

Revised as of January 12, 2010

Understanding the New Filing Fee Requirements in Civil Cases (HB 2287) Effective: October 1, 2009

Civil Pleading Captions

- ORS 21.110(7) now requires that civil pleading or first appearance motion captions include a statement of the amount claimed in the prayer for the action. This is a new requirement for cases with a claim of \$50,000 or more. **If your complaint does not include this information in the caption, it does not meet the statutory requirements for such a document. It may be rejected for filing, depending on local court policy.**

Using the Circuit Court Filing Fee and Additional Party Fee Calculator

Developed with the assistance of the Multnomah County Civil Department.
Other counties may interpret and apply these requirements differently.
If in doubt, check with your court.

For Actions With Fees Set Under ORS 21.110 (2) – Do Not Use The Calculator

If your case qualifies for the reduced filing fee provided by ORS 21.110 (2) – which applies to some specific types of claims for relief that involve recovery amounts of \$10,000 or less – you are exempt from the additional party fee, and you do not need to use the fee calculator. The filing fee for civil actions which qualify under ORS 21.110 (2) is \$137. There is no ORS 21.110 (1) (b) “additional party” fee; this exception to the additional party fee is provided by [Chief Justice Order 09-052](#). Another difference under HB 2287 for these “under \$10,000” cases is, if there are multiple defendants, the defendants appearing jointly in an action filed under ORS 21.110 (2) may pay only a single appearance fee.

For Actions With Fees Set Under ORS 21.110 (1) – Always Use The Calculator

For every other type of civil action, whether seeking recovery of a monetary amount or nonmonetary relief, the claim has a base fee of \$197 for monetary claims up to \$49,999, and, for monetary claims of \$50,000 or more, there is a graduated fee scale depending on the total amount of the monetary claims in the case. There is also an “additional party” fee under ORS 21.110 (1) (b) for these cases; the additional party fee applies to every additional party beyond one plaintiff and one defendant and parties appearing jointly must each pay a filing or appearance fee. For all of these cases parties should use the Oregon Judicial Department’s [Fee Calculator](#) described in the following material when filing or appearing in the action.

Using the Fee Calculator

- Enter the prayer amount and number of parties in the Oregon Judicial Department (OJD) [Fee Calculator](#). The figures in Section 1 are for plaintiffs and petitioners. The figures in Section 2 are for defendants or respondents.
- The OJD [Fee Calculator](#) does *not* recognize decimal places. When calculating your fee, enter the prayer amount in *round numbers*.

- After entering the parties and prayer amount in the [Fee Calculator](#), print the results and submit them with your initiating document or first appearance.
- Fees are based on the prayer amount, the *total* number of petitioners/plaintiffs, and the *total* number of defendants/respondents.

Here are four examples:

1. Enhanced amount claimed and two parties:

Jan Smith v. Tom Jones – Prayer of \$51,000

Total number of petitioners/plaintiffs:	1
Total number of defendants/respondents:	1
Prayer fee range \$50,000-\$149,999	\$335
Total due from plaintiff Smith:	\$335
First appearance defendant Jones:	\$335 + any motion fee, if applicable.

2. Enhanced amount claimed and 2 plaintiffs and 2 defendants:

Jan Smith and Tom Jones v. ABC Corporation and 123 Realty – Prayer of \$51,000

Total number of petitioners/plaintiffs:	2
Total number of defendants/respondents:	2
Prayer fee range \$50,000-\$149,999	\$335
Total due from plaintiff Smith to file the complaint:	\$867
Total due from plaintiff Jones:	Nothing
First appearance defendant ABC:	\$335 + any motion fee
First appearance defendant 123 Realty:	\$335 + any motion fee

In this example, the fees of plaintiff Smith are \$867, calculated as follows: \$335 for the plaintiff filing the complaint (Smith), \$335 for the second initiating party (Jones), plus \$197 for one *additional* defendant. Plaintiff Jones' appearance is paid for by Plaintiff Smith at the time of filing the action.

The total due from each defendant is \$335. If defendants ABC and 123 Realty are *jointly* represented, the total first appearance fee is \$670. If the first appearance is a Motion (not an Answer), and there is a fee for filing that particular type of motion, the additional motion filing fee is due.

3. Nonmonetary claim and 2 parties:

Jan Smith v. Tom Jones – Seeking Nonmonetary Relief – Declaratory Judgment

Total due from plaintiff Smith:	\$197 (base fee)
Total due from defendant Jones:	\$197 (base fee) + Any Motion Fee

4. Amount of claim is within ORS 21.110 (2)

Jan Smith and Tom Jones v. Kyle Green DBA Western Roofing and Kyle Green individually – Prayer \$8,000

Total number plaintiffs:	2
Total number of defendants:	2
Prayer under \$10,000, qualifies for a fee under ORS 21.110 (2) of \$137 for all plaintiffs to appear in the action. Smith would pay that fee on filing. Jones would pay no fee.	
If Green appears jointly in his individual and business capacities, then only one appearance fee of \$137 is paid.	
If Green appears separately from the business, then each would pay an appearance fee of \$137.	

Third Party Complaint – New Fees Apply

- Parties filing or appearing on a third-party complaint will pay a separate fee from their original appearance as a plaintiff or defendant. All “third-party” parties pay the new fees regardless of when the underlying civil action was filed if the third party appearance (complaint, response or motion) is filed on or after October 1, 2009. Accordingly, if the third party complaint is filed before October 1, 2009, but the third party answer is filed on or after that date, then the third party defendant must pay the new fees. Parties to a third party action are subject to the filing and appearance fees of ORS 21.110 (1), (2), and (3) in the same manner as these sections apply in any separate civil action. Third party pleadings and appearances that do not have the correct fee may not be filed, [Chief Justice Order 09-052](#). Be sure to caption each appearance document filed as a “third party” appearance. **It is important to distinguish documents in third party actions from those filed in the underlying litigation.**

Exemptions from Certain Statutory Fees

- [Chief Justice Order 09-052](#) establishes exemptions from certain statutory fees. For example, a party may request a hardship exemption from the additional party fee when more than five parties are named in the pleading. Exemptions are granted on an individual basis. (Parties must apply separately for relief.) When requesting an exemption, come to ex parte prepared: bring your initiating document or first appearance document and ex parte Order. Pay the ex parte fee to appear and present your order granting relief. Appear at ex parte. If relief is granted, take the signed ex parte Order to the cashier, file your initiating document or appearance, and pay the reduced fee.

Paying Multiple Fees

- If you are paying multiple fees *on the same case* or separate fees for *multiple parties*, consider issuing separate checks. This will make it easier for the court clerk to properly apply your payments.

Fee Schedules Are Found on Web Sites

Appellate court fees are available [here](#).

Circuit court fees vary by county due to added assessments or fees controlled by county action. Use the “Select a Court” option on the [OJD Web site](#) to find the fee schedule for your specific jurisdiction.

Effective Date

- The fee changes in [HB 2287](#) apply to:
 - Civil actions, suits, and proceedings filed on or after October 1, 2009, and before July 1, 2011.
 - Hearing and trial requests filed on or after October 1, 2009.
 - First and annual accountings filed in probate on or after October 1, 2009.
- If a plaintiff filed an action *before* October 1, 2009, then the pre-October 1 fees apply if and when the defendant files an appearance.
- Third-party fees apply to third-party complaints **or** appearances filed on or after October 1, 2009.
- Check the language of [HB 2287](#) if in doubt.

Overdue, Overpaid, Underpaid, Mistaken, or Missing Fees

- Parties who did not pay a first appearance fee and are now appearing in court for the time on a post-judgment matter or at ex parte will be required to pay the applicable post-judgment or ex parte fees *in addition to* the applicable first appearance fee.
- All documents requiring a fee must be accompanied by the correct payment.
 - **If you mail a complaint or first appearance to the court and underpay the fee, depending on local court policy, your document may be shredded without notice and you may miss a filing deadline.**
 - **If a party pays a fee for which it is not responsible, it may not be refunded.**
 - **If a fee is overpaid, it may not be refunded.**
 - **If no fee is paid, depending on local court policy, your document may be shredded without notice.**
- Do not rely on the court to give you a courtesy call or return rejected documents by mail. Courts have had staff reductions due to legislative cuts for OJD effective July 1, 2009, even with the new fee structure. Instead, take initiative. Check the fee schedule on the court's Web site. When filing remotely, always allow extra time to recover from possible errors – like submitting an incorrect fee – and enter a follow up date on your calendar to verify that the filing was received and processed before the ultimate deadline.
- Remember to be patient and courteous toward court staff. The new filing fee requirements are a challenge for everyone.

Speed-pass and Form of Payment

- Presently, courts cannot accept fees in advance or issue tickets, credits, or other proof of payment to be applied toward future filing fees. All fees must be paid when they are incurred. Multnomah County is considering the possibility of a speed-pass or other system that would allow advance payment.
- The form of payment varies from court to court. Some take credit cards; some do not. For others, accepting credit cards is a work in progress. If you are unsure what form of payment is acceptable in your jurisdiction, call the clerk's office or check the court's Web site.

Ex Parte Fees

- If you are appearing at ex parte in person, allow ample time to pay fees in advance. Note: ex parte times in Clackamas County have recently changed. In Clackamas County, clerks are available in the courtroom to process ex parte payments. In Multnomah County, all fees must be paid in advance at the *cashier's window*. Each court is different. Check the court's Web site or call beforehand if you are unsure of the payment procedure.
- If you are submitting an ex parte Motion and Order by mail, your check *must accompany the ex parte Order*. **If no payment is received, your Order cannot be processed and, depending on local court policy, may be subject to shredding without notice.** Although some courts have generously returned documents in the past, most can no longer afford to do so.

- Come to ex parte with all copies you wish to be conformed.
- If you want the judge to have the court file available to him or her at the time of ex parte, make appropriate arrangements in advance.
- Ex parte fees must be paid *even if the court does not sign your Order*.
- Ex parte fees must be paid *even if the motion is stipulated*.
- Some matters are exempt from ex parte fees – default orders and orders for a fee waiver or deferral under ORS 21.685 are the most notable exceptions to this fee requirement.
- See section 38, chapter 659 Oregon Laws 2009 for the full application of the ex parte fee, and [Chief Justice Order 09-052](#) for its limits.

Motion Practice

- Fees for Motions on civil proceedings are always due at the time of filing.
- If the Motion is contested and results in an *Order*, there is no additional fee due at the time of signing.
- If the Motion is contested and results in a *Judgment*, an additional fee will be due when the judgment is submitted for signing.

Miscellaneous

- Trial fees are paid by the petitioner or plaintiff.
- Settlement fees must be paid by in advance by *each party* attending a settlement conference no matter who scheduled the matter. “Party” includes the original plaintiff or petitioner, original defendant or respondent, third-party plaintiffs, third-party defendants, and trustees. Guardians ad litem are not a “party” for settlement fee purposes.
- It is unlikely that fees for ex parte Orders, Judgments, and similar documents are recoverable by the prevailing party.
- Pro Tem judges cannot sign the prevailing party’s Judgment on a Motion for Summary Judgment until the fee is paid. In Multnomah County, attorneys are advised to take the Pro Tem Judge’s Letter Opinion to the cashier, pay the appropriate fee, *then* submit the Judgment for signature along with proof of payment.

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The Professional Liability Fund gratefully acknowledges the assistance of
Douglas M. Bray, Trial Court Administrator, Oregon Judicial Department, Fourth Judicial District and
Nancy Harlan Crean, Administrative Analyst, Multnomah County