

**Testimony before the House Judiciary Committee
in support of SB 307
On behalf of the Oregon State Bar Consumer Law Section
February 28, 2023**

Chair Kropf and Members of the Committee:

My name is Young Walgenkim. I am an attorney here in Salem. I am here today as a representative of the Oregon State Bar's Consumer Law Section. The Consumer Law Section is made up of about 200 attorneys from all parts of Oregon, who represent clients in all types of consumer matters.

The Oregon State Bar (OSB) is a public corporation and an instrumentality of the court with over 15,000 active members. The Oregon State Bar serves the public interest by: regulating the legal profession and improving the quality of legal services; supporting the judiciary and improving the administration of justice; and advancing a fair, inclusive and accessible justice system.

Senate Bill 307

Senate Bill 307 addresses a conflict between court rules and arbitration statutes.

The purpose of court-annexed arbitration is to promote the speedy resolution of disputes and reduce burdens on the court by deciding smaller civil disputes where only money is at issue through arbitration with reduced court involvement.

In a 2021 Court of Appeals decision, the court found that the language of ORCP 54(E) requires that when a dispute over attorney fees or costs arises from an offer of judgment, the arbitrator's final award must become a final judgment before the offer of judgment is disclosed and the effect of the offer of judgment on the attorney fees and costs award is determined. However, this creates a conflict with ORS 36.425(3), which normally provides that final judgements are not subject to appeal. Because of these two competing processes, there is no procedure to address this issue either before or after the judgment is final.

SB 307 modifies ORS 36.425(6) and identifies a path forward for litigants to follow during arbitration when an ORCP 54(E) offer of judgment might affect fees and costs. The proposed change allows the court to consider and determine any effect of the offer after pursuant to the existing procedure to challenge fees and costs awarded by an arbitrator after the award is filed with the court.

Thank you for your consideration of SB 307. I am happy to answer any questions.