

**Oregon Rules of Civil Procedure
Legislative Amendments 1979-2023**

ORCP 68

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Lewis & Clark Law School | Oregon Council on Court Procedures

Rule 68 – Allowance and Taxation of Attorney Fees, Costs, and Disbursement

§	Latest Amendment
A	Or. Laws 1997 c.872 § 17
B	Or. Laws 1979 c.284 § 7
C	Or. Laws 2005 c.568 § 31(A)

Or. Laws 1981 c.898 § 7 Amends Rule 68

[Title Changed: Rule 68 – Allowance and Taxation of Attorney Fees, and Costs, and Disbursements]

- A. **Definitions.** As used in this rule:
- Costs and Attorney fees.** ~~“Costs” are fixed sums provided by statute, intended to indemnify a party.~~ “Attorney fees” are the reasonable ~~and necessary~~ value of legal services related to the prosecution or defense of an action.
 - Costs and disbursements.** “Costs and disbursements” are reasonable and necessary expenses incurred in the prosecution or defense of an action other than for legal services, and include the fees of officers and witnesses; the necessary expenses of taking depositions; ~~the expense of~~ publication of summonses or notices, ~~and~~ the postage where the same are served by mail; the compensation of referees; ~~the necessary expense of~~ copying of any public record, book, or document used as evidence on the trial; a reasonable sum paid a person for executing any bond, recognizance, undertaking, stipulation, or other obligation ~~(not exceeding one percent per annum of the amount of the bond or other obligation), therein~~; and any other expense specifically allowed by agreement, by these rules, or by other rule or statute.
- B. **Allowance of costs and disbursements.** In any action, costs and disbursements shall be allowed to the prevailing party, unless these rules or other rule or statute direct that in the particular case costs and disbursements shall not be allowed to the prevailing party or shall be allowed to some other party, or unless the court otherwise directs. If, under a special provision of these rules or any other rule or statute, a party has a right to recover costs, such party shall also have a right to recover disbursements. ~~If a party is awarded attorney fees, such party shall not also recover the prevailing party costs authorized by ORS 20.070.~~
- C. Award of and entry of judgment for attorney fees, and costs, and disbursements.
- Application of this section to award of attorney fees. Notwithstanding Rule 1 A. and the procedure provided in any rule or statute permitting recovery of attorney fees in a particular case, this section governs the pleading, proof, and award of attorney fees, ~~costs, and disbursements~~ in all cases, regardless of the source of the right to recovery of such fees, except where:
 - ~~Subsection (2) of~~ ORS 105.405 (2) or ~~paragraph(h) of subsection (1) of~~ ORS 107.105 (1)(h) provide the substantive right to such items; or
 - [Unamended]
 - [Unamended]
 - [Unamended]
 - Proof.** The items of attorney fees, and costs, and disbursements shall be submitted in the manner provided by subsection (4) of this section, without proof being offered during the trial.
 - Award of attorney fees, and costs, and disbursements; entry and enforcement of judgment.** Attorney fees, and costs, and disbursements shall be entered as part of the judgment as follows:
 - Entry by clerk. Attorney fees, and costs, and disbursements (whether ~~the a~~ cost or disbursement has been paid or not) shall be entered as part of a judgment if the party claiming them:
 - Serves, in accordance with Rule 9 B., a verified and detailed statement of the amount of attorney fees, and costs, and disbursements upon all parties who are not in default for failure to appear, not later than 10 days after the entry of the judgment; and
 - [Unamended]
 - Objections.** A party may object to the allowance of attorney fees, and costs, and disbursements or any part thereof as part of a judgment by filing and serving written objections to such statement, signed in accordance with Rule 17, not later than 15 days after the service of the statement of the amount of such

items upon such party under paragraph (a) of this subsection. Objections shall be specific and may be founded in law or in fact and shall be deemed controverted without further pleading. Statements and objections may be amended in accordance with Rule 23.

- c. [Unamended]
- d. **Entry by court.** After the hearing the court shall make a statement of the attorney fees, ~~and~~ costs, and disbursements allowed, which shall be entered as a part of the judgment. No other findings of fact or conclusions of law shall be necessary.
5. **Enforcement.** Attorney fees, ~~and~~ costs, and disbursements entered as part of a judgment pursuant to this section may be enforced as part of that judgment. Upon service and filing of objections to the entry of attorney fees, ~~and~~ costs, and disbursements as part of a judgment, pursuant to paragraph (4)(b) of this section, enforcement of that portion of the judgment shall be stayed until the entry of a statement of attorney fees, ~~and~~ costs, and disbursements by the court pursuant to paragraph (4)(d) of this section.
6. **Avoidance of multiple collection of ~~costs, disbursements, and~~ attorney fees and costs and disbursements.**
 - a. Separate judgments for separate claims. Where separate final judgments are granted in one action for separate claims, pursuant to Rule 67 B., the court shall take such steps as necessary to avoid the multiple taxation of the same ~~costs~~, attorney fees, and ~~costs and~~ disbursements in more than one such judgment.
 - b. Separate judgments for the same claim. When there are separate judgments entered for one claim (where separate actions are brought for the same claim against several parties who might have been joined as parties in the same action, or where pursuant to Rule 67 B. separate final judgments are entered against several parties for the same claim), ~~costs~~, attorney fees, and costs and disbursements may be entered in each such judgment as provided in this rule, but satisfaction of one such judgment shall bar recovery of ~~costs~~, attorney fees, or costs and disbursements included in all other judgments.

H.B. 3261

Or. Laws 1981 c.898 § 7

House Introduction

6/5/81

A-Engrossed Bill

6/23/81 – Passed unamended in House

7/17/81 – Passed with amendments in Senate (per Justice Committee recommendation)

7/24/81 – House refused to concur with Senate Amendments; Conference Committee formed

Conference Committee Bill

8/1/81 – House adopted and repassed Conference Committee Bill

8/1/81 – Senate adopted and repassed Conference Committee Bill

Governor signed Enrolled Bill

8/22/81

Or. Laws 1983 c.728 § 6
Amends Rule 68(C)

- A. [Unamended]
- B. [Unamended]
- C. **Award of and entry of judgment for attorney fees and costs and disbursements.**
 - 1. **Application of this section to award of attorney fees.** [Full section text unamended]
 - a. ORS 105.405 (2) or 107.105 (1) ~~(h)~~ (i) provide the substantive right to such items; or
 - b. [Unamended]
 - c. [Unamended]
 - 2. [Unamended]
 - 3. [Unamended]
 - 4. [Unamended]
 - 5. [Unamended]
 - 6. [Unamended]

S.B. 12

Or. Laws 1983 c.728 § 6

Senate Introduction

1/17/83

A-Engrossed Bill

6/8/83 – Passed with amendments in Senate (per Joint Interim Committee on Judiciary recommendation)

7/1/83 – Passed with amendments in House (per Judiciary Committee recommendation)

B-Engrossed Bill

7/7/83 – Senate concurred with House amendments and repassed bill.

Governor signed Enrolled Bill

8/4/83

Or. Laws 1987 c.596 § 43
Amends Rule 68(A)

A. Definitions. As used in this rule:

1. [Unamended]
2. **Costs and disbursements.** "Costs and disbursements" are reasonable and necessary expenses incurred in the prosecution or defense of an action other than for legal services, and include the fees of officers and witnesses; the expense of publication of summonses or notices, and the postage where the same are served by mail; the compensation of referees; the necessary expense of copying of any public record, book, or document used as evidence on the trial; **recordation of any document where recordation is required to give notice of the creation, modification or termination of an interest in real property**; a reasonable sum paid a person for executing any bond, recognizance, undertaking, stipulation, or other obligation therein; and any other expense specifically allowed by agreement, by these rules, or by other rule or statute. The expense of taking depositions shall not be allowed, even though the depositions are used at trial, except as otherwise provided by rule or statute.

B. [Unamended]

C. [Unamended]

H.B. 2323

Or. Laws 1987 c.596 § 43

House Introduction

1/16/87

A-Engrossed Bill

6/8/87 – Passed with amendments in House (per Judiciary Committee recommendation)

6/19/87 – Passed with amendments in Senate (per Judiciary Committee recommendation)

6/22/87 – House concurred with Senate amendments and repassed bill.

Governor signed Enrolled Bill

7/11/87

Or. Laws 1993 c.18 § 4
Amends Rule 68(C)

- A. [Unamended]
- B. [Unamended]
- C. **Award of and entry of judgment for attorney fees and costs and disbursements.**
 - 1. [Unamended]
 - 2. **[No Text]**
 - a. **Alleging right to attorney fees.** A party seeking attorney fees shall allege the facts, statute, or rule which provides a basis or the award of such fees in a pleading filed by that party. Attorney fees may be sought before the substantive right to recover such fees accrues. No attorney fees shall be awarded unless a right to recover such fee is alleged as provided in this subsection.
 - b. [Unamended]
 - c. [Unamended]
 - d. [Unamended]
 - 3. [Unamended]
 - 4. [Unamended]

H.B. 2476

Or. Laws 1993 c.18 § 4

House Introduction

1/26/93

A-Engrossed Bill

3/3/93 – Passed with amendments in House (per Judiciary committee Recommendation)

3/23/93 – Passed unamended in Senate

Governor signed Enrolled Bill

4/7/93

Or. Laws 1997 c.872 § 17
Amends Rule 68(A)

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

S.B. 273

Or. Laws 1997 c.872 § 17

Senate Introduction

1/16/97

A-Engrossed Bill

2/26/97 – Passed with amendments in Senate (per Business, Law, and Government Committee recommendation)

[NOTE: “Business, Law, and Government” has been referred to as a subcommittee of the Senate Judiciary Committee until this point, where it is neither referenced as a “committee” nor a “subcommittee” and does not report to or receive reports from another committee or subcommittee. It is reproduced here as “Committee” under this understanding.]

6/18/97 – Passed with amendments in House (per Judiciary Committee and Civil Law Subcommittee recommendation)

B-Engrossed Bill

3/7/97 – Senate concurred in House Amendments and repassed bill

Governor signed Enrolled Bill

8/15/97

Or. Laws 2003 c.194 § 13
Amends Rule 68(C)

- A. [Unamended]
- B. [Unamended]
- C. **Award of and entry of judgment for attorney fees and costs and disbursements.**
 - 1. [Unamended]
 - 2. [Unamended]
 - 3. [Unamended]
 - 4. **Procedure for seeking attorney fees or costs and disbursements.** [Full section text unamended]
 - a. [Unamended]
 - b. [Unamended]
 - c. **Hearing on objections.**
 - i. If objections are filed in accordance with paragraph C(4)(b) of this rule, the court, without a jury, shall hear and determine all issues of law and fact raised by the statement of attorney fees or costs and disbursements and by the objections. The parties shall be given a reasonable opportunity to present ~~evidence and~~ affidavits, **declarations and other evidence** relevant to any factual issue, including any factors that ORS 20.075 or any other statute or rule requires or permits the court to consider in awarding or denying attorney fees or costs and disbursements.
 - ii. [Unamended]
 - d. [Unamended]
 - e. [Unamended]
 - 5. [Unamended]
 - 6. [Unamended]

H.B. 2064 [Passed Unamended]
Or. Laws 2003 c.194 § 13

Or. Laws 2003 c.576 § 262
Amends Rule 68(C);

- A. [Unamended]
- B. [Unamended]
- C. **Award of and entry of judgment for attorney fees and costs and disbursements.**
 - 1. [Unamended]
 - 2. [Unamended]
 - 3. [Unamended]
 - 4. [Unamended]
 - 5. [Unamended]
 - 6. **Avoidance of multiple collection of attorney fees and costs and disbursements.**
 - a. **Separate judgments for separate claims.** ~~Where separate final judgments are granted in one action for separate claims, pursuant to Rule 67 B~~ **If more than one judgment is entered in an action**, the court shall take such steps as necessary to avoid the multiple taxation of the same attorney fees and costs and disbursements in ~~more than one such judgment~~ **those judgments.**
 - b. **Separate judgments for the same claim.** ~~When there are separate judgments entered for one~~ **If more than one judgment is entered for the same** claim (where separate actions are brought for the same claim against several parties who might have been joined as parties in the same action, or where pursuant to Rule 67 B separate **final limited** judgments are entered against several parties for the same claim), attorney fees and costs and disbursements may be entered in each ~~such~~ judgment as provided in this rule, but satisfaction of one ~~such judgment shall bar~~ **judgment bars** recovery of attorney fees or costs and disbursements included in all other judgments.

H.B. 2646

Or. Laws 2003 c.576 § 262

House Introduction
2/13/03

A-Engrossed Bill
5/6/03 – Passed with amendments in House (per Judiciary Committee recommendation)
6/27/03 – Passed with amendments in Senate (per Judiciary Committee recommendation)

B-Engrossed Bill
7/1/03 – House concurred with Senate amendments and repassed bill

Governor signed Enrolled Bill
7/17/03

Or. Laws 2005 c.22 § 4
Amends Rule 68(C)

- A. [Unamended]
- B. [Unamended]
- C. **Award of and entry of judgment for attorney fees and costs and disbursements.**
 - 1. **Application of this section to award of attorney fees.** Notwithstanding Rule 1 A and the procedure provided in any rule or statute permitting recovery of attorney fees in a particular case, this section governs the pleading, proof, and award of attorney fees in all cases, regardless of the source of the right to recovery of such fees, except **where when: [Subsections (C)(1)(a) and (C)(1)(b) unamended]**
 - 2. [No text]
 - a. **Alleging right to attorney fees.** A party seeking attorney fees shall allege the facts, statute, or rule **which that** provides a basis for the award of such fees in a pleading filed by that party. Attorney fees may be sought before the substantive right to recover such fees accrues. No attorney fees shall be awarded unless a right to recover such fee is alleged as provided in this subsection.
 - b. [Unamended]
 - c. [Unamended]
 - d. Any allegation of a right to attorney fees in a pleading or motion shall be deemed denied and no responsive pleading shall be necessary. The opposing party may make a motion to strike the allegation or to make the allegation more definite and certain. Any objections to the form or specificity of allegation of the facts, statute, or rule **which that** provides a basis for the award of fees shall be waived if not alleged prior to trial or hearing.
 - 3. [Unamended]
 - 4. [Unamended]
 - 5. **Judgment concerning attorney fees or costs and disbursements.**
 - a. [Unamended]
 - b. **By supplemental judgment; notice.** When any issue regarding attorney fees or costs and disbursements has not been determined before a judgment pursuant to Rule 67 is entered, any award or denial of attorney fees or costs and disbursements shall be made by a separate supplemental judgment. The supplemental judgment shall be filed and entered and notice shall be given to the parties **in the same manner** as provided in **Rule 70 B(1) ORS 18.078.**
 - 6. **Avoidance of multiple collection of attorney fees and costs and disbursements.**
 - a. [Unamended]
 - b. **Separate judgments for the same claim.** If more than one judgment is entered for the same claim (**where when** separate actions are brought for the same claim against several parties who might have been joined as parties in the same action, or **where when** pursuant to Rule 67 B separate limited judgments are entered against several parties for the same claim), attorney fees and costs and disbursements may be entered in each judgment as provided in this rule, but satisfaction of one judgment bars recovery of attorney fees or costs and disbursements included in all other judgments.

H.B. 2261

Or. Laws 2005 c.22 § 4

House Introduction

1/12/05

A-Engrossed Bill

2/16/05 – Passed unamended in House

3/22/05 – Passed with amendments in Senate (per Judiciary Committee recommendation)

Governor signed Enrolled Bill

4/7/05

Or. Laws 2005 c.568 § 31(A)
Amends Rule 68(C)

- A. [Unamended]
- B. [Unamended]
- C. **Award of and entry of judgment for attorney fees and costs and disbursements.**
 - 1. [Unamended]
 - 2. [Unamended]
 - 3. [Unamended]
 - 4. [Unamended]
 - 5. **Judgment concerning attorney fees or costs and disbursements.**
 - a. **As part of judgment.** ~~When~~ **If** all issues regarding attorney fees or costs and disbursements ~~have been determined~~ **are decided** before **entry of** a judgment pursuant to Rule 67 ~~is entered~~, the court shall include any award or denial of attorney fees or costs and disbursements in that judgment.
 - b. **By supplemental judgment notice.** ~~When~~ **If** any issue regarding attorney fees or costs and disbursements ~~has~~ is not ~~been determined~~ **decided** before **entry of a general** judgment ~~pursuant to Rule 67 is entered~~, any award or denial of attorney fees or costs and disbursements shall be made by ~~a separate~~ supplemental judgment. ~~The supplemental judgment shall be filed and entered and notice shall be given to the parties as provided in ORS 18.078.~~
 - 6. [Unamended]

H.B. 2359

Or. Laws 2005 c.568 § 31(A)

House Introduction

1/14/05

A-Engrossed Bill

5/17/05 – Passed with amendments in House (per Judiciary Committee and Civil Law Subcommittee recommendation)

6/27/05 – Passed with amendments in Senate (per Judiciary Committee recommendation) and printed engrossed

B-Engrossed Bill

6/29/05 – House concurred with Senate amendments and repassed bill

Governor signed Enrolled Bill

7/20/05