain the confidentiality of the terms of any settlement agreement underlying a judgment of dismissal shall not be enforceable unless disclosed to the court, which may approve, limit, or deny the confidentiality agreement.** Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action against the same parties on or including the same claim unless the court directs that the dismissal shall be without prejudice. Upon notice of dismissal or stipulation under this subsection, the court shall enter a judgment of dismissal.

A(2) By order of court. Except as provided in subsection (1) of this section, an action shall not be dismissed at the plaintiff's instance save upon judgment of dismissal ordered by the court and upon such terms and conditions as the court deems proper. If a counterclaim has been *[pleaded]* **filed** by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the defendant may proceed with the counterclaim. Unless otherwise specified in the judgment of dismissal, a dismissal under this subsection is without prejudice.

A(3) Costs and disbursements. When an action is dismissed under this section, the judgment may include any costs and disbursements, including attorney fees, provided by rule or statute. Unless the circumstances indicate otherwise, the dismissed party shall be considered the

1 prevailing party.

2 B Involuntary dismissal.

3 B(1) Failure to comply with rule or order. For failure of the plaintiff to prosecute or to
4 comply with these rules or any order of court, a defendant may move for a judgment of dismissal
5 of an action or of any claim against such defendant.

6 B(2) Insufficiency of evidence. After the plaintiff in an action tried by the court without
7 a jury has completed the presentation of plaintiff's evidence, the defendant, without waiving the
8 right to offer evidence in the event the motion is not granted, may move for a judgment of
9 dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief.
10 The court as trier of the facts may then determine them and render judgment of dismissal against
11 the plaintiff or may decline to render any judgment until the close of all the evidence. If the court
12 renders judgment of dismissal with prejudice against the plaintiff, the court shall make findings
13 as provided in Rule 62.

14 B(3) Dismissal for want of prosecution; notice. Not less than 60 days prior to the first
15 regular motion day in each calendar year, unless the court has sent an earlier notice on its own
16 initiative, the clerk of the court shall mail notice to the attorneys of record in each pending case
17 in which no action has been taken for one year immediately prior to the mailing of such notice,
18 that a judgment of dismissal will be entered in each such case by the court for want of
19 prosecution[,] unless, on or before such first regular[,] motion day, application, either oral or
20 written, is made to the court and good cause shown why it should be continued as a pending
21 case. If such application is not made or good cause shown, the court shall enter a judgment of
22 dismissal in each such case. Nothing contained in this subsection shall prevent the dismissal by
23 the court at any time[,] for want of prosecution of any action upon motion of any party thereto.

24 B(4) Effect of judgment of dismissal. Unless the court in its judgment of dismissal
25 otherwise specifies, a dismissal under this section operates as an adjudication without prejudice.

26 C Dismissal of counterclaim, cross-claim, or third party claim. The provisions of this

1 rule apply to the dismissal of any counterclaim, cross-claim, or third party claim.

2 D Costs of previously dismissed action.

3 D(1) If a plaintiff who has once dismissed an action in any court commences an action
4 based upon or including the same claim against the same defendant, the court may make such
5 order for the payment of any unpaid judgment for costs and disbursements against plaintiff in the
6 action previously dismissed as it may deem proper and may stay the proceedings in the action
7 until the plaintiff has complied with the order.

8 D(2) If a party who previously asserted a claim, counterclaim, cross-claim, or third party
9 claim that was dismissed with prejudice subsequently [*makes*] **files** the same claim,
10 counterclaim, cross-claim, or third party claim against the same party, the court shall enter a
11 judgment dismissing the claim, counterclaim, cross-claim, or third party claim and may enter a
12 judgment requiring the payment of reasonable attorney fees incurred by the party in obtaining
13 the dismissal.

14 E Offer to allow judgment; effect of acceptance or rejection.

15 E(1) Except as provided in ORS 17.065 through 17.085, [*the*] **any** party [*against whom a*
16 *claim is asserted*] may, at any time up to [*10*] **14** days prior to trial, serve upon [*the*] **any other**
17 party [*asserting the claim*] an offer to allow judgment to be [*given against the party making the*
18 *offer*] **entered** for the sum, or the property, or to the effect therein specified. **Notwithstanding**
19 **Rule 9C**, [*T*]the offer shall not be filed with the court clerk or provided to any assigned judge,
20 except as set forth in subsections E(2) and E(3) below.

21 E(2) If [*the party asserting the claim accepts*] the offer **is accepted**, the party [*asserting*
22 *the claim*] **accepting the offer** or such party's attorney shall endorse such acceptance thereon[,]
23 and file the same with the clerk before trial, and within [*three*] **seven** days from the time it was
24 served upon such party [*asserting the claim*]; and thereupon judgment shall be given
25 accordingly, as a stipulated judgment. If the offer does not state that it includes costs and
26 disbursements or attorney fees, the **prevailing** party [*asserting the claim*] shall submit any claim

1 for costs and disbursements or attorney fees to the court as provided in Rule 68.

2 E(3) If the offer is not accepted and filed within the time prescribed, it shall be deemed
3 withdrawn, and shall not be given in evidence at trial and may be filed with the court only after
4 the case has been adjudicated on the merits and only if the [*party asserting the claim fails to*
5 *obtain a*] judgment **is not** more favorable than the offer to allow judgment. In such a case, the
6 party [*asserting the claim*] **declining the offer** shall not recover costs, prevailing party fees,
7 disbursements, or attorney fees incurred after the date of the offer, [*but*] **and** the party [*against*
8 *whom the claim was asserted*] **servicing the offer** shall recover of the party [*asserting the claim*]
9 **declining the offer** costs and disbursements, not including prevailing party fees, from the time
10 of the service of the offer.

11 F Settlement conferences. A settlement conference may be ordered by the court at any
12 time at the request of any party or upon the court's own motion. Unless otherwise stipulated to
13 by the parties, a judge other than the judge who will preside at trial shall conduct the settlement
14 conference.

DISMISSAL OF ACTIONS; COMPROMISE

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A(1) By plaintiff; by stipulation. Subject to the provisions of Rule 32 D and of any statute of this state, **a plaintiff may dismiss** an action **in its entirety or as to one or more defendants** [*may be dismissed by the plaintiff*] without order of court (a) by filing a notice of dismissal with the court and serving such notice on [*the*] **all** defendants not less than five days prior to the day of trial if no counterclaim has been pleaded, or (b) by filing a stipulation of dismissal signed by all adverse parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of the United States or of any state an action against the same parties on or including the same claim unless the court directs that the dismissal shall be without prejudice. Upon notice of dismissal or stipulation under this subsection, **the parties shall submit a form of judgment and** the court shall enter a judgment of dismissal.

A(2) **Any agreement between the parties to maintain the confidentiality of the terms of any settlement agreement underlying a judgment of dismissal shall not be enforceable unless disclosed to the court, which may approve, limit, or deny the confidentiality agreement.**

A(3) By order of court. Except as provided in subsection (1) of this section, an action shall not be dismissed at the plaintiff's instance save upon judgment of dismissal ordered by the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the defendant may proceed with the counterclaim. Unless otherwise specified in the judgment of dismissal, a dismissal under this subsection is without prejudice.

A(4) Costs and disbursements. When an action is dismissed under this section, the

1 judgment may include any costs and disbursements, including attorney fees, provided by rule or
2 statute. Unless the circumstances indicate otherwise, the dismissed party shall be considered the
3 prevailing party.

4 B Involuntary dismissal.

5 B(1) Failure to comply with rule or order. For failure of the plaintiff to prosecute or to
6 comply with these rules or any order of court, a defendant may move for a judgment of dismissal
7 of an action or of any claim against such defendant.

8 B(2) Insufficiency of evidence. After the plaintiff in an action tried by the court without a
9 jury has completed the presentation of plaintiff's evidence, the defendant, without waiving the
10 right to offer evidence in the event the motion is not granted, may move for a judgment of
11 dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief.
12 The court as trier of the facts may then determine them and render judgment of dismissal against
13 the plaintiff or may decline to render any judgment until the close of all the evidence. If the court
14 renders judgment of dismissal with prejudice against the plaintiff, the court shall make findings
15 as provided in Rule 62.

16 B(3) Dismissal for want of prosecution; notice. Not less than 60 days prior to the first
17 regular motion day in each calendar year, unless the court has sent an earlier notice on its own
18 initiative, the clerk of the court shall mail notice to the attorneys of record in each pending case
19 in which no action has been taken for one year immediately prior to the mailing of such notice,
20 that a judgment of dismissal will be entered in each such case by the court for want of
21 prosecution[,] unless, on or before such first regular motion day, application, either oral or
22 written, is made to the court and good cause shown why it should be continued as a pending case.
23 If such application is not made or good cause shown, the court shall enter a judgment of
24 dismissal in each such case. Nothing contained in this subsection shall prevent the dismissal by
25 the court at any time[,] for want of prosecution of any action upon motion of any party thereto.

26 B(4) Effect of judgment of dismissal. Unless the court in its judgment of dismissal

1 otherwise specifies, a dismissal under this section operates as an adjudication without prejudice.

2 C Dismissal of counterclaim, cross-claim, or third party claim. The provisions of this
3 rule apply to the dismissal of any counterclaim, cross-claim, or third party claim.

4 D Costs of previously dismissed action.

5 D(1) If a plaintiff who has once dismissed an action in any court commences an action
6 based upon or including the same claim against the same defendant, the court may make such
7 order for the payment of any unpaid judgment for costs and disbursements against plaintiff in the
8 action previously dismissed as it may deem proper and may stay the proceedings in the action
9 until the plaintiff has complied with the order.

10 D(2) If a party who previously asserted a claim, counterclaim, cross-claim, or third party
11 claim that was dismissed with prejudice subsequently [*makes*] **files** the same claim, counterclaim,
12 cross-claim, or third party claim against the same party, the court shall enter a judgment
13 dismissing the claim, counterclaim, cross-claim, or third party claim and may enter a judgment
14 requiring the payment of reasonable attorney fees incurred by the party in obtaining the dismissal.

15 E Offer to allow judgment; effect of acceptance or rejection.

16 E(1) Except as provided in ORS 17.065 through 17.085, [*the*] **any** party [*against whom a*
17 *claim is asserted*] may, at any time up to [*10*] **14** days prior to trial, serve upon [*the*] **any other**
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19 *offer*] **entered** for the sum, or the property, or to the effect therein specified. **Notwithstanding**
20 **Rule 9C**, [*T*]the offer shall not be filed with the court clerk or provided to any assigned judge,
21 except as set forth in subsections E(2) and E(3) below.

22 E(2) If [*the party asserting the claim accepts*] the offer **is accepted**, the party [*asserting*
23 *the claim*] **accepting the offer** or such party's attorney shall endorse such acceptance thereon[,]
24 and file the same with the clerk before trial, and within [*three*] **five** days from the time it was
25 served upon such party [*asserting the claim*]; and thereupon judgment shall be given accordingly,
26 as a stipulated judgment. If the offer does not state that it includes costs and disbursements or

1 attorney fees, the prevailing party [*asserting the claim*] shall submit any claim for costs and
2 disbursements or attorney fees to the court as provided in Rule 68.

3 E(3) If the offer is not accepted and filed within the time prescribed, it shall be deemed
4 withdrawn, and shall not be given in evidence at trial and may be filed with the court only after
5 the case has been adjudicated on the merits and only if the [*party asserting the claim fails to*
6 *obtain a*] judgment is not more favorable than the offer to allow judgment. In such a case, the
7 party [*asserting the claim*] declining the offer shall not recover costs, prevailing party fees,
8 disbursements, or attorney fees incurred after the date of the offer, [*but*] and the party [*against*
9 *whom the claim was asserted*] servicing the offer shall recover of the party [*asserting the claim*]
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11 the service of the offer.

12 F Settlement conferences. A settlement conference may be ordered by the court at any
13 time at the request of any party or upon the court's own motion. Unless otherwise stipulated to by
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1 B Involuntary dismissal.

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4 of an action or of any claim against such defendant.

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6 a jury has completed the presentation of plaintiff's evidence, the defendant, without waiving the
7 right to offer evidence in the event the motion is not granted, may move for a judgment of
8 dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief.
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10 the plaintiff or may decline to render any judgment until the close of all the evidence. If the court
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14 regular motion day in each calendar year, unless the court has sent an earlier notice on its own
15 initiative, the clerk of the court shall mail notice to the attorneys of record in each pending case
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26 rule apply to the dismissal of any counterclaim, cross-claim, or third party claim.

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17 *offer*] **entered** for the sum, or the property, or to the effect therein specified. **Notwithstanding**
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19 except as set forth in subsections E(2) and E(3) below.

20 E(2) If [*the party asserting the claim accepts*] the offer **is accepted**, the party [*asserting*
21 *the claim*] **accepting the offer** or such party's attorney shall endorse such acceptance thereon[,]
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23 served upon such party [*asserting the claim*]; and thereupon judgment shall be given
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5 party [*asserting the claim*] **declining the offer** shall not recover costs, prevailing party fees,
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A(2) By order of court. Except as provided in subsection (1) of this section, an action shall not be dismissed at the plaintiff's instance save upon judgment of dismissal ordered by the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the defendant may proceed with the counterclaim. Unless otherwise specified in the judgment of dismissal, a dismissal under this subsection is without prejudice.

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1 B Involuntary dismissal.

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4 of an action or of any claim against such defendant.

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2 **RULE 54**

3 **A Voluntary dismissal; effect thereof.**

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5 statute of this state, **a plaintiff may dismiss** an action **in its entirety or as to one or more**
6 **defendants** [*may be dismissed by the plaintiff*] without order of court: (a) by filing a notice of
7 dismissal with the court and serving such notice on [*the defendant*] **all other parties not in**
8 **default** not less than five days prior to the day of trial if no counterclaim has been pleaded, or (b)
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24 judgment may include any costs and disbursements, including attorney fees, provided by
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15 initiative, the clerk of the court shall mail notice to the attorneys of record in each pending case
16 in which no action has been taken for one year immediately prior to the mailing of such notice[,]
17 that a judgment of dismissal will be entered in each such case by the court for want of
18 prosecution[,] unless, on or before such first regular[,] motion day, application, either oral or
19 written, is made to the court and good cause shown why it should be continued as a pending
20 case. If such application is not made or good cause shown, the court shall enter a judgment of
21 dismissal in each such case. Nothing contained in this subsection shall prevent the dismissal by
22 the court at any time[,] for want of prosecution of any action upon motion of any party thereto.

23 **B(4) Effect of judgment of dismissal.** Unless the court in its judgment of dismissal
24 otherwise specifies, a dismissal under this section operates as an adjudication without prejudice.

25 **C Dismissal of counterclaim, cross-claim, or third party claim.** The provisions of this
26 rule apply to the dismissal of any counterclaim, cross-claim, or third party claim.

1 **D Costs of previously dismissed action.**

2 D(1) If a plaintiff who has once dismissed an action in any court commences an action
3 based upon or including the same claim against the same defendant, the court may make such
4 order for the payment of any unpaid judgment for costs and disbursements against plaintiff in the
5 action previously dismissed as it may deem proper and may stay the proceedings in the action
6 until the plaintiff has complied with the order.

7 D(2) If a party who previously asserted a claim, counterclaim, cross-claim, or third party
8 claim that was dismissed with prejudice subsequently [*makes*] **files** the same claim,
9 counterclaim, cross-claim, or third party claim against the same party, the court shall enter a
10 judgment dismissing the claim, counterclaim, cross-claim, or third party claim and may enter a
11 judgment requiring the payment of reasonable attorney fees incurred by the party in obtaining
12 the dismissal.

13 **E Offer to allow judgment; effect of acceptance or rejection.**

14 E(1) Except as provided in ORS 17.065 through 17.085, [*the*] **any** party against whom a
15 claim is asserted may, at any time up to [*10*] **14** days prior to trial, serve upon [*the*] **any other**
16 party asserting the claim an offer to allow judgment to be [*given*] **entered** against the party
17 making the offer for the sum, or the property, or to the effect therein specified. **Notwithstanding**
18 **Rule 9C**, [*T*]the offer shall not be filed with the court clerk or provided to any assigned judge,
19 except as set forth in subsections E(2) and E(3) below.

20 E(2) If the party asserting the claim accepts the offer, the party asserting the claim or
21 such party's attorney shall endorse such acceptance thereon[,] and file the same with the clerk
22 before trial, and within [*three*] **five** days from the time [*it*] **the offer** was served upon such party
23 asserting the claim; and thereupon judgment shall be given accordingly[,] as a stipulated
24 judgment. If the offer does not state that it includes costs and disbursements or attorney fees, the
25 party asserting the claim shall submit any claim for costs and disbursements or attorney fees to
26 the court as provided in Rule 68.

1 E(3) If the offer is not accepted and filed within the time prescribed, it shall be deemed
2 withdrawn, and shall not be given in evidence at trial and may be filed with the court only after
3 the case has been adjudicated on the merits and only if the party asserting the claim fails to
4 obtain a judgment more favorable than the offer to allow judgment. In such a case, the party
5 asserting the claim shall not recover costs, prevailing party fees, disbursements, or attorney fees
6 incurred after the date of the offer, but the party against whom the claim was asserted shall
7 recover of the party asserting the claim costs and disbursements, not including prevailing party
8 fees, from the time of the service of the offer.

9 **F Settlement conferences.** A settlement conference may be ordered by the court at any
10 time at the request of any party or upon the court's own motion. Unless otherwise stipulated to
11 by the parties, a judge other than the judge who will preside at trial shall conduct the settlement
12 conference.

1 **DISMISSAL OF ACTIONS; COMPROMISE**

2 **RULE 54**

3 **A Voluntary dismissal; effect thereof.**

4 **A(1) By plaintiff; by stipulation.** Subject to the provisions of Rule 32 D and of any
5 statute of this state, **a plaintiff may dismiss** an action **in its entirety or as to one or more**
6 **defendants** [*may be dismissed by the plaintiff*] without order of court: (a) by filing a notice of
7 dismissal with the court and serving such notice on [*the defendant*] **all other parties not in**
8 **default** not less than five days prior to the day of trial if no counterclaim has been pleaded, or (b)
9 by filing a stipulation of dismissal signed by all adverse parties who have appeared in the action.
10 Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without
11 prejudice, except that a notice of dismissal operates as an adjudication upon the merits when
12 filed by a plaintiff who has once dismissed in any court of the United States or of any state an
13 action against the same parties on or including the same claim unless the court directs that the
14 dismissal shall be without prejudice. Upon notice of dismissal or stipulation under this
15 subsection, **a party shall submit a form of judgment and** the court shall enter a judgment of
16 dismissal.

17 **A(2) By order of court.** Except as provided in subsection (1) of this section, an action
18 shall not be dismissed at the plaintiff's instance save upon judgment of dismissal ordered by the
19 court and upon such terms and conditions as the court deems proper. If a counterclaim has been
20 pleaded by a defendant prior to the service upon the defendant of the plaintiff's motion to
21 dismiss, the defendant may proceed with the counterclaim. Unless otherwise specified in the
22 judgment of dismissal, a dismissal under this subsection is without prejudice.

23 **A(3) Costs and disbursements.** When an action is dismissed under this section, the
24 judgment may include any costs and disbursements, including attorney fees, provided by
25 **contract, statute, or** rule [*or statute*]. Unless the circumstances indicate otherwise, the
26 dismissed party shall be considered the prevailing party.

1 **B Involuntary dismissal.**

2 **B(1) Failure to comply with rule or order.** For failure of the plaintiff to prosecute or to
3 comply with these rules or any order of court, a defendant may move for a judgment of dismissal
4 of an action or of any claim against such defendant.

5 **B(2) Insufficiency of evidence.** After the plaintiff in an action tried by the court without
6 a jury has completed the presentation of plaintiff's evidence, the defendant, without waiving the
7 right to offer evidence in the event the motion is not granted, may move for a judgment of
8 dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief.
9 The court as trier of the facts may then determine them and render judgment of dismissal against
10 the plaintiff or may decline to render any judgment until the close of all the evidence. If the court
11 renders judgment of dismissal with prejudice against the plaintiff, the court shall make findings
12 as provided in Rule 62.

13 **B(3) Dismissal for want of prosecution; notice.** Not less than 60 days prior to the first
14 regular motion day in each calendar year, unless the court has sent an earlier notice on its own
15 initiative, the clerk of the court shall mail notice to the attorneys of record in each pending case
16 in which no action has been taken for one year immediately prior to the mailing of such notice[,]
17 that a judgment of dismissal will be entered in each such case by the court for want of
18 prosecution[,] unless, on or before such first regular[,] motion day, application, either oral or
19 written, is made to the court and good cause shown why it should be continued as a pending
20 case. If such application is not made or good cause shown, the court shall enter a judgment of
21 dismissal in each such case. Nothing contained in this subsection shall prevent the dismissal by
22 the court at any time[,] for want of prosecution of any action upon motion of any party thereto.

23 **B(4) Effect of judgment of dismissal.** Unless the court in its judgment of dismissal
24 otherwise specifies, a dismissal under this section operates as an adjudication without prejudice.

25 **C Dismissal of counterclaim, cross-claim, or third party claim.** The provisions of this
26 rule apply to the dismissal of any counterclaim, cross-claim, or third party claim.

1 **D Costs of previously dismissed action.**

2 D(1) If a plaintiff who has once dismissed an action in any court commences an action
3 based upon or including the same claim against the same defendant, the court may make such
4 order for the payment of any unpaid judgment for costs and disbursements against plaintiff in the
5 action previously dismissed as it may deem proper and may stay the proceedings in the action
6 until the plaintiff has complied with the order.

7 D(2) If a party who previously asserted a claim, counterclaim, cross-claim, or third party
8 claim that was dismissed with prejudice subsequently [*makes*] **files** the same claim,
9 counterclaim, cross-claim, or third party claim against the same party, the court shall enter a
10 judgment dismissing the claim, counterclaim, cross-claim, or third party claim and may enter a
11 judgment requiring the payment of reasonable attorney fees incurred by the party in obtaining
12 the dismissal.

13 **E Offer to allow judgment; effect of acceptance or rejection.**

14 E(1) Except as provided in ORS 17.065 through 17.085, [*the*] **any** party against whom a
15 claim is asserted may, at any time up to [*10*] **14** days prior to trial, serve upon [*the*] **any other**
16 party asserting the claim an offer to allow judgment to be [*given*] **entered** against the party
17 making the offer for the sum, or the property, or to the effect therein specified. The offer shall
18 not be filed with the court clerk or provided to any assigned judge, except as set forth in
19 subsections E(2) and E(3) below.

20 E(2) If the party asserting the claim accepts the offer, the party asserting the claim or
21 such party's attorney shall endorse such acceptance thereon[,] and file the same with the clerk
22 before trial, and within [*three*] **seven** days from the time [*it*] **the offer** was served upon such
23 party asserting the claim; and thereupon judgment shall be given accordingly[,] as a stipulated
24 judgment. If the offer does not state that it includes costs and disbursements or attorney fees, the
25 party asserting the claim shall submit any claim for costs and disbursements or attorney fees to
26 the court as provided in Rule 68.

1 E(3) If the offer is not accepted and filed within the time prescribed, it shall be deemed
2 withdrawn, and shall not be given in evidence at trial and may be filed with the court only after
3 the case has been adjudicated on the merits and only if the party asserting the claim fails to
4 obtain a judgment more favorable than the offer to allow judgment. In such a case, the party
5 asserting the claim shall not recover costs, prevailing party fees, disbursements, or attorney fees
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7 recover of the party asserting the claim costs and disbursements, not including prevailing party
8 fees, from the time of the service of the offer.

9 **F Settlement conferences.** A settlement conference may be ordered by the court at any
10 time at the request of any party or upon the court's own motion. Unless otherwise stipulated to
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12 conference.