

IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

SHARON NEAL,

Plaintiff,

v.

NATALIA NEAL,

Defendants.

Case No. 18CV02117

**ORDER ON DEFENDANT'S MOTION
FOR CONTEMPT AND MOTIONS TO
DISMISS**

This Matter came before the Honorable Judge James Redman on April 30, 2018 on Defendant's Motion for Contempt and Sanctions filed February 28, 2018, and Defendant's Motions to Dismiss, filed February 27, 2018. The Court, having heard arguments for and against the above referenced Motions, has ORDERED:

1. Defendant's Motion for Sanctions is GRANTED. A sanction of \$500.00 is hereby assessed against the Plaintiff; and
2. Defendant's Motions to Dismiss are DENIED. Defendant shall have leave to raise the issues therein again during this litigation.

Signed: 5/11/2018 11:22 AM



Circuit Court Judge Jim Redman

SUBMITTED BY:

/s/ David B. Hutchinson

David B. Hutchinson, OSB No. 151175

Of Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF CLACKAMAS

SHARON NEAL,

Plaintiff,

v.

NATALIA NEAL,

Defendant.

Case No. 18CV02117

ORDER

These matters came before the Court on July 2, 2018 on Defendant's ORCP 68 petition for attorney fees (filed on May 18, 2018), Plaintiff's motion for a protective order (filed on June 6, 2018), and Plaintiff's ORCP 21 Motion to Dismiss or Alternatively to Strike Defendant's Answer, Affirmative Defenses, and Counterclaims (filed on June 8, 2018). The Plaintiff appeared *Pro Se*. The Defendant appeared through counsel, J. Ryan Adams. The court, having heard argument, and being fully advised, finds as follows:

1. On Defendant's petition for attorney fees:

- a. Defendant properly petitioned this Court for attorney fees as a result of this Court's May 14, 2018 order finding that Plaintiff willfully disobeyed a court order.
- b. Defendant's Rule 78 motion for contempt and sanctions pled a right to attorney fees.
- c. Thus, Defendant is awarded attorney fees in the amount of \$1,990.00 as requested in her ORCP 68 petition filed on May 18, 2018 to be added to the \$500.00 sanction imposed by the Court on May 14, 2018.

ORDER

Ex. 4 p. 1 of 4

1 d. Defendant shall submit a limited judgment and money award for judicial signature in
2 the ordinary course.

3 **2. On Plaintiff's Motion for a protective order:**

4 a. Defendant has a right to depose Plaintiff and to obtain discovery pursuant to
5 ORCP 36.

6 b. Plaintiff shall appear for deposition at a date agreeable to the parties, but not later
7 than August 17, 2018.

8 c. The location for the deposition shall be the office of Tyler Smith & Associates,
9 181 N Grant St. Suite 212, Canby, OR 97013.

10 d. The Defendant has the right to depose each business entity that Plaintiff is or has
11 been associated with.

12 e. The court accepts the parties' stipulation and orders that the length of time for
13 each deposition shall not exceed two (2) hours.

14 f. Defendant has moved the Court for ORCP 46(D) sanctions on Plaintiff's failure to
15 attend the deposition scheduled for June 8, 2018. A hearing on the matter is
16 currently set for July 16, 2018. Thus, this court made no finding of fact or law as
17 to the effect of Plaintiff's motion for protective order on her failure to attend her
18 deposition.

19 **3. On Plaintiff's ORCP 21 Motion to Dismiss or Alternatively to Strike Defendant's**
20 **Answer, Affirmative Defenses, and Counterclaims:**

21 a. Defendant provided proof of mailing to this Court with respect to her answer,
22 affirmative defenses and counterclaims. Thus, the Court finds that Plaintiff was
23

1 duly served by Defendant on May 18, 2018. Accordingly, Plaintiff's motion to
2 dismiss for insufficient service is denied.

3 b. Plaintiff informed this Court that she did not receive a copy of the Defendant's
4 answer, affirmative defenses, and counterclaims. Plaintiff argued that at the time
5 of this hearing, she still has not seen the Pleadings at issue.

6 c. Notwithstanding Plaintiff's argument that she has not seen Defendant's answer,
7 affirmative defenses, and counterclaims, on June 8, 2018, Plaintiff filed a motion
8 to dismiss or strike on the basis that the pleadings were "a sham, irrelevant, and
9 frivolous."

10 d. Plaintiff has therefore misled this court by filing a motion to dismiss or strike
11 Defendant's answer, affirmative defenses, and counterclaims on the grounds that
12 they were "a sham, irrelevant, and frivolous," because, taking her admission as
13 true, Plaintiff had not seen the pleadings at issue at the time she filed her motion.
14 Accordingly, Plaintiff's motion to strike is denied.

15 e. Defendant's response to Plaintiff's motion to dismiss included a request for
16 attorney fees under ORS 20.105. Defendant is granted leave to submit an ORCP
17 68 petition for attorney fees with respect to Plaintiff's motion to dismiss filed on
18 June 8, 2018.

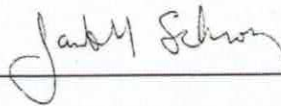
19 **IT IS THEREFORE ORDERED:**

- 20 1. Defendant's ORCP 68 petition for attorney fees filed on May 18, 2018 is **GRANTED**.
21 Defendant shall submit a limited judgment and money award for judicial signature in the
22 ordinary course.
23

- 1 2. Plaintiff's motion for a protective order is **GRANTED IN PART** due to stipulation from
2 the parties that each deposition shall be limited to two hours. Plaintiff must appear for
3 deposition at the office of Defendant's Counsel as stated above. Defendant has a right to
4 depose each business entity that Plaintiff is or has been associated with. The Plaintiff will
5 make herself and any ORCP 39(C)(6) representative available on or before August 17,
6 2018. This court makes no finding of fact or law as to the effect of Plaintiff's motion for
7 protective order on her failure to attend her deposition scheduled for June 8, 2018.
- 8 3. For the reasons delineated in section 3 above, Plaintiff's motion to dismiss or alternatively
9 to strike Defendant's answer, affirmative defenses, and counterclaims is **DENIED**.

10
11 **IT IS SO ORDERED:**

Signed: 7/24/2018 09:58 AM

12
13 

14 Circuit Court Judge
Janet Schroer

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21
22 Submitted by:
J. Ryan Adams, OSB # 150778
23 Ryan@RuralBusinessAttorneys.com

ORDER

Ex. 4 p. 4 of 4

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

Sharon Neal

Plaintiff,

Case No. 18CV02117

v.

**LIMITED JUDGMENT AND MONEY
AWARD**

Natalia Neal

Defendant.

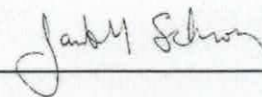
On May 14, 2018, this Court entered an order imposing sanctions on Plaintiff in the amount of \$500.00 for violation(s) of this Court's February 12, 2018 order. Defendant filed a petition for costs and disbursements on May 18, 2018. Plaintiff objected to the petition on June 5, 2018. Defendant filed a reply on June 11, 2018. On July 2, 2018, this court held a hearing on the matter and heard argument from the parties. Having considered the merits of each argument, and having reviewed the parties' briefings, **THEREFORE, IT IS ORDERED AND ADJUDGED** that this Limited Judgment and Money Award shall be entered in favor of Defendant, as detailed below with \$500.00 in sanctions, and \$1,990.00 in attorney fees, for a total amount of \$2,490.00. This judgment shall operate as a lien on Plaintiff.

MONEY AWARD

1	Judgment Creditor: Address	Natalia Neal 17700 SE Forrest Hills Drive Damascus, Oregon 97710
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2	Lawyer for Judgment Creditor(s)	Tyler Smith & Associates, P.C. 181 N. Grant Street, Ste. 212 Canby, OR 97013 503-266-5590
3	Judgment Debtor	Sharon Neal
Address		17700 SE Forrest Hills Drive Damascus, OR 97089
Year of Birth		Year of Birth: N/A
Last 4 digits of Social Security No.		SSN: N/A
Last 4 digits of Driver License No. and State Issued		ODL: N/A
4	Lawyer(s) for Judgment Debtor(s)	Unknown
5	Other persons or public bodies who are entitled to any portion of a payment made on this judgment	none
6	Total Damages	\$0
7	Sanctions	\$500.00
8	Attorney fees awarded	\$1,990.00
9	Post-judgment interest on principal amount	Interest at the rate of 9% per annum on the total judgment (items 6–9) from date of entry of judgment until fully paid.
10	TOTAL AMOUNT OF MONEY AWARD:	\$2,490.00

Signed: 7/24/2018 10:01 AM



Circuit Court Judge
Janet Schroer

Submitted By:
J. Ryan Adams, OSB 150778
Of Attorneys for Plaintiff
Ryan@ruralbusinessattorneys.com

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

Sharon Neal,

Plaintiff,

v.

Natalia Neal,

Defendant.

Case No. 18CV02117

**LIMITED JUDGMENT AND MONEY
AWARD ON PLAINTIFF'S
CONTEMPT OF COURT**

The court being fully advised and having reviewed the Defendant's ORCP 68 Petition for Attorney Fees, concludes that for the reasons set forth in Defendant's petition, Defendant is entitled to attorney fees in the sum of \$1,990.00 and a sanction of \$500.00 for a total money award of \$2,490.00. Plaintiff shall be liable for the payment of this award to the Defendant. This judgment shall operate as a lien against Plaintiff.

IT IS ORDERED AND ADJUDGED that Defendant, through her attorney, has a judgment against the Plaintiff for sanctions in the amount of \$500 and attorney fees in the amount of \$1990.00 for a total sum of \$2,490.00. Plaintiff shall be liable for the payment of this award to the Defendant and this judgment shall operate as a lien against her.

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MONEY AWARD

1	1	Judgment Creditor: Address	Natalia Neal 17700 SE Forest Hill Drive Damascus, OR 97089
2	2	Lawyer for Judgment Creditor(s)	Tyler Smith & Associates, P.C. 181 N. Grant Street, Ste. 212 Canby, OR 97013 503-266-5590
3	3	Judgment Debtor Address Year of Birth Last 4 digits of Social Security No. Last 4 digits of Driver License No. and State Issued	Sharon Neal 17700 SE Forest Hill Drive Damascus, OR 97089 Year of Birth: 1939 SSN: Unknown ODL: Unknown
4	4	Lawyer(s) for Judgment Debtor(s)	Unknown
5	5	Other persons or public bodies who are entitled to any portion of a payment made on this judgment	none
6	6	Total Attorney fees	\$1990
7	7	Sanctions	\$500
8	8	Costs awarded	\$0
9	9	Post-judgment interest on principal amount	Interest at the rate of 9% per annum on the total judgment (items 6–9) from date of entry of judgment until fully paid.
10	10	TOTAL AMOUNT OF MONEY AWARD:	\$2,490.00

Signed: 8/27/2018 10:13 AM



Circuit Court Judge Jim Redman

Submitted by:

J. Ryan Adams, OSB#150778
Ryan@ruralbusinessattorneys.com

1 **UTCR 5.100 CERTIFICATE**

I, Ryan Adams, hereby certify as follows that the attached proposed order or judgment:

2 (1) ☐ Was served on opposing counsel not less than 3 days prior to submission to the
court; or

3 ☐ Was stipulated by opposing counsel that no objection exists as to the judgment
or order; or

4 ☒ Was served on a self-represented party not less than 7 days prior to submission
to the court.

5 (2) This proposed order or judgment is ready for judicial signature because:

6 1. ☐ Each party affected by this order or judgment has stipulated to the order or
judgment, as shown by each party's signature on the document being submitted.

7 2. ☐ Each party affected by this order or judgment has approved the order or
judgment, as shown by each party's signature on the document being submitted
or by written confirmation of approval sent to me.

8 3. ☒ I have served a copy of this order or judgment on each party entitled to
service and:

9 a. ☐ No objection has been served on me.

10 b. ☐ I received objections that I could not resolve with a party despite
reasonable efforts to do so. I have filed a copy of the objections I received
and indicated which objections remain unresolved.

11 c. ☒ After conferring about objections, Sharon Neal will independently file
any remaining objection.

12 4. ☐ Service is not required pursuant to subsection (3) of this rule, or by statute,
rule, or otherwise.

13 5. ☐ This is a proposed judgment that includes an award of punitive damages and
notice has been served on the Director of the Crime Victims' Assistance Section
14 as required by subsection (5) of this rule.

15
16 DATED: May 22, 2018

17 Tyler Smith & Associates, P.C.

18 By s/ Ryan Adams

19 Tyler Smith, OSB# 075287

J. Ryan Adams, OSB# 150778

20 Caleb S. Leonard, OSB# 153736

Wesley Adams, OSB # 172900

181 N. Grant St., STE 212

Canby, OR 97013

21 Phone: 503-266-5590; Fax: 503-212-6392

22 Wes@RuralBusinessAttorneys.com

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF CLACKAMAS

SHARON NEAL,

Plaintiff,

Case No. 18CV02117

v.

ORDER

NATALIA NEAL,

Defendant.

This matter came before the court on Defendant's ex parte motion moving the court to require Plaintiff to provide Defendant's counsel notice in writing prior to filing any motion or document involving Defendant in this case or any other case involving Defendant. The Court having reviewed Defendant's motion and the declaration of J. Ryan Adams, IT IS HEREBY ORDERED:

Plaintiff shall provide written notice to opposing counsel at least 48 hours ~~or in the alternative~~ hours before filing any motion or document in this case or in any case related to Defendant Natalia Neal. Violation of this order is subject to punishment for contempt of court.

Signed: 9/13/2018 07:59 AM



Circuit Court Judge Kathie F. Steele

Submitted by:
J. Ryan Adams, OSB # 150778
Ryan@RuralBusinessAttorneys.com

ORDER

TYLER SMITH & ASSOCIATES, P.C.
181 N. Grant St. STE 212, Canby, Oregon 97013
503-266-5590; Fax 503-212-6392

EX. 7

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON

2 FOR THE COUNTY OF CLACKAMAS

3 SHARON NEAL,

4 Plaintiff,

Case No. 18CV02117

5 v.

**GENERAL JUDGMENT OF
DISMISSAL**

6 NATALIA NEAL,

7 Defendant.

8
9 This matter came before the Court on August 6, 2018. Plaintiff was ordered to pay sanctions in the
10 amount of \$2,490 to Defendant by October 6, 2018 in order to avoid dismissal of this case. The
11 Court, having reviewed the Declaration of J. Ryan Adams and the order entered by Judge Redman
12 on August 27, 2018, finds for the reasons therein, that Plaintiff has not complied with the order of
13 this Court. IT IS THEREFORE ORDERED AND ADJUDGED: Plaintiff has repeatedly failed to
14 follow the order(s) of this Court. Thus, Plaintiff's claims in the above captioned case are dismissed
15 with prejudice.
16

17
18 Signed: 10/17/2018 04:40 PM

19 

20 Circuit Court Judge Kathie F. Steele

21
22 Submitted by:
J. Ryan Adams, OSB # 150778
23 Ryan@RuralBusinessAttorneys.com

**GENERAL JUDGMENT OF
DISMISSAL**

TYLER SMITH & ASSOCIATES, P.C.
181 N. Grant St. STE 212, Canby, Oregon 97013
503-266-5590; Fax 503-212-6392

Ex. 8

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

SHARON NEAL,
Plaintiff,
v.
NATALIA NEAL,
Defendant.

Case No. 18CV02117

**ORCP 68 PETITION FOR ATTORNEY
FEES**

The undersigned attorney declares and represents to the Court, under penalties of perjury, that the following facts offered in support of an award of reasonable and necessary attorney fees are true to the best of my knowledge and belief:

Defendant hereby petitions the court for reasonable attorney fees under ORCP 68C. On October 18, 2018 this court entered a general judgment of dismissal with prejudice in Defendants favor. Defendant is entitled to recover attorney fees pursuant to ORS 20.105 based upon a finding by this Court that Plaintiff has failed to comply with multiple Court orders. Defendant's attorneys bill their client in a single unified bill with detailed timesheets for each attorney or staff person.

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Page 1 of 10

**ORCP 68 PETITION FOR ATTORNEY
FEES**

TYLER SMITH & ASSOCIATES, P.C.
181 N. Grant Street, Suite 212, Canby, Oregon 97013
503-266-5590; Fax 503-212-6392

Ex. 9 p. 1 of 9

1 **POINTS AND AUTHORITIES**

2 Defendant's Counsel recognizes that the hours expended on this case are extraordinary.
3 However, the majority of time spent comes as a result of frivolous motion practice by Plaintiff.
4 See generally Exhibit 2. Throughout the course of this case, Plaintiff has filed 16 motions. Each
5 motion has been denied (with the exception of a protective order that was stipulated). Because
6 Plaintiff filed motions pro se, many were on areas of the law which were totally inapplicable and
7 required research to learn. See e.g. Plaintiff's Motion for a Receivership. In addition to Plaintiff's
8 frivolous motion practice, Plaintiff has filed two frivolous bar complaints against two of the
9 attorneys at Defense Counsel's firm. (time responding to bar complaints was not billed) The first
10 bar complaint alleged that Attorney Ryan Adams told Plaintiff that "*He was military trained and*
11 *was going to take her down.*" Plaintiff also made allegations that Attorney Adams had somehow
12 surreptitiously accessed the court's network in order to manipulate evidence. Obviously, the bar
13 found no evidence to substantiate either claim. Finally, Plaintiff attempted to have Attorney
14 Adams arrested by the Canby Police Department for conspiring to violate an elder abuse
15 restraining order. After speaking with Canby Police and informing them of the absurdity of the
16 complaint, no further action was taken. Finally, in addition to the present case, Plaintiff has filed
17 4 elder abuse restraining orders against defendant within the last year. Defendant's attorney fees
18 have been reasonable both in total and in hourly rates pursuant to the statutory factors at 623.4
19 attorney hours and some staff and travel time for reviewing the relevant documents, conferring
20 with the client, conducting trial preparation, travel and oral argument. The number of hours and
21 services rendered in this matter for each lawyer, and legal assistant and the hourly rates for each
22 are set forth in detail below and are authenticated by the attached Declaration of Wes Adams, in
23 tenths of an hour.

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**ORCP 68 PETITION FOR ATTORNEY
FEES**

TYLER SMITH & ASSOCIATES, P.C.
181 N. Grant Street, Suite 212, Canby, Oregon 97013
503-266-5590; Fax 503-212-6392

EX-9 p. 2 of 9

1 The actual timesheets are the same as those sent to the client for billing purposes. Exhibit
2 1 is the detailed timesheets for Managing Attorney Tyler Smith, Associate Attorney J. Ryan
3 Adams, Associate Attorney Caleb Leonard, Associate Attorney Wes Adams, and staff April Lee
4 and Joey Pickels. *See Declaration of Wes Adams*. You may notice that attorneys sometimes
5 charged reduced rates at "staff" rates when they are performing a staff level task, these times are
6 included on the attorney's respective timesheet, but billed to the client at a lower rate. Attorneys
7 and staff sometimes "no charge" for time spent, and that time is reflected as "n/c". Each
8 timesheet (Exhibit 1) shows a description of the precise tasks done in a particular month, the date
9 of the task, and time in detail to 1/10th of an hour. I redacted from the statement any other
10 services for the Plaintiff that were unrelated to this case.

11 Under ORS 20.105(1), the court "SHALL" award reasonable attorney fees to a prevailing
12 party upon a finding by the court that that the losing party failed to follow the Courts order(s).
13 On October 18, 2018, Judge Steele signed a judgment dismissing Plaintiff's lawsuit in its entirety
14 with prejudice because Plaintiff had repeatedly violated the Court's orders. Plaintiff had already
15 been previously sanctioned.

16 Defendant is entitled to Attorney Fees under ORS 20.105 and ORCP 68. Defendant's
17 Answer pleaded a right to attorney fees. Under ORCP 68(C), Defendant is entitled to reasonable
18 attorney fees within the discretion of this court. The factors to be considered under ORS 20.075
19 include:

- 20 (a) The conduct of the parties in the transactions or occurrences that gave rise to the
21 litigation, including any conduct of a party that was reckless, willful, malicious, in
22 bad faith or illegal.
23 (b) The objective reasonableness of the claims and defenses asserted by the parties.

1 (c) The extent to which an award of an attorney fee in the case would deter others from
2 asserting good faith claims or defenses in similar cases. *An award will not deter*
3 *others from asserting good faith claims or defense in similar cases.*

4 (d) The extent to which an award of an attorney fee in the case would deter others from
5 asserting meritless claims and defenses. *An award would deter others from asserting*
6 *meritless claims and defenses because it is an award in favor of Defendant after*
7 *Plaintiff asserted an unreasonable claim and acted in an unreasonable manner and*
8 *will deter other plaintiffs from acting in a like manner.*

9 (e) The objective reasonableness of the parties and the diligence of the parties and their
10 attorneys during the proceedings. *Plaintiff acted unreasonably in this case in the*
11 *following ways:*

12 a. *Filing the same TRO again in front of a different judge after the first TRO*
13 *was vacated and forcing Defendant to make the same arguments again to*
14 *get it vacated.*

15 b. *Filing the same motion for summary judgement 3 different times (it was*
16 *denied each time).*

17 c. *Filing four spurious elder abuse claims against the defendant in an effort to*
18 *remove her from the property quickly. The Court went so far as to enter an*
19 *order requiring Plaintiff to provide notice to defense counsel 48 hours*
20 *before she filed any pleadings.*

21 d. *Filing 2 unsubstantiated and completely false bar complaints against*
22 *Defense Counsel.*
23

1 e. *Attempting to have defense counsel and defendant arrested based on a false*
2 *accusation.*

3 f. *By having non-attorneys draft her pleadings and motions and subsequently*
4 *appearing at oral argument without knowing the content of her motions or*
5 *being prepared to argue her position.*

6 (f) The objective reasonableness of the parties and the diligence of the parties in
7 pursuing settlement of the dispute. *Defense Counsel attempted to have settlement*
8 *discussions with Ms. Neal on January 18, 2018 in Judge Van Dyk's Courtroom.*
9 *Ms. Neal was not amenable to discussion. Counsel explained that the subject*
10 *property was in foreclosure and that even in the unlikely event she was to prevail,*
11 *the home would be owned by the bank by next year. Even though a foreclosure sale*
12 *is set for January 10, 2019, Plaintiff pressed onward. Plaintiff left the settlement*
13 *discussion and immediately filed a false bar complaint stating the Attorney Adams*
14 *told her that he was "Military trained and was going to take [her] down." In reality,*
15 *Defense counsel escorted Ms. Neal to the civil window to assist her in making*
16 *certain that she had the correct address on file. This was corroborated by*
17 *courthouse video footage. When Ms. Neal briefly retained counsel, settlement*
18 *discussion was at the forefront of the discussion. Neither attorney saw this case as a*
19 *good use of client funds and judicial resources. However, Ms. Neal was once again*
20 *unwilling to engage in the discussion. Finally, at the settlement conference held on*
21 *September 14, 2018, Ms. Neal refused to have any type of reasonable settlement*
22 *discussion.*
23

1 (g) The amount that the court has awarded as a prevailing party fee under ORS 20.190.

2 *Defendant is entitled to the statutory prevailing party fee.*

3 (h) Such other factors as the court may consider appropriate under the circumstances of

4 the case. *In an attempt at brevity, Defendant relies on the points set forth above.*

5 *Ms. Neal has abused the court's resources and has made this case as expensive as*

6 *possible for the defendant. Further, in deposition, Plaintiff told defense counsel*

7 *that she was "going to do everything in her power to destroy defendant's*

8 *reputation." Finally, Plaintiff admitted in deposition that the reason for the*

9 *litigation is that her youngest son (defendant's ex-husband) was working "behind*

10 *the scenes" to get the property even though, earlier this year, Plaintiff's son had*

11 *given up all right and title to the property in the judgment of dissolution.*

12 (i) The time and labor required in the proceeding, the novelty and difficulty of the

13 questions involved in the proceeding and the skill needed to properly perform the

14 legal services. *Defendants' attorney devoted a reasonable amount of time and effort*

15 *to the matter in the form of legal research, drafting a responses, replies, and*

16 *objections, and arguing the case at approximately 20-25 lengthy court appearances.*

17 (j) The likelihood, if apparent to the client, that the acceptance of the particular

18 employment by the attorney would preclude the attorney from taking other cases. *Not*

19 *applicable.*

20 (k) The fee customarily charged in the locality for similar legal services. *The fee charged*

21 *by Defendant's attorneys (\$200 per hour) is a reasonable rate for attorneys in the*

22 *area with similar experience.*

1 (l) The amount involved in the controversy and the results obtained. *The Defendant*
2 *successfully defended title to property worth approximately 1.5 million dollars.*

3 (m) The time limitations imposed by the client or the circumstances of the case. *The case*
4 *posed incredible time limitations because of the frivolous motion practice of*
5 *Plaintiff. On at least 20 occasions defense counsel was forced to move other client*
6 *matters and meetings off of his calendar to appear in court or draft responses to*
7 *Plaintiff's motions.*

8 (n) The nature and length of the attorney's professional relationship with the client. *The*
9 *attorney's firm defended Defendant in other cases.*

10 (o) The experience, reputation and ability of the attorney performing the services. *Ryan*
11 *Adams was the lead attorney. Mr. Adams has practiced law for approximately for*
12 *years. He handles property litigation almost exclusively. According to the 2017*
13 *economic survey, Mr. Adams' rate of \$200 is at or below the rate generally accepted*
14 *in the Clackamas County area. Mr. Adams is also a Judge Advocate for the United*
15 *States Army. In that capacity his role is to advise command on the lawful use of*
16 *force in the combat environment and to provide legal assistance to soldiers. Mr.*
17 *Adams was among 7% of applicants to be accepted as a judge advocate based on*
18 *his academic credentials and experience.*

19 (p) Whether the fee of the attorney is fixed or contingent. *The fee is hourly and is paid*
20 *by the client on a monthly basis. This matter has significantly hindered*
21 *Defendant's ability to make mortgage payments.*

22 My experience and background is described above. The hourly rates of \$200 to \$225 per
23 hour is competitive by industry standards for attorneys with similar experience in the Clackamas

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County area and therefore reasonable as to the per hour charge. We build in all copying costs, postage and other miscellaneous charges into our hourly rates.

Further, the litigation of this case was done as frugally as reasonably possible on our end, only billing for 623.4 hours of collective total attorney, travel, and staff time. Under ORS 20.075 based on the relevant factors the complexity of the issues, and the reasonable rate, the total amount of \$ 123,176.88 is a reasonable amount.

ATTORNEY FEES REQUESTED IN FULL:(as shown in Exhibit 1)

Name: Tyler Smith	Hours: 4.7	RATE: \$225/hour;	TOTAL: \$1057.50
Name: Ryan Adams	Hours: 169.5	RATE: \$200/hour;	TOTAL: \$33,900.00
Name: Caleb Leonard	Hours: 85.6	RATE: \$200/hour;	TOTAL: \$17,120.00
	Hours: 7.2	RATE: \$100/hour;	TOTAL: \$720.00
	Hours: 2.8	RATE: \$90/hour;	TOTAL: \$252.00
	Hours: 1.2	RATE: \$0/hour;	TOTAL: \$0.00
Name: Wesley Adams	Hours: 314.3	RATE: \$200/hour;	TOTAL: \$62,860.00
	Hours: .5	RATE: \$100/hour;	TOTAL: \$50.00
	Hours: 2.9	RATE: \$80/hour;	TOTAL: \$232.00
	Hours: 12.5	RATE: \$0/hour;	TOTAL: \$0.00
		TOTAL ATTORNEY FEES:	\$116,191.50

STAFF FEES REQUESTED IN FULL:

Name: April Lee	Hours: 35.6	RATE: \$90/hour;	TOTAL \$3,204.00
	Hours: 5	RATE: \$0/hour;	TOTAL: \$0.00
Name: Joey Pickels	Hours: .3	RATE: \$90/hour;	TOTAL: \$27.00
		TOTAL STAFF FEES:	\$3,231.00

1 COSTS:

2 Filing Fees and Court Costs: \$703

3 Prevailing Party fees: \$5,000 (ORS 20.190(3))

5 TOTAL: 5,703.00

7 TOTAL FEES: \$ 125,125.50

8 Based on the above, and pursuant to ORCP 68 and ORS 20.105 Defendant should be
9 awarded attorney fees of \$125,125.50.

10 I hereby declare that the above statement is true to the best of my knowledge and
11 belief, and that I understand it is made for use as evidence in court and is subject to penalty
12 for perjury.

13 DATED October 31, 2018

14
15 Tyler Smith & Associates, P.C.

16 By s/ J. Ryan Adams

J. Ryan Adams, OSB # 150778

Wesley Adams, OSB# 172900

Of Attorneys for Defendant

181 N. Grant Street, Suite 212, Canby, OR 97013

Phone: 503-266-5590, Fax: 503-212-6392

Ryan@ruralbusinessattorneys.com