

INSTRUCTIONS FOR
MOTION AND ORDER TO SET ASIDE DISMISSAL
AND FOR LEAVE TO SERVE PETITION

Forms Included:

- Motion to Set Aide Dismissal And For Leave to Serve Petition
- Affidavit supporting Motion to Set Aide Dismissal And For Leave to Serve Petition
- Order on Motion to Set Aide Dismissal And For Leave to Serve Petition

The attached forms are to be used by a Petitioner in an original Dissolution, or other family law case who wants to reinstate a Petition that was dismissed by the court because the Petition was not served within a reasonable period of time. Do not use this form for post-judgment Motions to Modify.

GENERAL INSTRUCTIONS

Print legibly and use black ink.

On each document, fill out the caption exactly as it appears in the original case filing, including the case number.

On the last page of each document, you will find a “certificate of document preparation” that looks like this:

CERTIFICATE OF DOCUMENT PREPARATION

I certify that the following statement is true:

1. I selected this document for myself, and I completed it without paid assistance.
2. I paid or will pay money to _____ for assistance in preparing this document.
3. I was provided this document by a lawyer and I completed it without paid assistance.

Dated: _____

 Petitioner Respondent, Pro Se

Check the appropriate box, then sign and date the certification.

On most pages you are asked for your address and telephone number. You must give a contact address and telephone, which may be your own. However if you do not wish the other side to know your address, you may give the address of some person who can be relied upon to get mail and messages to you promptly.

Instructions for Motion to Set Aside Dismissal

1. Fill in the blanks at the top of the page exactly as they are shown on the original papers in this case. Spell each person's name exactly as shown in the original. Be sure to put in the court case number. Check whether you are the Petitioner or the Respondent at the top right of the page and throughout the document where indicated. This will not change from the original filing.
4. Paragraph 1: Print your name in the first line. Print the date of the dismissal order where indicated.
5. Date and sign the form.
6. Complete the certification at the bottom of the page and print your name, address and phone number on page 2.

Instructions for Affidavit for Motion to Set Aide Dismissal

1. Fill in the blanks at the top of the page exactly as they are shown on the original papers in this case. Spell each person's name exactly as shown in the original. Be sure to put in the court case number.
2. Paragraph 1: Print your name.
3. Paragraph 2: Explain in clear detail why you did not serve the Petition when it was first filed, and why you should be allowed to serve it now instead of starting over with the filing of a new Petition.
4. Fill in your addresses and telephone number.
5. Your signature must be notarized.
6. Complete and sign the Certificate of Completion.

Instructions for Proposed Order on Motion to Set Aside Dismissal

1. Fill in the blanks at the top of the page exactly as they are shown on the original papers in this case. Spell each person's name exactly as shown in the original. Be sure to put in the court case number.
2. Sign the Certificate of Document Preparation, and print your name, address and other information requested.

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IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR DOUGLAS COUNTY

In the Matter of [the Marriage of])
)
_____,)
Petitioner,)
and)
_____,)
Respondent.)

Case No. _____

**MOTION TO SET ASIDE
DISMISSAL AND FOR LEAVE TO
SERVE PETITION**

Comes now Petitioner _____ and, based upon the following Points and Authorities and the attached Affidavit, moves the court for an Order setting aside the order of dismissal entered on the _____ day of _____, 20____ in the above captioned case, on the grounds of mistake, inadvertence, surprise or excusable neglect.

DATED this ____ day of _____, 20____.

Petitioner, pro se

STATEMENT OF POINTS AND AUTHORITIES

ORCP 71B(1) allows the court to relieve a party from a judgment or order for mistake, inadvertence, surprise or excusable neglect when accompanied by a pleading containing an assertion of a defense. In the case of an involuntary dismissal for failure to prosecute, a party should be able to meet the intent of that rule by submitting the next appropriate pleading.

- I certify that: (check all that apply)
- I selected this document for myself.
 - I was provided this document by an attorney.
 - I completed this document without paid assistance.
 - I paid or will pay money to _____ for assistance in preparing this document/form.

(signature)

1 Submitted by:

2 _____
(signature) Petitioner, pro se

3 _____
(print name)

4 _____
(mailing address)

5 _____
(street address)

6 _____
(city, state, zip code)

7 _____
(area code/phone)

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6 The facts stated in this Affidavit are true and correct to the best of my
7 knowledge and belief.

8 DATED _____

9 _____
10 (signature) Petitioner, pro se
11 _____
12 (print name)
13 _____
14 (mailing address)
15 _____
16 (street address)
17 _____
18 (city, state, zip code)
19 _____
20 (telephone)

21 SUBSCRIBED AND SWORN TO before me by _____,
22 Petitioner herein, this _____ day of _____, 20____.

23 _____
24 Notary Public for Oregon / Court Clerk
25 My Commission Expires: _____

26 [Notary Seal]

27 I certify that: (check all that apply)
28 I selected this document for myself.
29 I was provided this document by an attorney.
30 I completed this document without paid assistance.
31 I paid or will pay money to _____ for assistance in preparing this
32 document/form.

33 _____
(signature)

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IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR DOUGLAS COUNTY

In the Matter of [the Marriage of])
)
_____,)
Petitioner,)
and)
_____,)
Respondent.)

Case No. _____

**ORDER ON MOTION TO SET ASIDE
DISMISSAL AND FOR LEAVE TO
SERVE PETITION**

Based on the motion and affidavit of Petitioner, and good cause appearing
therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

Petitioner's Motion to Set Aside Dismissal and for Leave to Serve Petition be and the
same is hereby GRANTED.

MOTION DENIED.

DATED this ____ day of _____, 20____.

CIRCUIT COURT JUDGE _____

- I certify that: (check all that apply)
- I selected this document for myself.
 - I was provided this document by an attorney.
 - I completed this document without paid assistance.
 - I paid or will pay money to _____ for assistance in preparing this document/form.

(signature)

///

1 Submitted by:

2 _____
(print name) Petitioner, pro se

3 _____
(mailing address)

4 _____
(street address)

5 _____
(city, state, zip code)

6 _____
(area code/phone)

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