

IN THE OREGON TAX COURT
REGULAR DIVISION
Property Tax

JOSEPH GALL,)	
)	TC 4767
Plaintiff,)	
)	ORDER DENYING DEFENDANT’S
v.)	CLAIM FOR ATTORNEY FEES;
)	DENYING PLAINTIFF’S MOTION
DEPARTMENT OF REVENUE,)	FOR RECONSIDERATION; AND
State of Oregon,)	DENYING PLAINTIFF’S MOTIONS
)	TO ADMIT INTO EVIDENCE
Defendant.)	

I. INTRODUCTION

This matter is before the court on the form of General Judgment and Affidavit in Support of Claim for Attorney Fees prepared by Defendant (the department). In addition, after the trial in this matter was held on September 21, 2006, but before the court rendered its opinion,¹ Plaintiff (taxpayer) filed two motions to admit evidence. After the court issued its opinion, taxpayer filed a Motion for Reconsideration that included objections to the department’s form of judgment.

II. ANALYSIS

A. *Attorney Fees*

The matter of attorney fees is governed by Tax Court Rule (TCR) 68, which states, in pertinent part:

“C.(2) Procedure for Seeking Attorney Fees or Costs and Disbursements.
The procedure for obtaining an award of attorney fees or costs and disbursements

¹ *Gall v. Dept. of Rev.* 19 OTR __ (Nov 22, 2006).

shall be as follows:

“C.(2)(a) Filing and Serving Statement of Attorney Fees and Costs and Disbursements. A party seeking attorney fees or costs and disbursements shall, not later than 14 days after entry of judgment pursuant to TCR 67:

“C.(2)(a)(I) File with the court a signed and detailed statement of the amount of attorney fees or costs and disbursements, together with proof of service, if any, in accordance with TCR 9 C. The detailed statement shall show the amounts claimed in separate categories for attorney fees, accountant fees, witness fees, travel and other expense. The time and services provided by each attorney, accountant and expert witness shall be shown separately for (1) administrative proceedings, (2) preparing for trial and (3) participating in trial; and

“C.(2)(a)(ii) Serve, in accordance with TCR 9 B, a copy of the statement on all parties who are not in default for failure to appear.”

The specific objections by taxpayer to the department’s claim for attorney fees in his Motion for Reconsideration are not well-taken; however, the department’s filing does not meet the standard set forth by the rule. The department’s filing is not a “detailed statement,” which is a statement “marked by abundant detail or by thoroughness in treating small items or parts.” *Beeler v. Dept. of Rev.*, 19 OTR __, __ (Aug 21, 2006) (slip op at 2) (internal quotation marks omitted) (quoting *Thompson v. Long*, 103 Or App 644, 645, 798 P2d 729 (1990)). The affidavit submitted by the department consists of only a general summary of the amount of time spent on the matter and the hourly rates that were charged for that time. Omitting a detailed statement, such as shown with detailed time records, is a “significant” defect that can prejudice an opposing party’s ability to challenge the amount of attorney fees. *Beeler*, 19 OTR at __ (slip op at 2). Accordingly, the department’s claim for attorney fees must be denied.

B. *Motion for Reconsideration*

A motion for reconsideration “should state specific grounds and the authority” on which

the party relies. TCR 80. Taxpayer's Motion for Reconsideration sets forth no grounds or authority upon which the court can conclude that reconsideration should be granted.

Accordingly, the Motion for Reconsideration must be denied.

C. *Motions to Admit into Evidence*

As to taxpayer's post-trial Motion to Admit into Evidence and to Consider the 2006-07 Property Tax Statement and Motion to Admit into Evidence and to Consider the 2006-07 Property Tax Receipt, the record in the matter closed at the conclusion of the trial on September 21, 2006. Both motions are denied.

III. CONCLUSION

Now, therefore,

IT ORDERED that Defendant's claim for attorney fees is denied.

IT IS FURTHER ORDERED that Plaintiff's Motion for Reconsideration is denied.

IT IS FURTHER ORDERED that Plaintiff's Motion to Admit into Evidence and to Consider the 2006-07 Property Tax Statement is denied.

IT IS FURTHER ORDERED that Plaintiff's Motion to Admit into Evidence and to Consider the 2006-07 Property Tax Receipt is denied.

Dated this ____ day of December 2006.

Henry C. Breithaupt
Judge

THIS DOCUMENT WAS SIGNED BY JUDGE HENRY C. BREITHAUPT ON DECEMBER 8, 2006, AND FILE STAMPED THE SAME DAY. THIS IS A PUBLISHED ORDER.