

## FAILURE TO APPEAR

### Filing a Motion for Relief from Failure to Appear Judgment on a Parking Citation

Under Oregon law, the court may enter judgment against a person who does not appear on a parking citation. ORS 153.820. Because the bail amount **doubles** if the defendant does not appear within 30 days from issuance of the ticket, a person who posts only the **original** bail amount after the 30 day period has expired and the bail has doubled has not made an “appearance” as required by court rule. Supplementary Local Rule 17.015 and 17.067. Judgments entered under ORS 153.820 are termed “failure to appear” judgments and the financial obligation imposed on the judgment is the full amount of the bail due. The judgment is owed to the State of Oregon.

A failure to appear judgment based on a parking citation does not become a lien on real property of the debtor, but failure to pay the judgment will result in referral of the judgment to the Oregon Department of Revenue (DOR) or to a private agency for collection.

Oregon allows you to request that the failure to appear judgment be set aside. Pursuant to ORS 153.820(7), this request must be made within one year from the date of entry of the judgment. You must establish good cause for the court to set aside the judgment. For a judge to consider whether relief should be granted you need to accomplish the following steps using the form of motion and affidavit supplied to you with these instructions.

- (1) You must file the motion requesting relief from the judgment and the motion must be supported by a sworn statement, an affidavit. The sworn statement must set out the reasons why you are entitled to relief from the judgment. After you have prepared the affidavit, do not sign it. Follow the instructions in (2).
- (2) Once you have completed the affidavit, you need to have your signature witnessed by either a clerk of the court (located in Room 106 of the Multnomah County Courthouse) or in front of a Notary Public in Oregon. You will need to show photo identification to either the clerk or the notary.
- (3) Fill out the motion requesting relief from failure to appear judgment. Fill in the blanks on the top half of the motion: case number(s), your name, day, month, year and your signature. Do NOT fill out the court order on the bottom half of the page.
- (4) You must deposit with the court the full amount of the financial obligation which remains outstanding in the judgment. This deposit, which will be held in the court’s trust account, must accompany the motion and affidavit for relief at the time of filing with the court. The motion and affidavit will not be submitted to a judge for review unless the full amount of the financial obligation is deposited into court at the time the motion is filed. Payment may be made by cash, check, money order or credit card. [Note: Cash and credit card payments must be made at the courthouse, not by mail].
- (5) File the original motion and affidavit, together with the required deposit of the remaining financial obligation, with the court, either by mail or by personally appearing at the Parking Citation Office, Room 106, Multnomah County Courthouse, 1021 S.W. 4<sup>th</sup> Avenue, Portland, OR, 97204. The mailing address is: Multnomah County Circuit Court, Parking Citation Office, P. O. Box 78, Portland, OR 97207-0178.

A clerk of the court will set the motion for a judge to consider. The court may allow or deny the motion without a hearing, or may require 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.

If the court allows the motion, the court will set aside the failure to appear judgment and order the clerk of the court to set the case(s) for trial and notify the parties of the date set for the trial. The money posted with the motion will be held by the court until the conclusion of the case.

The court may deny the motion and leave the judgment in full force and effect. In addition, if the court denies the motion, the court may order that money posted with the motion is to be applied to the judgment owed the State.

Allow 60 days after filing the motion and affidavit before inquiring with the Parking Citation Office, regarding the judge’s decision on your motion. The telephone number to the Parking Citation Office is: (503) 988-3235, Option 2.

**IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR MULTNOMAH COUNTY**

STATE OF OREGON,	)	Case No. _____
	)	
Plaintiff,	)	
	)	
vs.	)	<b>AFFIDAVIT IN SUPPORT OF</b>
	)	<b>MOTION FOR RELIEF FROM</b>
	)	<b>FAILURE TO APPEAR JUDGMENT</b>
_____	)	
Defendant.	)	

I, \_\_\_\_\_, the above-named defendant, under oath, depose and say:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Defendant's Signature

Signed and affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Clerk of the Court/Notary Public  
My Commission Expires:

\_\_\_\_\_  
Print Defendant's Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/State/Zip

\_\_\_\_\_  
Phone Number

**IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR MULTNOMAH COUNTY**

STATE OF OREGON,	)	Case No. _____
	)	
Plaintiff,	)	
	)	
vs.	)	<b>MOTION FOR RELIEF FROM</b>
	)	<b>FAILURE TO APPEAR JUDGMENT</b>
	)	<b>AND ORDER</b>
_____	)	
Defendant.	)	

Defendant moves this court for an Order granting relief from a failure to appear judgment in the above-entitled case. The motion is supported by the attached affidavit which sets forth the defendant's ground for relief from the judgment.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Respectfully submitted,

\_\_\_\_\_  
Defendant's signature

Points and Authorities:  
ORS 153.820(7) [parking statute]:

Supplemental Local Rule 17.067 [parking court rules].

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**THE FOLLOWING PORTION IS TO BE COMPLETED BY THE JUDGE**

**ORDER ON MOTION FOR RELIEF FROM JUDGMENT**

The Court, having reviewed the sworn affidavit of the defendant, FINDS:

- The affidavit set forth sufficient grounds upon which relief from the judgment entered under ORS 153.820 and the motion is granted.
- The affidavit does not set forth sufficient grounds required by ORS 153.820(7) for relief from the judgment, the motion is denied.
- The defendant's motion was not filed within one year of the entry of judgment under ORS 153.820, relief from the judgment is not permitted by law, and the motion is denied.

NOW, THEREFORE, THE COURT ORDERS that:

- The judgment is set aside, the clerk shall set the action for trial and notify the parties of the date set and the bail posted is continued, pending final resolution of this action.
- The judgment remains in full force and effect and the bail posted is to be applied to the judgment.
- Other: \_\_\_\_\_

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Judge's Signature