

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON

2 FOR THE COUNTY OF CURRY

3 CHERYL KELMAR,

4 Plaintiff,

5 vs.

6 TIFFANY BERG, ROBERT BERG,
7 TRENTON BERG, and SOMETHING
DIFFERENT DESIGN,

8 Defendants.
9

Case No. 24CV30895

DEFENDANT SOMETHING
DIFFERENT DESIGN'S
PETITION FOR COSTS AND
DISBURSEMENTS

10 The undersigned attorney offers the following facts in support of an award of
11 reasonable and necessary costs and disbursements:

12 1. Defendant Something Different Design ("SDD") is entitled to recover costs,
13 and disbursements pursuant to the following facts, statute or rule: Opinion and Order dated
14 September 2, 2025; ORS 20.115 *et. seq.*; ORCP 54 & 68.

15 2. Costs and disbursements supported by ORS 20.115 *et. seq.*, ORCP 54A(3),
16 68A(2) or other statute or rule, including the prevailing party fee, are set forth in detail in
17 Exhibit 1. The total sum of these costs and disbursements is \$626.00 to \$5,626.00.

18 3. **Enhanced Prevailing Party Fee Award of \$5,000**

19 SDD previously set forth the basis for an enhanced prevailing party fee award of
20 \$5,000 per ORS 20.190(3) in its Response filed on August 13, 2025, and its Reply filed on
21 August 14, 2025. The statutory factors are strongly in favor of an enhanced prevailing party
22 fee. It is submitted that Plaintiff's conduct was in bad faith in filing over 25 pleadings since
23 SDD filed its Answer on June 18th, in attempting to withdraw her Voluntary Dismissal of her
24 claims against SDD "if she is required to pay any monetary award to them," in filing an
25 identical lawsuit in Arizona on May 19, 2025 (almost a month before SDD filed its Answer),
26

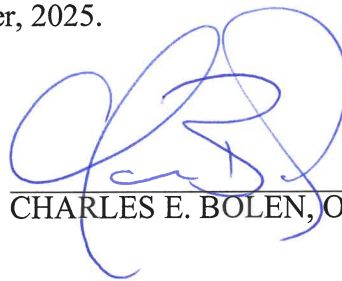
1 but failing to serve SDD until July 25, 2025 (nine days after SDD had already filed and
2 served its Motion for Summary Judgment) and in attempting to amend her claims to increase
3 her damages by \$100,000 and add punitive damages in prosecuting clearly overreaching
4 claims of various dubious validity.

5 Furthermore, since this was not an attorney fee case, the fact that SDD cannot recover
6 its attorneys' fees as part of the judgment mitigates in favor of an award of enhanced
7 prevailing party fee. SDD requests that an enhanced prevailing party fee of up to the
8 maximum amount allowed by law, to-wit: \$5,000, be evaluated and awarded to it herein.
9 Plaintiff refuses to take responsibility for her actions. An enhanced prevailing party fee may
10 give Plaintiff, at a minimum, cause for pause from asserting more specious claims and
11 engaging in such suspect tactics in light of her long litigation history in both California and
12 Oregon.

13 4. In summary, SDD is entitled to an award of costs, disbursements and
14 prevailing party fee of \$5,626.00.

15 **I hereby declare that the above statement, including the information contained**
16 **in the exhibits to this statement, is true to the best of my knowledge and belief, and that**
17 **I understand it is made for use as evidence in court and is subject to penalty for perjury.**

18 DATED this 2 day of September, 2025.



21 CHARLES E. BOLEN, OSB #962249

EXHIBIT 1

Curry County Courts – e-filing fee – Answer	\$ 281.00
Prevailing Party Fee	\$ 345.00
Enhanced Prevailing Party Fee	\$5,000.00
TOTAL:	\$5,626.00

CERTIFICATE OF SERVICE

I, Charles E. Bolen, of attorneys for Defendant Something Different Designs, herein, hereby certify that on the date stated below, I caused a true, exact, and full copy of the foregoing to be served on the interested party or parties listed below:

Cheryl Kelmar
P.O. Box 367
Santa Barbara, CA 93101
Plaintiff pro se

- ☐ By hand delivery
- ☐ By first-class mail*
- ☐ By overnight mail
- ☐ By facsimile transmission:
Fax # | ()
- ☒ By e-mail: cheryl@medicalworks.com
- ☒ By **electronic service** via the Oregon
Judicial Department's electronic filing
system pursuant to UTCR 21.200.

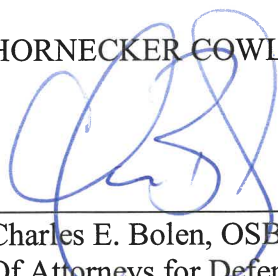
Bennett Hansen, OSB #090099
Evan R. Aronson, OSB #211685
Preg O'Donnell & Gillett
222 SW Columbia St., Suite 650
Portland, OR 97205
*Of Attorneys for Defendants Tiffany
Berg, Robert Berg, and Trenton Berg*

- ☐ By hand delivery
- ☐ By first-class mail*
- ☐ By overnight mail
- ☐ By facsimile transmission:
Fax # | (206) 287-9113
- ☒ By e-mail: bhansen@pregodonnell.com;
earonson@pregodonnell.com
- ☒ By **electronic service** via the Oregon
Judicial Department's electronic filing
system pursuant to UTCR 21.200.

* By depositing said true copy in the United States Post Office at Medford, Oregon, in a sealed envelope with postage fully prepaid thereon, addressed to the above individual(s) at his or her last known address, and that between the same post office and the address(es) to which said copy was mailed, there is a regular communication by U.S. Mail.

DATED: September 2, 2025.

HORNECKER COWLING LLP



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Of Attorneys for Defendant
Something Different Design
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