

FILING FOR CONTEMPT

What these forms do

These contempt forms may be used when one party has failed to comply with (obey) an order or judgment by the court. They are for “remedial” sanctions only - “punitive” sanctions may only be requested by certain authorized attorneys. (*Remedial sanctions that you can request against the other party are listed in paragraph 3 of the Complaint and Ex Parte Motion for Order to Show Cause for Contempt and Supporting Declaration form*).



IMPORTANT:

- These forms do **not** allow you to ask the court to put the other party in jail for violating the order or judgment. If this is a sanction you want to request, you will most likely need the assistance of an attorney.
- To get a judgment for contempt and sanctions imposed against the other party, you must file your Complaint and Motion for Order to Show Cause **within two years** of the date when the other party failed to comply with (obey) the order or judgment at issue. If you file after more than two years, the court will not be able to award a judgment of contempt or impose sanctions against the other party.
- These forms are NOT meant to be used to enforce child support awards or custody or parenting time orders. However, they may be used to enforce spousal support awards. If you have child support enforcement issues and are receiving services through the Oregon Division of Child Support, you should contact them by calling their 24 hour information hotline (800) 850-0228 inside Oregon, (503) 378-5567 outside Oregon, or on the Internet at <http://www.oregonchildsupport.gov>. If you have custody, or parenting time enforcement issues, you will need to either contact an attorney or use the forms provided by your local court.
- **Check with your local court or your court’s family law facilitator to make sure you have followed the procedures and used the correct forms for your court. Many courts have their own forms and rules.** *Information about how to contact your local court may be found at the Oregon Judicial Department website: <http://courts.oregon.gov>.*

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I. General Information:

A. Use black or dark blue ink and print or type when you fill out your forms.

B. File the original forms with the clerk. You should always make yourself an extra copy before you file any form with the clerk.

C. Keep the court informed of your current address. It is your responsibility to keep the court informed of your current address. **You are not required to use your residential address on any court form.** You may use a contact address where you regularly check in. **Your contact address will become public information.** Please make sure you use an address that is okay for other people, including the other party, to know. It must be an address in the state where you live where you can receive mail. If you use a contact address, the court will assume that you will receive all notices sent to that address.

D. Case Heading. Make sure you fill in your full names in the blanks at the top of the forms (first, middle or middle initial, last). Print the names the same way on all of the forms. You will be the Plaintiff, and the other party is the Defendant.

E. Case number. The clerk will give you a new case number when you file your papers. Don't fill out this part of the case heading until that time. Make sure you put the case number on all your copies and papers you file with the court.

F. Underlying Case. In the first paragraph of the Complaint, you must provide the case number from the underlying judgment or order you are seeking contempt on and, indicate whether you are the petitioner or respondent in that case.

G. Optional Forms. (*Available upon request*) Application, Declaration and Order for Waiver or Deferral of Fees. This form allows you to defer payment of the filing fees until final judgment if you are unable to pay the fees at the time you file your motion.

II. Completing the Documents

You must fill out the following forms:

A. Starting your Case.

1. Complaint and Ex Parte Motion for Order to Show Cause re Contempt and Supporting Declaration. When filling out Paragraph 3 (Relief Requested), you will need to select the sanction(s) that you want the court to order against the other party. The relief you ask for in the Complaint cannot be easily changed later in the process so be careful in choosing what sanctions you ask the court to order against the other party. If you change your mind and want to change the type of sanctions you have asked for, you will have to file a motion to add the new provisions and serve it on the other party.

2. Order to Show Cause. Fill in the case caption at the top of the page and the "submitted by" section at the bottom of the page. The judge will complete the rest.

B. Have your documents reviewed.

Please have your documents reviewed by either the Family Court Assistance Office or your lawyer. You may schedule an appointment for the Family Court Assistance Office to review your documents by calling 541-682-4302 or by emailing LANFamilycourt@ojd.state.or.us.



III. Filing and Serving the Documents.

A. File the forms with the clerk.

When you have finished filling out your forms, you must submit them to the Court for a Judge to review the *Complaint* and sign the proposed *Order*. Lane County Supplementary Local Rule (SLR) 2.501 sets for the procedures for presenting these forms to a Judge for signature. You should make one copy of the forms you file with the clerk for your own record.

Payment of fees. When you file your contempt complaint, you must pay a filing fee. You may ask the court to defer payment of this fee, by filling out an “Application, Declaration and Order for Waiver or Deferral of Fees” form. You may obtain the form and a fee schedule from the court clerk or the Family Court Assistance Office. You must be prepared to either pay the filing fee or submit the completed *Application* at the time you file your *Petition*. (If the court “defers” your fee, you will be required to pay all deferred fees back to the court at a later date.)

B. Serve the Defendant. After the judge has signed the ORDER, a “true copy” of the COMPLAINT and DECLARATION with MOTION, and ORDER must be “served” on (personally delivered to) the other party to inform them that the court will hold a hearing and that they have a right to appear and challenge your COMPLAINT. This is called “service.” Service must be done **after** the *Order* is signed.

THREE CRITICAL POINTS:

- If you serve before you file, you will have to serve the papers again
- You **CANNOT** serve the papers yourself
- If Defendant has a lawyer, you should also mail a courtesy copy of the papers to the lawyer

1. Personal Service:

- a. By Process Server: Take a copy of your papers to the sheriff’s office in the county where Defendant is located and have a sheriff’s officer serve the papers. The sheriff’s office charges a fee for service. You can also hire a private process server of your choice.
- b. By a Non-Party: Have a competent* person 18 years or older who is a resident of Oregon **and who is not a party** to the case (Plaintiff or Defendant), **nor** the lawyer of a party, serve the papers. The server cannot be an employee of any party. If the defendant is outside of Oregon, the server can be a resident of the state where the defendant is. If you have safety concerns, have the sheriff perform service.

*Competent means a person who can understand, remember, and tell others about an event.

A ***Certificate of Service*** must be filed with the court by whoever serves the defendant. The certificate must include the date of service and the name of the person served.



IV. The Hearing and the Judge's Ruling

Show up and attend the hearing at the time it is scheduled with the witnesses and evidence you would like to. Bring the proposed GENERAL JUDGMENT form with you to the hearing. During the hearing, the judge may issue a judgment or order of further appearance, depending on the issues involved in your case and whether or not the other party shows up for the hearing. If the other party does not attend the hearing, the court may grant the relief you requested or, in some circumstances, issue a warrant to compel that party's appearance. At the hearing, the judge will either grant or deny the relief requested in whole or in part.

V. If you are the Responding Party (Defendant)

STEP ONE - Filling Out the Response

- A. Fill out the form called "DEFENDANT'S RESPONSE to COMPLAINT for CONTEMPT.
- B. If you AGREE with all or part of the requested relief, complete Paragraph 1. If you agree with only part of the requested relief, explain what you disagree with in the portion of Paragraph 1 that begins: " except as follows: _____." Do NOT complete Paragraph 2.
- C. If you DO NOT AGREE with the requested relief, complete Paragraph 2 by marking the same boxes that appear in the other party's MOTION and explaining why you disagree with each request.
- D. If you were unable to comply with the court's order or judgment, explain why in Paragraph 3.
- E. Make two copies of your forms. One is for your records and the other is to send to the other party.

STEP 2 - Filing and Mailing the Forms

Make two copies of the completed forms. One for your records and one for Plaintiff. **Mail** a copy of your RESPONSE to the other party, or his/her attorney by US mail. **THEN** fill out the ***Certificate of Mailing*** at the bottom of the *Response*. File your original Response with the circuit court.

STEP 3 - The Court's Ruling on the Motion

Show up and attend the hearing at the time it is scheduled. During the hearing, the judge may issue a judgment or order of further appearance.

IMPORTANT: If you do not attend the hearing, the court may issue a warrant to compel your appearance. The judge will either grant or deny the relief requested in whole or in part.

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

Case No:

Plaintiff,

and

Defendant.

**COMPLAINT and DECLARATION
in SUPPORT of EX PARTE
MOTION FOR ORDER TO SHOW
CAUSE RE: CONTEMPT**

Complaint and Declaration in Support of Motion

I, Plaintiff do solemnly swear or affirm:

1. There exists a judgment entered by the Lane County Circuit Court:
 - A. Title of Order or Judgment: _____
 - B. Date Entered: _____
 - C. The underlying case number is _____, in which I
am Petitioner Respondent
 - D. As described below, the Defendant has failed to follow the above-described order or
judgment and Plaintiff seeks remedial sanctions as set forth below
 - E. It has been within the other party's power to follow the court's order or judgment
 - F. Not more than two years have passed since the occurrence of the act or omission that
constituted the contempt

2. Required Description of Failure to Comply with Order or Judgment:

Defendant failed to comply with (follow) the terms of the order or judgment as follows (*Explain the acts or behaviors that show how the order or judgment was not followed, and provide the dates*)

Additional Page Attached

3. Requested Relief (*Check all boxes that apply*):

Plaintiff is seeking the following remedial sanctions as authorized by ORS 33.105:

- A. Payment of money sufficient to compensate Plaintiff for any loss, injury or costs
suffered as the result of contempt of court in the amount of \$ _____
Describe the loss, injury or costs suffered in detail: _____

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

Case No:

Plaintiff,

and

Defendant.

**ORDER TO SHOW CAUSE
FOR CONTEMPT**
[Personal Appearance Required]

BASED UPON the Complaint and Declaration and Ex Parte Motion of the Plaintiff on file herein, the request for an Order to Show Cause is hereby:

Allowed

Denied _____

IT IS HEREBY ORDERED that Defendant appear in person before the above-entitled Court at the Lane County Courthouse, Lane County Circuit Court, 125 E. 8th Avenue in Eugene, Oregon on the _____ day of _____ 20__ at 9:00 a.m. in courtroom _____, to show cause why an order should not be entered granting the relief requested in the attached Complaint and Ex Parte Motion and Declaration.

Judge Signature:

Certificate of Readiness. This proposed order is ready for judicial signature because service is not required under UTCR 5.100 or because this order is submitted ex parte as allowed by statute or rule.

Submitted by:

Submitting Party, *Print Name*

Telephone or Contact Telephone

Address or Contact Address

City / State / Zip

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

Case No: _____

Plaintiff
and

Defendant

DECLARATION OF SERVICE

Personal Service (ORCP 7D(2)(a))

I, _____, declare I am a resident of the County of _____, State of _____. I am a competent person 18 years of age or older and not a party to or attorney in this proceeding. I certify that the person, firm, or corporation served is the identical one named in this action.

Personal Service. On the _____ day of _____, 20____, at _____ a.m./p.m., I served a true copy of the Complaint and Declaration in Support of Ex Parte Motion for Order to Show Cause Re: Contempt, and the Order to Show Cause Re: Contempt by delivering them to Defendant (*name*): _____ in person at the following address _____ within the County of _____, State of _____.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Dated this _____ day of _____, 20_____.

Signature of Server

Print Name

Address or Contact Address

City, State, Zip

Telephone or Contact Telephone

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

Case No:

Plaintiff,

and

Defendant.

**GENERAL JUDGMENT
FOR CONTEMPT**
 and Money Award

1. **This matter came before the court:**

- a. On the Complaint and Motion of Plaintiff;
- b. On the court's own motion;
- c. At a hearing held on _____ (date), at which the following persons were present:
 - Plaintiff Plaintiff's Attorney _____
 - Defendant Defendant's Attorney _____
 - Other: _____

2. **Findings.** The court considered the: Documents on file herein; Evidence presented and found that
- a. Defendant willfully failed to comply did not willfully fail to comply with the terms of the order or judgment as follows:

Title of Document *Date Entered*

entered by _____ Circuit Court in case number _____
County

- b. The action for the imposition of remedial sanctions for contempt was commenced within two years or less of the act(s) or omission(s) constituting the contempt.

IT IS HEREBY ORDERED,

A. The Complaint is DISMISSED.

B. That the following remedial sanctions shall be imposed upon Defendant for their failure to comply with the terms of the above-described order or judgment:

1. Payment of money sufficient to compensate the plaintiff for any loss, injury or costs suffered as the result of contempt of court in the amount of \$_____.

2. Payment of an amount not to exceed \$500 or one percent of the defendant’s annual gross income, whichever is greater, for each day the contempt of court continues in the amount of \$_____.

3. An order designed to insure compliance with a prior order of the court as follows (*set forth order*):_____

4. Payment of all or part of attorney fees incurred by a party as the result of a contempt of court in the amount of \$_____.

5. Other: _____

The “money award” portion of the judgment shall be as follows:

Money Award

	JUDGMENT CREDITOR (This is the party receiving payment from Judgment Debtor) <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	JUDGMENT DEBTOR (This is the party required to pay Judgment Creditor) <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
Full Name		
Address or Contact Address		
Attorney’s Name, Telephone Number and Address		
The following information is required ONLY for the party designated as the “Judgment Debtor” above.		
Year of Birth		
Social Security Number (last 4 digits)		

Driver's License Number and State of Issuance (last 4 digits)		
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The following information is to be provided by the party designated as the "Judgment Creditor" above.

Others Entitled to Portions of Judgment	The following person(s) or public bod(ies) are known by judgment creditor to be entitled to a portion of a payment made on the judgment (other than the judgment creditor's attorney): <input type="checkbox"/> None or <input type="checkbox"/> _____ _____ _____
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Type of Judgment		Amount of Judgment
Payment of Money	WHO PAYS <input type="checkbox"/> Defendant	A lump sum payment of \$_____ to be paid by (date): _____.
	WHO RECEIVES <input type="checkbox"/> Plaintiff	
Other: _____ _____ _____	WHO PAYS <input type="checkbox"/> Defendant	\$_____.
	WHO RECEIVES <input type="checkbox"/> Plaintiff	
Prejudgment Interest	WHO PAYS <input type="checkbox"/> Defendant	\$_____
	WHO RECEIVES <input type="checkbox"/> Plaintiff	

Postjudgment Interest	WHO PAYS <input type="checkbox"/> Defendant	Nine percent (<u>9</u> %) per annum simple interest on the total judgment amount(s) of \$_____. Interest begins accruing on the date the judgment is entered until fully paid.
	WHO RECEIVES <input type="checkbox"/> Plaintiff	
Costs and Service Expenses (e.g., filing fees, hearing fees, trial fees, process fees)	WHO PAYS <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	\$_____
	WHO RECEIVES <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	
Attorneys Fees (if any)	WHO PAYS <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	\$_____
	WHO RECEIVES <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant	

Judge Signature:

Certificate of Readiness

This proposed judgment is ready for judicial signature because (*check all that apply*):

- Service is not required under UTCR 5.100 because the other party has been found in **default** or an order of default is being requested with this proposed judgment; because this judgment is submitted **ex parte** as allowed by statute or rule; or this judgment is being submitted in **open court** with all parties present.
- Each party affected by this judgment has **stipulated** to or approved the judgment, as shown by the signatures on the judgment.
- I have **served** a copy of this judgment and written notice of the 7-day objection period set out in UTCR 5.100 on all parties entitled to service (*complete service information below*). **And:**
 - No objection has been served on me within that time frame.
 - I received objections that I could not resolve with the other party despite reasonable efforts to do so. I have filed with the court a copy of the objections I received and indicated which objections remain unresolved.
 - After conferring about objections, the other party agreed to file any remaining objection with the court.

Certificate of Service under UTCR 5.100

I certify that on (*date*): _____ I placed a true and complete copy of this proposed Judgment in the United States mail to (*name*) _____ at (*address*) _____

Submitted by: Plaintiff Defendant

Signature

Print Name

I understand that I am subject to penalty for perjury for giving false information to the court. All factual information in this Judgment is true to the best of my knowledge and belief. I agree to the terms of this Judgment. I understand that this Judgment is enforceable by the court.

Plaintiff, Signature

Date

Plaintiff, Name (printed)

Defendant stipulates (agrees) to the terms of this judgment

Defendant, Signature

Date

Defendant, Name (printed)

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

Case No: _____

Plaintiff
and

Defendant

**RESPONSE and DECLARATION
to COMPLAINT and
EX PARTE MOTION FOR
ORDER TO SHOW CAUSE
RE: CONTEMPT**

1. I, Defendant, appear and say that the following is true. In response to the complaint and motion that has been filed, I (*mark all that apply*):
 - A. I agree with the requested relief contained in the Complaint and Ex Parte Motion for Order to Show Cause Re: Contempt filed in this case, except as follows:
 - B. I disagree with the relief requested in Plaintiff's Complaint and Ex Parte Motion for Order to Show Cause Re: Contempt as follows:
 - a. Payment of money sufficient to compensate Plaintiff for any loss, injury or costs suffered as the result of contempt of court in the amount of \$_____. Explain why you disagree: _____
 - b. Payment of an amount not to exceed \$500 or one percent of Defendant's annual gross income, whichever is greater, for each day the contempt of court continues. Explain why you disagree:
 - c. An order designed to insure compliance with a prior order of the court. Explain why you disagree: _____
 - d. Payment of all or part of attorney fees incurred by a party as the result of a contempt of court in the amount of \$_____. Explain why you disagree: _____
 - e. Other. _____
2. I was unable to comply with the terms of the order or judgment because: _____

Additional Page Attached

I hereby declare that the above statements are true and complete to the best of my knowledge and belief. I understand they are made for use in court and I am subject to penalty for perjury.

Date

Signature

Print Name

Contact Address

City, State, Zip

Contact Phone

Certificate of Mailing

I certify that on *(date)*: _____ I placed a true and complete copy of this
Response in the United States mail to Petitioner at *(petitioner's address)*: _____

Date

Respondent (signature)

Respondent Name