

Filing a Motion for Relief from Failure to Appear Judgment on a Violation

Under Oregon law ORS 153.102, the court may enter judgment against a person who does not appear on a citation for a violation. Judgments entered under ORS 153.102 are termed “default” judgments and impose a fine that a Defendant must pay. Failure to pay a judgment will result in the case being sent to a collections agency and additional fees.

Oregon law allows you to request that the default judgment be set aside. This is the same thing as asking a judge to remove the conviction from your driving record and restart your case with a new deadline for you to enter a plea (tell the court how you want to handle the citation).

Pursuant to ORS 153.105, this request must be made within one year from the date of entry of the judgment. You must establish that your failure to appear was due to “mistake, inadvertence, surprise or excusable neglect” in order for the court to set aside the judgment. You may use the motion and declaration supplied to you with these instructions. **Complete page 1 below, and all of page 3.** If you are unable to effectively read or write English at a 12th grade high school level or you have a disability that prevents you from submitting the written motion, you may request an alternative method to the motion. Contact the court to request an accommodation at 541-388-5572 press 9. There is a \$50 Motion Fee, a \$26 fee to vacate, and \$15 suspension fee. All fees must be paid prior to the judge reviewing your motion.

You must submit this completed packet, including this instruction sheet in one of three ways:

1. Electronically to bendmunicourt@bendoregon.gov
2. Drop off at the courthouse drop box at 555 NE 15th St, Bend, OR 97701
3. Send via U.S. Mail to: 555 NE 15th St, Bend, OR 97701

A judge will consider the motion. The judge may grant or deny the motion without a hearing. If the court requires a hearing, you will be notified and must appear at the hearing to provide further information to the court in support of the motion. The Court may also deny the motion and leave the judgment in full force and effect. **If the motion is granted by the judge, the case will not be dismissed.** You will still be required to respond to the citation with a plea by the new deadline given (arraignment date).

Allow 15 days after filing the motion before inquiring with the Court regarding the judge’s decision on your motion. When the judge makes a decision about your case, you will be mailed the written order. **You must always keep the court up to date of your mailing address.** For questions, contact the Bend Municipal Court at 541-388-5572, Press 9.

IN THE MUNICIPAL COURT OF THE CITY OF BEND, IN THE COUNTY OF
DESCHUTES, STATE OF OREGON

CITY OF BEND,

vs.

Plaintiff,

Defendant.

**DEFENDANT'S MOTION FOR
RELIEF FROM DEFAULT
JUDGMENT AND CONVICTION**

Citation # _____

Pursuant to ORS 153.102 and 153.105, Defendant moves this court for an order granting Relief from a Default Judgment in the above case. This motion is supported by the attached declaration which states forth the defendant's grounds for relief from the judgment.

Dated: _____

Points and Authorities: ORS 153.102 and ORS 153.105

Respectfully submitted,

Defendant's Signature

Address _____

Phone _____

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CITY OF BEND,

vs.

Plaintiff,

Defendant.

**DEFENDANT'S MOTION FOR
RELIEF FROM DEFAULT
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Citation # _____

AFFIDAVIT OF DEFENDANT

I, _____, the above Defendant, under oath, does affirm:

I HEREBY DECLARE AND AFFIRM THAT THE ABOVE STATEMENT IS
TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND IT IS MADE
FOR USE AS EVIDENCE AND IS SUBJECT TO THE PENALTY OF PERJURY.

DATE: _____

DEFENDANT'S SIGNATURE

IT IS ORDERED, based upon the Motion and Affidavit of the Defendant, the Relief from Default Judgment and Conviction Motion is:

GRANTED. IT IS HEREBY ORDERED that the Failure to Appear Default Judgment and Conviction is vacated. **Defendant's new arraignment date is attached.**

Rescind Conviction

Rescind Suspension

Release from Collections

Other relief:

DENIED. IT IS HEARBY ORDERED that if Defendant has not already done so, they must pay the remaining fines and fees in full or sign up for a payment plan immediately.

DATED: _____

Bend Municipal Court Judge