

Case Name	Description
King City Rehab v. Clack. Co., 214 Or App 333 (2007)	Long term care lien perfected after death foreclosed attorney fees
Union Bank of Ca. v. Copeland Lumber, 213 Or App 3008 (2007)	Wrongful death not allowed if decedent recovered from same injury
Sackos v. Great West Life et al, 213 Or App 298 (2007)	Life insurance beneficiary "overriding question" is decedent intent, not formalities
Gardner v. Gardner, 212 Or App 148 (2007)	Inheritance in dissolution. Donatives intent. Appreciated value.
Cato v. Alcoa-Reynolds Metal et al, 210 or App 721 (2007)	PR has no standing to consent workers comp. determination
D'Amico v. Ellingwood, et al, 209 Or App 713 (2006)	Collateral attack on non-paternity determination by child
Slusarenko v. Slusarenko, 209 Or App 307 (2006)	Full case is in undue influence file. ORS 112.305 - will in contemplation of marriage. Will executed 2 weeks before marriage was in contemplation.
Caba v. Barker, 341 Or 534 (2006)	Liability of attorney preparing will when will successfully contested
Macland v. Allen, 207 Or App 420 (2006)	Declaratory judgment re property not in probate inventory. Laches.
Lind v. Lind, 207 Or App 56 (2006)	Inheritance on dissolution
Juarez v. Windsor Rock Products, 341 Or 160 (2006)	Wrongful death. Workers comp contract over remedy clause
Olesberg v. Olesberg et al, 206 Or App 496 (2006)	Inheritance in dissolution.
Berg v. Hirschy, 206 Or App 472 (2006)	Declaratory judgment dismissed when dependent in future determinants by tax authorities.
Brown v. Brown, 206 Or App 239 (2006)	Declaratory judgment in probate subject to normal non-probate rules of pleadings & procedure. Discussion of trust creation. Constructive trusts.
Osborne v. Nottley, 206 Or App 201 (2006)	Clean hands & transfers in fraud of creditors
Webster v. Harmon, 205 Or App 196 (2006)	Except for service of summons, whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon such party and the notice or paper is served by mail, 3 days shall be added to the prescribed period. However, in 2002, the legislature amended ORCP 10 A to provide that "[this section does not apply to any time limitation governed by ORS 174-120]"
Graves v. Tulleners, 205 Or App 267 (2006)	Rescission of agreement to apportion wrongful death proceeds.
Busch v. Zalokar et al, 203 Or App 349 (2005)	Wrongful death PR cannot settle without court approval
Jantzen Beach Assoc. v. Jantzen Dynamic, 200 Or App 457 (2005)	Common-law action of assumpsit
Roley v. Sammons, 197 Or App 349 (2005)	Will cannot limit statutory authority of probate court; Appeals - Order re right to share not appealable when claim for relief not "presented"
Betz v. Ganos, 196 Or App 5 (2004)	ORCP applied to motion to amended without discussion of ORS 111 procedure
Kunze v. Kunze, 337 Or 122 (2004)	Inheritance on dissolution
Kerr v. Jones, 193 Or App 682 (2004)	FED not available without landlord/tenant relationship
Caba v. Barker, 193 Or App 768 (2004)	REVERSED ON APPEAL. (Attorney liability to intruded devisee for negligence & contract when will successfully contested.
Wilmes Trucking v. Cumberland Casualty et al, 193 Or App 47 (2004)	Procedures to recover on bond.
Ramirez v. Lembcke et al, 191 Or App 70 (2003)	Claim & action filed against decedent after death
Johnstone v. Zimmer, 191 Or App 26 (2003)	Will contest settlement enforcement
Smith v. Caldwell, 188 Or App 456 (2003)	Appeals - Heirship determination not final judgment absent declaratory judgment
Wilkinson v. Public Emp. Retirement Board, 188 Or App 97 (2003)	PERS beneficiary not changed by divorce
Lind v. Lind, 187 Or App 551 (2003)	Litigation over option in will to PR. Time essence issue. Fiduciary duty of PR
Owen v. Zorn Farms, 186 Or App 199 (2003)	Interpretation of ambiguous will from "four corners". Portion of land where trustee restricted on sale of land.
Cessna v. Chu-R & T Inc., 185 Or App 39 (2002)	In Amundson, we held that an order removing a personal representative in a probate proceeding and appointing a substitute personal representative was appealable under former ORS 19.010(2)(a)
McClain v. Hardy, 184 Or App 448 (2002)	Express exclusion under will does not exclude intestacy
Newton v. Bank of the West et al, 83 Or App 347 (2002)	Joint accounts. Interpleader by bank

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Rawls v. Evans et al, 182 Or App 75 (2002)	Powers & jurisdiction of probate court over estate assets
Bessett v. Huson, 179 Or App 69 (2002)	Renunciation of debt effective at death requires delivery
Kotera v. Daich Int'l USA, 179 Or App 253 (2002)	A person commits the crime of misapplication of entrusted property if, with knowledge that the misapplication is unlawful and that it involves a substantial risk of loss or detriment to the owner or beneficiary of such property, the person intentionally misapplies or disposes of property that has been entrusted to the person as a fiduciary.
Kidder v. Olsen, 176 Or App 457 (2001)	Will interpretation. Extrinsic evidence. Ambiguity
Roger v. Roger, 175 Or App 540 (2001)	Future interest in living trust on dissolution
Kahn v. State of Oregon et al, 173 Or App 127 (2001)	Wrongful death damages. Loss of services = economic damages
Fleenor v. Williamson, 171 Or App 599 (2000)	Disclaimer not revocable on account of error in understanding effect
Trotts v. Trotts et al, 170 Or App 714 (2000)	Effect of death on pending dissolution
Israel v. Feiss et al, 167 Or App 113 (2000)	Interpretation of will future interests
Webber v. Olsen et al, 330 Or 189 (2000)	Former wife beneficiary in life insurance; reversed on appeal
Bridge v. Bridge, 166 Or App 458 (2000)	We must determine whether the prenuptial agreement is enforceable and is relevant to the issues in the dissolution proceeding
In re Howser, 329 Or 404 (1999)	Preparation of will by partner creates conflict in later opposing litigation
Sheldon v. Sheldon et al, 163 Or App 256 (1999)	Joint & mutual will. Right of next spouse to elect against will. Elective share calculation. Joint assets with spouse & constructive trust.
Jackson v. Jackson et al, 162 Or App 654 (1999)	Life Insurance. Constructive trust for children when decree requires children to be beneficiaries.
Allen v. Hall, 328 Or 276 (1999)	Tort of intentional interference with prospective inheritance
State of Oregon v. Payne, 157 Or App 612, 1998	State exempt from probate claim time limits. OVERRULED BY 1999 LEGISLATION
Webber v. Olsen et al, 157 Or App 585 (1998)	Life insurance beneficiary designation
Kirkeby v. Mille Lacs Health System et al, 157 Or App 309 (1998)	Rev. Den 328 or 365 (1999) Dependant relative revocation. Execution of will. Election against will filed after death of spouse. Ambiguity
Lwewllen v. Timmerman, 154 Or App 567 (1998)	Adoption. Collateral attack.
In re Stauffer, 327 Or 44 (1998)	Conflict disclosure for beneficiary/PR. Reasonable fee. Attorney personal interest conflict. Representative, PR while pursuing fee against estate. PR not estate, is client.
Wharff v. Rohrback, 152 Or App 68 (1998)	Removal of PR for conflict. (PR driver of car in which decedent died)
Widing v. Widing, 149 Or App 451 (1997)	Probate appeals
Springer v. Gollyhorn, 146 Or App 389 (1997)	Judgment prior to final decree not appealable
Whisnant v. Whisnant, 145 Or App 87 (1996)	Gift causes mortis
Walker v. Walker, 145 Or App 144 (1996)	Execution of will by directing another to sign
Castro v. Ogburn, 140 Or App 122 (1996)	Pending litigation at death - substitution of PR
Worthen v. Lumbermen's Underwriting et al, 137 Or App 368 (1995)	Wrongful death proceeds allocation workers comp
Burk v. Burk, 137 Or App 197 (1995)	Wrongful death apportionment. Estranged spouse v. parents. Calif. PR for Calif. Domiciled decedent
Wheeler v. Williams et al, 136 Or App 1 (1995)	Claims. Appointment of PR after expiration of time to sue does not _____ back to filing suit
In re Altstadt, 321 Or 324 (1995)	Taking attorney fees without court approval. Conflict in representing PR while debt owed to estate.
Amundson v. Brookshire, 133 Or App 450 (1995)	Order re appointment of PR is appealable
Thomas v. State of Oregon et al, 319 Or 520 (1994)	Statutory interest payable on claim six months after publication. Even if claim does not mention interest.
Wood et al v. Medical Research et al, 130 Or App 114 (1994)	Extrinsic evidence was not admissible to show circumstances under which will was made, where language of will was unambiguous
Smith v. Wells et al, 128 Or App 492 (1994)	Action against decedent. Commenced after death. Proper defendant. Service of administrator
Myers v. Weems, 128 Or App 444 (1994)	Joint ownership. Setting aside testamentary substitute
Reutter v. RWS Construction, 128 Or App 365 (1994)	Renewal of judgment in decedents name distributed from estate
Johnson v. Manders et al, 127 Or App 147 (1994)	Personal representative ___ distinct ___ entity.
Heiller v. Nelson, 127 Or App 189 (1994)	Claims -- Judgment lien priority
Kassahn v. Kassahn, 126 Or App 158, 1994	Joint & mutual will. Constructive trust

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First Interstate Bank v. Young et al, 121 Or App 1 (1993)	Ambiguity in will
Kidney Assoc, of Oregon v. Ferguson et al, 315 Or 135 (1992)	Attorney conflict
Holst v. Purdy, 117 Or App 307 (1992)	Removal of PR
Wilkinson v. Higgins, 117 Or App 436 (1992)	Domestic claimed partnership with decedent
Roe v. Pierce et al, 313 Or 228 (1992)	Appellate jurisdiction of wrongful death allocate specific statute
Scarlett v. Hopper, 110 Or App 457 (1992)	Scrivener's error in will
Grove v. Selken, 109 Or App 668 (1991)	Delivery as objective manifestation of donative intent is necessary, because it is way that donor gives up owner to revoke the gift. Probate court had authority to enter judgment imposing personal liability against personal representative for breach of fiduciary duties. ORS 111.095(1), 116.123 . Personal representative could not raise issue whether probate court properly ordered estate to pay objector's attorney fees and costs; representative did not personally have any burden or legally cognizable interest at stake in those payments.
In re Hedrick, 312 Or 442 (1991)	Misrepresentation in petition filed with probate court to the effect that a will was the testator's last will, failing to disclose to probate court existence of later will and sending a demand letter to a person represented by counsel without counsel's consent warrants two-year suspension from practice of law, when considered with aggravating circumstances of long history of disciplinary offenses. DR 1-102(A)(3,4), DR 7-102(A)(3,5), DR 7-104(A)(1)
Moser v. Van Winkle, 10 Or App 398 (1990)	Surcharge - Attorney fees
Roe v. Pierce et al, 102 Or App 152 (1990)	WARNING - 1995 Amendments to ORS 30.020 & 30.075 overrule this case. Wrongful death appointment. Vacated for lack of appellate jurisdiction 313 of 228
Day v. Vitus et al, 102 Or App 97, 1990	Postmarital agreement in which husband waived right to elect against wife's will was enforceable absent showing that husband did not receive fair and reasonable disclosure of wife's property and financial obligations before he signed agreement.
Richardson v. Whitlatch et al, 99 Or App 548 (1989)	Holographic will - proof
Briscoe v. Schneider et al, 97 Or App 352 (1989)	Missing will
West et al v. White, 92 Or App 401 (1988)	Jurisdiction in Oregon; Whether there is property of nondomiciliary testator in Oregon upon which probate will operate and whether nondomiciliary thus may probate will in state depends on situs of property; that determination, in turn, hinges on whether property is real or personal. ORS 113.065(1)
Kohler v. Armstrong, 92 Or App 326 (1988)	Evidence that merely corroborates some details of claimant's testimony but does not in itself constitute prima facie case is insufficient to permit court to allow claim that has been disallowed by personal representative. ORS 115.195
Hale v. Groce, 304 Or 281 (1987)	Alleged intended beneficiary of will brought action against attorney for failing to carry out direction of testator to include gift to beneficiary in will.
Oak v. Pattle et al, 86 Or App 299 (1987)	Held that mother was only parent who sustained loss of society and companionship when daughter died in automobile accident, so that wrongful death settlement was properly apportioned entirely to mother.
Neuschafer et al v. McHale, 76 Or App 360 (1985)	Gifts cause mortis. Cited in Estate of Leda Mae Grove v. Selken 109 Or App 668, 675 (1991)
Williams v. Cover, 74 Or App 711 (1985)	Wrongful death apportionment. Divorced parents
Goeddertz v. Parchen , 299 Or 277 (1985)	Appeals from circuit court sitting in probate
Waybrant v. Bernstein, 75 Or App 550 (1985)	Personal representative seeking to close an estate has an obligation to provide necessary notice of closure to any person that he knows may have unbarred tort claim against the estate. ORS 111.005, 116.093(1)(c,d). Since he did not receive notice, closure order was "void" as to plaintiff.
Rogers et al v. Rogers et al, 71 Or App 133 (1984)	General rule is that attorney fees cannot be awarded unless provided by statute or contract, but they may be awarded to party who at his own expense and not for his sole benefit successfully brings suit which benefits an estate or trust as a whole. Where result of successful challenge to will by respondents, sons of decedent, was to eliminate testate share of one beneficiary and substitute a reduced intestate share and to entitle respondents to intestate share of the estate, respondents being the only parties to gain from the will contest, trial court properly denied attorney fees to respondent. ORS 111.005(20), 112.235; ORCP 68C.(2)
Schaad v. Lorenz et al, 69 Or App 16 (1984)	___ to ___ will. Attorney fees for non-PR.
Waybrant v. Bernstein, 294 Or 650 (1983)	See Court Of Appeals on Remand 75 Or App 550 (1985). Decree closing estate was void as to him because he had not received notice from personal representative prior to decree; therefore, Court of Appeals erred when it dismissed plaintiff's appeal for being, as matter of law, from nonappealable order denying him motion to reopen estate, without determining whether plaintiff had established that prior decree closing estate was in fact void as to him. ORS 19.010(2)(c), 116.233
Hempe v. Hempe, 54 Or App 490 (1981)	Effect of property settlement agreement pending entry of dissolution not done before death

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Vander Galien v. Vander Galien, 47 Or App 233 (1980)	Priority or appointment as personal representative. Widow v. parent
Hughes et al v. White, 289 Or 13 (1980)	Although beneficiaries of wrongful death action had a right to be heard regarding allegations of proceeds of a settlement, they did not have a right to participate in proceedings for approval of settlement negotiated by decedent's personal representative with alleged tortfeasor and therefore approval of such settlement without notice to beneficiaries did not deprive them of rights they were entitled to under wrongful death statutes.
LaGrand et al. v. LaGrand et al, 47 Or App 81 (1980)	Generally, a will speaks for itself and resort to extrinsic evidence may not be had to ascertain a testator's intent. Extrinsic evidence is admissible to reveal latent ambiguity in words of testator, and a court will then construe will in light of this extrinsic evidence. Where attorney drafted will exactly as testator directed, error, if any, in will did not involve a "scrivener's error" and thus could not be corrected under rule that scrivener's errors may be corrected.
Brune v. Or. State Board of Higher Educ., 44 Or App 449 (1980)	Marking on original will
Decker v. Wiman, 288 Or 687 (1980)	A court making a declaration of heirship must have jurisdiction over all interested persons prior to any determination of their legal rights.
Hunter v. Hunter et al, 287 Or 465 (1979)	Attorney fees of personal representative.
Reynolds v. Givens, 37 Or App 785 (1978)	Even if a personal representative and his attorney have doubts about the validity of will, there is no justification for failing to disclose to the court the existence of a purported will when it is known to them.
Raymond et al v. Lillegard, 35 Or App 225 (1978)	Ambiguity allowing extrinsic evidence.
Kempf v. State Accident Ins. Fund, 34 Or App 877 (1978)	Equal protection clause does not mandate that legislature treat unmarried couples the same as couples who have chosen to formally alter legal aspects of their relationship by getting married.
Leppanen v. Barber, 29 Or App 561 (1977)	Setting aside decree
Fellows v. Warburton, 276 Or 989 (1976)	Transfers during life not subject to attack by personal representative.
Meyers v. Cessna Aircraft, 275 Or 501 (1976)	Burk v. Burk 137 Or App 197 (1995) Foreign PR brought wrongful death in Oregon Court applied Oregon apportionment without comment or issue.
Schrei v. Frye, 25 Or App 191 (1976)	A proceeding in "common form" is and ex parte proceeding instituted by personal representative or other proponent of will for purpose of securing admission of instrument offered as valid will. A proceeding in common form is means by which a will is to be "proved" in Oregon. One seeking to have will admitted to probate in a proceeding in "common form" is not required to provide interested parties with notice of proposed action as prerequisite for obtaining an order admitting will. ORS 113.035
McCormick et al v. Rand et al, 246 Or 606 (1967)	That attorney for two beneficiaries of trust created by decedent's will benefited other beneficiaries by obtaining a reversal of probate court decree holding that rule against perpetuities applied to vitiate trust was not sufficient ground for imposing his fee upon them where he had sought to obtain property in question for sole benefit of his clients, his success would have adversely affected other beneficiaries and he did nothing which resulted in adding any assets.
Erickson v. Palmer et al, 211 Or 342 (1957)	To construe will
Salter v. Salter, 209 Or 536 (1957)	Missing will
State Land Board v. Sovenko et al, 202 Or 571 (1954)	Attorney fees in probate - extensive discussion of cases
Elwert v. Elwert, 196 Or 256 (1952)	No single word in the legal vocabulary is more difficult that "domicil" to define accurately. Failure to perform the duties and avail oneself of the privilege of a citizen in the community of one's new residence constitutes significant facts pointing to no change in domicil. Among these is the failure to pay taxes in the place where he claims domicil.
State Land Board v. McCoy et al, 193 Or 1 (1951)	Class gifts overruled by ORS 112.400
Morse et al v. Paulson et al, 182 Or 110 (1947)	Where bona fide controversy existed as to proper construction of long, complicated will, the necessary and reasonable expenses incurred by the parties were a proper charge against trust estate, including reasonable attorney's fee for plaintiffs, but none of the parties would be allowed costs to either court.
Chappelle et al v. Williams, 152 Or 234 (1936)	Dependent relative revocation
Fitchard v. Estate of Hirschberg et al, 128 Or 316 (1929)	A trustee is not chargeable with interest on trust funds, unless he has used them for his own profit, invested them so as to produce interest, suffered them to lie idle when they might have been invested, needlessly delayed settlement and surrender of property, or otherwise shown want of diligence and good faith. It is the duty of an executor or administrator to prosecute settlement of estate with all reasonable diligence, in default of which he will be charged with interest, on the presumption that he has used the funds of the estate.
In re Estate of Miller, 117 Or 399 (1926)	By enactment the common-law rule prevails in the United States that the right of succession is entirely statutory.
In re Bethel et al, 111 Or 178 (1924)	Claim of PR

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Leet v. Barr et al, 104 Or 32 (1922)	The right to make a testamentary disposition of property is not an inherent, natural or constitutional right, but is purely a creation of statute and within legislative control. Likewise, the right to take by devise or inheritance exists by grace of the statute: Otto v. Long
Simpson v. Durbin, 68 Or 518 (1914)	A holographic will. Where a will probated in short form is contested, the proponents must re-probate the same de novo by original proof, but the contestant's petition may waive or admit some of the necessary facts attending the probate, in which the petition contesting a will specifically attacked it on the ground that it was not properly attested and that it was executed by reason of the beneficiary's undue influence, the issues of testamentary capacity and of the execution of the will be the decedent are waived.