



A35-09

OREGON JUDICIAL DEPARTMENT
Office of the State Court Administrator

September 23, 2009
(SENT BY EMAIL)

MEMORANDUM

TO: Appellate/Trial Courts Presiding Judges
Trial Court Administrators

FROM: Kingsley W. Click
State Court Administrator

RE: Implementation of Temporary Filing Fees, Additional Party Fees, Ex Parte Order Fees, and Judgment Fees – Effective October 1, 2009

1. BACKGROUND

In response to Oregon's budget crisis, the 2009 Legislative Assembly approved temporary new fees and fee increases for the state court system. The fees discussed in this memorandum apply to civil actions filed on or after October 1, 2009, and before July 1, 2011. They are the product of House Bill 2287 as modified by House Bill 3199.

House Bill 3199 gives the Chief Justice authority to create exemptions from certain fees to ensure their equitable imposition. A work group with members from the Oregon Trial Lawyers Association, the Oregon Association of Defense Counsel, the Oregon State Bar, and the courts has studied this issue and offered guidance on how to craft exemptions. The Chief Justice has implemented exemptions in Chief Justice Order 09-052. Please see sections 2.C. and 4.D. below regarding the exemptions.

2. TEMPORARY FILING FEE AND ADDITIONAL PARTY FEE – CIRCUIT COURT

- A. The following changes to circuit court filing fees will take effect on October 1, 2009, (subject to the existing waiver and deferral process):
- Plaintiff(s) shall pay a separate filing fee for each plaintiff named in a complaint.
 - \$117 per plaintiff if the amount claimed is above \$10,000 and below \$50,000.

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- \$225 per plaintiff if the amount claimed is \$50,000 or more and less than \$150,000.
 - \$275 per plaintiff if the amount claimed is \$150,000 or more and less than \$500,000.
 - \$325 per plaintiff if the amount claimed is \$500,000 or more and less than \$1 million.
 - \$375 per plaintiff if the amount claimed is \$1 million or more.
 - Plaintiff (or plaintiffs, as a group, if there is more than one) shall pay an additional party fee for each defendant named after the first defendant.
 - \$117 per each additional party.
 - Defendant(s) shall pay a separate filing fee for each defendant named in a response.
 - \$117 per defendant if the amount claimed is above \$10,000 and below \$50,000.
 - \$225 per defendant if the amount claimed is \$50,000 or more and less than \$150,000.
 - \$275 per defendant if the amount claimed is \$150,000 or more and less than \$500,000.
 - \$325 per defendant if the amount claimed is \$500,000 or more and less than \$1 million.
 - \$375 per defendant if the amount claimed is \$1 million or more.
 - A person who files a third-party complaint is subject to the same fees as described above for a plaintiff.
 - This includes an additional party fee for each new party brought into the action by way of that third-party pleading - \$117 per each additional party.
 - The fees must be paid at the time the pleading is filed.
 - A third-party defendant who files a response is subject to the same fees as described above for a defendant.
 - The fees must be paid at the time the pleading is filed.
 - Section 2.C. on exemptions (see further below) discusses how a party may request relief when fees are owed for more than five parties.
- B. These filing fees and additional party fees apply to a civil action, suit, or proceeding filed in circuit court, but they do not apply to
- Protective proceedings under ORS chapter 125.
 - Proceedings for dissolution of marriage, annulment of marriage, or separation.
 - Filiation proceedings under ORS 109.124 to 109.230.
 - Proceedings to determine custody or support of a child under ORS 109.103.
 - Probate, adoption, or change of name proceedings.
 - Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee is provided by ORS 105.130.
 - Please note - fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the filing of any

case, motion, document, stipulated order, process, or other document relating to the provision of support enforcement services as described in ORS 25.080

- Please note - when the state or any county, city, or school district in this state, or an officer, employee, or agent thereof appearing in a representative or other official capacity, is a party in an action or proceeding in any court in this state, that party is not required to pay in advance to a state or county officer any fee taxable as costs and disbursements in the action or proceeding. See ORS 20.140.

C. In addition, the following exemptions to these fees have been established by Chief Justice Order 09-052:

- Those actions identified in Oregon Laws 2009, chapter 885, section 37b(2), (ORS 21.110(2) actions in which the amount claimed does not exceed \$10,000) are exempt from these fees.
- Those actions identified in Oregon Laws 2009, chapter 885, section 37b(4), (ORS 21.110(4) proceedings for relief from sex offender reporting under ORS 181.823 or 181.826) are exempt from these fees.
- A party may request from the presiding judge an exemption from the filing fee for more than five parties named in the pleading. A party may request from the presiding judge an exemption from the additional party filing fee for more than five additional parties named in the pleading. In determining whether to grant such exemptions, the presiding judge shall consider
 - The severity of the hardship the fees impose on the requesting party, and
 - Whether the number of parties named in the pleading will require additional judicial resources to process the case.

D. We have prepared tables and an auto fee calculator (in Microsoft Excel) to help aid determination of the amount of filing fees and additional party fees that a party must submit to the court when filing an applicable pleading.

There are four sets of tables. One identifies codes and shows a breakdown of the fees. The other three are different variations of the same information showing the amount due depending on the number of parties and the amount of the prayer. We felt that some users would prefer one type of grid over another.

- A grid (20 by 20) for each of the different graduated filing fees (based upon the prayer amount).
- A grid (10 by 10) for each of the different graduated filing fees (based upon the prayer amount).
- A grid (10 by 20) for each of the different graduated filing fees (based upon the prayer amount).

To use the auto fee calculator, enter the prayer amount and the number of parties in the appropriate boxes. The worksheet will then automatically calculate the applicable fees.

3. ADDITIONAL PARTY FEE – APPELLATE COURTS

- A. This fee differs from the circuit court fees discussed above in these major respects:
- The fee due from appellants is expressly limited to other additional appellants named in the appeal. Appellant(s) shall pay a separate filing fee for each appellant named in an appeal.
 - \$154 per appellant.
 - The additional fee due from respondents is expressly limited to other additional respondents named in the response. Respondent(s) shall pay a separate filing fee for each respondent named in a response.
 - \$154 per respondent.
- B. The fee applies to a broader range of case types (including domestic relations, probate, name change, and adoption cases) than the circuit court fees.
- C. The fee does not apply to
- Habeas corpus proceedings under ORS 34.710.
 - Post-conviction relief proceedings under ORS 138.650.
 - Appeal from juvenile court under ORS 419A.200.
 - Appeal from an involuntary commitment under ORS 426.135.
 - Appeal from an involuntary commitment under ORS 427.295.
 - Review of orders of the Psychiatric Security Review Board under ORS 161.385 (9).
 - Review of orders of the State Board of Parole and Post-Prison Supervision.
 - Appeal from an appeal to a circuit court from a justice court or municipal court in an action alleging commission of a state crime.
 - Appeal in a contempt proceeding other than for imposition of remedial sanctions under the provisions of ORS 33.055.
 - Please note - when the state or any county, city, or school district in this state, or an officer, employee, or agent thereof appearing in a representative or other official capacity, is a party in an action or proceeding in any court in this state, that party is not required to pay in advance to a state or county officer any fee taxable as costs and disbursements in the action or proceeding. See ORS 20.140.

4. EX PARTE ORDER FEE AND JUDGMENT FEE

- A. The ex parte order fee and the judgment fee apply in any civil proceeding subject to a fee under
- ORS 21.110 – civil actions, but excluding
 - Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee is provided by ORS 105.130.
 - Please note - fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the

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filing of any case, motion, document, stipulated order, process, or other document relating to the provision of support enforcement services as described in ORS 25.080.

- ORS 21.111 – domestic relations.
 - Please note - fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the filing of any case, motion, document, stipulated order, process, or other document relating to the provision of support enforcement services as described in ORS 25.080.
- ORS 21.114 – adoption and change of name.
- ORS 21.310 – probate.
- Please note – these fees do not apply to small claims.
- Please note - when the state or any county, city, or school district in this state, or an officer, employee, or agent thereof appearing in a representative or other official capacity, is a party in an action or proceeding in any court in this state, that party is not required to pay in advance to a state or county officer any fee taxable as costs and disbursements in the action or proceeding. See ORS 20.140.

B. These fees are required for

- Every order submitted (by mail, electronically, or in person) to the court for signature by a judge and entry.
 - Except that the fee does not apply to those orders associated with contested motions. In many instances, a motion fee is already required for contested motions.
- Every judgment submitted (by mail, electronically, or in person) to the court for signature by a judge and entry.

C. These fees must be paid no later than the time the party submits the order or judgment to the court for signature by a judge.

D. The following documents are exempt from these fees:

- Default judgments.
- Orders for appointment of a guardian ad litem.
- Orders and judgments submitted by a party who has previously been granted a waiver of fees in that case.

5. NOTICE TO THE PUBLIC AND THE BAR

Please share this memo, CJO 09-052, the tables, and auto-calculating sheet as follows:

- Send them to your local bar president.
- Post them on your court website.

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- Post them in a prominent place in your courthouse(s).
- Distribute them in other ways that you determine will give good notice.

KC:ma/09eKC028ma

Attachments

ec/att: Chief Justice Paul J. De Muniz

Linda Zuckerman

Karen Hightower

Sarah Gates

Bonnie Savage

Bruce C. Miller