

**2025 OREGON STATE BAR  
LEGISLATIVE PROPOSAL  
Part I – Legislative Summary**

**Re:** Small Claims Notice Requirement

**Submitted by:** Consumer Law Section EC, via legislative sub-committee

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**1. Does this amend current law or program? Yes  No  Specify**

ORS 46.455(3)

**2. PROBLEM PRESENTED** (including level of severity):

The constitutional right to a jury for civil matters where the value claimed exceeds \$750 has been applied confusingly to consumers in the context of small claims notice and requires clarification to ensure that it is interpreted to give credence to the requirement to broadly construe the constitutional right to jury trial.

**3. SOLUTION:**

Clarify that the recipient of a Notice of Small Claim has a constitutional right to jury if the amount identified as the "Total" on the Small Claim Form exceeds \$750, the defendant has a constitutional right to a jury trial, which may include claims for fixed fees and costs in the Small Claim. It currently implies that ore-judgment interest is included in amount of the claim, which continues to grow.

**OREGON STATE BAR  
LEGISLATIVE PROPOSAL  
Part II – Legislative Language**

Please provide your legislative language below:

46.455 Admission or denial of claim

\* \* \*

(3) If the [total] amount or value claimed exceeds \$750, the defendant has a constitutional right to a jury trial and may claim that right in a written request to the clerk in the form prescribed by the court, accompanied by payment of the appearance fee required from defendants under ORS 21.160 (Filing fee for tort and contract actions). The request shall designate a mailing address to which a summons and copy of the complaint may be served by mail. Thereafter, the plaintiff's claim will not be limited to the amount stated in the claim, though it must involve the same controversy.

OR

\* \* \*

(3) If the [total] amount or value claimed [inclusive of identified pre-judgment interest, fees, and costs.] exceeds \$750, the defendant has a constitutional right to a jury trial and may claim that right in a written request to the clerk in the form prescribed by the court, accompanied by payment of the appearance fee required from defendants under ORS 21.160 (Filing fee for tort and contract actions). The request shall designate a mailing address to which a summons and copy of the complaint may be served by mail. Thereafter, the plaintiff's claim will not be limited to the amount stated in the claim, though it must involve the same controversy.

## Supplemental Statement

We are not aware of any Oregon case law stating that known fixed costs sought in a small claim are ignored when determining the amount of controversy. (Compare to Federal Diversity Jurisdiction where jurisdictional statute expressly states that interest and costs are excluded. See 28 USC § 1332(a)). Oregon courts have recognized that the right of trial by jury is to be broadly construed. See Hunters Ridge Condo. Ass'n v. Sherwood Crossing, LLC, 285 Or App 416, 444, 395 P3d 892 (Or App 2017)(“[T]he constitutional right of trial by jury is not to be narrowly construed.”) (citing State v. 1920 Studebaker Touring Car et al. , 120 Or 254, 263, 251 P 701 (1927) (internal quotations omitted)).

A reading of both the constitutional right to a jury trial, and the statutory application to small claims in ORS 46.455(3) do not make it clear that known costs or fees are omitted from consideration as to a jury trial. Or Const Art VII § 3 (“In actions at law, where the **value in controversy** shall exceed \$750, the right of trial by jury shall be preserved \* \* \* \* ”); ORS 46.455(3) (“If the **amount or value claimed exceeds \$750**, the defendant has a constitutional right to a jury trial and may claim that right in a written request \* \* \* \* ”). Thus in order to clarify and fix the technical glitch, erring on the side of a broad interpretation as directed by the courts, the “value in controversy” and “the amount or value claimed” read in light of a broadly construed right to a jury trial would rationally include the “TOTAL” amount listed on the Small Claim and Notice of Small Claim form.