



Case Study

Claim for \$5,500 or Less? Watch Out!

— by Jeffrey D. Eberhard

Everyone knows about ORS 20.080, where a claimant can get attorney fees for property damage or bodily injury if the claim is \$5,500 or less. ORS 20.082 is a similar statute that works the same way on contract claims.

In *McGarry v. Hansen*, 201 Or App 695, 120 P3d 525 (2005), Plaintiff purchased a motorcycle from Defendant. When Defendant was unable to cure certain defects in the motorcycle, Plaintiff initiated this action for breach of contract and breach of warranty. He claimed \$5,500 in damages. After the jury returned a verdict in that amount, and pursuant to ORS 20.082, the court awarded Plaintiff nearly \$50,000 in costs and fees against the Defendant.

On appeal, Defendant argued that ORS 20.082 did not apply to the contract at issue – and therefore, the award of attorneys’ fees was inappropriate – because the contract was for the sale of a motorcycle and did not “evidence a debt” as required by ORS 20.082. Defendant argued that the contract did not evidence a debt because it did not involve principal and interest. Defendant also argued that while ORS 20.082 permits the recovery

of attorneys’ fees when the damages claimed are \$5,500 or less, the statute does not encompass actions in which plaintiff meets the damages limit only by “pleading down” the true level of damages.

The Court disagreed with each of these arguments and affirmed the award of \$50,000 in fees and costs. First, the Court found that ORS 20.082 applies to express and implied contracts, and not simply those contracts which evidence a debt. Second, the Court found that warranty claims were indeed covered by the statute even though those types of claims do not involve principal and interest. Finally, the Court found it to be irrelevant whether a plaintiff claims less than his full amount of damages in order to squeeze under the \$5,500 cap. ❖

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Claims Pointer: A court will award reasonable attorneys’ fees to the prevailing party in a contract action involving \$5,500 or less.
